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## Record \$2.8 million verdict handed down in Orange County, CA, in first wrongful death trial from Metrolink train crash.

On May 20, 2005, a \$2.8 million verdict was handed down by a jury in Orange County, California, in the first wrongful death case stemming from one of California's worst commuter train disasters in history. A Burlington Northern Santa Fe freight train crashed into a Metrolink Commuter train on April 23, 2002. Over 260 people were injured in this horrific crash and three people were tragically killed. One of those who perished was 47 year old Larry Sorensen, a passenger on board the Metrolink commuter train. The trial involving the wrongful death case brought by Larry Sorensen's parents began on Tuesday, May 17, 2005 in the Superior Court of California, Orange County against Burlington Northern Santa Fe Railway. Acting as co-lead counsel on behalf of the plaintiffs was Jamie R. Lebovitz, of the Nurenborg, Paris Law Firm.

Hundreds of commuters were traveling to work on the morning of April 23, 2002 as passengers on a Metrolink Commuter train. The engineer saw a freight train traveling directly towards his train on the same tracks. He stopped the train and ran through the car screaming at the passengers to get down. The Metrolink train had come to a complete stop prior to being violently struck by a Burlington Northern Santa Fe freight train. The crew of the freight train failed to comply with train signals warning of the passenger train traffic ahead, failed to slow at yellow warning signals, and failed to stop at a red signal. Investigators felt that the lack of an automatic braking system on the freight train also contributed to the cause of the crash. After several years of investigation and pretrial discovery, Burlington Northern Santa Fe admitted that it was guilty of misconduct in the operation of the train and was fully responsible for the deaths and injuries of hundreds of passengers on the Metrolink train. Shortly after the incident, numerous wrongful death and personal injury



lawsuits were filed by the survivors of the deceased passengers and by the injured passengers. These cases were consolidated for purposes of pre-trial discovery, following which the individual cases were set for trial.

The first case to be tried was that filed by Ken and Lillian Sorensen, the parents of decedent Larry Sorensen. Larry, the Sorensen's eldest son, was a computer systems analyst, who lived near his parents and was a devoted son and his parents' close companion. At the time of the Metrolink crash, Ken, 74, and Lillian, 72, were on a Canadian cruise ship celebrating their 50th wedding anniversary. The cruise was a gift from the Sorensen children, that had been spearheaded by Larry. The Sorensens were sitting at the cruise ship bar when they learned about the Metrolink crash on CNN. Shortly thereafter, there was a call to the ship to let them know their son was on that train and had been killed. However, because the ship could not dock immediately, the Sorensens had to remain on the ship for five days knowing what had

happened to their son.

As Burlington Northern Santa Fe admitted its liability for the crash, the sole issue at trial was the value of the damages resulting from Larry Sorensen's death. Notably, grief of the survivors is not a compensable element of damages under California law, and the Sorensens chose not to pursue their claim for punitive damages. After a three day trial, the 12 member jury awarded the plaintiffs \$2.8 million in damages. The award was the largest verdict of its kind for the death of a single, childless man survived by his parents.

Mr. Lebovitz, co-lead counsel for the Sorenson family, was also appointed by the Orange County Superior Court to the Plaintiffs' Steering Committee. The Steering Committee

represents the interests of all the victims and the families of those killed with respect to the liability and punitive damages claims against the Burlington Northern Santa Fe Railroad and the Metrolink commuter passenger line. Throughout the past three plus years, Mr. Lebovitz and the few other members of this coveted court-appointed committee, have reviewed thousands of pages of documents, taken numerous depositions of railroad workers and upper management, and retained the services of numerous experts in the fields of train signal operations, accident reconstruction, and railroad operations and safety. Aside from the family of Larry Sorensen, Mr. Lebovitz represents many other passengers who survived the calamity with catastrophic injuries.

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