
IN THE
Supreme Court of Virginia
AT RICHMOND

RECORD NOS. 992751 and 992752



**PAULINE BROWN
AND
ELAINE HUGHES,**

Appellants,

v.

WILLIAM BLACK, et al,

Appellees.

JOINT APPENDIX

Douglas M. Palais
David J. Sensenig
MEZZULLO & McCANDLISH, P.C.
1111 East Main Street, Suite 1500
Post Office Box 796
Richmond, Virginia 23219
(804) 775-3100

Counsel for Appellants

Mary Jane Hall
MEZZULLO & McCANDLISH, P.C.
999 Waterside Drive, Suite 512
Norfolk, Virginia 23510
(757) 627-4970

Counsel for Appellants

Anbrey R. Bowles, III
BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
(804) 643-6768

Counsel for Appellees

Mark C. Nanavati
SINNOTT, NUCKOLS & LOGAN, P.C.
13811 Village Mill Drive
Midlothian, Virginia 23113
(804) 378-7600

Counsel for Appellees

TABLE OF CONTENTS

Appendix Page

Motion for Judgment (992751) filed January 12, 1995.....	1
Motion for Judgment (992752) filed January 12, 1995.....	5
Proof of Service Re: Defendant CSX Transportation (992751) filed January 3, 1995	9
Proof of Service Re: Defendant CSX Transportation, Inc. (992752) filed January 3, 1995	11
Proof of Service Re: Defendant Amtrak (992751) filed January 5, 1995	13
Proof of Service Re: Defendant Amtrak (992752) filed January 5, 1995	15
Certificate of Compliance of Service Re: Car Center, Inc. filed January 11, 1996 (992751).....	17
Certificate of Compliance of Service Re: Paul Elliott filed January 11, 1996.....	18
Certificate of Compliance of Service Re: William Black filed January 11, 1996.....	19
Certificate of Compliance of Service Re: Car Center, Inc. filed January 11, 1996 (992752).....	20
Certificate of Compliance of Service Re: Paul Elliott filed January 11, 1996.....	21
Certificate of Compliance of Service Re: William Black filed January 11, 1996.....	22

Grounds of Defense for Car Center and Paul Elliott (992751) filed January 25, 1996	23
Grounds of Defense for William Black and CSX Transportation, Inc. (992751) filed January 25, 1996.....	27
Grounds of Defense for Car Center and Paul Elliott (992752) filed January 25, 1996	30
Grounds of Defense for William Black and CSX Transportation, Inc. (992751) filed January 25, 1996.....	34
Motion to Dismiss Plaintiff's Motion for Judgment filed May 24, 1996 (992751)	37
Motion to Dismiss Plaintiff's Motion for Judgment filed May 24, 1996 (992752)	41
Motion to Quash (992751) filed June 26, 1996	45
Exhibit A - Defendant's Objections to Certain of Plaintiff's First Set of Interrogatories and Request for Production of Documents.....	53
Exhibit B - CSX's Objections to Certain of Plaintiff's First Set of Interrogatories and Request for Production of Documents.....	57
Exhibit C -William Black's Objections to Certain of Plaintiff's First Set of Interrogatories and Request for Production of Documents	60
Exhibit D -Plaintiff's First Set of Interrogatories and Request for Production of Documents to AMTRAK	64
Exhibit E -Plaintiff's First Set of Interrogatories and Request for Production of Documents to CSX	87

Exhibit F -Plaintiff's First Set of Interrogatories and Request for Production of Documents to William Black	107
Motion to Quash (992752) filed June 26, 1996	123
Exhibit A - Defendant's Objections to Certain of Plaintiff's First Set of Interrogatories and Request for Production of Documents.....	131
Exhibit B - CSX's Objections to Certain of Plaintiff's First Set of Interrogatories and Request for Production of Documents.....	135
Exhibit C -William Black's Objections to Certain of Plaintiff's First Set of Interrogatories and Request for Production of Documents	138
Exhibit D -Plaintiff's First Set of Interrogatories and Request for Production of Documents to AMTRAK	142
Exhibit E -Plaintiff's First Set of Interrogatories and Request for Production of Documents to CSX	165
Exhibit F -Plaintiff's First Set of Interrogatories and Request for Production of Documents to William Black	187
Letter from Attorney Bowles to Attorney Logan dated August 17, 1999	207
Letter from Attorney Hall to Court dated August 18, 1999	208
Motion for Reconsideration filed August 19, 1999.....	209
Motion for Reconsideration filed August 19, 1999.....	212
Notice of Hearing filed August 25, 1999.....	215
Notice of Hearing filed August 25, 1999.....	217

Transcript of Hearing held before the Honorable J.A. Luke on August 31, 1999.....	219
Dismissal Order entered September 1, 1999.....	230
Dismissal Order entered September 1, 1999.....	232
Letter from Attorney Hall to Clerk dated September 1, 1999 (attaching unsigned Order to Dismiss)	234
Assignments of Error	237
Assignments of Error	238

V I R G I N I A :

IN THE CIRCUIT COURT OF SUSSEX COUNTY

PAULINE BROWN,)	
)	
Plaintiff,)	
)	
v.)	
)	
WILLIAM BLACK, and)	Case No. 95-6
)	
NATIONAL RAILROAD PASSENGER)	
CORPORATION, d/b/a AMTRAK, and)	
)	
PAUL JONES ELLIOTT, and)	
)	
CAR CENTER, and)	
)	
CSX TRANSPORTATION, INC.,)	
)	
Defendants.)	

MOTION FOR JUDGMENT

COMES NOW plaintiff, Pauline Brown, and for her Motion for Judgment states as follows:

1. On or about January 12, 1993, plaintiff, Pauline Brown was a passenger on AMTRAK Train 90 travelling from Fayetteville, North Carolina to Philadelphia, Pennsylvania at or near the intersections of Route 602 and Route 657 in Sussex County, Virginia.

2. At the same time and place, defendant William Black ("Black") was operating a General Motors train engine on AMTRAK Train 90 owned by defendant, National Railroad Passenger Corporation ("AMTRAK").

3. At the same time, defendant Paul Jones Elliott ("Elliott") was operating a 1987 Freight Liner tractor trailer on Route 657 at or near its intersection with railroad crossing 6237254 ("railroad crossing") in Sussex County, Virginia.

4. At the same time and place, the defendants Black and Elliott operated their vehicles in such a negligent manner as to cause a collision between the 1987 Freight Liner tractor and the AMTRAK train.

5. Upon information and belief, the defendant Black, at all times material hereto, was an agent, servant and/or employee of defendant AMTRAK.

6. At all times material hereto, defendant Black was acting within the scope of his agency and/or employment with defendant AMTRAK.

7. Upon information and belief, the defendant Elliott, at all times material hereto, was an agent, servant and/or employee of defendant Car Center.

8. At all times material hereto, defendant Elliott was acting within the scope of his agency and/or employment with defendant Car Center.

9. Upon information and belief the track and the grade at the railroad crossing where the collision occurred was designed, constructed, owned and maintained by CSX Transportation, Inc. ("CSX").

10. The above-described collision was directly and proximately caused by the careless, reckless and negligent operation of the vehicles by defendants Black, AMTRAK, Elliott and Car Center.

11. The above-described collision was directly and proximately caused by the willful, wanton and reckless disregard of

the rights and safety of members of the public, including plaintiff, in the operation of the vehicles by the defendants.

12. The above-described collision was directly and proximately caused by the carelessness, recklessness and negligence of the defendants Elliott and Car Center in the inspection, repair and maintenance of the tractor trailer.

13. The above-described collision was directly and proximately caused by the willful, wanton and reckless disregard of the rights and safety of members of the public, including plaintiff, in the inspection, repair and maintenance of the tractor trailer by defendants Elliott and Car Center.

14. The above-described collision was directly and proximately caused by the carelessness, recklessness and negligence of defendant CSX in the design, construction, maintenance and repair of the railroad crossing, including but not limited to the track and the grade.

15. The above-described collision was directly and proximately caused by the carelessness, recklessness and negligence of defendant CSX in failing to warn about the unreasonably dangerous defects in the railroad crossing, including but not limited to the track and the grade.

16. As a direct and proximate result of the above-described collision, plaintiff has and will suffer serious and permanent injuries and disfigurement; has suffered and will suffer in the future pain of body and mind; has incurred and will incur in the future medical and related expenses; and has and will undergo in

5
V I R G I N I A :

IN THE CIRCUIT COURT OF SUSSEX COUNTY

ELAINE HUGHES,)	
)	
Plaintiff,)	
)	
v.)	
)	
WILLIAM BLACK, and)	Case No. 95-5
)	
NATIONAL RAILROAD PASSENGER)	
CORPORATION, d/b/a AMTRAK, and)	
)	
PAUL JONES ELLIOTT, and)	
)	
CAR CENTER, and)	
)	
CSX TRANSPORTATION, INC.,)	
)	
Defendants.)	

MOTION FOR JUDGMENT

COMES NOW plaintiff, Elaine Hughes, and for her Motion for Judgment states as follows:

1. On or about January 12, 1993, plaintiff, Elaine Hughes was a passenger on AMTRAK Train 90 travelling from Fayetteville, North Carolina to Philadelphia, Pennsylvania at or near the intersections of Route 602 and Route 657 in Sussex County, Virginia.

2. At the same time and place, defendant William Black ("Black") was operating a General Motors train engine on AMTRAK Train 90 owned by defendant, National Railroad Passenger Corporation ("AMTRAK").

3. At the same time, defendant Paul Jones Elliott ("Elliott") was operating a 1987 Freight Liner tractor trailer on Route 657 at or near its intersection with railroad crossing 6237254 ("railroad crossing") in Sussex County, Virginia.

4. At the same time and place, the defendants Black and Elliott operated their vehicles in such a negligent manner as to cause a collision between the 1987 Freight Liner tractor and the AMTRAK train.

5. Upon information and belief, the defendant Black, at all times material hereto, was an agent, servant and/or employee of defendant AMTRAK.

6. At all times material hereto, defendant Black was acting within the scope of his agency and/or employment with defendant AMTRAK.

7. Upon information and belief, the defendant Elliott, at all times material hereto, was an agent, servant and/or employee of defendant Car Center.

8. At all times material hereto, defendant Elliott was acting within the scope of his agency and/or employment with defendant Car Center.

9. Upon information and belief the track and the grade at the railroad crossing where the collision occurred was designed, constructed, owned and maintained by CSX Transportation, Inc. ("CSX").

10. The above-described collision was directly and proximately caused by the careless, reckless and negligent operation of the vehicles by defendants Black, AMTRAK, Elliott and Car Center.

11. The above-described collision was directly and proximately caused by the willful, wanton and reckless disregard of

the rights and safety of members of the public, including plaintiff, in the operation of the vehicles by the defendants.

12. The above-described collision was directly and proximately caused by the carelessness, recklessness and negligence of the defendants Elliott and Car Center in the inspection, repair and maintenance of the tractor trailer.

13. The above-described collision was directly and proximately caused by the willful, wanton and reckless disregard of the rights and safety of members of the public, including plaintiff, in the inspection, repair and maintenance of the tractor trailer by defendants Elliott and Car Center.

14. The above-described collision was directly and proximately caused by the carelessness, recklessness and negligence of defendant CSX in the design, construction, maintenance and repair of the railroad crossing, including but not limited to the track and the grade.

15. The above-described collision was directly and proximately caused by the carelessness, recklessness and negligence of defendant CSX in failing to warn about the unreasonably dangerous defects in the railroad crossing, including but not limited to the track and the grade.

16. As a direct and proximate result of the above-described collision, plaintiff has and will suffer serious and permanent injuries and disfigurement; has suffered and will suffer in the future pain of body and mind; has incurred and will incur in the future medical and related expenses; and has and will undergo in

the future loss of earnings and/or earning capacity.

WHEREFORE, plaintiff demands judgment against the defendants, jointly and severally, in the sum of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) in compensatory damages and TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) in punitive damages against defendants William Black, National Railroad Passenger Corporation, d/b/a AMTRAK, Paul Jones Elliott and Car Center plus pre-judgment and post-judgment interest and costs.

TRIAL BY JURY IS DEMANDED.

ELAINE HUGHES

By: Mark B. Rhoads

Counsel

Beverly W. Snukals
Mark B. Rhoads
Mezzullo & McCandlish, P.C.
1111 East Main Street
Suite 1500
Richmond, Virginia 23219

Filed in the Clerk's Office the 12th day of January, 1995
Whit T. 25.00 Tests:
Fees 150.00
Docket 2004123 Gary M. Williams, Clerk
Total Paid \$ 2004219 By: Cheryl Smith, D. C.
179.60

Case # 95-111

PROOF OF SERVICE

Virginia:

IN THE CIRCUIT COURT OF THE COUNTY OF SUSSEX

LAW NO. 95-6

PAULINE BROWN

vs.

WILLIAM BLACK, ET ALS

FOR SERVICE ON: CSX TRANSPORTATION, INC.
BETTY L. ESTES, Registered Agent
One James Center
901 East Cary Street
Richmond, VA 23219

Returns shall be made hereon, showing service of Notice issued January 2, 1996, with copy of Motion for Judgment filed January 12, 1995, attached:

Executed on the 3 day of JAN, 1996, in the County of Sussex, Virginia, by delivering a true copy of the above mentioned papers attached to each other, to Betty L. Estes, Registered Agent in person.

SHERIFF, COUNTY OF SUSSEX, VA.

BY: [Signature] RPS, DEPUTY SHERIFF.

(Use the space below if a different form of return is necessary)

Returned and filed the 5th day of January, 1996.

Gary M. Williams, CLERK.
By: Carolyn Matthews, DEPUTY CLERK.

GARY M. WILLIAMS
CLERK OF THE CIRCUIT COURT
Sussex, Virginia 23884
(804) 246-5511

12

VIRGINIA:

IN THE Circuit COURT OF Sussex

Pauline Brown

PLAINTIFF,

V.

CASE # Law # 95-6

William Black, et als

DEFENDANT

AFFIDAVIT OF SERVICE

I, the undersigned, William C Olsen

do hereby certify that I am over the age of 18 years and am not a party to or otherwise interested in the subject matter in controversy, and I did personally serve

CSX Transportation, Inc., Betty L Estes, R/A

at One James Center, 901 East Cary Street, Richmond, Va.

on the 3 day of January, 19 96, at 12:00 PM

with a Notice with Motion For Judgement

By William C Olsen

Special Process server
Foxmore Process Servers Inc.

STATE OF VIRGINIA
COUNTY OF POWHEATAN, to wit

Sworn and subscribed before me in my jurisdiction aforesaid this
3 day of January, 19 96.
My commission expires: January 31, 19 97.

Michael A. Mason
Notary Public At Large

PROOF OF SERVICE

Virginia:

IN THE CIRCUIT COURT OF THE COUNTY OF SUSSEX

LAW NO. 95-5

ELAINE HUGHES

VS.

WILLIAM BLACK, ET ALS

FOR SERVICE ON: CSX TRANSPORTATION, INC.
BETTY L. ESTES, Registered Agent
One James Center
901 East Cary Street
Richmond, VA 23219

Returns shall be made hereon, showing service of Notice issued January 2, 1996, with copy of Motion for Judgment filed January 12, 1995, attached:

Executed on the 3 day of JAN, 1996, in the County of Sussex, Virginia, by delivering a true copy of the above mentioned papers attached to each other, to BETTY L. ESTES, Registered Agent, in person.

SHERIFF, COUNTY OF SUSSEX, VA.

BY William C. O'Brien, DEPUTY SHERIFF.

(Use the space below if a different form of return is necessary)

Returned and filed the 5th day of January, 1996.

Gary M. Williams, CLERK.
By: Carol M. Matthews, DEPUTY CLERK.

GARY M. WILLIAMS
CLERK OF THE CIRCUIT COURT
Sussex, Virginia 23884
(804) 246-5511

VIRGINIA:

IN THE Circuit COURT OF Sussex

Elaine Hughes

PLAINTIFF,

V.

CASE # LAW # 95-5

William Black, et als

DEFENDANT

AFFIDAVIT OF SERVICE

I, the undersigned, William C Olsen

do hereby certify that I am over the age of 18 years and am not a party to or otherwise interested in the subject matter in

controversy, and I did personally serve

CSX Transportation, Inc., Betty L Estes, R/A

One James Center, 901 East Cary Street, Richmond, Va.
at _____

on the 3 day of January, 1996, at 12:00 PM

with a Notice with a copy of Motion For Judgement

By William C Olsen

Special Process server
Foxmore Process Servers Inc.

STATE OF VIRGINIA
COUNTY OF POWHEATAN, to wit

Sworn and subscribed before me in my jurisdiction aforesaid this
3 day of January, 1996.
My commission expires: January 31, 1997.

[Signature]
Notary Public At Large

PROOF OF SERVICE

Virginia:

IN THE CIRCUIT COURT OF THE COUNTY OF SUSSEX

LAW NO. 95-6

PAULINE BROWN

vs.

WILLIAM BLACK, ET ALS

FOR SERVICE ON: NATIONAL RAILROAD PASSENGER CORPORATION d/b/a AMTRAK
ELYSE WANDER, Registered Agent
60 Massachusetts Avenue, N. E.
Washington, D. C. 20002

c/o ☒ SECRETARY OF THE COMMONWEALTH
Richmond, VA

Returns shall be made hereon, showing service of Notice issued January 2, 1996, with copy of Motion for Judgment filed January 12, 1995, attached:

Executed on the 3 day of Jan, 1996, in the County of Sussex, Virginia, by delivering a true copy of the above mentioned papers attached to each other, to Secretary of Commonwealth, Accepted By Elizabeth Jeffries, Service Clerk in person.

~~SHERIFF, COUNTY OF SUSSEX, VA.~~

BY William Ellis, PPS, ~~DEPUTY SHERIFF.~~

(Use the space below if a different form of return is necessary)

Returned and filed the 5th day of January, 1996.

Gary M. Williams, CLERK.
By: Carol Q. Matthews, DEPUTY CLERK.

GARY M. WILLIAMS
CLERK OF THE CIRCUIT COURT
Sussex, Virginia 23884
(804) 246-5511

VIRGINIA:

IN THE Circuit COURT OF Sussex

Pauline Brown PLAINTIFF,

V. CASE # LAW # 95-6

William Black, et als DEFENDANT

AFFIDAVIT OF SERVICE

I, the undersigned, William C Olsen

do hereby certify that I am over the age of 18 years and am not a party to or otherwise interested in the subject matter in controversy, and I did personally serve National Railroad Passenger Corporation d/b/a AMTRAK, Elyse Wander, R/A, c/o Secretary Of The Commonwealth, Va.

Secretary Of The Commonwealth of Virginia, accepted by
at _____

on the 3 day of Januray, 19 96, at 12:10 PM
with a Notice with a copy of Motion For Judgement

By William C Olsen
Special Process server
Foxmore Process Servers Inc.

STATE OF VIRGINIA
COUNTY OF POWHEATAN, to wit

Sworn and subscribed before me in my jurisdiction aforesaid this
3 day of January, 19 96.
My commission expires: January 31, 19 97.

William C Olsen
Notary Public At Large

PROOF OF SERVICE

Virginia:

IN THE CIRCUIT COURT OF THE COUNTY OF SUSSEX

LAW NO. 95-5

ELAINE HUGHES

VS.

WILLIAM BLACK, ET ALS

FOR SERVICE ON: NATIONAL RAILROAD PASSENGER CORPORATION d/b/a AMTRAK
ELYSE WANDER, Registered Agent
60 Massachusetts Avenue, N. E.
Washington, D. C. 20002

c/o ✓ SECRETARY OF THE COMMONWEALTH
Richmond, VA

Returns shall be made hereon, showing service of Notice issued January 2, 1996, with copy of Motion for Judgment filed January 12, 1995, attached:

Executed on the 3rd day of Jan, 1996, in the County of Sussex, Virginia, by delivering a true copy of the above mentioned papers attached to each other, to Secretary of Commonwealth, accepted By Elizabeth Jeffries, Service Clerk, in person.

~~SHERIFF, COUNTY OF SUSSEX, VA.~~

BY William C. Williams, DEPUTY SHERIFF.

(Use the space below if a different form of return is necessary)

Returned and filed the 5th day of January, 1996.

Gary M. Williams, CLERK.

By: Carol O. Matthews, DEPUTY CLERK.

GARY M. WILLIAMS
CLERK OF THE CIRCUIT COURT
Sussex, Virginia 23884
(804) 246-5511

VIRGINIA:

IN THE Circuit COURT OF Sussex

Elaine Hughes

PLAINTIFF,

V.

