

MISSOURI LAWYERS WEEKLY

August 30, 2004

www.molawyersweekly.com



VERDICTS & SETTLEMENTS

Girl Killed, Mother Paralyzed At RR Crossing *Lawsuit Said Train Going Too Fast*

\$13 Million Settlement

A railroad crossing accident that paralyzed a 33-year-old woman and killed her 5-year-old daughter led to a negligence lawsuit.

On Feb. 1, 2000, Catherine Beyersdorfer was driving with her daughter Katrina on Salem Road in Clay County. As she was crossing railroad tracks she was hit by an I&M Rail Link train. Katrina died in the accident, and Catherine suffered partial paralysis and a closed head injury.

In their lawsuit against I&M Rail Link, Catherine and her husband Peter Beyersdorfer claimed that the train failed to sound its horn and that warning lights at the crossing failed to function. In addition, the plaintiffs said that the train's 37 mph speed was too fast for track conditions — top speed should have been 10 mph.

I&M argued that the crossing warning system functioned properly, the train crew properly blew the whistle as demonstrated by the train's event recorder, the train was traveling below the federally mandated speed limit and Catherine failed to yield to the on-coming train as required by Missouri law.

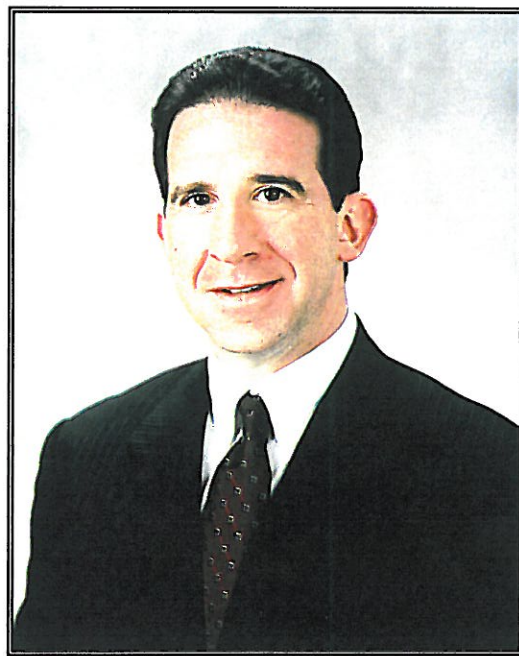
The Friday before trial, the parties settled for \$13 million after mediation with Timothy O'Leary.

Type of Action: Negligence

Type of Injuries: Death of 5-year-old, partial paralysis of mother

Court/Case No./Date: Jackson County Circuit Court/02CV-215905/Aug. 6, 2004

Caption: Beyersdorfer, et al. v. I&M



LOUIS C. ACCURSO

Rail Link

Judge, Jury or ADR: Jury

Name of Judge: Charles Atwell

Special Damages: \$301,308 past medical expense; \$142,669 future medical insurance expense; \$927,734 lost wages (for Catherine Beyersdorfer); \$5,000 funeral expense

Verdict or Settlement: \$13 million settlement

Allocation of Fault: N/A

Last Offer: N/A

Last Demand: N/A

Attorneys for Plaintiffs: Louis C. Accurso, Charles McKenzie and Ann Wright, The Accurso Law Firm, Kansas City; William McIntosh, The McIntosh Law Firm, Kansas City

Insurance Carrier: Lloyd's Underwriters, Temple Insurance

Plaintiff's Experts: Paul Gouty, Independence (flashing-light signal systems); Ken Heathington, Knoxville, Tenn. (accident reconstruction, human factors and crossing safety issues); James Loumiet, Independence (accident reconstruction and stopping distances); Jimmy C. Scott, Kingsport, Tenn. (train operations and railroad policies and procedures); John Ward, Kansas City (economist); Kathryn Willard, Lawrenceville, Ga. (rehabilitation)

Defendant's Experts: Forrest Ballinger, Grain Valley (flashing-light signal systems); Rex Nicholson, Palm Harbor, Fla. (highway design and railroad grade crossing design); Gary Wolf, Atlanta (accident reconstruction and train operations)