

RAILROADS

Train drags tow truck operator into wreckage: Negligence in moving train: Multiple fractures: Closed head injuries: Verdict.

Morris v. Union Pac. R.R., U.S. Dist. Ct., W. D. Ark., No. 00-1133, Oct. 11, 2002.

Morris, 55, a tow truck operator, responded to a call at a collision between a train and a delivery truck. Morris was inspecting the wreckage when the train unexpectedly moved forward. A piece of metal protruding from the train caught Morris and dragged him between the train and the truck. Morris suffered multiple fractures, closed head injuries, and injuries to his neck and back. He required three surgeries. His past medical expenses were approximately \$100,000 and his estimated future medical expenses are \$347,300.

Morris earned approximately \$150,000 per year as the owner and operator of a towing company and a transmission repair shop. He discontinued working in his businesses due to his injuries.

Morris and his wife sued the railroad company on a respondeat superior theory. Suit alleged that the train operator was negligent in failing to keep a proper lookout, failing to give warning before moving the train and moving the train in the absence of other railroad employees who could ensure safety. Defendants alleged the conductor had sounded a warning and that Morris had knowingly put himself in danger.

A jury awarded compensatory damages of \$8 million.

Plaintiffs' experts in this case included Richard Bonfiglio, rehabilitation, Murrys ville, Pa.; Jay Marsh, economics, Little Rock, Ark.; Sam Mehr, nuclear medicine and radiology, Omaha, Neb.; Anthony Sciara, life care planning, Asheville, N.C.; and Bettye Back-Morse, neuropsychology, Little Rock, Ark.

Defendant's expert on the train's event recorder was Frank Nuenthal of Phoenix, Ariz.

Plaintiffs' Counsel

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- * Phillip Duncan, Little Rock, Ark.
- * Mike Bee, Charleston, W. Va.