CASE # LAW # 95-5

William Black, et als

DEFENDANT

AFFIDAVIT OF SERVICE

I, the undersigned, William C Olsen

do hereby certify that I am over the age of 18 years and am not a party to or otherwise interested in the subject matter in
controversy, and I did personally serve National Railroad Passenger Corporation/b/a
Amtrak, Elyse Wander, R/A, 60 Massachusetts Ave.,
N.E., Washington, D.C., c/o Secretary Of The Commonwealth, Va.

at Office of the Secretary Of The Commonwealth of Virginia, accepted by

on the 3 day of January, 19 96, at 12:10 PM

with a Notice with a copy of Motion For Judgement

By William C Olsen

Special Process server
Foxmore Process Servers Inc.

STATE OF VIRGINIA
COUNTY OF POWhatan, to wit

Sworn and subscribed before me in my jurisdiction aforesaid this
3 day of January, 19 96.
My commission expires: January 31, 19 97.

Notary Public At Large



COMMONWEALTH of VIRGINIA

Secretary of the Commonwealth

POST OFFICE BOX 2452

RICHMOND, VIRGINIA 23218

CERTIFICATE OF COMPLIANCE

VIRGINIA:
For the Sussex Circuit Court
Route 735
P. O. Box 1337
Sussex, VA 23884

Pauline Brown

vs.

Car Center, Inc.

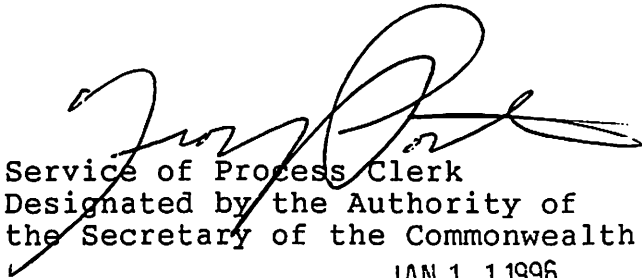
CASE NUMBER: 95-6
RETURN DATE:

Notice of Motion for Judgment
and Other Papers Filed Therewith

I, the undersigned, Clerk in the Office of the Secretary of the Commonwealth, hereby certify the following:

1. Legal service in the above-styled case was made January 3, 1996 upon the Secretary of the Commonwealth as statutory agent for persons to be served in accordance with Section 8.01-329 of the Code of Virginia, as amended.
2. Papers were forwarded by first class mail to the name and address listed below on January 5, 1996

Car Center, Inc.
a North Carolina Corp.
Ted R. Pollard, Reg. Agent
1805 Highway 70E
Garner, NC 27529


Service of Process Clerk
Designated by the Authority of
the Secretary of the Commonwealth

FILED JAN 11 1996
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY Gary M. Williams D.C.



COMMONWEALTH of VIRGINIA

Secretary of the Commonwealth

POST OFFICE BOX 2452

RICHMOND, VIRGINIA 23218

CERTIFICATE OF COMPLIANCE

VIRGINIA:
For the Sussex Circuit Court
Route 735
P. O. Box 1337
Sussex, VA 23884

Pauline Brown

vs.

Paul Jones Elliott

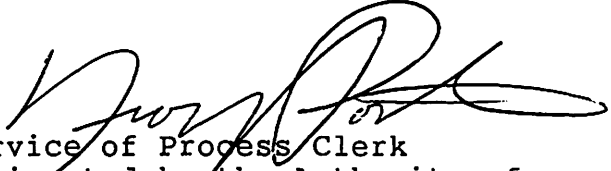
CASE NUMBER: 95-6
RETURN DATE:

Notice of Motion for Judgment
and Other Papers Filed Therewith

I, the undersigned, Clerk in the Office of the Secretary of the Commonwealth, hereby certify the following:

1. Legal service in the above-styled case was made January 3, 1996 upon the Secretary of the Commonwealth as statutory agent for persons to be served in accordance with Section 8.01-329 of the Code of Virginia, as amended.
2. Papers were forwarded by first class mail to the name and address listed below on January 5, 1996

Paul Jones Elliott
562 South Main Street
Jefferson, NC 28690


Service of Process Clerk
Designated by the Authority of
the Secretary of the Commonwealth

FILED JAN 11 1996
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY Carey Mitchell D.C.



COMMONWEALTH of VIRGINIA

Secretary of the Commonwealth

POST OFFICE BOX 2452

RICHMOND, VIRGINIA 23218

CERTIFICATE OF COMPLIANCE

VIRGINIA:

For the Sussex Circuit Court
Route 735
P. O. Box 1337
Sussex, VA 23884

Pauline Brown

vs.

William Black

CASE NUMBER: 95-6

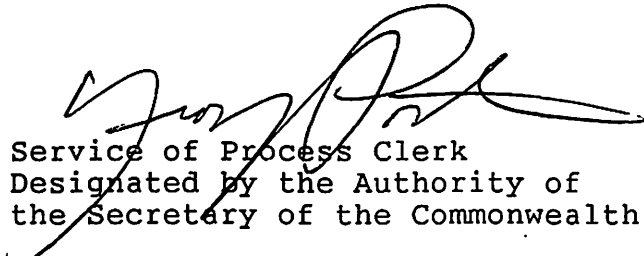
RETURN DATE:

Notice of Motion for Judgment
and Other Papers Filed Therewith

I, the undersigned, Clerk in the Office of the Secretary of the Commonwealth, hereby certify the following:

1. Legal service in the above-styled case was made January 3, 1996 upon the Secretary of the Commonwealth as statutory agent for persons to be served in accordance with Section 8.01-329 of the Code of Virginia, as amended.
2. Papers were forwarded by first class mail to the name and address listed below on January 5, 1996

William Black
Route 4, Box 72
Leland, NC 28451


Service of Process Clerk
Designated by the Authority of
the Secretary of the Commonwealth

FILED JAN 11 1996
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY Gary M. Williams D.C.



COMMONWEALTH of VIRGINIA

Secretary of the Commonwealth

POST OFFICE BOX 2452

RICHMOND, VIRGINIA 23218

CERTIFICATE OF COMPLIANCE

VIRGINIA:

For the Sussex Circuit Court
Route 735
P. O. Box 1337
Sussex, VA 23884

Elaine Hughes

vs.

Car Center, Inc.

CASE NUMBER: 95-5

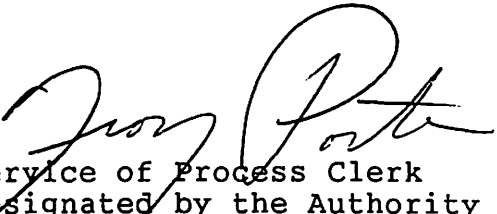
RETURN DATE:

Notice of Motion for Judgment
and Other Papers Filed Therewith

I, the undersigned, Clerk in the Office of the Secretary of the Commonwealth, hereby certify the following:

1. Legal service in the above-styled case was made January 3, 1996 upon the Secretary of the Commonwealth as statutory agent for persons to be served in accordance with Section 8.01-329 of the Code of Virginia, as amended.
2. Papers were forwarded by first class mail to the name and address listed below on January 5, 1996

Car Center, Inc.
a North Carolina Corp.
Ted R. Pollard, Reg. Agent
1805 Highway 70E
Garner, NC 27529


Service of Process Clerk
Designated by the Authority of
the Secretary of the Commonwealth

FILED JAN 11 1996
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY Charles Matthews D.C.



COMMONWEALTH of VIRGINIA

Secretary of the Commonwealth

POST OFFICE BOX 2452

RICHMOND, VIRGINIA 23218

CERTIFICATE OF COMPLIANCE

VIRGINIA:

For the Sussex Circuit Court
Route 735
P. O. Box 1337
Sussex, VA 23884

Elaine Hughes

vs.

Paul Jones Elliott

CASE NUMBER: 95-5

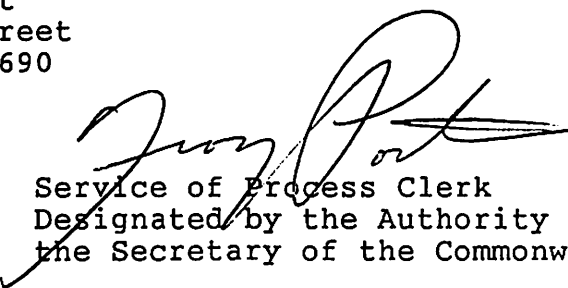
RETURN DATE:

Notice of Motion for Judgment
and Other Papers Filed Therewith

I, the undersigned, Clerk in the Office of the Secretary of the Commonwealth, hereby certify the following:

1. Legal service in the above-styled case was made January 3, 1996 upon the Secretary of the Commonwealth as statutory agent for persons to be served in accordance with Section 8.01-329 of the Code of Virginia, as amended.
2. Papers were forwarded by first class mail to the name and address listed below on January 5, 1996

Paul Jones Elliott
562 South Main Street
Jefferson, NC 28690


Service of Process Clerk
Designated by the Authority of
the Secretary of the Commonwealth

FILED JAN 11 1996
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY Cecilia B. Williams D.C.



COMMONWEALTH of VIRGINIA

Secretary of the Commonwealth

POST OFFICE BOX 2452

RICHMOND, VIRGINIA 23218

CERTIFICATE OF COMPLIANCE

VIRGINIA:
For the Sussex Circuit Court
Route 735
P. O. Box 1337
Sussex, VA 23884

Elaine Hughes

vs.

William Black

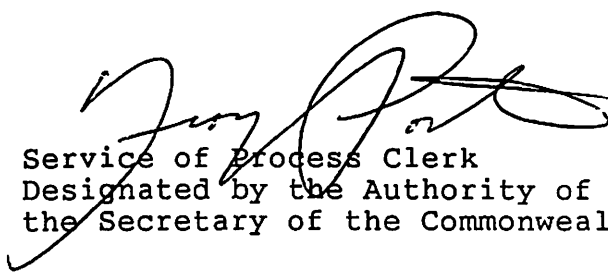
CASE NUMBER: 95-5
RETURN DATE:

Notice of Motion for Judgment
and Other Papers Filed Therewith

I, the undersigned, Clerk in the Office of the Secretary of the Commonwealth, hereby certify the following:

1. Legal service in the above-styled case was made January 3, 1996 upon the Secretary of the Commonwealth as statutory agent for persons to be served in accordance with Section 8.01-329 of the Code of Virginia, as amended.
2. Papers were forwarded by first class mail to the name and address listed below on January 5, 1996

William Black
Route 4, Box 72
Leland, NC 28451


Service of Process Clerk
Designated by the Authority of
the Secretary of the Commonwealth

JAN 1 1996

FILED
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY Camp Matthews D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

PAULINE BROWN,

Plaintiff,

v.

Case Number: 95-6

WILLIAM BLACK,
and
NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a/ AMTRAK,
and
PAUL JONES ELLIOTT,
and
CAR CENTER,
and
CSX TRANSPORTATION, INC.,

Defendants.

GROUND OF DEFENSE

Come now Defendants Car Center and Paul Jones Elliott, by counsel, and for its response to the plaintiff's Motion for Judgment states the following:

1. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph one of the plaintiff's Motion for Judgment, consequently denies these allegations and demands strict proof of each.

2. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph two of the plaintiff's Motion for Judgment, consequently denies these allegations and demands strict proof of each.

3. The allegations in paragraph three of the plaintiff's Motion for Judgment are admitted.

4. The allegations in paragraph four of the plaintiff's Motion for Judgment are denied.

5. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph five of the plaintiff's Motion for Judgment, consequently denies these allegations and demands strict proof of each.

6. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph six of the plaintiff's Motion for Judgment, consequently denies these allegations and demands strict proof of each.

7. The allegations in paragraph seven of the plaintiff's Motion for Judgment are admitted.

8. The allegations in paragraph eight of the plaintiff's Motion for Judgment are admitted.

9. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph nine of the plaintiff's Motion for Judgment, consequently denies these allegations and demands strict proof of each.

10. The allegations in paragraph ten of the plaintiff's Motion for Judgment are denied.

11. The allegations in paragraph eleven of the plaintiff's Motion for Judgment are denied.

12. The allegations in paragraph twelve of the plaintiff's Motion for Judgment are denied.

13. The allegations in paragraph thirteen of the plaintiff's Motion for Judgment are denied.

14. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph fourteen of the plaintiff's Motion for Judgment, consequently denies these allegations and demands strict proof of each.

15. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph fifteen of the plaintiff's Motion for Judgment, consequently denies these allegations and demands strict proof of each.

16. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph sixteen of the plaintiff's Motion for Judgment, consequently denies these allegations and demands strict proof of each.

17. Further Defendants Car Center and Paul Jones Elliott assert that it will rely on any and all properly provable defenses to this action including, but not limited to contributory negligence, unavoidable accident, third-party negligence, assumption of the risk, sudden emergency, statute of limitations and any other defense to this action and reserves the right to amend this Grounds of Defense at any time.

18. WHEREFORE, Defendants Car Center and Paul Jones Elliott pray that this action be dismissed and that it be awarded costs for the defense in this matter.

CAR CENTER and
PAUL JONES ELLIOTT



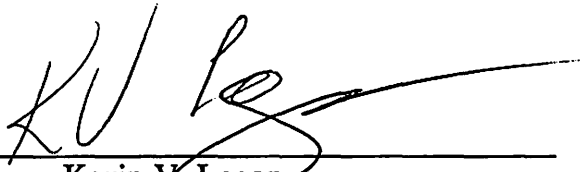
Of Counsel

Kevin V. Logan
SINNOTT, NUCKOLS & LOGAN, P.C.
13811 Village Mill Drive
Midlothian, Virginia 23113
(804) 378-7600

FILED JAN 22 1996
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY Courtney M. Williams D.C.

CERTIFICATE

I hereby certify that a true copy of the foregoing Grounds of Defense was mailed, postage prepaid, this 20th day of January 1996 to Beverly W. Snukals, MEZZULLO & MCCANDLISH, P.C., 1111 East Main Street, Suite 1500, Richmond, Virginia 23219 and Aubrey R. Bowles, III, Esquire, BOWLES AND BOWLES, Two North Fifth Street, Richmond, Virginia 23219-2218.



Kevin V. Logan

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

PAULINE BROWN,

Plaintiff,

v.

Law No. 95-6

WILLIAM BLACK,

**/ NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,**

/ PAUL JONES ELLIOTT,

/ CAR CENTER,

and

/ CSX TRANSPORTATION, INC.,

Defendants.

GROUND OF DEFENSE

Come now the defendants William Black, National Railroad Passenger Corporation, d/b/a Amtrak and CSX Transportation, Inc., by counsel, and for their grounds of defense say:

1. These defendants do not know whether the facts exist as alleged in paragraph numbered 1 of the Motion for Judgment and, therefore, deny the same.

2. These defendants deny the allegations of paragraph numbered 2 of the Motion for Judgment.

3. These defendants admit the allegations of paragraph numbered 3 of the Motion for Judgment.

4. These defendants deny the allegations of paragraph numbered 4 of the Motion for Judgment insofar as they apply to the defendant William Black. They admit the allegations of said

paragraph insófar as they apply to the defendant Paul Jones Elliott.

5. These defendants admit the allegations of paragraphs numbered 5, 6, 7, 8 and 9 of the Motion for Judgment.

6. These defendants deny the allegations of paragraph numbered 10 insofar as they apply to the defendants William Black and National Railroad Passenger Corporation, d/b/a Amtrak. They admit the allegations of said paragraph insofar as they apply to the defendants Paul Jones Elliott and Car Center.

7. These defendants deny the allegations of paragraph numbered 11 of the Motion for Judgment insofar as they apply to them. They admit the allegations of said paragraph insofar as they apply to their co-defendants.

8. These defendants admit the allegations of paragraphs numbered 12 and 13 of the Motion for Judgment.

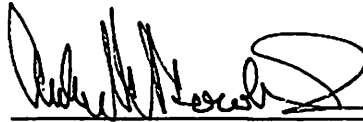
9. These defendants deny the allegations of paragraphs numbered 14 and 15 of the Motion for Judgment.

10. These defendants do not know whether the facts exist as alleged in paragraph numbered 16 of the Motion for Judgment and, therefore, deny the same.

11. These defendants deny that they were negligent and that they were guilty of negligence that caused or contributed to cause plaintiff's alleged injuries and damages.

12. These defendants allege in the alternative that the plaintiff was guilty of negligence that caused her alleged injuries and damages so as to bar any recovery on her part therefor.

13. These defendants deny that they are liable or indebted to the plaintiff in any amount whatsoever for any reason whatsoever, including punitive damages claimed as to the defendants William Black and National Railroad Passenger Corporation, d/b/a Amtrak.

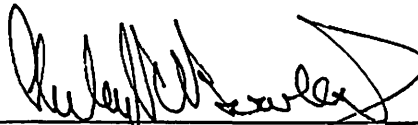


Aubrey R. Bowles, III, VSB #05267
Counsel for Defendants William
Black, National Railroad Passenger
Corporation, d/b/a Amtrak and CSX
Transportation, Inc.

BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768
Of Counsel

CERTIFICATE

The undersigned hereby certifies that a true copy of the foregoing Grounds of Defense was mailed, postage prepaid, to Beverly W. Snukals, Esq., Mezzullo & McCandlish, P.C., 1111 East Main Street, Suite 1500, Richmond, Virginia 23219, Counsel for Plaintiff and to Kevin V. Logan, Esq., Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, Counsel for Defendants Car Center and Paul Jones Elliott, on this 22nd day of January, 1996.



Aubrey R. Bowles, III

JAN 25 1996
FILED
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY Gary M. Williams D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

ELAINE HUGHES,

Plaintiff,

v.

Case Number: 95-5

WILLIAM BLACK,
and
NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a/ AMTRAK,
and
PAUL JONES ELLIOTT,
and
CAR CENTER,
and
CSX TRANSPORTATION, INC.,

Defendants.

GROUND OF DEFENSE

Come now Defendants Car Center and Paul Jones Elliott, by counsel, and for its response to the plaintiff's Motion for Judgment states the following:

1. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph one of the plaintiff's Motion for Judgment, consequently denies these allegations and demands strict proof of each.
2. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph two of the plaintiff's Motion for Judgment, consequently denies these allegations and demands strict proof of each.
3. The allegations in paragraph three of the plaintiff's Motion for Judgment are admitted.

4. The allegations in paragraph four of the plaintiff's Motion for Judgment are **denied.**

5. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph five of the plaintiff's Motion for Judgment, consequently **denies** these allegations and demands strict proof of each.

6. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph six of the plaintiff's Motion for Judgment, consequently **denies** these allegations and demands strict proof of each.

7. The allegations in paragraph seven of the plaintiff's Motion for Judgment are **admitted.**

8. The allegations in paragraph eight of the plaintiff's Motion for Judgment are **admitted.**

9. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph nine of the plaintiff's Motion for Judgment, consequently **denies** these allegations and demands strict proof of each.

10. The allegations in paragraph ten of the plaintiff's Motion for Judgment are **denied.**

11. The allegations in paragraph eleven of the plaintiff's Motion for Judgment are **denied.**

12. The allegations in paragraph twelve of the plaintiff's Motion for Judgment are **denied.**

13. The allegations in paragraph thirteen of the plaintiff's Motion for Judgment are **denied.**

14. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph fourteen of the plaintiff's Motion for Judgment, consequently denies these allegations and demands strict proof of each.

15. Defendants Car Center and Paul Jones Elliott have insufficient knowledge regarding the truth or falsity of the allegations in paragraph fifteen of the plaintiff's Motion for Judgment, consequently denies these allegations and demands strict proof of each.

16. The allegations in paragraph sixteen of the plaintiff's Motion for Judgment are denied.

17. Further Defendants Car Center and Paul Jones Elliott assert that it will rely on any and all properly provable defenses to this action including, but not limited to contributory negligence, unavoidable accident, third-party negligence, assumption of the risk, sudden emergency, statute of limitations and any other defense to this action and reserves the right to amend this Grounds of Defense at any time.

18. WHEREFORE, Defendants Car Center and Paul Jones Elliott pray that this action be dismissed and that it be awarded costs for the defense in this matter.

CAR CENTER and
PAUL JONES ELLIOTT



Of Counsel

Kevin V. Logan
SINNOTT, NUCKOLS & LOGAN, P.C.
13811 Village Mill Drive
Midlothian, Virginia 23113
(804) 378-7600

CERTIFICATE

I hereby certify that a true copy of the foregoing Grounds of Defense was mailed, postage prepaid, this 17th day of January 1996 to Beverly W. Snukals, MEZZULLO & MCCANDLISH, P.C., 1111 East Main Street, Suite 1500, Richmond, Virginia 23219 and Aubrey R. Bowles, III, Esquire, BOWLES AND BOWLES, Two North Fifth Street, Richmond, Virginia 23219-2218.


