

MISSOURI LAWYERS WEEKLY

August 2, 2004

www.molawyersweekly.com



VERDICTS & SETTLEMENTS

Car Hit In Crossing Accident *Railroad Sanctioned For Spoliation*



LOUIS C. ACCURSO

\$12 Million Verdict

The parents of a 20-year-old Cass County man sued Kansas City Southern Railway after he was killed in a railroad crossing accident.

On Sept. 12, 1998, Jared Sturdevant and his girlfriend, Ashkea Wood, were driving near Cleveland, Mo., when they attempted to cross the railroad tracks on Lone Pine Drive. Sturdevant was behind the wheel of the car belonging to Wood's mother when the couple was struck by a KC Southern train traveling about 15 mph. Wood was critically injured and died after 38 days in intensive care. Sturdevant was pronounced dead at the scene.

Sturdevant's parents, Lynda and Gary Sturdevant, claimed that the train engineer failed to blow his whistle in a timely manner. They also argued that the railroad failed to properly adjust and maintain the flashing warning lights at the crossing, which did not have a safety gate, and that brush had overgrown the area, preventing Sturdevant from seeing the train until he was on the tracks.

The railroad denied all claims, argu-

ing that Sturdevant failed to yield to the train, and that it was not negligent.

In April 2003, Wood's parents went to trial against the railroad. In that case, the court granted the parents' motion for sanctions against KC Southern for destroying evidence including the locomotive's "black box" — an audio tape and event recorder. The Woods' case resulted in a \$4.8 million verdict.

In the Sturdevant case, the plaintiffs argued that KC Southern destroyed or failed to produce 10 other categories of evidence in addition to the missing black box. After a 10-day trial the jury assessed the plaintiffs' damages at \$20 million, but allocated 40 percent of the fault to Sturdevant, reducing the verdict to \$12 million.

Type of Action: Negligence

Type of Injuries: Death

Court/Case No./Date: Jackson County Circuit Court/02CV232842/July 23, 2004

Caption: Sturdevant v. Kansas City Southern Railway Company

Judge, Jury or ADR: Jury

Name of Judge: Marco Roldan

Special Damages: \$9,286 funeral expense

Verdict or Settlement: \$12 million verdict after allocation of fault

Allocation of Fault: 60 percent to defendant; 40 percent to decedent

Last Offer: \$1.25 million

Last Demand: \$2.8 million

Attorneys for Plaintiff: Louis C. Accurso, Steven D. Steinhilber and Ann Wright, The Accurso Law Firm, Kansas City; William McIntosh, The McIntosh Law Firm, Kansas City

Insurance Carrier: Lloyd's of London

Plaintiff's Experts: Paul Gouty, Independence (flashing light signal systems); Dr. Ken Heathington, Knoxville, Tenn. (accident reconstruction/crossing safety); Dr. Harvey Levine, Rockville, Md. (transportation economist); James Loumiet, Independence (accident reconstruction/stopping distances); Jimmy C. Scott, Kingsport, Tenn. (train operations)

Defendant's Experts: Forrest Ballinger, Grain Valley (flashing light signal systems); Gary Wolf, Atlanta, Ga. (accident reconstruction/train operations)

