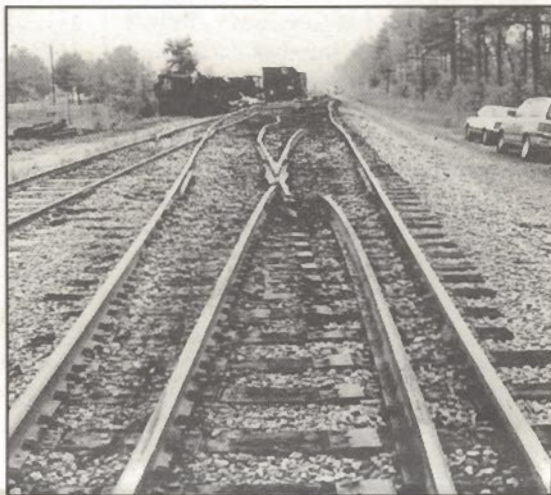


\$6.1 Million Verdict In Railroad Death

Almost four years to the date of the death of Sergeant Paul Palank, Christian D. Searcy, F. Gregory Barnhart, and Todd S. Stewart received a verdict of \$6.1 million on behalf of Angelica Rose Palank and her children, Joe and Taylor. This verdict, following five weeks of trial, represented the jury's compensation award for the tragic loss this family has suffered. Due to the complex issues and enormity of this case, the trial judge trifurcated this matter, dividing it into separate phases for compensatory damages, punitive liability and punitive damages. The punitive liability and damage phases of this case remain to be tried.

On July 31, 1991, the AMTRAK Silver Star derailed near Lugoff, South Carolina, killing eight and injuring over seventy. Among those fatalities was Sergeant Paul Palank of the Miami Police Department. Sergeant Palank was traveling to join his family on vacation in Washington, D.C.

As Angelica arrived at the train station to meet Paul with her four year old son and nine month old daughter, she was informed



of the derailment and was provided an 800 number for more information. Little Joe Palank, who had been planning a "special day" with his Dad, wanted to know what the lady in the station meant by "derailment." After several frantic phone calls, she was contacted by a South Carolina coroner, who relayed the tragic news as she stood in the train station. **Continued on Page Ten.**

Palank vs CSX...

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The investigation of this derailment quickly focused on a faulty switching mechanism on the CSX rails. As the investigation continued, the appearance of neglect and decay on this particular area of track became quite evident. Several railroad experts have testified that the switch in question had been left in a defective condition for at least seven months.

Further, the Federal Government's investigation discovered a retaining pin, which should have been in place at the time of the accident, was instead buried five inches deep in hard packed mud under the switch stand.

The evidence revealed that this switch had been operated on numerous occasions while in its defective condition and could easily have been visualized and repaired. Despite the railroad's guidelines which provide for bi-weekly inspections, as well as additional monthly and annual inspections, not one railroad employee observed this obvious defective condition. Furthermore, discovery revealed that CSX had systematically cut back on its safety forces since deregulation in the early 1980's to half their original size. This required railroad safety inspectors to be responsible for more miles of rails than they could reasonably inspect. While even CSX admits an inspector could cover no more than 20 miles per day, these inspectors were routinely called upon to inspect 50 to 100 miles per day due to the pressure of these corporate cutbacks.

Many of the inspectors could not possibly perform an adequate inspection under these time constraints. Reports showing areas too large to safely inspect were continuously ignored as were the inspectors' complaints to supervisors. Several railroad employees have come forward and testified



that the managing agent for the railroad in charge of safety in this area had also falsified government safety inspection reports. The report falsification continued even after this derailment. At the end of each month, this employee would determine the amount of track which was federally mandated to be inspected, but remained uninspected, and would simply fill out reports to make up the difference. Outrageously enough, this employee, while pretending to be on the track, would contact the dispatcher to receive clearance to inspect areas of track. He would remain in his office for the allotted time it would take to inspect that area of track. When that time expired, he would then phone the dispatcher with the false report that he had inspected the area of track and wished for clearance for still another area of track. After which, this employee would fraudulently submit inspection reports for these areas.

After three and a half years of hard fought litigation, the railroad admitted liability for compensatory damages and asked for

the case to be trifurcated. The trial judge granted this request and Phase I went to trial on the amount of compensatory damages. After almost two days of deliberation, the jury returned their verdict of \$6.1 million, one of the largest in the State of Florida for a single wrongful death.

The Palank family continues to seek justice through a punitive damage verdict. But their ultimate goal is the reform of the railroad industry. The evidence has revealed that CSX has saved over \$3 billion as a result of cutting their safety forces in half since deregulation. Allowed to make decisions with little regard for individuals such as Paul, corporations will continue to tear apart the core of this nation --- its families --- as this one did when it killed eight individuals and injured many others. A Fort Lauderdale jury will be called upon to render punishment to this corporation and these individuals for their reckless behavior and outrageous conduct. The Palank family awaits a trial date for Phase II (punitive liability) and Phase III (punitive damages). ■

SEARCY
DENNEY
SCAROLA
BARNHART
& SHIPLEY, P.A.
*Attorneys
at Law*

OF
COUNSEL

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