

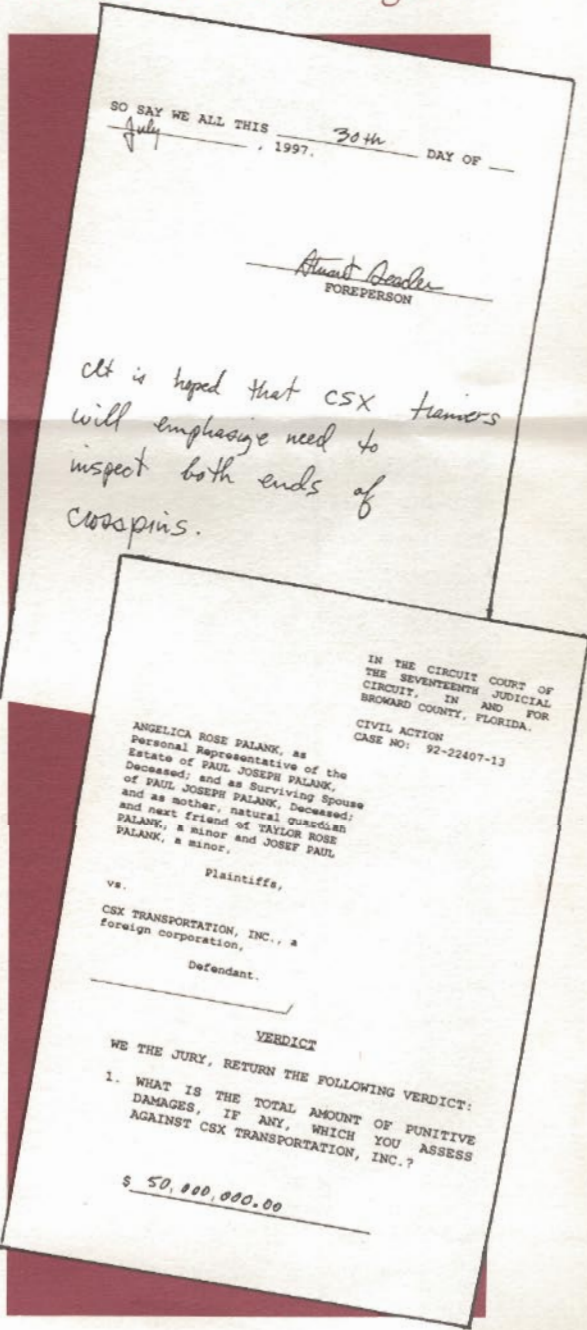
Palank v. CSXT, Inc.: \$50 Million Awarded In Punitive Damages

Almost six years after a Miami Police Sergeant was killed in a tragic train derailment, a Broward County jury said the accident was caused by a poorly maintained railroad track and awarded the man's widow \$50 million in punitive damages. The jury returned the verdict to Angelica Palank on July 30, 1997.

Punitive damages are awarded for human life and safety in cases where defendants have acted with reckless disregard, and the jury feels that such a verdict would serve as a deterrent to prevent repeat occurrences by the individuals involved or others.

Paul Palank was aboard the Washington D.C.-bound Amtrak Silver Star when a switch malfunctioned and popped open, causing the last five passenger cars of the train to derail in Lugoff, S.C. The train was traveling at 80 m.p.h. when it passed over a faulty mainline switch. A heavily corroded cross pin, determined to be responsible for the malfunction, was found broken into two pieces close to the switch. One piece of the cross pin was buried under rock and gravel that had been laid several months earlier. The derailed passenger cars careened into a set of hopper cars on a nearby track.

Trial testimony revealed that federal regulations require bi-weekly, visual safety inspections of all switches. Evidence showed that proper inspection of the faulty switch had not been performed for ten years prior to the derailment. After deregulation of railroads in 1980, CSXT laid off 50 percent of its maintenance work force, the same group responsible for visually inspecting the tracks. With the cutbacks, testimony showed that it wasn't even humanly possible for the workers to perform the required safety inspections. **Continued on Page Four.**





Client Angel Palank with (left to right) Professor W. McKinley Smiley, Jr.; Greg Barnhart; Chris Searcy; Joel Padgett; Todd Stewart.

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Every employee in that division testified that after the crash no one was reprimanded, disciplined or re-trained to keep this type of disaster from happening again and there was no expectation of corrective measures to be taken. Testimony was heard from the switch inspector, lead inspector, road master, division engineer, assistant division engineer and chief operating officer.

After three months of testimony, the jury deliberated for close to six hours before returning the \$50 million dollar verdict. On the verdict

form, the jury included a hand written note that said, "It is hoped that CSXT trainers will emphasize need to inspect both ends of crosspins."

With this punitive verdict, perhaps a change of attitude will take place and preventive measures will be implemented.

This \$50 million verdict is in addition to a separate July 1995 verdict of \$6.1 million in compensatory damages awarded to Mrs. Palank, Mr. Palank's estate and their two children.

Mrs. Palank was represented by Chris Searcy, Greg Barnhart and Todd Stewart. She plans to use the money to start a charitable foundation. ■

UPDATE:

Palank Verdict Upheld

On October 10, just before we went to press, Angelica Palank's faith in our justice system was re-enforced when a Broward County Circuit Court judge upheld a jury verdict of \$50 million in punitive damages against CSXT, Inc.

"Undoubtedly, the public has the right to feel confident that it can go anywhere, from here to there on a public carrier without being maimed or killed," Judge Arthur J. Franza said in the 19 page order upholding the jury's verdict. "In too many instances, transportation carriers rely upon old or antiquated equipment."

"These inspections were not professional, not reasonable and did not comply with CSXT or FRA regulations," Judge Franza continued. "It should have been known to eventually lead to, and end in, tragedy."

"Industry, especially carriers, must first be safe and then profitable. Not the other way around," Judge Franza concluded. "Nonetheless, the relentless pursuit of big money has led many chief operating officers to lose their sense of duty, morals and ethics to do what is right so that a big enough sting or smart is needed." ■