Kevin V. Logan

FILED JAN 18 1996

~~RECEIVED~~
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT

BY  p.c.

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

ELAINE HUGHES,

Plaintiff,

v.

Law No. 95-5

WILLIAM BLACK,

**NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,**

PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,

Defendants.

GROUND OF DEFENSE

Come now the defendants William Black, National Railroad Passenger Corporation, d/b/a Amtrak and CSX Transportation, Inc., by counsel, and for their grounds of defense say:

1. These defendants do not know whether the facts exist as alleged in paragraph numbered 1 of the Motion for Judgment and, therefore, deny the same.

2. These defendants deny the allegations of paragraph numbered 2 of the Motion for Judgment.

3. These defendants admit the allegations of paragraph numbered 3 of the Motion for Judgment.

4. These defendants deny the allegations of paragraph numbered 4 of the Motion for Judgment insofar as they apply to the defendant William Black. They admit the allegations of said

paragraph insofar as they apply to the defendant Paul Jones Elliott.

5. These defendants admit the allegations of paragraphs numbered 5, 6, 7, 8 and 9 of the Motion for Judgment.

6. These defendants deny the allegations of paragraph numbered 10 insofar as they apply to the defendants William Black and National Railroad Passenger Corporation, d/b/a Amtrak. They admit the allegations of said paragraph insofar as they apply to the defendants Paul Jones Elliott and Car Center.

7. These defendants deny the allegations of paragraph numbered 11 of the Motion for Judgment insofar as they apply to them. They admit the allegations of said paragraph insofar as they apply to their co-defendants.

8. These defendants admit the allegations of paragraphs numbered 12 and 13 of the Motion for Judgment.

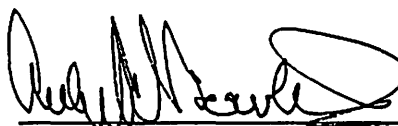
9. These defendants deny the allegations of paragraphs numbered 14 and 15 of the Motion for Judgment.

10. These defendants do not know whether the facts exist as alleged in paragraph numbered 16 of the Motion for Judgment and, therefore, deny the same.

11. These defendants deny that they were negligent and that they were guilty of negligence that caused or contributed to cause plaintiff's alleged injuries and damages.

12. These defendants allege in the alternative that the plaintiff was guilty of negligence that caused her alleged injuries and damages so as to bar any recovery on her part therefor.

13. These defendants deny that they are liable or indebted to the plaintiff in any amount whatsoever for any reason whatsoever, including punitive damages claimed as to the defendants William Black and National Railroad Passenger Corporation, d/b/a Amtrak.



Aubrey R. Bowles, III, VSB #05267
Counsel for Defendants William
Black, National Railroad Passenger
Corporation, d/b/a Amtrak and CSX
Transportation, Inc.

BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768
Of Counsel

CERTIFICATE

The undersigned hereby certifies that a true copy of the foregoing Grounds of Defense was mailed, postage prepaid, to Beverly W. Snukals, Esq., Mezzullo & McCandlish, P.C., 1111 East Main Street, Suite 1500, Richmond, Virginia 23219, Counsel for Plaintiff and to Kevin V. Logan, Esq., Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, Counsel for Defendants Car Center and Paul Jones Elliott, on this 22nd day of January, 1996.



Aubrey R. Bowles, III

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

PAULINE BROWN,

Plaintiff,

v.

Law No. 95-6

WILLIAM BLACK,

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,

Defendants.

MOTION OF WILLIAM BLACK, NATIONAL RAILROAD PASSENGER
CORPORATION, D/B/A AMTRAK AND CSX TRANSPORTATION, INC.
TO COMPEL ANSWERS TO INTERROGATORIES, DEPOSITION OF
PLAINTIFF, INDEPENDANT MEDICAL EXAMINATION OF
PLAINTIFF OR IN THE ALTERNATIVE TO DISMISS
PLAINTIFF'S MOTION FOR JUDGMENT WITH PREJUDICE

Plaintiff, a passenger on a train owned and operated by the defendant National Railroad Passenger Corporation, d/b/a Amtrak (hereinafter Amtrak) brought this action against William Black (hereinafter Black) Amtrak, Paul Jones Elliott (hereinafter Elliott), Car Center and CSX Transportation, Inc. (hereinafter CSXT) for injuries allegedly incurred on January 12, 1993 as a result of a crossing accident. Plaintiff did not file her Motion for Judgment against all defendants until January 12, 1995 and did

not seek issuance of notices of motion for judgment and service until January of 1996.

Plaintiff filed voluminous discovery to all defendants. Defendants Black, Amtrak and CSXT, on June 25, 1996, served their Motion to Quash Plaintiff's First Set of Interrogatories and Request for Production of Documents. On August 20, 1996, plaintiff served these defendants with her Motion to Compel and a hearing was held before this Court on January 13, 1997, at which time the Court allowed these defendants to file a Compliance with Paragraph Numbered 10 of their Motion to Quash which was served on April 7, 1997.

Apparently without reviewing the file, plaintiff's third new counsel served duplicative discovery to these defendants on September 15, 1998, following which these defendants' counsel advised plaintiff's new counsel of the previous rulings of the Court and the matter was not further pursued.

On June 4, 1998 these defendants filed a Second Set of Interrogatories to plaintiff. On October 21, 1998 these defendants' counsel wrote to plaintiff's counsel requesting answers to the interrogatories.

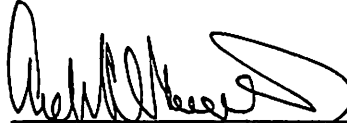
On March 5 of 1999 these defendants' counsel wrote plaintiff's counsel requesting dates for a deposition of the plaintiff and for an independant medical examination. On March 15, 1999 plaintiff's counsel replied that the request had been passed on and she would

get back shortly. On March 30, 1999 these defendants' counsel again wrote plaintiff's counsel regarding scheduling plaintiff's deposition and an independent medical examination. These defendants' counsel have received no reply.

WHEREFORE, the defendants Black, Amtrak and CSXT move the Court for entry of an order requiring plaintiff to respond to their Second Interrogatories to Plaintiff, require plaintiff to present herself for her deposition within the jurisdiction of this Court, require the plaintiff to submit herself for an independent medical examination or, in the alternative, dismiss plaintiff's action for failure to make herself available for deposition or independent medical examination and to respond to these defendants' Second Interrogatories.

In further support of their motion, these defendants would point out that the incident out of which plaintiff's alleged claimed injuries arise occurred over six years and five months ago and that the plaintiff's deliberate delaying in filing her Motion for Judgment for two years, then not serving it for another year plus plaintiff's failure to cooperate with these defendants' legitimate attempts to discover plaintiff's case, have prejudiced these defendants in preparing a defense and have caused the defendant Black, who, as plaintiff knows, was not operating Amtrak's train at the time of the accident, to have to explain the pendency of this action when making application for credit.

WHEREFORE, these defendants ask that this action be dismissed with prejudice against them unless plaintiff's deposition is completed, an independent medical examination conducted and these defendants' Second Interrogatories be answered within 30 days from the hearing on this matter.



Aubrey R. Bowles, III, VSB #05267
Counsel for Defendants William Black
National Railroad Passenger
Corporation, d/b/a Amtrak and CSX
Transportation, Inc.

BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768 (telephone)
804-648-8134 (fax)
Of Counsel

CERTIFICATE

The undersigned hereby certifies that a true copy of the foregoing Motion of William Black, National Railroad Passenger Corporation, d/b/a Amtrak and CSX Transportation, Inc. to Compel Answers to Interrogatories, Deposition of Plaintiff, Independent Medical Examination of Plaintiff or in the Alternative to Dismiss Plaintiff's Motion for Judgment With Prejudice was mailed, postage prepaid, to Mary Jane Hall, Esq., Mezzullo & McCandlish, P.C., Dominion Tower, Suite 2220, 999 Waterside Drive, Norfolk, Virginia 23510, Counsel for Plaintiff and to Kevin V. Logan, Esq., Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, Counsel for Defendants Car Center and Paul Jones Elliott, on this 21st day of June, 1999.



Aubrey R. Bowles, III

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

ELAINE HUGHES,

Plaintiff,

v.

Law No. 95-5

WILLIAM BLACK,

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,

Defendants.

MOTION OF WILLIAM BLACK, NATIONAL RAILROAD PASSENGER
CORPORATION, D/B/A AMTRAK AND CSX TRANSPORTATION, INC.
TO COMPEL ANSWERS TO INTERROGATORIES, DEPOSITION OF
PLAINTIFF, INDEPENDANT MEDICAL EXAMINATION OF
PLAINTIFF OR IN THE ALTERNATIVE TO DISMISS
PLAINTIFF'S MOTION FOR JUDGMENT WITH PREJUDICE

Plaintiff, a passenger on a train owned and operated by the defendant National Railroad Passenger Corporation, d/b/a Amtrak (hereinafter Amtrak) brought this action against William Black (hereinafter Black) Amtrak, Paul Jones Elliott (hereinafter Elliott), Car Center and CSX Transportation, Inc. (hereinafter CSXT) for injuries allegedly incurred on January 12, 1993 as a result of a crossing accident. Plaintiff did not file her Motion for Judgment against all defendants until January 12, 1995 and did

not seek issuance of notices of motion for judgment and service until January of 1996.

Plaintiff filed voluminous discovery to all defendants. Defendants Black, Amtrak and CSXT, on June 25, 1996, served their Motion to Quash Plaintiff's First Set of Interrogatories and Request for Production of Documents. On August 20, 1996, plaintiff served these defendants with her Motion to Compel and a hearing was held before this Court on January 13, 1997, at which time the Court allowed these defendants to file a Compliance with Paragraph Numbered 10 of their Motion to Quash which was served on April 7, 1997.

Apparently without reviewing the file, plaintiff's third new counsel served duplicative discovery to these defendants on September 15, 1998, following which these defendants' counsel advised plaintiff's new counsel of the previous rulings of the Court and the matter was not further pursued.

On June 4, 1998 these defendants filed a Second Set of Interrogatories to plaintiff. On October 21, 1998 these defendants' counsel wrote to plaintiff's counsel requesting answers to the interrogatories.

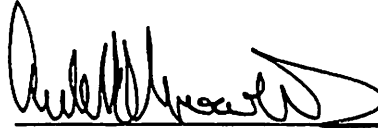
On March 5 of 1999 these defendants' counsel wrote plaintiff's counsel requesting dates for a deposition of the plaintiff and for an independant medical examination. On March 15, 1999 plaintiff's counsel replied that the request had been passed on and she would

get back shortly. On March 30, 1999 these defendants' counsel again wrote plaintiff's counsel regarding scheduling plaintiff's deposition and an independent medical examination. These defendants' counsel have received no reply.

WHEREFORE, the defendants Black, Amtrak and CSXT move the Court for entry of an order requiring plaintiff to respond to their Second Interrogatories to Plaintiff, require plaintiff to present herself for her deposition within the jurisdiction of this Court, require the plaintiff to submit herself for an independent medical examination or, in the alternative, dismiss plaintiff's action for failure to make herself available for deposition or independent medical examination and to respond to these defendants' Second Interrogatories.

In further support of their motion, these defendants would point out that the incident out of which plaintiff's alleged claimed injuries arise occurred over six years and five months ago and that the plaintiff's deliberate delaying in filing her Motion for Judgment for two years, then not serving it for another year plus plaintiff's failure to cooperate with these defendants' legitimate attempts to discover plaintiff's case, have prejudiced these defendants in preparing a defense and have caused the defendant Black, who, as plaintiff knows, was not operating Amtrak's train at the time of the accident, to have to explain the pendency of this action when making application for credit.

WHEREFORE, these defendants ask that this action be dismissed with prejudice against them unless plaintiff's deposition is completed, an independent medical examination conducted and these defendants' Second Interrogatories be answered within 30 days from the hearing on this matter.



Aubrey R. Bowles, III, VSB #05267
Counsel for Defendants William Black
National Railroad Passenger
Corporation, d/b/a Amtrak and CSX
Transportation, Inc.

BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768 (telephone)
804-648-8134 (fax)
Of Counsel

CERTIFICATE

The undersigned hereby certifies that a true copy of the foregoing Motion of William Black, National Railroad Passenger Corporation, d/b/a Amtrak and CSX Transportation, Inc. to Compel Answers to Interrogatories, Deposition of Plaintiff, Independent Medical Examination of Plaintiff or in the Alternative to Dismiss Plaintiff's Motion for Judgment With Prejudice was mailed, postage prepaid, to Mary Jane Hall, Esq., Mezzullo & McCandlish, P.C., Dominion Tower, Suite 2220, 999 Waterside Drive, Norfolk, Virginia 23510, Counsel for Plaintiff and to Kevin V. Logan, Esq., Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, Counsel for Defendants Car Center and Paul Jones Elliott, on this 21st day of June, 1999.



Aubrey R. Bowles, III

MAY 24 1999
FILED
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
By Cecelia Mautner D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

PAULINE BROWN,

Plaintiff,

v.

Law No. 95-6

WILLIAM BLACK,

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,

Defendants.

MOTION TO QUASH PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT
NATIONAL RAILROAD PASSENGER CORPORATION, D/B/A AMTRAK,
PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS TO DEFENDANT CSX
AND PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS TO WILLIAM BLACK AND FOR
PROTECTIVE ORDER PURSUANT TO RULE 4:1(C)
RULES OF SUPREME COURT OF VIRGINIA

Come now the defendants, by counsel, and move the Court to quash the interrogatories and request for production served upon them and to enter a protective order and in support thereof, set forth as follows:

1. Defendants' counsel has served objections to the interrogatories served on defendants National Railroad Passenger

Corporation, d/b/a AMTRAK (hereinafter Amtrak) and CSX Transportation, Inc. (hereinafter CSXT) on the ground that each set of interrogatories, including subparts, exceed the limit imposed by Rule 4:8(g) Rules of Supreme Court of Virginia and are signed by counsel for plaintiff in violation of Rule 4:1(g) Rules of Supreme Court of Virginia and have served specific objections to certain of the request for production of documents, copies of which are attached hereto as Exhibits A and B.

2. Defendants' counsel has also served specific objection to Plaintiff's First Set of Interrogatories and Request for Production to William Black, a copy of which is attached hereto as Exhibit C.

3. From the outset of this action, counsel for defendants Black, Amtrak and CSXT has advised counsel for plaintiff and counsel for co-defendants Paul Jones Elliott (hereinafter Elliott) and Car Center (hereinafter Car) that William Black (hereinafter Black) was not operating the Amtrak train on January 12, 1993 and the identify of the employee of Amtrak who was.

4. On June 21, 1996 counsel for defendants Black, Amtrak and CSXT met with plaintiff's counsel in an attempt to resolve the defendants' objections and reach agreement as to the interrogatories to which replies would be made and what documents would be produced so as to obviate the necessity of burdening the Court with matters that should be resolved between counsel.

5. Although some progress was made, in the main, the effort was futile as plaintiff's counsel insisted upon response to interrogatories and production of documents over unreasonable periods of time and which related to matters that could have no relevancy to plaintiff's action.

6. On January 12, 1993 at approximately 4:45 p.m. plaintiff was a passenger on Amtrak's northbound train #90 which collided with loaded low-boy trailer owned by defendant Car and operated by defendant Elliott which had become stranded on CSXT's tracks where they cross State Route 602 near Stoney Point, Virginia. The loaded low-boy trailer had been stranded on the crossing for a considerable period of time and no effort had been made by Elliott or his helper to notify anyone of the situation. As Elliott and his helper were attempting to free the loaded low-boy trailer, train #90 approached running 75 miles per hour in 79 miles per hour territory. The circuit controlling the activation of the lights and gates was actuated and the gates came down and the lights began flashing. The approaching train #90 gave the signals required by §56:414 Code of Virginia 1950 as amended and the train was placed in emergency braking by the assistant engineer Henry Taylor, who was operating the train at the time, not the defendant Black. Plaintiff alleges injuries resulting from the collision.

7. Since the loaded low-boy was already stranded on the tracks of CSXT, the issue of whether the statutory warnings were given is neither relevant nor material, as the purpose of §56:414

is to warn motorists that a train is approaching and not to cross the crossing. Here the loaded low-boy was already on the crossing and stranded long before the train reached the point where the signals were required. Discovery directed to this issue has no place in this action.

8. Since the loaded low-boy had been stranded on the crossing for some time before the warning devices at the crossing, i.e. flashing lights and gates were activated by the approaching train, discovery directed to the issue of the sufficiency of the warning devices is neither relevant nor material. Also, the entire issue of the adequacy of the warning devices at crossing DOT 623-725-Y is preempted by Federal law.

9. Likewise, any discovery directed towards the issue of the reasonableness of the speed of Amtrak train #90 is neither relevant nor material because of Federal preemption.

10. Defendants in an effort to resolve the existing discovery dispute are willing to do the following:

(a) Give the names, but not the addresses of all Amtrak crew members who were on duty when the collision occurred. Defendant Amtrak is reluctant to give addresses and telephone numbers of its employees because of numerous instances in the past when their employees have been contacted when counsel was not present.

(b) Provide the personnel files of the engineer, assistant engineer and conductor, as well as copies of their

most recent medical examinations prior to January 12, 1993.

(c) Copies of the engineer's and assistant engineer's license to operate trains.

(d) Make the assistant engineer and conductor available for depositions at a convenient location in Richmond, Virginia at a mutually agreeable time.

(e) Make the defendant Black available for deposition at a convenient location in Wilmington, North Carolina at a mutually convenient time. Mr. Black was seriously injured in a major derailment in Selma, North Carolina on May 16, 1994 and to require him to travel to Richmond, Virginia is unreasonable.

(f) Provide copies of the brake testing that was done regarding Amtrak's train #90 when it left its point of origin of the northbound trip and any testing that was conducted en route.

(g) Provide a consist of the Amtrak train #90 to include the numbers of the locomotives and cars and their order in the train.

(h) Provide copies of pictures that were taken at the crossing by CSXT's claim agent at plaintiff's cost.

(i) Make CSXT's claim agent available for deposition at a convenient location in Richmond, Virginia at a mutually convenient time.

(j) Provide a copy of the operating rules applicable to

Amtrak train #90 on January 12, 1993, as well as the applicable timetable and any train orders that might have been in effect at that time.

(k) Provide at plaintiff's expense an air brake specialist to describe for plaintiff's counsel how the air brake system operated on Amtrak train #90.

(l) Describe the equipment available on Amtrak train #90 that would allow crew members to communicate with one another and with the dispatcher.

(m) Provide the names and addresses and telephone numbers of all witnesses known to defendants, except as stated in paragraph 10(a) above.

(n) Provide the names and addresses and telephone numbers of all persons from whom any of these defendants have taken statements, except as stated in paragraph 10(a) above.

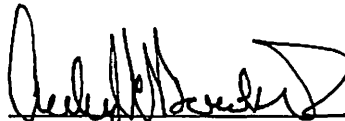
(o) The VAL map and track profile for the Stoney Creek area.

11. In agreeing to provide the foregoing, defendants will exercise their best efforts, however, since plaintiff filed her action on January 12, 1995 and did not attempt to effect service until almost one year had elapsed, some of the material referred to in paragraph 10 may no longer be available.

12. Copies of Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant National Railroad Passenger Corporation d/b/a Amtrak, Plaintiff's First Set of

Interrogatories and Requests for Production of Documents to Defendant CSX and Plaintiff's First Set of Interrogatories and Requests for Production of Documents to William Black are attached hereto for the convenience of the Court as Exhibits D, E and F, respectively.

WHEREFORE, defendants move the Court to quash the interrogatories and request for production served upon them and to enter a protective order that will protect them from the abusive, unnecessary and burdensome discovery served by plaintiff and to award defendants their cost and attorneys fees.

