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Defense Counsel Retained, Motions Filed in Amtrak Cases

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As new lawsuits continue to emerge over the May 12 Amtrak derailment in Philadelphia, motions have begun to surface and a firm representing Amtrak has entered its appearance.

Most recently, Amtrak has responded to a motion from the plaintiffs requesting Amtrak, the National Transportation Safety Board, and the Federal Railroad Administration preserve and track the custody of evidence.

In court papers, Amtrak said the NTSB is in charge of the investigation of the accident and the company has no control over the evidence gathered. Moreover, Amtrak asked that the motion be denied as premature.

"While the NTSB has designated Amtrak as a formal party to the investigation," court papers said, "the NTSB expects Amtrak to observe confidentiality rules; specifically, Amtrak is not permitted to disclose any 'investigative information' to anyone outside the NTSB investigation."

Amtrak also said the NTSB has the

last word in conducting the investigation.

"Accordingly, given these confidentiality requirements, and the fact that the NTSB has possession and control of the evidence at issue in plaintiff's motion, Amtrak cannot make the evidence at issue available for inspection and cannot take responsibility for the preservation of all such evidence," court papers said.

A reply filed by plaintiffs Bruce and Kalita Phillips late Tuesday afternoon asked the court to compel Amtrak and the NTSB to itemize every piece of evidence and notify the plaintiffs' counsel when evidence is to be released.

Additionally, the plaintiffs' reply said confidentiality had already been disregarded, since Amtrak and NTSB officials have publicly commented on the accident.

Lastly, the reply noted, "Amtrak's representation that it will preserve evidence once released by the NTSB is insufficient to ensure plaintiffs' rights and to provide necessary protection of the evidence. Amtrak's negligence killed and maimed too many innocent employees and passengers to simply trust Amtrak to do the right thing. The passengers on train No. 188 had placed their trust in

Amtrak and the result was death and devastating injuries."

Amtrak's attorney, Yuri J. Brunetti of Landman Corsi Ballaine & Ford, declined to comment.

Landman Corsi handles transportation cases, including representation of railroads, and has previously represented Amtrak in other cases. Additionally, assistant U.S. attorney Eric Gill has entered his appearance on behalf of the NTSB.

The litigation could potentially have hundreds of plaintiffs, as the derailment left more than 200 people injured and eight dead.

... Plaintiffs in four cases filed last month are being jointly represented by the firms of **Kline & Specter** and Saltz Mongeluzzi Barrett & Bendesky.

At a news conference held in May, Saltz Mongeluzzi co-founder Robert Mongeluzzi repeatedly characterized the accident as "a scene out of hell," and within the derailed train cars, "a scene of indescribable horror."

The four plaintiffs in the suits handled by **Thomas R. Kline** and Mongeluzzi include Felicidad Redondo Iban, 64, of Leon, Spain, whose right arm was nearly severed in the accident; her cousin, Maria Jesus Redondo Iban, 55, who suffered a concussion and lac-

erations to the face; Daniel Armin, 43, of Brooklyn, New York, who sustained three broken ribs and lost teeth; and Amy Miller, 39, of Princeton, New Jersey, who suffered back injuries and numerous cuts.

Kline previously said the firms anticipate filing more cases, but have not yet done so.

The potential damages available for the victims of the derailment are capped at \$200 million as per a 1997 federal law.

The law, which has come under fire over the years for not adequately covering victims' damages from serious train accidents, mandates Amtrak have \$200 million in liability coverage for a single incident.

U.S. District Judge Legrome D. Davis of the Eastern District of Pennsylvania has been tapped to preside over the cases—and to potentially divide the potential \$200 million among the plaintiffs.

Davis, who according to U.S. District Chief Judge Petrese B. Tucker of the Eastern District was randomly assigned to the incoming cases, has served for roughly 13 years on the federal bench. Prior to that, Davis was a judge in the criminal division of the Philadelphia Court of Common Pleas from 1987 to 2002. Before becoming a judge, Davis was a prosecutor in the Philadelphia District Attorney's Office.