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Amtrak Won't Fight Liability in Philadelphia Crash Cases

| by David Voreacos and Edvard Pettersson

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Amtrak said it will concede that it's liable for most damages caused by the May 12 train derailment in Philadelphia that killed eight passengers and injured dozens.

The railroad acknowledged Friday in responses to two lawsuits that it won't contest compensatory liability, meaning it will pay for wrongful deaths, medical expenses, pain and suffering, and lost wages. So far, Amtrak faces 26 lawsuits filed by 36 passengers. Two employees also sued.

In its filings, Amtrak also admitted the train was speeding before the crash. Federal safety investigators say it moved at 106 miles per hour, or twice the speed limit. By saying it's willing to pay those among the 238 passengers who deserve damages, Amtrak removed a potentially time-consuming hurdle to the litigation.

"It's a very significant development," said attorney **Thomas Kline of Kline & Specter** in Philadelphia, who represents passengers. "That is tantamount to an admission of negligence. It means all of those who were injured and lost loved ones are entitled to be compensated."

Lawyers for passengers say that beyond compensatory damages, they may also pursue punitive damages to punish the railroad. Federal law caps total damages for passengers at \$200 million. Employees who sue aren't subject to that limit.

To prove punitive damages, lawyers must show by clear and convincing evidence that Amtrak acted with "conscious, flagrant indifference to the rights or safety of others." That process could take years, and wouldn't begin until after the National Transportation Safety Board completes its report, which could extend into 2016.

Busiest Corridor

Amtrak's New York-bound Northeast Regional Train 188, which originated in Washington, derailed along a curved section of track in Philadelphia's Frankford neighborhood, closing part of the busiest passenger-rail corridor in the U.S. for days.

"From the beginning, Amtrak has taken responsibility for this tragic accident, covering initial medical costs, transportation and lodging for passenger and their families," spokeswoman Christina Leeds said in an e-mail. "Consistent with this, and per our filing, we are not contesting liability for compensatory damages."

NTSB investigators want to reconstruct the actions of train engineer Brandon Bostian, who was knocked out in the accident ...

Lawyers for victims have also asked a federal judicial panel to consolidate all of the lawsuits before

U.S. District Judge Legrome Davis in Philadelphia for the pretrial exchange of evidence. Amtrak joined that request.

"The aggregate damages in the cases related to the derailment potentially could exceed \$200 million, in which case coordinated supervision by one judge would be essential," Amtrak attorneys wrote in a June 30 court filing.

Plaintiffs' lawyers may challenge the constitutionality of the \$200 million cap, said attorney Robert Mongeluzzi of Saltz Mongeluzzi Barrett & Bendesky in Philadelphia.

"There will be a very robust discussion between the plaintiffs' attorneys and their clients as to that issue," he said.

Within a week of the crash, U.S. Senator Bill Nelson, a Florida Democrat, introduced legislation to raise the cap for payments in a single accident to \$500 million.

Another bill, sponsored by Senators Roger Wicker, a Mississippi Republican, and Cory Booker, a New Jersey Democrat, would raise the cap to \$295 million and apply to the May 12 accident. Both bills are pending.