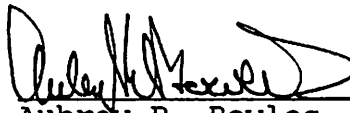


Aubrey R. Bowles, III,
Counsel for National Railroad
Passenger Corporation, d/b/a Amtrak,
CSX Transportation, Inc. and
William Black

BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768
Of Counsel

CERTIFICATE

The undersigned hereby certifies that a true copy of the foregoing Motion to Quash Plaintiff's First Set of Interrogatories and Request for Production of Documents to Defendant National Railroad Passenger Corporation, d/b/a Amtrak, Plaintiff's First Set of Interrogatories and Request for Production of Documents to Defendant CSX and Plaintiff's First Set of Interrogatories and Request for Production of Documents to William Black and For Protective Order Pursuant to Rule 4:1(c) Rules of Supreme Court of Virginia was mailed, postage prepaid, to Beverly W. Snukals, Esq., Mezzullo & McCandlish, P.C., 1111 East Main Street, Suite 1500, Richmond, Virginia 23219, Counsel for Plaintiff and to Kevin V. Logan, Esq., Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, Counsel for Defendants Car Center and Paul Jones Elliott, on this 25th day of June, 1996.



Aubrey R. Bowles, III

FILED JUN 26 1996
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY Carol P. Matthews D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

PAULINE BROWN,

Plaintiff,

v.

Law No. 95-6

WILLIAM BLACK,

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,

Defendants.

DEFENDANT NATIONAL RAILROAD PASSENGER CORPORATION'S
OBJECTIONS TO CERTAIN OF PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

Comes now defendant National Railroad Passenger Corporation, by counsel, and for its objections to certain of plaintiff's first set of interrogatories and request for production of documents sets forth as follows:

Interrogatories Numbered 1 through 14: Defendant objects to said interrogatories as their parts and subparts exceed the limit imposed by Rule 4:8(g) Rules of Supreme Court of Virginia and are signed by counsel in violation of Rule 4:1(g) Rules of Supreme Court of Virginia.

Request Numbered 7: Defendant objects as the request makes no sense, is unlimited as to time and, further, that any such reports may either have been prepared in anticipation of litigation



and are privileged or are protected by statute.

Requests Numbered 9 and 10: Defendant objects as the requests are not limited to this defendant, are unlimited as to time, were prepared in anticipation of litigation and/or their disclosure is protected by statute.

Request Numbered 11: Defendant objects to said request as it is clearly made for the purpose of harassment and in violation of Rule 4:1(g) Rules of Supreme Court of Virginia. What possible connection could the physical examination records of a chef, assistant cook or coach attendant have to the issues raised by plaintiff's action?

Request Numbered 12: Defendant objects as the request is burdensome and overbroad.

Request Numbered 13: Defendant objects as the request is burdensome and overbroad and not reasonably limited in time. Additionally, the consist of the train varies.

Request Numbered 14: Defendant objects on the basis that the request is overbroad and burdensome as it asks for manual/books describing the operation and function of each part of the train. Such a request could only be made for the purpose of harassment and in violation of Rule 4:1(g) Rules of Supreme Court of Virginia as the train consists of literally millions of parts, the vast majority of which could have no relationship whatsoever to plaintiff's cause of action.

Request Numbered 17: Defendant objects as the request is unrestricted as to time.

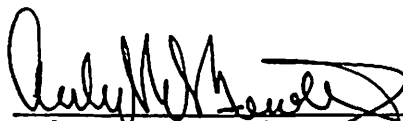
Request Numbered 19: Defendant objects as the request would conceivably cover every piece of equipment owned by defendant from its inception to the present.

Request Numbered 20: Defendant objects as the request is overbroad and burdensome and would require a search relating to all locomotives and cars that have operated over the crossing and further, that it asks for information past the time of the collision in issue.

Request Numbered 21: Defendant objects as the request is overbroad and burdensome as it calls for all trains operated by defendant.

Request Numbered 23: Defendant objects as the request is overbroad and burdensome and would require defendant to expend great time and effort for no gainful purpose.

Request Numbered 27: Defendant objects to the request on the ground that plaintiff has not shown the necessary prerequisite to obtain statements that were obtained in anticipation of litigation.



Aubrey R. Bowles, III, VSB #05267
Counsel for Defendant National
Railroad Passenger Corporation

BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768
Of Counsel

CERTIFICATE

The undersigned hereby certifies that a true copy of the foregoing Defendant National Railroad Passenger Corporation's Objections to Certain of Plaintiff's Interrogatories and Request for Production of Documents was mailed, postage prepaid, to Beverly W. Snukals, Esq., Mezzullo & McCandlish, P.C., 1111 East Main Street, Suite 1500, Richmond, Virginia 23219, Counsel for Plaintiff and to Kevin V. Logan, Esq., Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, Counsel for Defendants Car Center and Paul Jones Elliott, on this 19th day of April, 1996.


Aubrey R. Bowles, III

VIRGINIA: /

IN THE CIRCUIT COURT OF SUSSEX COUNTY

PAULINE BROWN,

Plaintiff,

v.

Law No. 95-6

WILLIAM BLACK,

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

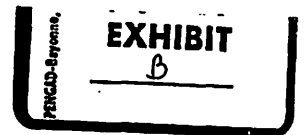
PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,

Defendants.



DEFENDANT CSX TRANSPORTATION, INC.'S OBJECTIONS TO CERTAIN
OF PLAINTIFF'S FIRST SET OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS

Comes now defendant CSX Transportation, Inc., by counsel, and for its objections to certain of plaintiff's first set of interrogatories and request for production of documents sets forth as follows:

Interrogatories Numbered 1 through 14: Defendant objects to said interrogatories as their parts and subparts exceed the limit imposed by Rule 4:8(g) Rules of Supreme Court of Virginia and are signed by counsel in violation of Rule 4:1(g) Rules of Supreme Court of Virginia.

Request Numbered 1: Defendant objects as the request is

overbroad and covers too long a period of time and the period of time from the collision to the present could have no relevance or materiality.

Request Numbered 3: Defendant objects as only the timetable in effect at the time could have any relevance or materiality to this action.

Request Numbered 5: See objection to Request Numbered 3 above.

Request Numbered 6: Documents prepared in anticipation of litigation are privileged. Plaintiff has not shown the necessary prerequisite. Further, disclosure of certain reports is protected by statute.

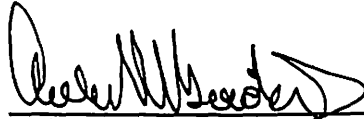
Request Numbered 7: Defendant objects as the request is overbroad and not reasonably limited as to time and it requests information for a period following the collision.

Request Numbered 12: Defendant objects as such statements were prepared in anticipation of litigation, are privileged and further, plaintiff has not shown the necessary prerequisite.

Requests Numbered 13 & 14: Defendant objects as the requests are overbroad and not reasonably limited as to time and requests information for a period following the collision.

Request Numbered 17: Defendant objects as the request refers to Interrogatory Numbered 12, which in no way relates to the request and is another example of plaintiff's flagrant disregard of Rule 4:1(g) Rules of Supreme Court of Virginia.

Request Numbered 20: Repetitive. See objection to Request
Numbered 12 above.

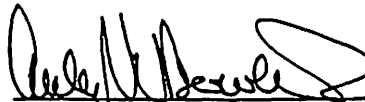


Aubrey R. Bowles, III, VSB #05267
Counsel for Defendant
CSX Transportation, Inc.

BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768
Of Counsel

CERTIFICATE

The undersigned hereby certifies that a true copy of the foregoing Defendant CSX Transportation, Inc.'s Objections to Certain of Plaintiff's First Set of Interrogatories and Request for Production of Documents was mailed, postage prepaid, to Beverly W. Snukals, Esq., Mezzullo & McCandlish, P.C., 1111 East Main Street, Suite 1500, Richmond, Virginia 23219, Counsel for Plaintiff and to Kevin V. Logan, Esq., Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, Counsel for Defendants Car Center and Paul Jones Elliott, on this 19th day of April, 1996.



Aubrey R. Bowles, III

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

PAULINE BROWN,

Plaintiff,

v.

Law No. 95-6

WILLIAM BLACK,

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,

Defendants.

DEFENDANT WILLIAM BLACK'S OBJECTIONS TO CERTAIN
OF PLAINTIFF'S FIRST SET OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS

Comes now defendant William Black, by counsel, and for his objections to certain of plaintiff's first set of interrogatories and request for production of documents sets forth as follows:

Interrogatory Numbered 1: Defendant objects to that portion of said interrogatory which requests that defendant go further than identify witnesses as plaintiff has not shown the necessary prerequisite required by Rule 4:1(b)(3) Rules of Supreme Court of Virginia.

Interrogatory Numbered 4: Defendant objects as said interrogatory is overbroad and is unlimited as to time.

Interrogatories Numbered 6 and 7: Defendant objects as the inquiries have absolutely no relevance or materiality to any issue raised by the Motion for Judgment and constitutes a waiver of privacy, particularly in view of the fact that plaintiff's counsel has been advised repeatedly that William Black was not operating the locomotive at the time the collision occurred.

Request Numbered 1: Defendant objects as he is neither a driver nor a conductor.

Request Numbered 2: See objection to Interrogatory Numbered 7 above.

Request Numbered 3: Defendant objects as said Request is overbroad and is unlimited as to time.

Request Numbered 4: Defendant objects as no such document exists.

Request Numbered 5: Defendant objects as defendant is not a conductor.

Request Numbered 6: Defendant objects as said Request is overbroad and calls for records for an unreasonable length of time before and after the collision.

Request Numbered 7: Defendant objects as defendant is not a driver.

Request Numbered 10: Defendant objects as defendant is not a driver or conductor.

Request Numbered 13: Defendant objects as defendant is not a conductor.

Request Numbered 14: Defendant objects as said Request is overbroad and calls for records for an unreasonable length of time. See also objection to Interrogatory Numbered 7 above.

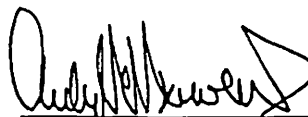
Request Numbered 15: Defendant objects as the Request is patently ridiculous.

Request Numbered 17: Defendant objects to such reports as were prepared in anticipation of litigation and those the disclosure of which is protected by statute.

Request Numbered 18: Defendant objects, as any such statements were prepared in anticipation of litigation and plaintiff has not shown the prerequisite required by 4:1(b)(3) Rules of Supreme Court of Virginia.

FURTHER OBJECTION AND MOTION FOR SANCTIONS

Plaintiff has been advised that William Black was not operating the locomotive at the time of the collision. Further, the interrogatories and requests are signed in violation of Rule 4:1(g) Rules of Supreme Court of Virginia.




Aubrey R. Bowles, III, VSB #05267
Counsel for Defendant William Black

BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768
Of Counsel

CERTIFICATE

The undersigned hereby certifies that a true copy of the foregoing Defendant William Black's Objections to Certain of Plaintiff's First Set of Interrogatories and Request for Production of Documents was mailed, postage prepaid, to Beverly W. Snukals, Esq., Mezzullo & McCandlish, P.C., 1111 East Main Street, Suite 1500, Richmond, Virginia 23219, Counsel for Plaintiff and to Kevin V. Logan, Esq., Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, Counsel for Defendants Car Center and Paul Jones Elliott, on this 19th day of April, 1996.

A handwritten signature in dark ink, appearing to read "Aubrey R. Bowles, III", written over a horizontal line.

Aubrey R. Bowles, III

VIRGINIA :

IN THE CIRCUIT COURT OF SUSSEX COUNTY

PAULINE BROWN,

Plaintiff,

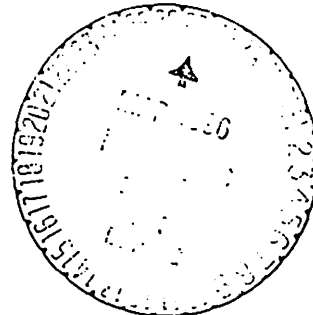
v.

WILLIAM BLACK, et al.

Defendants.

:
:
:
:
:
:
:
:
:
:

Case No. 95-6



PLAINTIFF'S FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT NATIONAL
RAILROAD PASSENGER CORPORATION d/b/a/ AMTRAK

Pursuant to Rules 4:8 and 4:9 of the Supreme Court of Virginia, Pauline Brown ("Ms. Browns"), Plaintiff, by counsel, hereby propounds the following Interrogatories and Requests for Production to National Railroad Passenger Corporation ("Amtrak"), Defendant. Amtrak shall answer separately and fully in writing each Interrogatory under oath and, to the extent possible, in the space provided following the Interrogatory. Amtrak shall serve Answers to the Interrogatories no later than twenty-one (21) days after service thereof.

Regarding the Requests for Production, Amtrak shall serve Ms. Brown with written responses no later than twenty-one (21) days after service of the Requests. The requested documents shall be produced at the offices of Mezzullo & McCandlish within twenty-one (21) days after service hereof, or the documents may be attached to the written responses. Amtrak

shall supplement all Answers to Interrogatories and all Responses to the Requests for Production as required by Rule 4:1(e).

INSTRUCTIONS AND DEFINITIONS

1. The Interrogatories and Requests for Production propounded herein request information and knowledge possessed by Amtrak, to whom this document is directed, as well as information and knowledge possessed by any and all of its agents, employees, representatives, assignees, and unless privileged, attorney(s).

2. If you consider any Interrogatory or Request for Production, or any part thereof, objectionable, answer that part of the Interrogatory or Request for Production which is not objectionable, and separately state which part of the Interrogatory or Request for Production is objectionable.

3. If you object to any Interrogatory or part thereof on the claim of privilege, identify each statement for which the privilege is claimed, together with the following information as to each such statement: (A) date; (B) names of persons present; and (C) the basis on which the privilege is claimed.

4. If you are withholding any document requested in the Requests for Production, for each such document please state its date, its author, the type of document, (e.g., statement, letter, report, receipt, etc.), and all reasons for your claim of privilege or exemption from discovery.

5. Whenever, throughout these interrogatories you, your attorney, consultant, representative or other agent do not have knowledge of or access to the requested information, please identify the person who or entity which can provide said information.

6. Where there is reasonably available to you a supporting document to either verify or explain your answer to an Interrogatory, please attach a copy of any such document and identify each in your answer to the Interrogatory.

7. If information or documentation necessary to answer an Interrogatory is presently unavailable, please explain if and when it will be available and identify the source and location of the information or documentation.

8. For the purposes of this discovery request, including the definitions and instructions, the word "and" includes the disjunctive "or" and the word "or" includes the conjunctive "and."

9. The term "person" means and includes any natural person, partnership, corporation, firm, association, or other organization cognizable at law, and its agents and employees.

10. "You," "your," and "Amtrak" refer to the above-named Defendant, to whom this document is directed, and includes all of its agents, employees, representatives, assignees and, to the extent not privileged, attorney(s).

11. "Documents" and "records" include any written, graphic, or recorded matter, however produced or reproduced, including, but not limited to, papers, books, records, letters, photographs, tangible things, correspondence, communications, telegrams, cables, telexes, faxes, messages, memoranda, notes, notations, work papers, transcripts, minutes, records and

(

(

recordings of telephone or other conversations, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, contracts, agreements, agendas, jottings, bulletins, notices, announcements, advertisements, charges, manuals, brochures, publications, schedules, price lists, clients lists, journals, statistical records, desk calendars, appointment books, diaries, lists or tabulations, books of accounts, records, invoices, statements of account, profit and loss statements, computer disks and records, and checks reflecting business operations.

12. "Relating to" and "referring to" means in any way concerning, constituting, referring to, relating to, analyzing, discussing, describing, considering, modifying, amending, confirming, endorsing, evidencing, representing, supporting, qualifying, terminating, provoking, canceling, negating, or listing, unless qualified by word of limitation.

13. To "identify" a person means to list that person's name, current address, and telephone number, and, in addition, if referring to a natural person, that person's current or last known place of employment and business telephone number.

14. To "identify" an act, event, or occurrence means to state its date; identify each person or entity who was a party or witness to the act, event, or occurrence; describe where and how it took place; and identify any documents that constitute or refer to such act, event, or occurrence.

15. To "identify" a document means to: (a) identify all files in which it and all non-identical copies of it are found; (b) identify its author; (c) identify its addressees, if any; (d) identify those who received a copy thereof; (e) identify its current custodian; (f) identify the nature and circumstances of its preparation, if known; and (g) identify its general subject matter.

16. Unless provided otherwise, the term "crossing" or the "railroad crossing" refers to the railroad crossing at which the train owned and operated by Defendant National Railroad Passenger Corporation ("Amtrak") collided with the truck operated by Defendant Paul Jones Elliott (Elliott") on or about January 12, 1993.

17. "Collision" refers to the January 12, 1993 collision between the train owned and operated by Amtrak and the truck operated by Elliot.

18. The "Amtrak Train" refers to the train which collided with the truck-trailer operated by Elliott on January 12, 1993.

19. The "Car Center" truck or "the truck-trailer" refers to the truck operated by Elliot on January 12, 1993 which collided into the Amtrak train.

20. "Intersection" refers to the place at which the railroad, on which the Amtrak train collided with the truck-trailer, intersected with the road on which Paul Jones Elliot travelled just prior to the collision.

INTERROGATORIES

1. Identify each person answering or participating in the formulation of each Answer to these Interrogatories and Requests for Production of Documents.

ANSWER:

2. Identify all persons who witnessed or have knowledge of the collision or who were present at the scene of the collision. For each person identified, describe fully the facts or information about which each person has knowledge and the basis of believing that such person has or may have such knowledge.

ANSWER:

3. Identify each person you expect to call as an expert witness at trial, and for each such expert, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and provide a summary of the grounds for each opinion.

ANSWER:

4. Were you the owner of the Amtrak train on which Pauline Brown was a passenger on January 12, 1993, and which collided with the tractor-trailer at or near the intersections of Route 602 and Route 657 in Sussex County, Virginia? If so, please state the name, number, or other designation of the train, and state the direction in which the train was traveling.

ANSWER:

5. Describe in detail the composition and loading of the train including, but not limited to, (1) the number of cars the train included, (2) the number of passengers aboard the train at the time of the collision (3) the weight of all mail, baggage, and other property that was being transported, (4) the combined weight of all cars in the "consist," (5) the weight of the locomotive, including tender and fuel, (6) the number of wheel trucks on each car and the number of wheels on each, (7) the number of driving wheels on the locomotive, and (8) the number of braking wheels.

ANSWER:

6. Identify all crew members on the Amtrak train at the time of the collision, and for each, provide the birthdate, job title at the time of the collision, job description at the time of the collision, the dates of employment with you, and the dates of employment in the capacity that they held at the time of the collision.

ANSWER:

7. For each crew member who worked on the Amtrak train on January 12, 1993, state whether he or she is presently filling the same position he or she did on January 12, 1993. If any crew member is no longer filling the same job duties or no longer has the same job title, whether because of termination of employment, change in duty assignment or otherwise, and for each, state the present and any interim job titles, the present and any interim job descriptions, the date(s) on which the job change(s) occurred for that person, the reason for each such job change/termination.

ANSWER:

8. Identify each of your employees who saw, knew or received notice that an obstruction existed on the railroad crossing prior to the collision, and for each such employee, state where that employee was located when he first saw/learned about the obstruction, how the employer first learned of the obstruction, the time when each such employee first saw/learned of the obstruction, the distance of the train from the crossing when each such person saw/learned of the obstruction, a description of what each such employee did, said, or ordered when he or she first saw/learned of the obstruction.

ANSWER:

9. If you have promulgated any new rules, regulations, train orders, or general procedures with respect to safety subsequent to this accident or have replaced or revised any rule, regulation, train order, or general procedure with respect to safety subsequent to this accident, please set forth each such rule, regulation, train order and procedure; and set forth each corresponding rule, regulation, train order, and procedure, if any, which was replaced, modified, or revised; and for each such rule state the effective date as well as the date of revocation.

ANSWER:

10. Identify each and every person who received medical treatment at any time as a result of the collision made the basis of this lawsuit.

ANSWER:

11. Identify each and every federal, state or governmental entity which has ever ordered, requested or given you notice to make repairs to rolling stock on the Amtrak train or to improve any equipment on that train and state whether each was an order, request, or notice; provide the date of such order, request, and notice; and provide the substance of each such order, request, and notice.

ANSWER:

12. Identify each and every fine or threatened fine which you have received from a federal, state or other government entity for your failure to revise, correct, or improve the Amtrak train and explain whether each was a fine or a threatened fine; identify the entity which fined or threatened to fine you, state the type and amount of such fine or threatened fine; describe the act or omission that made the basis of the fine or threatened fine; and explain in detail the resolution of such fine or threatened fine.

ANSWER:

13. Was the Amtrak train equipped with seat belts or shoulder harnesses? If so, explain the location of each and describe the materials which composed the seat belts and shoulder harnesses.

ANSWER:

14. Explain in detail the basis of your allegation that Ms. Brown was guilty of negligence that caused her injuries and damages.

