

MISSOURI LAWYERS WEEKLY

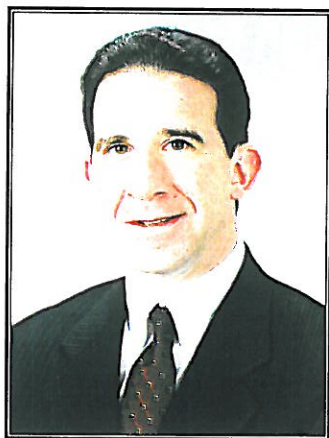
July 14, 2003

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VERDICTS & SETTLEMENTS

Teen Killed In RR Crossing Accident *KC Southern Sanctioned For Spoliation*



LOUIS C. ACCURSO

\$4.8 Million Verdict

The parents of a 19-year-old Independence woman sued Kansas City Southern Railway after she was killed in a railroad crossing accident.

On Sept. 12, 1998, Ashkea Wood and her boyfriend, Jerod Sturbavant, were driving near Cleveland, Mo., when they attempted to cross the railroad tracks on Lone Pine Drive. Sturbavant was driving a car that belonged to Wood's mother. The couple was struck by a KC Southern train traveling about 15 miles per hour. Wood was critically injured and died after 38 days in intensive care. Sturbavant was pronounced dead at the scene.

Wood's parents, Debbie and Eddie Wood, claimed that the train engineer failed to blow his whistle in a timely manner. They also said 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 Sturbavant from seeing the train until he was on the tracks.

The railroad argued that Sturbavant

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

Before trial the court granted a motion for sanctions filed by the parents who argued that KC Southern spoliated evidence by destroying the locomotive's "black box" — an audio tape and event recorder. As a result of the sanctions, KC Southern was prohibited from presenting any evidence that the missing items did not support the Woods' claims.

The jury found in favor of the parents, awarding them \$4.8 million.

Type of Action: Negligence

Type of Injuries: Death

Court/Case Number/Date: Jackson County Circuit Court/02CV209936/ April 16, 2003

Caption: Wood v. Kansas City Southern Railway Co.

Judge, Jury or ADR: Jury

Name of Judge: Marco Roldan

Special Damages: \$347,399 medical expense, \$5,873 funeral expense

Verdict or Settlement: \$4.8 million verdict

Allocation of Fault: N/A

Last Offer: \$600,000

Last Demand: \$7 million

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

Insurance Carrier: Self-insured

Plaintiff's Experts: Paul Gouty, Independence (railroad signal expert); Ken Heathington, Knoxville, Tenn. (transportation engineer); Harvey Levine, Rockville, Md. (transportation economist/railway safety); James Loumiet, Independence (accident reconstructionist); Dr. Lee Nigro, Kansas City (trauma surgeon); and Jimmy Scott, Blountville, Tenn. (train operations expert)

Defendant's Experts: Forrest Ballinger, Grain Valley (railroad signal expert); James Moe, Circle Pine, Minn. (railroad signal expert); Richard Mooney, Columbia (railroad safety expert)