ANSWER:

REQUESTS FOR PRODUCTION OF DOCUMENTS

Please produce originals or true and correct copies of the following:

1. The right-of-way map for the route taken by the Amtrak train on January 12, 1993.
2. All Amtrak safety rules which were in effect on the day of the collision.
3. All rules of the road which were in effect on the day of the collision.
4. All timetables for trains following the route of the train in question for the previous three months.
5. Speed limit lists in effect at the time of the collision.
6. All Amtrak procedure manuals in effect at the time of the collision relating to look-outs; braking; accident prevention; speed; railroad crossings; and giving warnings, instructions, and other information to passengers.
7. Documents relating to and all accident reports for all collisions for which the Amtrak train engineer was on duty.
8. Documents relating to and all accident reports for all collisions for which the Amtrak train conductor, William Black, was on duty.
9. Documents relating to and all accident reports for this particular collision.
10. Documents relating to and all accident reports for accidents occurring at this location for the past ten years, whether the accident was due to a collision, derailment, or otherwise.
11. Physical examination records of all employees on duty on the Amtrak train at the time of the collision.
12. Logbooks and other similar records for the Amtrak train in question for the past five years.

- (
13. Repair records for the Amtrak train for the past five years.
 14. The train manual/book which describes the operation and functions of each part of the train.
 15. Any and all pictures of the Amtrak train in question.
 16. Any and all pictures relating to the collision, whether of the Amtrak train, the truck, the passengers, or the scene of the collision.
 17. Any drug testing/qualification records of the conductor, engineer, brakeman, and fireman.
 18. The personnel records for the conductor, engineer, brakeman, and fireman on duty at the time of this accident,
 19. Documents relating to orders, requests, and notices from any federal, state, or other governmental entity to make repairs/improvements on your rolling stock which traveled on this particular railroad.
 20. Documents relating to fines or threatened fines from any federal, state, or other governmental entity with respect to your operation of your train in general, or with respect to the Amtrak train involved in the collision, in particular, for the past ten years.
 21. Documents relating to fines and threatened fines for your train's failure to give the right-of-way to another vehicle for the last ten years.
 22. Documents relating to procedures, rules, and regulations for the train in effect at the time of the accident.
 23. Documents relating to accidents involving this particular train for the last ten years.

24. Documents relating to each and every investigation or inquiry regarding the conductor, engineer, brakeman, and fireman on duty during this collision.
25. A current curriculum vitae for each expert whom you may call to testify at trial.
26. A list of each and every case in which an expert witness, who may testify at trial, has testified as an expert at trial or by deposition within the preceding four (4) years.
27. Every statement provided for or given to you regarding the collision and the circumstances giving rise thereto.
28. A copy of all publications authored by any expert witness whom you may call to testify at trial which has been published during the preceding ten (10) years..
29. All exhibits to be used as a summary of or support for each testifying expert's testimony.

Respectfully submitted,

PAULINE BROWN

By Rhonda M. Harmon
Counsel

Beverly W. Snukals
Rhonda M. Harmon
Mezzullo & McCandlish, P.C.
1111 East Main Street
Suite 1500
Richmond, VA 23219

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Plaintiff's First Interrogatories and Requests for Production of Documents to Defendant National Railroad Passenger Corporation was mailed, first-class mail, postage prepaid on this 26th day of March, 1996 to:

Kevin V. Logan, Esquire
Sinnott, Nuckols & Logan, P.C.
13811 Village Mill Drive
Midlothian, VA 23113

Aubrey R. Bowles, III, Esquire
Bowles and Bowles
Two North Fifth Street
Richmond, VA 23219-2218

Shonda M. Harmon

VIRGINIA :

IN THE CIRCUIT COURT OF SUSSEX COUNTY



PAULINE BROWN,

Plaintiff,

v.

Case No. 95-6

WILLIAM BLACK, et al.

Defendants.



**PLAINTIFF'S FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT CSX**

Pursuant to Rules 4:8 and 4:9 of the Supreme Court of Virginia, Pauline Brown ("Ms. Brown"), Plaintiff, by counsel, hereby propounds the following Interrogatories and Requests for Production to CSX, Defendant. CSX shall answer separately and fully in writing each Interrogatory under oath and, to the extent possible, in the space provided following the Interrogatory. CSX shall serve Answers to the Interrogatories no later than twenty-one (21) days after service thereof.

Regarding the Requests for Production, CSX shall serve Ms. Brown with written responses no later than twenty-one (21) days after service of the Requests. The requested documents shall be produced at the offices of Mezzullo & McCandlish within twenty-one (21) days after service hereof, or the documents may be attached to the written responses. CSX shall

supplement all Answers to Interrogatories and all Responses to the Requests for Production as required by Rule 4:1(e).

INSTRUCTIONS AND DEFINITIONS

1. The Interrogatories and Requests for Production propounded herein request information and knowledge possessed by CSX, to whom this document is directed, as well as information and knowledge possessed by any and all of its agents, employees, representatives, assignees, and unless privileged, attorney(s).

2. If you consider any Interrogatory or Request for Production, or any part thereof, objectionable, answer that part of the Interrogatory or Request for Production which is not objectionable, and separately state which part of the Interrogatory or Request for Production is objectionable.

3. If you object to any Interrogatory or part thereof on the claim of privilege, identify each statement for which the privilege is claimed, together with the following information as to each such statement: (A) date; (B) names of persons present; and (C) the basis on which the privilege is claimed.

4. If you are withholding any document requested in the Requests for Production, for each such document please state its date, its author, the type of document, (e.g., statement, letter, report, receipt, etc.), and all reasons for your claim of privilege or exemption from discovery.

5. Whenever, throughout these interrogatories you, your attorney, consultant, representative or other agent do not have knowledge of or access to the requested information, please identify the person who or entity which can provide said information.

6. Where there is reasonably available to you a supporting document to either verify or explain your answer to an Interrogatory, please attach a copy of any such document and identify each in your answer to the Interrogatory.

7. If information or documentation necessary to answer an Interrogatory is presently unavailable, please explain if and when it will be available and identify the source and location of the information or documentation.

8. For the purposes of this discovery request, including the definitions and instructions, the word "and" includes the disjunctive "or" and the word "or" includes the conjunctive "and."

9. The term "person" means and includes any natural person, partnership, corporation, firm, association, or other organization cognizable at law, and its agents and employees.

10. "You," "your," and "CSX" refer to the above-named Defendant, to whom this document is directed, and includes all of its agents, employees, representatives, assignees and, to the extent not privileged, attorney(s).

11. "Documents" and "records" include any written, graphic, or recorded matter, however produced or reproduced, including, but not limited to, papers, books, records, letters, photographs, tangible things, correspondence, communications, telegrams, cables, telexes, faxes, messages, memoranda, notes, notations, work papers, transcripts, minutes, records and recordings of telephone or other conversations, affidavits, statements, summaries, opinions,

reports, studies, analyses, evaluations, contracts, agreements, agendas, jottings, bulletins, notices, announcements, advertisements, charges, manuals, brochures, publications, schedules, price lists, clients lists, journals, statistical records, desk calendars, appointment books, diaries, lists or tabulations, books of accounts, records, invoices, statements of account, profit and loss statements, computer disks and records, and checks reflecting business operations.

12. "Relating to" and "referring to" means in any way concerning, constituting, referring to, relating to, analyzing, discussing, describing, considering, modifying, amending, confirming, endorsing, evidencing, representing, supporting, qualifying, terminating, provoking, canceling, negating, or listing, unless qualified by word of limitation.

13. To "identify" a person means to list that person's name, current address, and telephone number, and, in addition, if referring to a natural person, that person's current or last known place of employment and business telephone number.

14. To "identify" an act, event, or occurrence means to state its date; identify each person or entity who was a party or witness to the act, event, or occurrence; describe where and how it took place; and identify any documents that constitute or refer to such act, event, or occurrence.

15. To "identify" a document means to: (a) identify all files in which it and all non-identical copies of it are found; (b) identify its author; (c) identify its addressees, if any; (d) identify those who received a copy thereof; (e) identify its current custodian; (f) identify the nature and circumstances of its preparation, if known; and (g) identify its general subject matter.

16. Unless provided otherwise, the term "crossing" or the "railroad crossing" refers to the railroad crossing at which the train owned and operated by Defendant National Railroad

Passenger Corporation ("Amtrak") collided with the truck operated by Defendant Paul Jones Elliott ("Elliott") on or about January 12, 1993.

17. "Collision" refers to the January 12, 1993 collision between the train owned and operated by Amtrak and the truck operated by Elliott.

18. "The Amtrak Train" refers to the train which collided with the truck-trailer operated by Elliott on January 12, 1993.

19. The "Car Center" truck or "the truck-trailer" refers to the truck operated by Elliott on January 12, 1993 which collided into the Amtrak train.

20. "Intersection" refers to the place at which the railroad, on which the Amtrak train collided with the truck-trailer, intersected with the road on which Paul Jones Elliott travelled just prior to the collision.

INTERROGATORIES

1. Identify each person answering or participating in the formulation of each Answer to these Interrogatories and Requests for Production of Documents.

ANSWER:

2. Identify all persons who witnessed or have knowledge of the collision or who were present at the scene of the collision. For each person identified, describe fully the facts or information about which each person has knowledge and the basis of believing that such person has or may have such knowledge.

ANSWER:

3. Identify each person you expect to call as an expert witness at trial, and for each such expert, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and provide a summary of the grounds for each opinion.

ANSWER:

4. If there was a sign in the vicinity of the crossing to designate the speeds at which trains were to cross the intersection, describe the sign in detail: Describe the distance of the sign from the crossing, the speed designated on the sign, the size, color, and lettering of the numbers, the color of the background, the type of paint or other materials used to depict the numbers and letters, and the last date on which the sign had been painted, repainted, renewed, or repaired prior to the collision.

ANSWER:

5. Identify and describe all rules, regulations, orders, and procedures including, but not limited to, citations of code sections, or other source reference with respect to safety and with respect to a locomotive approach of a crossing on your tracks in general and this crossing in particular which were in effect at the time of the collision and if any such rule, regulation, order or procedure has been superseded, deleted, or altered since the time of the collision, state the last date on which such rule was in effect; state the first date on which any superseding/modifying rule, regulation, order or procedure took effect; and describe the substance of the superseding/modifying rule, regulation, order, or procedure which took its place.

ANSWER:

6. Describe the railroad crossing in detail and include in your answer the date on which the crossing was built; the date on which the crossing and/or intersection was graded; the grading, if any, which existed between the street and the trackage; the names of the streets which crossed it; and state whether any other railroad crossed within one mile of this crossing and whether the crossing had derailing switches present.

ANSWER:

7. If you have ever received a complaint or warning of any kind from any person about the railroad crossing or about the tracks within 2 miles of the railroad crossing at issue, identify the person giving the complaint or warning, explain in detail the substance of the complaint or warning, state the date of the complaint or warning, and if such complaint or warning was in response to a collision, accident, or mishap of any kind at the crossing or on the railroad, describe the collision, accident or mishap; state the date on which each occurred; and identify each and every person who was involved in such collision, accident, or mishap.

ANSWER:

8. Identify each and every person who has become stalled, disabled or otherwise stuck on the railroad crossing in the last ten years and state the date on which that person became stalled, stuck, or disabled on the crossing; the reason that the person became stalled, stuck, or disabled on the crossing; describe the weather conditions which existed at that time; describe whether any collision occurred as a result; and identify all persons who were injured or killed as a result.

ANSWER:

9. Describe each and every notice or request you have received from the federal, state, or other governmental entity, including the Sussex County Board, to repair the railroad crossing, signs, or warnings at the crossing; identify the entity which gave you each notice or request; state the date of each notice or request, and explain in detail the substance of each notice or request.

ANSWER:

10. Describe in detail all documents you have received which accompanied fines or threatened fines for failure to comply with federal, state, or other governmental entity laws, rules, ordinances or directions with respect to the crossing, and for each such fine or threatened fine, state the date of the fine or threatened fine, state the type and amount of such fine or threatened fine, identify the entity which issued each, explain the act or omission which gave rise to each, and explain in detail the resolution of each such fine or threatened fine.

ANSWER:

11. Identify all lawsuits and other claims lodged against you for personal injuries or property damage which occurred at or near the crossing, including lawsuits and claims arising out of the collision, or any crossing with similar grading, and for each such lawsuit and claim, state the name and style of each case; the claim or docket number assigned; the party or court or administrative entity, if any, in which each such case was filed; the filing date of the case or claim; the name and address of the attorney for the opposing party or parties; and the nature and result of each such suit or claim, including the dollar amount of any payment, judgment or settlement.

ANSWER:

12. Describe in detail all signs along the railroad tracks within two miles in either direction of the railroad crossing at which the collision took place.

ANSWER:

REQUESTS FOR PRODUCTION OF DOCUMENTS

Please provide the following:

1. All track safety inspection reports for this particular track for the past ten years.
2. All accident reports for the crossing for as long as that crossing has had the present or similar grade.
3. Timetables for this track for the last five years.
4. A copy of all applications for elimination, improvement, or abolition of the crossing in question.
5. Schedules for the railroad tracks used by Amtrak for the past five years.
6. Documents and accident reports relating to this particular collision.
7. Documents and accident reports for all collisions, derailments, and other accidents at the crossing for the past ten years.
8. A current curriculum vitae for each expert whom you may call to testify at trial.
9. A list of each and every case in which an expert witness, who may testify at trial, has testified as an expert at trial or by deposition within the preceding four (4) years.
10. All publications authored by any expert witness whom you may call to testify at trial which has been published during the preceding ten (10) years.
11. All exhibits to be used as a summons of or support for each testifying expert's testimony.
12. Every statement provided for or given to you regarding the collision and the circumstances giving rise thereto.

(

13. All complaints and documents relating to complaints about the crossing or the tracks within two (2) miles of the crossing for the last ten (10) years.

14. Documents relating to a vehicle becoming struck, stalled or disabled on the crossing within the last ten (10) years.

15. All notices or requests from any governmental entity regarding the crossing, the tracks within two (2) miles of the crossing, any signs, warnings or devices at or near the crossing, and any obstructions to the view of the crossing.

16. Documents relating to fines or threatened fines regarding the crossing.

17. Documents relating to lawsuits filed against you, as identified in Interrogatory No. 12, including pleadings and depositions of your representative(s) and expert(s).

18. Photographs of the crossing, the collision, any damage to or at the crossing, and of the train or Car Center truck as they existed on the day of the collision.

19. All photographs of gates, signs, lights, devices, markings, etc. at or within two (2) miles of the crossing.

20. All statements which you have or which you had or which you took regarding the collision.

21. All photographs of the crossing as it existed prior to the collision.

Respectfully submitted,

PAULINE BROWN

By Rhonda M. Harmon
Counsel

Beverly W. Snukals
Rhonda M. Harmon
Mezzullo & McCandlish, P.C.
1111 East Main Street
Suite 1500
Richmond, VA 23219

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Plaintiff's First Interrogatories and Requests for Production of Documents to Defendant CSX was mailed, first-class mail, postage prepaid on this 26th day of March, 1996 to:

Kevin V. Logan, Esquire
Sinnott, Nuckols & Logan, P.C.
13811 Village Mill Drive
Midlothian, VA 23113

Aubrey R. Bowles, III, Esquire
Bowles and Bowles
Two North Fifth Street
Richmond, VA 23219-2218

Rhonda M. Harmon

VIRGINIA :

IN THE CIRCUIT COURT OF SUSSEX COUNTY

PAULINE BROWN,

Plaintiff,

v.

Case No. 95-6

WILLIAM BLACK, et al.

Defendants.



**PLAINTIFF'S FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS TO WILLIAM BLACK**

Pursuant to Rules 4:8 and 4:9 of the Supreme Court of Virginia, Pauline Brown ("Ms. Brown"), Plaintiff, by counsel, hereby propounds the following Interrogatories and Requests for Production to William Black ("Mr. Black"), Defendant. Mr. Black shall answer separately and fully in writing each Interrogatory under oath and, to the extent possible, in the space provided following the Interrogatory. Mr. Black shall serve Answers to the Interrogatories no later than twenty-one (21) days after service thereof.

Regarding the Requests for Production, Mr. Black shall serve Ms. Brown with written responses no later than twenty-one (21) days after service of the Requests. The requested documents shall be produced at the offices of Mezzullo & McCandlish within twenty-one (21) days after service hereof, or the documents may be attached to the written responses. Mr. Black

shall supplement all Answers to Interrogatories and all Responses to the Requests for Production as required by Rule 4:1(e).

INSTRUCTIONS AND DEFINITIONS

1. The Interrogatories and Requests for Production propounded herein request information and knowledge possessed by Mr. Black, to whom this document is directed, as well as information and knowledge possessed by any and all of his agents, employees, representatives, assignees, and unless privileged, attorney(s).

2. If you consider any Interrogatory or Request for Production, or any part thereof, objectionable, answer that part of the Interrogatory or Request for Production which is not objectionable, and separately state which part of the Interrogatory or Request for Production is objectionable.

3. If you object to any Interrogatory or part thereof on the claim of privilege, identify each statement for which the privilege is claimed, together with the following information as to each such statement: (A) date; (B) names of persons present; and (C) the basis on which the privilege is claimed.

4. If you are withholding any document requested in the Requests for Production, for each such document please state its date, its author, the type of document, (e.g., statement, letter, report, receipt, etc.), and all reasons for your claim of privilege or exemption from discovery.

5. Whenever, throughout these interrogatories you, your attorney, consultant, representative or other agent do not have knowledge of or access to the requested information, please identify the person who or entity which can provide said information.

6. Where there is reasonably available to you a supporting document to either verify or explain your answer to an Interrogatory, please attach a copy of any such document and identify each in your answer to the Interrogatory.

7. If information or documentation necessary to answer an Interrogatory is presently unavailable, please explain if and when it will be available and identify the source and location of the information or documentation.

8. For the purposes of this discovery request, including the definitions and instructions, the word "and" includes the disjunctive "or" and the word "or" includes the conjunctive "and."

9. The term "person" means and includes any natural person, partnership, corporation, firm, association, or other organization cognizable at law, and its agents and employees.

10. "You," "your," and "Mr. Black" refer to the above-named Defendant, to whom this document is directed, and includes all of its agents, employees, representatives, assignees and, to the extent not privileged, attorney(s).

11. "Documents" and "records" include any written, graphic, or recorded matter, however produced or reproduced, including, but not limited to, papers, books, records, letters, photographs, tangible things, correspondence, communications, telegrams, cables, telexes, faxes, messages, memoranda, notes, notations, work papers, transcripts, minutes, records and recordings of telephone or other conversations, affidavits, statements, summaries, opinions,

reports, studies, analyses, evaluations, contracts, agreements, agendas, jottings, bulletins, notices, announcements, advertisements, charges, manuals, brochures, publications, schedules, price lists, clients lists, journals, statistical records, desk calendars, appointment books, diaries, lists or tabulations, books of accounts, records, invoices, statements of account, profit and loss statements, computer disks and records, and checks reflecting business operations.

12. "Relating to" and "referring to" means in any way concerning, constituting, referring to, relating to, analyzing, discussing, describing, considering, modifying, amending, confirming, endorsing, evidencing, representing, supporting, qualifying, terminating, provoking, canceling, negating, or listing, unless qualified by word of limitation.

13. To "identify" a person means to list that person's name, current address, and telephone number, and, in addition, if referring to a natural person, that person's current or last known place of employment and business telephone number.

14. To "identify" an act, event, or occurrence means to state its date; identify each person or entity who was a party or witness to the act, event, or occurrence; describe where and how it took place; and identify any documents that constitute or refer to such act, event, or occurrence.

15. To "identify" a document means to: (a) identify all files in which it and all non-identical copies of it are found; (b) identify its author; (c) identify its addressees, if any; (d) identify those who received a copy thereof; (e) identify its current custodian; (f) identify the nature and circumstances of its preparation, if known; and (g) identify its general subject matter.

16. Unless provided otherwise, the term "crossing" or the "railroad crossing" refers to the railroad crossing at which the train owned and operated by Defendant National Railroad

Passenger Corporation ("Amtrak") collided with the truck operated by Defendant Paul Jones Elliott ("Elliott") on or about January 12, 1993.

17. "Collision" refers to the January 12, 1993 collision between the train owned and operated by Amtrak and the truck operated by Elliott.

18. "The Amtrak Train" refers to the train which collided with the truck-trailer operated by Elliott on January 12, 1993.

19. The "Car Center" truck or "the truck-trailer" refers to the truck operated by Elliott on January 12, 1993 which collided into the Amtrak train.

20. "Intersection" refers to the place at which the railroad, on which the Amtrak train collided with the truck-trailer, intersected with the road on which Paul Jones Elliott travelled just prior to the collision.

INTERROGATORIES

1. Identify all persons who witnessed or have knowledge of the collision or who were present at the scene of the collision. For each person identified, describe fully the facts or information about which each person has knowledge and the basis of believing that such person has or may have such knowledge.

ANSWER:

2. Identify each person you expect to call as an expert witness at trial, and for each such expert, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and provide a summary of the grounds for each opinion.

ANSWER:

3. Describe in detail how and when you first learned that the tractor-trailer in particular or an obstruction in general was on the crossing. Identify the person who informed you of the obstruction, describing in detail that person's exact words.

ANSWER:

4. Describe in detail each and every statement, order, suggestion, etc. made to you by any Amtrak employee or agent, before, during or after the accident, on January 12, 1993, with respect to the crossing, the presence of the tractor-trailer or an obstruction on the crossing, the manner in which you were to proceed to the crossing, and/or Amtrak's or your responsibility/liability for the accident/collision. Identify each person who made each such statement and state the approximate time of the statement and the distance the train was from the crossing when you heard each such statement, order, or suggestion, etc.

ANSWER:

5. Identify by citation to statute, regulation or other source, all safety rules, regulations, orders, and procedures under which you operated or were required to operate on the date of the accident.

ANSWER:

6. Describe in detail all alcohol, medications, drugs, whether legal or illegal, over the counter or prescription or other controlled substances which you took within the 24 hours preceding the collision and describe the type and amount/dosage of each such drug, medication, alcohol, or controlled substance which you ingested, consumed, or used and the times at which you ingested, consumed, or used the alcohol, drug, medication or other controlled substance, within that twenty-four hour period and state the date and time at which you last ingested, consumed or used the substance prior to that twenty-four hour period.

ANSWER:

7. Identify all lawsuits and other claims lodged against you, and for each such lawsuit and claim, state the name and style of each case; the claim or docket number assigned; the party or parties against whom each such claim or lawsuit was filed; the Court or administrative entity, if any, in which each such case was filed; the filing date of the case or claim; the name and address of the attorney for the opposing party or parties; and the nature and result of each such suit or claim, including the dollar amount of any payment, judgment, or settlement.

ANSWER:

8. Describe in detail the basis of your allegation that Ms. Brown was guilty of negligence which caused her injuries and damages.

ANSWER:

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All driver's/conductor's licenses for the past ten years.
2. Documents relating to lawsuits filed against you, including pleadings and depositions of you.
3. Documents relating to drug/alcohol testing you have undergone.
4. The travel log for the 8 days prior to and including January 12, 1993.
5. Documents relating to your certification and licensure as a conductor.
6. Your medical examination records for the past eight (8) years.
7. Documents relating to your driving record, including tickets, citations and documents relating to arrests, conviction, bail and forfeiture of bonds or collateral.
8. Your personnel file with Amtrak.
9. Your qualification file.
10. Documents relating to the revocation, suspension, cancellation, lost privileges or disqualification of your driver's/conductor's license privileges.
11. A current curriculum vitae for each expert whom you may call to testify at trial.
12. A list of each and every case in which an expert witness, who may testify at trial, has testified as an expert at trial or by deposition within the preceding four (4) years.
13. Documents relating to your certifications and licensure as a train conductor.
14. Documents relating to every employment reprimand, suspension, probation and dismissal for the last ten (10) years.
15. A copy of each announcement made to the passengers regarding the impending collision or the collision.

16. Documents relating to reprimand or disciplinary action taken against you as a result of the collision.

17. All accident or incident reports and documents relating to the collision.

18. All statements, whether written, taped or transcribed relating to the collision.

Respectfully submitted,

PAULINE BROWN

By Rhonda M. Harmon
Counsel

Beverly W. Snukals
Rhonda M. Harmon
Mezzullo & McCandlish, P.C.
1111 East Main Street
Suite 1500
Richmond, VA 23219

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Plaintiff's First Interrogatories and Requests for Production of Documents to Mr. Black was mailed, first-class mail, postage prepaid on this 26th day of March, 1996 to:

Kevin V. Logan, Esquire
Sinnott, Nuckols & Logan, P.C.
13811 Village Mill Drive
Midlothian, VA 23113

Aubrey R. Bowles, III, Esquire
Bowles and Bowles
Two North Fifth Street
Richmond, VA 23219-2218

Shonda M. Harmon

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

ELAINE HUGHES,

Plaintiff,

v.

Law No. 95-5

WILLIAM BLACK,

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,

Defendants.

MOTION TO QUASH PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS TO DEFENDANT
NATIONAL RAILROAD PASSENGER CORPORATION, D/B/A AMTRAK,
PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS TO DEFENDANT CSX
AND PLAINTIFF'S FIRST SET OF INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS TO WILLIAM BLACK AND FOR
PROTECTIVE ORDER PURSUANT TO RULE 4:1(C)
RULES OF SUPREME COURT OF VIRGINIA

Come now the defendants, by counsel, and move the Court to quash the interrogatories and request for production served upon them and to enter a protective order and in support thereof, set forth as follows:

1. Defendants' counsel has served objections to the interrogatories served on defendants National Railroad Passenger

Corporation, d/b/a AMTRAK (hereinafter Amtrak) and CSX Transportation, Inc. (hereinafter CSXT) on the ground that each set of interrogatories, including subparts, exceed the limit imposed by Rule 4:8(g) Rules of Supreme Court of Virginia and are signed by counsel for plaintiff in violation of Rule 4:1(g) Rules of Supreme Court of Virginia and have served specific objections to certain of the request for production of documents, copies of which are attached hereto as Exhibits A and B.

2. Defendants' counsel has also served specific objection to Plaintiff's First Set of Interrogatories and Request for Production to William Black, a copy of which is attached hereto as Exhibit C.

3. From the outset of this action, counsel for defendants Black, Amtrak and CSXT has advised counsel for plaintiff and counsel for co-defendants Paul Jones Elliott (hereinafter Elliott) and Car Center (hereinafter Car) that William Black (hereinafter Black) was not operating the Amtrak train on January 12, 1993 and the identify of the employee of Amtrak who was.

4. On June 21, 1996 counsel for defendants Black, Amtrak and CSXT met with plaintiff's counsel in an attempt to resolve the defendants' objections and reach agreement as to the interrogatories to which replies would be made and what documents would be produced so as to obviate the necessity of burdening the Court with matters that should be resolved between counsel.

5. Although some progress was made, in the main, the effort was futile as plaintiff's counsel insisted upon response to interrogatories and production of documents over unreasonable periods of time and which related to matters that could have no relevancy to plaintiff's action.

6. On January 12, 1993 at approximately 4:45 p.m. plaintiff was a passenger on Amtrak's northbound train #90 which collided with loaded low-boy trailer owned by defendant Car and operated by defendant Elliott which had become stranded on CSXT's tracks where they cross State Route 602 near Stoney Point, Virginia. The loaded low-boy trailer had been stranded on the crossing for a considerable period of time and no effort had been made by Elliott or his helper to notify anyone of the situation. As Elliott and his helper were attempting to free the loaded low-boy trailer, train #90 approached running 75 miles per hour in 79 miles per hour territory. The circuit controlling the activation of the lights and gates was actuated and the gates came down and the lights began flashing. The approaching train #90 gave the signals required by §56:414 Code of Virginia 1950 as amended and the train was placed in emergency braking by the assistant engineer Henry Taylor, who was operating the train at the time, not the defendant Black. Plaintiff alleges injuries resulting from the collision.

7. Since the loaded low-boy was already stranded on the tracks of CSXT, the issue of whether the statutory warnings were given is neither relevant nor material, as the purpose of §56:414

is to warn motorists that a train is approaching and not to cross the crossing. Here the loaded low-boy was already on the crossing and stranded long before the train reached the point where the signals were required. Discovery directed to this issue has no place in this action.

8. Since the loaded low-boy had been stranded on the crossing for some time before the warning devices at the crossing, i.e. flashing lights and gates were activated by the approaching train, discovery directed to the issue of the sufficiency of the warning devices is neither relevant nor material. Also, the entire issue of the adequacy of the warning devices at crossing DOT 623-725-Y is preempted by Federal law.

9. Likewise, any discovery directed towards the issue of the reasonableness of the speed of Amtrak train #90 is neither relevant nor material because of Federal preemption.

10. Defendants in an effort to resolve the existing discovery dispute are willing to do the following:

(a) Give the names, but not the addresses of all Amtrak crew members who were on duty when the collision occurred. Defendant Amtrak is reluctant to give addresses and telephone numbers of its employees because of numerous instances in the past when their employees have been contacted when counsel was not present.

(b) Provide the personnel files of the engineer, assistant engineer and conductor, as well as copies of their

most recent medical examinations prior to January 12, 1993.

(c) Copies of the engineer's and assistant engineer's license to operate trains.

(d) Make the assistant engineer and conductor available for depositions at a convenient location in Richmond, Virginia at a mutually agreeable time.

(e) Make the defendant Black available for deposition at a convenient location in Wilmington, North Carolina at a mutually convenient time. Mr. Black was seriously injured in a major derailment in Selma, North Carolina on May 16, 1994 and to require him to travel to Richmond, Virginia is unreasonable.

(f) Provide copies of the brake testing that was done regarding Amtrak's train #90 when it left its point of origin of the northbound trip and any testing that was conducted en route.

(g) Provide a consist of the Amtrak train #90 to include the numbers of the locomotives and cars and their order in the train.

(h) Provide copies of pictures that were taken at the crossing by CSXT's claim agent at plaintiff's cost.

(i) Make CSXT's claim agent available for deposition at a convenient location in Richmond, Virginia at a mutually convenient time.

(j) Provide a copy of the operating rules applicable to

Amtrak train #90 on January 12, 1993, as well as the applicable timetable and any train orders that might have been in effect at that time.

(k) Provide at plaintiff's expense an air brake specialist to describe for plaintiff's counsel how the air brake system operated on Amtrak train #90.

(l) Describe the equipment available on Amtrak train #90 that would allow crew members to communicate with one another and with the dispatcher.

(m) Provide the names and addresses and telephone numbers of all witnesses known to defendants, except as stated in paragraph 10(a) above.

(n) Provide the names and addresses and telephone numbers of all persons from whom any of these defendants have taken statements, except as stated in paragraph 10(a) above.

(o) The VAL map and track profile for the Stoney Creek area.

11. In agreeing to provide the foregoing, defendants will exercise their best efforts, however, since plaintiff filed her action on January 12, 1995 and did not attempt to effect service until almost one year had elapsed, some of the material referred to in paragraph 10 may no longer be available.

12. Copies of Plaintiff's First Set of Interrogatories and Requests for Production of Documents to Defendant National Railroad Passenger Corporation d/b/a Amtrak, Plaintiff's First Set of

Interrogatories and Requests for Production of Documents to Defendant CSX and Plaintiff's First Set of Interrogatories and Requests for Production of Documents to William Black are attached hereto for the convenience of the Court as Exhibits D, E and F, respectively.

WHEREFORE, defendants move the Court to quash the interrogatories and request for production served upon them and to enter a protective order that will protect them from the abusive, unnecessary and burdensome discovery served by plaintiff and to award defendants their cost and attorneys fees.

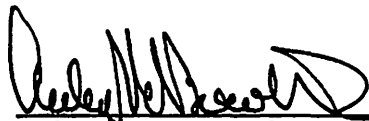


Aubrey R. Bowles, III,
Counsel for National Railroad
Passenger Corporation, d/b/a Amtrak,
CSX Transportation, Inc. and
William Black

BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768
Of Counsel

CERTIFICATE

The undersigned hereby certifies that a true copy of the foregoing Motion to Quash Plaintiff's First Set of Interrogatories and Request for Production of Documents to Defendant National Railroad Passenger Corporation, d/b/a Amtrak, Plaintiff's First Set of Interrogatories and Request for Production of Documents to Defendant CSX and Plaintiff's First Set of Interrogatories and Request for Production of Documents to William Black and For Protective Order Pursuant to Rule 4:1(c) Rules of Supreme Court of Virginia was mailed, postage prepaid, to Beverly W. Snukals, Esq., Mezzullo & McCandlish, P.C., 1111 East Main Street, Suite 1500, Richmond, Virginia 23219, Counsel for Plaintiff and to Kevin V. Logan, Esq., Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, Counsel for Defendants Car Center and Paul Jones Elliott, on this 25th day of June, 1996.



Aubrey R. Bowles, III

FILED JUN 26 1996
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY Gary M. Williams D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

A

ELAINE HUGHES,

Plaintiff,

v.

Law No. 95-5

WILLIAM BLACK,

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,

Defendants.

DEFENDANT NATIONAL RAILROAD PASSENGER CORPORATION'S
OBJECTIONS TO CERTAIN OF PLAINTIFF'S FIRST SET OF
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

Comes now defendant National Railroad Passenger Corporation, by counsel, and for its objections to certain of plaintiff's first set of interrogatories and request for production of documents sets forth as follows:

Interrogatories Numbered 1 through 14: Defendant objects to said interrogatories as their parts and subparts exceed the limit imposed by Rule 4:8(g) Rules of Supreme Court of Virginia and are signed by counsel in violation of Rule 4:1(g) Rules of Supreme Court of Virginia.

Request Numbered 7: Defendant objects as the request makes no sense, is unlimited as to time and, further, that any such reports may either have been prepared in anticipation of litigation

and are privileged or are protected by statute.

Requests Numbered 9 and 10: Defendant objects as the requests are not limited to this defendant, are unlimited as to time, were prepared in anticipation of litigation and/or their disclosure is protected by statute.

Request Numbered 11: Defendant objects to said request as it is clearly made for the purpose of harassment and in violation of Rule 4:1(g) Rules of Supreme Court of Virginia. What possible connection could the physical examination records of a chef, assistant cook or coach attendant have to the issues raised by plaintiff's action?

Request Numbered 12: Defendant objects as the request is burdensome and overbroad.

Request Numbered 13: Defendant objects as the request is burdensome and overbroad and not reasonably limited in time. Additionally, the consist of the train varies.

Request Numbered 14: Defendant objects on the basis that the request is overbroad and burdensome as it asks for manual/books describing the operation and function of each part of the train. Such a request could only be made for the purpose of harassment and in violation of Rule 4:1(g) Rules of Supreme Court of Virginia as the train consists of literally millions of parts, the vast majority of which could have no relationship whatsoever to plaintiff's cause of action.

Request Numbered 17: Defendant objects as the request is unrestricted as to time.

Request Numbered 19: Defendant objects as the request would conceivably cover every piece of equipment owned by defendant from its inception to the present.

Request Numbered 20: Defendant objects as the request is overbroad and burdensome and would require a search relating to all locomotives and cars that have operated over the crossing and further, that it asks for information past the time of the collision in issue.

Request Numbered 21: Defendant objects as the request is overbroad and burdensome as it calls for all trains operated by defendant.

Request Numbered 23: Defendant objects as the request is overbroad and burdensome and would require defendant to expend great time and effort for no gainful purpose.

Request Numbered 27: Defendant objects to the request on the ground that plaintiff has not shown the necessary prerequisite to obtain statements that were obtained in anticipation of litigation.

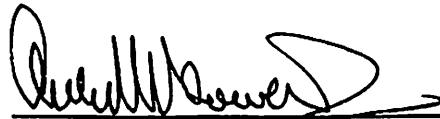


Aubrey R. Bowles, III, VSB #05267
Counsel for Defendant National
Railroad Passenger Corporation

BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768
Of Counsel

CERTIFICATE

The undersigned hereby certifies that a true copy of the foregoing Defendant National Railroad Passenger Corporation's Objections to Certain of Plaintiff's Interrogatories and Request for Production of Documents was mailed, postage prepaid, to Beverly W. Snukals, Esq., Mezzullo & McCandlish, P.C., 1111 East Main Street, Suite 1500, Richmond, Virginia 23219, Counsel for Plaintiff and to Kevin V. Logan, Esq., Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, Counsel for Defendants Car Center and Paul Jones Elliott, on this 19th day of April, 1996.

A handwritten signature in dark ink, appearing to read "Aubrey R. Bowles, III", written over a horizontal line.

Aubrey R. Bowles, III

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

ELAINE HUGHES,

Plaintiff,

v.

Law No. 95-5

WILLIAM BLACK,

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,

Defendants.



DEFENDANT CSX TRANSPORTATION, INC.'S OBJECTIONS TO CERTAIN
OF PLAINTIFF'S FIRST SET OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS

Comes now defendant CSX Transportation, Inc., by counsel, and for its objections to certain of plaintiff's first set of interrogatories and request for production of documents sets forth as follows:

Interrogatories Numbered 1 through 14: Defendant objects to said interrogatories as their parts and subparts exceed the limit imposed by Rule 4:8(g) Rules of Supreme Court of Virginia and are signed by counsel in violation of Rule 4:1(g) Rules of Supreme Court of Virginia.

Request Numbered 1: Defendant objects as the request is

overbroad and covers too long a period of time and the period of time from the collision to the present could have no relevance or materiality.

Request Numbered 3: Defendant objects as only the timetable in effect at the time could have any relevance or materiality to this action.

Request Numbered 5: See objection to Request Numbered 3 above.

Request Numbered 6: Documents prepared in anticipation of litigation are privileged. Plaintiff has not shown the necessary prerequisite. Further, disclosure of certain reports is protected by statute.

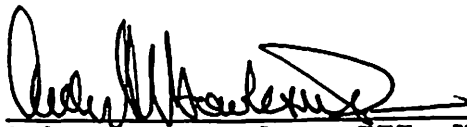
Request Numbered 7: Defendant objects as the request is overbroad and not reasonably limited as to time and it requests information for a period following the collision.

Request Numbered 12: Defendant objects as such statements were prepared in anticipation of litigation, are privileged and further, plaintiff has not shown the necessary prerequisite.

Requests Numbered 13 & 14: Defendant objects as the requests are overbroad and not reasonably limited as to time and requests information for a period following the collision.

Request Numbered 17: Defendant objects as the request refers to Interrogatory Numbered 12, which in no way relates to the request and is another example of plaintiff's flagrant disregard of Rule 4:1(g) Rules of Supreme Court of Virginia.

Request Numbered 19: Repetitive. See objection to Request
Numbered 12 above.

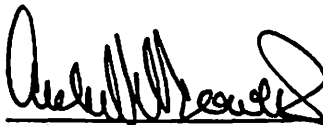


Aubrey R. Bowles, III, VSB #05267
Counsel for Defendant
CSX Transportation, Inc.

BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768
Of Counsel

CERTIFICATE

The undersigned hereby certifies that a true copy of the foregoing Defendant CSX Transportation, Inc.'s Objections to Certain of Plaintiff's First Set of Interrogatories and Request for Production of Documents was mailed, postage prepaid, to Beverly W. Snukals, Esq., Mezzullo & McCandlish, P.C., 1111 East Main Street, Suite 1500, Richmond, Virginia 23219, Counsel for Plaintiff and to Kevin V. Logan, Esq., Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, Counsel for Defendants Car Center and Paul Jones Elliott, on this 19th day of April, 1996.



Aubrey R. Bowles, III

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

ELAINE HUGHES,

Plaintiff,

v.

Law No. 95-5

WILLIAM BLACK,

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,

Defendants.

DEFENDANT WILLIAM BLACK'S OBJECTIONS TO CERTAIN OF
PLAINTIFF'S FIRST SET OF INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS

Comes now defendant William Black, by counsel, and for his objections to certain of plaintiff's first set of interrogatories and request for production of documents sets forth as follows:

Interrogatory Numbered 1: Defendant objects to that portion of said interrogatory which requests that defendant go further than identify witnesses as plaintiff has not shown the necessary prerequisite required by Rule 4:1(b)(3) Rules of Supreme Court of Virginia.

Interrogatories Numbered 3, 4 and 5: Defendant objects to these interrogatories on the ground that they clearly have no

application to this defendant and are a direct violation of Rule 4:1(g) Rules of Supreme Court of Virginia.

Interrogatory Numbered 6: Defendant objects as said interrogatory is overbroad and is for an excessive period of time.

Interrogatory Numbered 7: Defendant objects as said interrogatory is overbroad, unlimited as to time and covers a period following the collision.

Interrogatory Numbered 9: Defendant objects as said interrogatory is unlimited as to time and, once again, plaintiff is reminded that William Black was not operating the locomotive.

Interrogatory Numbered 11: Defendant objects as the interrogatory is patently ridiculous.

Interrogatory Numbered 13: Defendant objects as William Black was not operating the locomotive. The interrogatory is an unwarranted invasion of privacy and a violation of Rule 4:1(g) Rules of Supreme Court of Virginia.

Request Numbered 1: Defendant objects as he is neither a driver nor a conductor.

Request Numbered 2: See objection to Interrogatory Numbered 7 above. Additionally, said request constitutes an invasion of privacy.

Request Numbered 3: Defendant objects as said Request is overbroad and is unlimited as to time.

Request Numbered 4: Defendant objects as no such document exists.

Request Numbered 5: Defendant objects as defendant is not a conductor.

Request Numbered 6: Defendant objects as said Request is overbroad and calls for records for an unreasonable length of time before and after the collision.

Request Numbered 7: Defendant objects as defendant is not a driver.

Request Numbered 10: Defendant objects as defendant is not a driver or conductor.


Request Numbered 13: Defendant objects as defendant is not a conductor.

Request Numbered 14: Defendant objects as said Request is overbroad and calls for records for an unreasonable length of time.

Request Numbered 16: Defendant objects as the Request is patently ridiculous.

FURTHER OBJECTION AND MOTION FOR SANCTIONS

Plaintiff has been advised that William Black was not operating the locomotive at the time of the collision. Further, the interrogatories and requests are signed in violation of Rule 4:1(g) Rules of Supreme Court of Virginia.


Aubrey R. Bowles, III, VSB #05267
Counsel for Defendant William Black

BOWLES AND BOWLES
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768
Of Counsel

CERTIFICATE

The undersigned hereby certifies that a true copy of the foregoing Defendant William Black's Objections to Certain of Plaintiff's First Set of Interrogatories and Request for Production of Documents was mailed, postage prepaid, to Beverly W. Snukals, Esq., Mezzullo & McCandlish, P.C., 1111 East Main Street, Suite 1500, Richmond, Virginia 23219, Counsel for Plaintiff and to Kevin V. Logan, Esq., Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, Counsel for Defendants Car Center and Paul Jones Elliott, on this 19th day of April, 1996.


Aubrey R. Bowles, III

VIRGINIA :

IN THE CIRCUIT COURT OF SUSSEX COUNTY

ELAINE HUGHES,

Plaintiff,

v.

Case No. 95-5

WILLIAM BLACK, et al.

Defendants.



**PLAINTIFF'S FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT NATIONAL
RAILROAD PASSENGER CORPORATION d/b/a AMTRAK**

Pursuant to Rules 4:8 and 4:9 of the Supreme Court of Virginia, Elaine Hughes ("Ms. Hughes"), Plaintiff, by counsel, hereby propounds the following Interrogatories and Requests for Production to National Railroad Passenger Corporation ("Amtrak"), Defendant. Amtrak shall answer separately and fully in writing each Interrogatory under oath and, to the extent possible, in the space provided following the Interrogatory. Amtrak shall serve Answers to the Interrogatories no later than twenty-one (21) days after service thereof.

Regarding the Requests for Production, Amtrak shall serve Ms. Hughes with written responses no later than twenty-one (21) days after service of the Requests. The requested documents shall be produced at the offices of Mezzullo & McCandlish within twenty-one (21) days after service hereof, or the documents may be attached to the written responses. Amtrak

shall supplement all Answers to Interrogatories and all Responses to the Requests for Production as required by Rule 4:1(e).

INSTRUCTIONS AND DEFINITIONS

1. The Interrogatories and Requests for Production propounded herein request information and knowledge possessed by Amtrak, to whom this document is directed, as well as information and knowledge possessed by any and all of its agents, employees, representatives, assignees, and unless privileged, attorney(s).

2. If you consider any Interrogatory or Request for Production, or any part thereof, objectionable, answer that part of the Interrogatory or Request for Production which is not objectionable, and separately state which part of the Interrogatory or Request for Production is objectionable.

3. If you object to any Interrogatory or part thereof on the claim of privilege, identify each statement for which the privilege is claimed, together with the following information as to each such statement: (A) date; (B) names of persons present; and (C) the basis on which the privilege is claimed.

4. If you are withholding any document requested in the Requests for Production, for each such document please state its date, its author, the type of document, (e.g., statement, letter, report, receipt, etc.), and all reasons for your claim of privilege or exemption from discovery.

5. Whenever, throughout these interrogatories you, your attorney, consultant, representative or other agent do not have knowledge of or access to the requested information,

please identify the person who or entity which can provide said information.

6. Where there is reasonably available to you a supporting document to either verify or explain your answer to an Interrogatory, please attach a copy of any such document and identify each in your answer to the Interrogatory.

7. If information or documentation necessary to answer an Interrogatory is presently unavailable, please explain if and when it will be available and identify the source and location of the information or documentation.

8. For the purposes of this discovery request, including the definitions and instructions, the word "and" includes the disjunctive "or" and the word "or" includes the conjunctive "and."

9. The term "person" means and includes any natural person, partnership, corporation, firm, association, or other organization cognizable at law, and its agents and employees.

10. "You," "your," and "Amtrak" refer to the above-named Defendant, to whom this document is directed, and includes all of its agents, employees, representatives, assignees and, to the extent not privileged, attorney(s).

11. "Documents" and "records" include any written, graphic, or recorded matter, however produced or reproduced, including, but not limited to, papers, books, records, letters, photographs, tangible things, correspondence, communications, telegrams, cables, telexes, faxes, messages, memoranda, notes, notations, work papers, transcripts, minutes, records and recordings of telephone or other conversations, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, contracts, agreements, agendas, jottings, bulletins,

(

notices, announcements, advertisements, charges, manuals, brochures, publications, schedules, price lists, clients lists, journals, statistical records, desk calendars, appointment books, diaries, lists or tabulations, books of accounts, records, invoices, statements of account, profit and loss statements, computer disks and records, and checks reflecting business operations.

12. "Relating to" and "referring to" means in any way concerning, constituting, referring to, relating to, analyzing, discussing, describing, considering, modifying, amending, confirming, endorsing, evidencing, representing, supporting, qualifying, terminating, provoking, canceling, negating, or listing, unless qualified by word of limitation.

13. To "identify" a person means to list that person's name, current address, and telephone number, and, in addition, if referring to a natural person, that person's current or last known place of employment and business telephone number.

14. To "identify" an act, event, or occurrence means to state its date; identify each person or entity who was a party or witness to the act, event, or occurrence; describe where and how it took place; and identify any documents that constitute or refer to such act, event, or occurrence.

15. To "identify" a document means to: (a) identify all files in which it and all non-identical copies of it are found; (b) identify its author; (c) identify its addressees, if any; (d) identify those who received a copy thereof; (e) identify its current custodian; (f) identify the nature and circumstances of its preparation, if known; and (g) identify its general subject matter.

16. Unless provided otherwise, the term "crossing" or the "railroad crossing" refers to the railroad crossing at which the train owned and operated by Defendant National Railroad Passenger Corporation ("Amtrak") collided with the truck operated by Defendant Paul Jones

Elliott (Elliott") on or about January 12, 1993.

17. "Collision" refers to the January 12, 1993 collision between the train owned and operated by Amtrak and the truck operated by Elliot.

18. The "Amtrak Train" refers to the train which collided with the truck-trailer operated by Elliott on January 12, 1993.

19. The "Car Center" truck or "the truck-trailer" refers to the truck operated by Elliot on January 12, 1993 which collided into the Amtrak train.

20. "Intersection" refers to the place at which the railroad, on which the Amtrak train collided with the truck-trailer, intersected with the road on which Paul Jones Elliot travelled just prior to the collision.

INTERROGATORIES

1. Identify each person answering or participating in the formulation of each Answer to these Interrogatories and Requests for Production of Documents.

ANSWER:

2. Identify all persons who witnessed or have knowledge of the collision or who were present at the scene of the collision. For each person identified, describe fully the facts or information about which each person has knowledge and the basis of believing that such person has or may have such knowledge.

ANSWER:

3. Identify each person you expect to call as an expert witness at trial, and for each such expert, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and provide a summary of the grounds for each opinion.

ANSWER:

4. Identify all train crew members on the Amtrak train whom you required to undergo a physical examination, and for each, state his or her job title, the frequency of such examination for each such person, the date that each crew member working on the Amtrak train had his or her physical examination prior to the January 12, 1993 collision, the specific tests/checks performed in that examination, and the results of each such examination.

ANSWER:

5. Identify each of your employees who was required to maintain a lookout for obstructions in the path of the Amtrak train on January 12, 1993.

ANSWER:

6. Identify each employee on the Amtrak train who had used any alcohol, drugs, medications, whether legal or illegal, over the counter or prescription, or other controlled substances which that employee ingested, consumed or used within twenty-four hours preceding the collision, and for each such employee, please state the type and amount of alcohol, drugs, and medications which that employee consumed, ingested, or used, the time at which that employee consumed, ingested, or used such alcohol, drugs, and/or medication, and state the date and time at which that employee last ingested, consumed or used the substance prior to twenty-four hour period.

ANSWER:

7. State whether any blood, breath, or urine tests for alcohol or drugs have been performed on any of your employees, who either worked on the Amtrak train or were in any way involved with the collision, within the last five years; and if any such test was performed, state the time of the test; the location of the test, identify the person who administered the test; identify the person who requested the test, and state the results of the test.

ANSWER:

8. Describe in detail the braking system and operation thereof on the Amtrak train: describe (1) whether the braking system consisted of air brakes, disc brakes, dynamic braking, shoe brakes, or some other type of braking system, (2) the number of cars which had power brakes, (3) the relative numerical position of each such car in the Amtrak train, (4) the length of piston travel on each brake cylinder on each car and locomotive unit on the Amtrak train, and (5) the location of each brake lever that operated the brakes for the train.

ANSWER:

9. Describe the weather conditions at the time of the collision and within the previous twenty-four hours of the collision at the location of the collision.

ANSWER:

10. If there have been any collisions or accidents between motor vehicle(s) and pedestrian(s) and your trains at the crossing in question within the past ten years, identify each person who was involved in the collision/accident, identify each person injured or killed in each such collision/accident, state the date and time of each such collision/accident, describe the weather condition for each such collision/accident and describe any rules, regulations, train orders, or other procedures you adopted with respect to safety following any such collision/accident.

ANSWER:

11. If you have obtained any statement from any person knowledgeable of relevant facts concerning the incident, identify each person who gave the statement; identify each person who was present when any oral statement was made; identify each person who solicited any statements; identify each person who has present custody of each statement; explain whether the statement was made in writing, by sound recording, transcribed, or otherwise; and state the date and time the statement was made and the address or location where the statement was made.

ANSWER:

12. Describe in detail the communication system on the Amtrak train, and discuss in your answer the train's capability of communicating with passengers on board the train, the train's capability of communicating to Amtrak entities not aboard the train, and the train's ability to communicate to safety, police, emergency or other authorities not aboard the train.

ANSWER:

13. Identify all lawsuits and other claims, including administrative claims lodged against you, relating in any way to the Amtrak train; the conductor, engineer, brakeman, or fireman, who worked on this train at the time of the collision, relating to this particular railroad crossing, or relating to a collision between an Amtrak train and a vehicle which was stuck, stalled, or disabled on a railroad track within the last ten (10) years, and for each such lawsuit and claim, state the name and style of each case; the claim or document number assigned; the party or parties against whom each such claim or lawsuit was filed, the Court or administrative entity, if any, in which each such case was filed, the filing date of the case or claim; the name and address of the attorney for the opposing party or parties, and the nature and result of each such suit or claim, if any, including the dollar amount of any payment, judgment or settlement. This Interrogatory includes lawsuits and claims arising out of the January 12, 1993, collision which is the subject of this lawsuit.

ANSWER:

14. Explain in detail the basis of your allegation that Ms. Hughes was guilty of negligence that caused her injuries and damages.

ANSWER:

REQUESTS FOR PRODUCTION OF DOCUMENTS

Please produce originals or true and correct copies of the following:

1. The right-of-way map for the route taken by the Amtrak train on January 12, 1993.
2. All Amtrak safety rules which were in effect on the day of the collision.
3. All rules of the road which were in effect on the day of the collision.
4. All timetables for trains following the route of the train in question for the previous three months.
5. Speed limit lists in effect at the time of the collision.
6. All Amtrak procedure manuals in effect at the time of the collision relating to look-outs; braking; accident prevention; speed; railroad crossings; and giving warnings, instructions and other information to passengers.
7. Documents relating to and all accident reports for all collisions for which the Amtrak train engineer was on duty.
8. Documents relating to and all accident reports for all collisions for which the Amtrak train conductor, William Black, was on duty.
9. Documents relating to and all accident reports for this particular collision.
10. Documents relating to and all accident reports for accidents occurring at this location for the past ten years, whether the accident was due to a collision, derailment, or otherwise.
11. Physical examination records of all employees on duty on the Amtrak train at the time of the collision.

12. Logbooks and other similar records for the Amtrak train in question for the past five years.
13. Repair records for the Amtrak train for the past five years.
14. The train manual/book which describes the operation and functions of each part of the train.
15. Any and all pictures of the Amtrak train in question.
16. Any and all pictures relating to the collision, whether of the Amtrak train, the truck, the passengers, or the scene of the collision.
17. Any drug testing/qualification records of the conductor, engineer, brakeman, and fireman.
18. The personnel records for the conductor, engineer, brakeman, and fireman on duty at the time of this accident,
19. Documents relating to orders, requests, and notices from any federal, state, or other governmental entity to make repairs/improvements on your rolling stock which traveled on this particular railroad.
20. Documents relating to fines or threatened fines from any federal, state, or other governmental entity with respect to your operation of your train in general, or with respect to the Amtrak train involved in the collision, in particular, for the past ten years.
21. Documents relating to fines and threatened fines for your train's failure to give the right-of-way to another vehicle for the last ten years.
22. Documents relating to procedures, rules, and regulations for the train in effect at the time of the accident.

23. Documents relating to accidents involving this particular train for the last ten years.

24. Documents relating to each and every investigation or inquiry regarding the conductor, engineer, brakeman, and fireman on duty during this collision.

25. A current curriculum vitae for each expert whom you may call to testify at trial.

26. A list of each and every case in which an expert witness, who may testify at trial, has testified as an expert at trial or by deposition within the preceding four (4) years.

27. Every statement provided for or given to you regarding the collision and the circumstances giving rise thereto.

28. A copy of all publications authored by any expert witness whom you may call to testify at trial which has been published during the preceding ten (10) years..

29. All exhibits to be used as a summary of or support for each testifying expert's testimony.

Respectfully submitted,

ELAINE HUGHES

By Rhonda M. Harmon
Counsel

Beverly W. Snukals
Rhonda M. Harmon
Mezzullo & McCandlish, P.C.
1111 East Main Street
Suite 1500
Richmond, VA 23219

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Plaintiff's First Interrogatories and Requests for Production of Documents to Defendant National Railroad Passenger Corporation was mailed, first-class mail, postage prepaid on this 26th day of March, 1996 to:

Kevin V. Logan, Esquire
Sinnott, Nuckols & Logan, P.C.
13811 Village Mill Drive
Midlothian, VA 23113

Aubrey R. Bowles, III, Esquire
Bowles and Bowles
Two North Fifth Street
Richmond, VA 23219-2218

Shonda M. Harmon

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

ELAINE HUGHES,

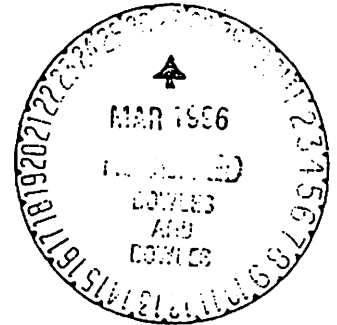
Plaintiff,

v.

WILLIAM BLACK, et al.

Defendants.

Case No. 95-5



**PLAINTIFF'S FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS TO DEFENDANT CSX**

Pursuant to Rules 4:8 and 4:9 of the Supreme Court of Virginia, Elaine Hughes ("Ms. Hughes"), Plaintiff, by counsel, hereby propounds the following Interrogatories and Requests for Production to CSX, Defendant. CSX shall answer separately and fully in writing each Interrogatory under oath and, to the extent possible, in the space provided following the Interrogatory. CSX shall serve Answers to the Interrogatories no later than twenty-one (21) days after service thereof.

Regarding the Requests for Production, CSX shall serve Ms. Hughes with written responses no later than twenty-one (21) days after service of the Requests. The requested documents shall be produced at the offices of Mezzullo & McCandlish within twenty-one (21) days after service hereof, or the documents may be attached to the written responses. CSX shall

supplement all Answers to Interrogatories and all Responses to the Requests for Production as required by Rule 4:1(e).

INSTRUCTIONS AND DEFINITIONS

1. The Interrogatories and Requests for Production propounded herein request information and knowledge possessed by CSX, to whom this document is directed, as well as information and knowledge possessed by any and all of its agents, employees, representatives, assignees, and unless privileged, attorney(s).

2. If you consider any Interrogatory or Request for Production, or any part thereof, objectionable, answer that part of the Interrogatory or Request for Production which is not objectionable, and separately state which part of the Interrogatory or Request for Production is objectionable.

3. If you object to any Interrogatory or part thereof on the claim of privilege, identify each statement for which the privilege is claimed, together with the following information as to each such statement: (A) date; (B) names of persons present; and (C) the basis on which the privilege is claimed.

4. If you are withholding any document requested in the Requests for Production, for each such document please state its date, its author, the type of document, (e.g., statement, letter, report, receipt, etc.), and all reasons for your claim of privilege or exemption from discovery.

5. Whenever, throughout these interrogatories you, your attorney, consultant, representative or other agent do not have knowledge of or access to the requested information,

please identify the person who or entity which can provide said information.

6. Where there is reasonably available to you a supporting document to either verify or explain your answer to an Interrogatory, please attach a copy of any such document and identify each in your answer to the Interrogatory.

7. If information or documentation necessary to answer an Interrogatory is presently unavailable, please explain if and when it will be available and identify the source and location of the information or documentation.

8. For the purposes of this discovery request, including the definitions and instructions, the word "and" includes the disjunctive "or" and the word "or" includes the conjunctive "and."

9. The term "person" means and includes any natural person, partnership, corporation, firm, association, or other organization cognizable at law, and its agents and employees.

10. "You," "your," and "CSX" refer to the above-named Defendant, to whom this document is directed, and includes all of its agents, employees, representatives, assignees and, to the extent not privileged, attorney(s).

11. "Documents" and "records" include any written, graphic, or recorded matter, however produced or reproduced, including, but not limited to, papers, books, records, letters, photographs, tangible things, correspondence, communications, telegrams, cables, telexes, faxes, messages, memoranda, notes, notations, work papers, transcripts, minutes, records and recordings of telephone or other conversations, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, contracts, agreements, agendas, jottings, bulletins, notices, announcements, advertisements, charges, manuals, brochures, publications, schedules,

price lists, clients lists, journals, statistical records, desk calendars, appointment books, diaries, lists or tabulations, books of accounts, records, invoices, statements of account, profit and loss statements, computer disks and records, and checks reflecting business operations.

12. "Relating to" and "referring to" means in any way concerning, constituting, referring to, relating to, analyzing, discussing, describing, considering, modifying, amending, confirming, endorsing, evidencing, representing, supporting, qualifying, terminating, provoking, canceling, negating, or listing, unless qualified by word of limitation.

13. To "identify" a person means to list that person's name, current address, and telephone number, and, in addition, if referring to a natural person, that person's current or last known place of employment and business telephone number.

14. To "identify" an act, event, or occurrence means to state its date; identify each person or entity who was a party or witness to the act, event, or occurrence; describe where and how it took place; and identify any documents that constitute or refer to such act, event, or occurrence.

15. To "identify" a document means to: (a) identify all files in which it and all non-identical copies of it are found; (b) identify its author; (c) identify its addressees, if any; (d) identify those who received a copy thereof; (e) identify its current custodian; (f) identify the nature and circumstances of its preparation, if known; and (g) identify its general subject matter.

16. Unless provided otherwise, the term "crossing" or the "railroad crossing" refers to the railroad crossing at which the train owned and operated by Defendant National Railroad Passenger Corporation ("Amtrak") collided with the truck operated by Defendant Paul Jones Elliott ("Elliott") on or about January 12, 1993.

17. "Collision" refers to the January 12, 1993 collision between the train owned and operated by Amtrak and the truck operated by Elliot.

18. "The Amtrak Train" refers to the train which collided with the truck-trailer operated by Elliot on January 12, 1993.

19. The "Car Center" truck or "the truck-trailer" refers to the truck operated by Elliot on January 12, 1993 which collided into the Amtrak train.

20. "Intersection" refers to the place at which the railroad, on which the Amtrak train collided with the truck-trailer, intersected with the road on which Paul Jones Elliot travelled just prior to the collision.

INTERROGATORIES

1. Identify each person answering or participating in the formulation of each Answer to these Interrogatories and Requests for Production of Documents.

ANSWER:

2. Identify all persons who witnessed or have knowledge of the collision or who were present at the scene of the collision. For each person identified, describe fully the facts or information about which each person has knowledge and the basis of believing that such person has or may have such knowledge.

ANSWER:

3. Identify each person you expect to call as an expert witness at trial, and for each such expert, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and provide a summary of the grounds for each opinion.

ANSWER:

4. If there was a railroad crossing gate at the crossing on the date of the collision, describe that gate in detail and include in your answer the location of the gate from the crossing, the distance from the crossing at which the gate would operate, explain whether the gate was in working condition just prior to the collision, and state whether it actually worked before the Amtrak train in question crossed the intersection. If any gate did not function prior to the collision, explain why.

ANSWER:

5. If any signal devices were present at the crossing to warn motorists of approaching trains just prior to the time of the collision; state the number of such devices; the location of each device with respect to the crossing; describe each device in detail, including size, color, and type; and state whether each device actually functioned prior to the collision. If any such device did not function prior to the collision, identify each such device and explain why it failed to function.

ANSWER:

6. Describe any lights connected to any signal devices at the crossing: state the number of lights that were illumined when the signal functioned properly, the wattage, candle power, or other measure of intensity of each light, the color of each light, the location of each light, whether flashing lights were installed in the signal and if so describe the installation and function, and state whether the light(s) actually functioned prior to this collision. If any light did not function prior to the collision identify each light which failed to function, and explain why each such light failed to function.

ANSWER:

7. If you contend that any signal, gate, and/or light functioned at the time of the collision, state all facts on which you base this contention and identify each person who observed the signals in operation at the time of the collision or just prior to the collision.

ANSWER:

8. Identify each person who either witnessed the collision or was present at the scene within one hour after the collision.

ANSWER:

9. If you have a statement from any person with respect to the collision, the railroad crossing in general, or the grade of the crossing in particular, for each such statement, identify the person giving the statement, identify the person taking the statement, identify each person present when the statement was made, identify each person soliciting the statement, and identify the person who has present custody of each such statement. Also, state the date on which the statement was made, the address/location where the statement was made, state whether the statement was made orally, in writing, or was sound recorded or stenographically recorded, and provide the substance of the statement.

ANSWER:

10. If there have been any other collisions or accidents between a train and motor vehicle or pedestrian at the crossing within the last five years, identify the owner of the train, identify each person involved in each such collision/accident, identify each person injured or killed in the collision/accident, state the date and approximate time of each such collision/accident, and describe the weather conditions at the time of each such collision/accident.

ANSWER:

11. Describe each and every safety device, sign, marking, and gate which was installed, repainted, repaired, or replaced subsequent to any accident at the crossing, including the collision at issue here, and state the date on which that device, sign, and/or marking was installed, repaired, and/or repainted.

ANSWER:

12. Describe all new rules, regulations, orders, and procedures which you have promulgated with respect to safety subsequent to any collision or accident within the last five years and include in your answer the date of the collision or accident, the type of vehicles involved in the collision/accident, and the date the rule, regulation, order, or procedure went into effect.

ANSWER:

13. Describe in detail the basis of your allegation that Ms. Hughes was guilty of negligence that caused her own injuries and damages.

ANSWER:

14. Describe in detail all repairs, corrections, and changes made to or planned for the railroad crossing, its tracks, its grade, etc.

ANSWER:

((

REQUESTS FOR PRODUCTION OF DOCUMENTS

Please provide the following:

1. A copy of all track safety inspection reports for this particular track for the past ten years.
2. A copy of all accident reports for the crossing for as long as that crossing has had the present or similar grade.
3. Timetables for this track for the last five years.
4. A copy of all applications for elimination, improvement, or abolition of the crossing in question.
5. Schedules for the railroad tracks used by Amtrak for the past five years.
6. Accident reports relating to this particular collision.
7. Documents relating to and all accident reports for all collisions, derailments, and other accidents at the crossing for the past ten years.
8. A current curriculum vitae for each expert whom you may call to testify at trial.
9. A list of each and every case in which an expert witness, who may testify at trial, has testified as an expert at trial or by deposition within the preceding four (4) years.
10. A copy of all publications authored by any expert witness whom you may call to testify at trial which has been published during the preceding ten (10) years.
11. All exhibits to be used as a summons of or support for each testifying expert's testimony.
12. Every statement provided for or given to you regarding the collision and the

circumstances giving rise thereto.

13. Complaints about the crossing or the tracks within two (2) miles of the crossing.
14. Documents relating to a vehicle becoming struck, stalled or disabled on the crossing within the last ten (10) years.
15. All notices or requests from any governmental entity regarding the crossing, the tracks within two (2) miles of the crossing, any signs, warnings or devices at or near the crossing, and any obstructions to view of the crossing.
16. Documents relating to fines or threatened fines regarding the crossing.
17. Photographs of the crossing, the collision, any damage to or at the crossing, and of the train or Car Center truck as they existed on the day of the collision.
18. All photographs of gates, signs, lights, devices, markings, etc. at or within two (2) miles of the crossing as they existed just prior to the collision.
19. All statements which you have or which you had or which you took regarding the collision.
20. All photographs of the crossing as it existed before and after the collision.

Respectfully submitted,

ELAINE HUGHES

By

Rhonda M. Harmon
Counsel

Beverly W. Snukals
Rhonda M. Harmon
Mezzullo & McCandlish, P.C.
1111 East Main Street
Suite 1500
Richmond, VA 23219

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Plaintiff's First Interrogatories and Requests for Production of Documents to Defendant CSX was mailed, first-class mail, postage prepaid on this 26th day of March, 1996 to:

Kevin V. Logan, Esquire
Sinnott, Nuckols & Logan, P.C.
13811 Village Mill Drive
Midlothian, VA 23113

Aubrey R. Bowles, III, Esquire
Bowles and Bowles
Two North Fifth Street
Richmond, VA 23219-2218

Shonda M. Harmon

VIRGINIA ;

IN THE CIRCUIT COURT OF SUSSEX COUNTY

ELAINE HUGHES,

Plaintiff,

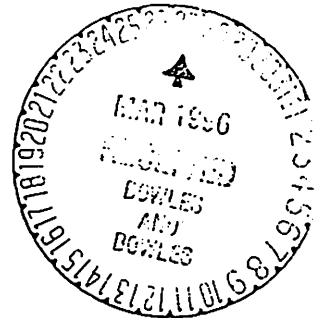
v.

WILLIAM BLACK, et al.

Defendants.

:
:
:
:
:
:
:
:
:
:

Case No. 95-5



PLAINTIFF'S FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS TO WILLIAM BLACK

Pursuant to Rules 4:8 and 4:9 of the Supreme Court of Virginia, Elaine Hughes ("Ms. Hughes"), Plaintiff, by counsel, hereby propounds the following Interrogatories and Requests for Production to William Black ("Mr. Black"), Defendant. Mr. Black shall answer separately and fully in writing each Interrogatory under oath and, to the extent possible, in the space provided following the Interrogatory. Mr. Black shall serve Answers to the Interrogatories no later than twenty-one (21) days after service thereof.

Regarding the Requests for Production, Mr. Black shall serve Ms. Hughes with written responses no later than twenty-one (21) days after service of the Requests. The requested documents shall be produced at the offices of Mezzullo & McCandlish within twenty-one (21) days after service hereof, or the documents may be attached to the written responses. Mr. Black

F

shall supplement all Answers to Interrogatories and all Responses to the Requests for Production as required by Rule 4:1(e).

INSTRUCTIONS AND DEFINITIONS

1. The Interrogatories and Requests for Production propounded herein request information and knowledge possessed by Mr. Black, to whom this document is directed, as well as information and knowledge possessed by any and all of his agents, employees, representatives, assignees, and unless privileged, attorney(s).

2. If you consider any Interrogatory or Request for Production, or any part thereof, objectionable, answer that part of the Interrogatory or Request for Production which is not objectionable, and separately state which part of the Interrogatory or Request for Production is objectionable.

3. If you object to any Interrogatory or part thereof on the claim of privilege, identify each statement for which the privilege is claimed, together with the following information as to each such statement: (A) date; (B) names of persons present; and (C) the basis on which the privilege is claimed.

4. If you are withholding any document requested in the Requests for Production, for each such document please state its date, its author, the type of document, (e.g., statement, letter, report, receipt, etc.), and all reasons for your claim of privilege or exemption from discovery.

5. Whenever, throughout these interrogatories you, your attorney, consultant, representative or other agent do not have knowledge of or access to the requested information,

please identify the person who or entity which can provide said information.

6. Where there is reasonably available to you a supporting document to either verify or explain your answer to an Interrogatory, please attach a copy of any such document and identify each in your answer to the Interrogatory.

7. If information or documentation necessary to answer an Interrogatory is presently unavailable, please explain if and when it will be available and identify the source and location of the information or documentation.

8. For the purposes of this discovery request, including the definitions and instructions, the word "and" includes the disjunctive "or" and the word "or" includes the conjunctive "and."

9. The term "person" means and includes any natural person, partnership, corporation, firm, association, or other organization cognizable at law, and its agents and employees.

10. "You," "your," and "Mr. Black" refer to the above-named Defendant, to whom this document is directed, and includes all of his agents, employees, representatives, assignees and, to the extent not privileged, attorney(s).

11. "Documents" and "records" include any written, graphic, or recorded matter, however produced or reproduced, including, but not limited to, papers, books, records, letters, photographs, tangible things, correspondence, communications, telegrams, cables, telexes, faxes, messages, memoranda, notes, notations, work papers, transcripts, minutes, records and recordings of telephone or other conversations, affidavits, statements, summaries, opinions, reports, studies, analyses, evaluations, contracts, agreements, agendas, jottings, bulletins, notices, announcements, advertisements, charges, manuals, brochures, publications, schedules,

price lists, clients lists, journals, statistical records, desk calendars, appointment books, diaries, lists or tabulations, books of accounts, records, invoices, statements of account, profit and loss statements, computer disks and records, and checks reflecting business operations.

12. "Relating to" and "referring to" means in any way concerning, constituting, referring to, relating to, analyzing, discussing, describing, considering, modifying, amending, confirming, endorsing, evidencing, representing, supporting, qualifying, terminating, provoking, canceling, negating, or listing, unless qualified by word of limitation.

13. To "identify" a person means to list that person's name, current address, and telephone number, and, in addition, if referring to a natural person, that person's current or last known place of employment and business telephone number.

14. To "identify" an act, event, or occurrence means to state its date; identify each person or entity who was a party or witness to the act, event, or occurrence; describe where and how it took place; and identify any documents that constitute or refer to such act, event, or occurrence.

15. To "identify" a document means to: (a) identify all files in which it and all non-identical copies of it are found; (b) identify its author; (c) identify its addressees, if any; (d) identify those who received a copy thereof; (e) identify its current custodian; (f) identify the nature and circumstances of its preparation, if known; and (g) identify its general subject matter.

16. Unless provided otherwise, the term "crossing" or the "railroad crossing" refers to the railroad crossing at which the train owned and operated by Defendant National Railroad Passenger Corporation ("Amtrak") collided with the truck operated by Defendant Paul Jones Elliot ("Elliot") on or about January 12, 1993.

17. "Collision" refers to the January 12, 1993 collision between the train owned and operated by Amtrak and the truck operated by Elliot.

18. "The Amtrak Train" refers to the train which collided with the truck-trailer operated by Elliot on January 12, 1993.

19. The "Car Center" truck or "the truck-trailer" refers to the truck operated by Elliot on January 12, 1993 which collided into the Amtrak train.

20. "Intersection" refers to the place at which the railroad, on which the Amtrak train collided with the truck-trailer, intersected with the road on which Paul Jones Elliot travelled just prior to the collision.

INTERROGATORIES

1. Identify all persons who witnessed or have knowledge of the collision or who were present at the scene of the collision. For each person identified, describe fully the facts or information about which each person has knowledge and the basis of believing that such person has or may have such knowledge.

ANSWER:

2. Identify each person you expect to call as an expert witness at trial, and for each such expert, state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and provide a summary of the grounds for each opinion.

ANSWER:

3. Describe in detail your driving/conducting history: state in your answer each and every driver's license which you have held in the last six years, providing the state in which each such license was issued, the type of that license, the restrictions on each such license, the group/groups of vehicles which you are authorized to drive on each such license, the types of endorsements on the license, and the dates on which you were in possession of each such license.

ANSWER:

4. Discuss each and every suspension, revocation, cancellation, lost privilege, or disqualification of any driver's/conductor's license or driving/conducting privilege you have ever held and for each such suspension, revocation, cancellation, lost privilege, and disqualification; provide the State in which it occurred, the date on which it occurred, and if you appealed, explain in detail the outcome of that appeal.

ANSWER:

5. Describe in detail each and every arrest, indictment, conviction, and criminal citation you have received, including each and every conviction or forfeited bond or collateral relating to the operation of a motor vehicle or train. For each such arrest, indictment, conviction, and forfeited bond or collateral, state the date, court, or administrative entity, if any, which was involved, the docket number of the case, and the outcome of each such arrest, indictment, conviction, forfeited bond or collateral, stating the amount, if any, of any fine, the length of any incarceration or probation, and whether each such fine, incarceration, and/or probation has been completed.

ANSWER:

6. Provide your employment history for the last ten years, including: the name, address and telephone number of any business or individual by whom you were employed, including self-employment; the beginning and ending dates of the employment, and the reason that such employment ended, the job titles and descriptions of positions which you held with each such employer; the dates on which you held each such position. Also include in your answer a detailed explanation about each and every reprimand, suspension, probation, and dismissal you experienced with each such employer.

ANSWER:

7. Describe in detail each and every train and motor vehicle accident in which you have been involved, and for each such accident/collision, state the date, the location, and identify each and every person involved in the accident/collision, each and every person injured in the accident/collision, each and every person killed in each such accident or collision, and identify the operator of each vehicle.

ANSWER:

8. State the date on which you last had a physical examination prior to the collision, describe in detail the results of that examination, and state whether such examination was mandated by your employer.

ANSWER:

9. State if you have ever been tested for alcohol, medications, drugs or other controlled substances; if you have ever driven any vehicle under the influence of alcohol, drugs, medications, or other controlled substances; if you have ever refused to undergo testing for alcohol, drugs, medications or controlled substances; and if you have ever tested positive for alcohol, medications, drugs or controlled substances and for each such answer state the date of each such occasion, and if you have tested positive, describe the blood-alcohol level and type of medication, drug or controlled substance discovered in each such test, and identify each employer for whom you worked when each such test was requested/administered.

ANSWER:

10. Identify each and every insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse you for payments made to satisfy the judgment.

ANSWER:

11. Was any announcement made to the passengers on the Amtrak train regarding the obstruction/truck-trailer, the impending collision, or the collision? If so, describe the substance of the announcement in detail, and state the time at which such announcement was made, and describe how the announcement was made.

ANSWER:

12. Describe in detail the basis of your allegation that Ms. Hughes was guilty of negligence which caused her injuries and damages.

ANSWER:

13. Identify all persons or institutions including but not limited to hospitals, physicians, psychiatrists, psychologists, counselors, and dentists, who have examined or treated you during the 10 years preceding January 12, 1992 and for each, describe the purpose of the consultation or treatment and the dates of such consultation or treatment. (DO NOT SIMPLY ATTACH MEDICAL RECORDS FOR YOUR ANSWER)

ANSWER:

(

REQUESTS FOR PRODUCTION OF DOCUMENT

1. All driver's/conductor's licenses for the past ten years.
2. Documents relating to lawsuits filed against you, including pleadings and depositions of you.
3. Documents relating to drug/alcohol testing you have undergone.
4. The travel log for the 8 days prior to and including January 12, 1993.
5. Documents relating to your certification and licensure as a conductor.
6. Medical examination records for the past eight years.
7. Documents relating to your driving record, including tickets, citations and documents relating to arrests, conviction, bail and forfeiture of bonds or collateral.
8. Your personnel file with Amtrak.
9. Your qualification file.
10. Documents relating to the revocation, suspension, cancellation, lost privilege or disqualification of your driver's/conductor's license/privileges.
11. A current curriculum vitae for each expert whom you may call to testify at trial.
12. A list of each and every case in which an expert witness, who may testify at trial, has testified as an expert at trial or by deposition within the preceding four (4) years.
13. Documents relating to your certifications and licensure as a train conductor.
14. Documents relating to every employment reprimand, suspension, probation and dismissal for the last ten (10) years.
15. Insurance agreements identified in Interrogatory No. 10.
16. A copy of each announcement made to the passengers regarding the impending

collision or the collision.

Respectfully submitted,

ELAINE HUGHES

By Rhonda M. Harmon
Counsel

Beverly W. Snukals
Rhonda M. Harmon
Mezzullo & McCandlish, P.C.
1111 East Main Street
Suite 1500
Richmond, VA 23219

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Plaintiff's First Interrogatories and Requests for Production of Documents to the William Black was mailed, first-class mail, postage prepaid on this 26th day of March, 1996 to:

Kevin V. Logan, Esquire
Sinnott, Nuckols & Logan, P.C.
13811 Village Mill Drive
Midlothian, VA 23113

Aubrey R. Bowles, III, Esquire
Bowles and Bowles
Two North Fifth Street
Richmond, VA 23219-2218

Rhonda M. Harmon

LAW OFFICES
BOWLES AND BOWLES

AUBREY RUSSELL BOWLES, III*
AUBREY RUSSELL BOWLES, IV
*VIRGINIA AND D.C. BAR

TWO NORTH FIFTH STREET
RICHMOND, VIRGINIA 23219-2218

AUBREY RUSSELL BOWLES, JR.
1896-1984

TELEPHONE: (804) 643-6768

TELEFAX: (804) 648-8134

August 17, 1999

Kevin V. Logan, Esquire
Sinnott, Nuckols & Logan
13811 Village Mill Drive
Midlothian, Virginia 23113

Re: Pauline Brown v. Car Center, Inc., et al - Case No. 95-6
Elaine Hughes v. Car Center, Inc., et al - Case No. 95-5

Dear Kevin:

I enclose herewith the original and a copy of a Dismissal With Prejudice Order with regard to each of the above-styled matters, which I have endorsed. Please endorse the originals and forward them to the Court for entry, requesting that certified copies be sent to each of us and the plaintiffs' counsel. Since plaintiffs' counsel did not see fit to attend Monday's hearing, I have not included her on the Orders or provided for any objection on her part.

I am, however, by copy of this letter, sending her copies of the orders as a courtesy notwithstanding that little has been accorded us.

Yours truly,

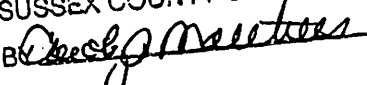


A. R. Bowles, III

ARBIII:ab

Enclosures

cc: Honorable J. A. Luke, Judge
✓ Mr. Gary M. Williams, Clerk
Mary Jane Hall, Esquire, w/enc.

FILED AUG 18 1999
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY  D.C.

MEZZULLO & MCCALLISH

A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW

999 WATERSIDE DRIVE
DOMINION TOWER, SUITE 512
NORFOLK, VIRGINIA 23510

MARY JANE HALL
DIRECT DIAL: (757) 627-4967
E-MAIL: hallmj@pilot.infi.net

TELEPHONE: (757) 627-4970
FACSIMILE: (757) 627-4989
WEB SITE: www.mezzullo.com

August 18, 1999

Sussex County Circuit Court
Gary M. Williams, Clerk
15088 Courthouse Road
Sussex, Virginia 23884

Re: Hughes v. Amtrak, et. al.
Case No.: 95-5

Brown v. Amtrak, et. al
Case No. : 95-6

Dear Mr. Williams:

We were quite surprised and dismayed to learn from Mr. Heretick, new counsel for the plaintiffs in these cases, that the Court granted the defendants' motion to dismiss both cases on August 16, 1999 for failure to respond to discovery. Given that there had never been an order compelling discovery in the case, that the defendants' stated goal was to move forward on taking depositions, and that with substitute counsel in place, the depositions were finally in a position to go forward, we did not feel that there was a sound basis for the defendants' request for dismissal.

I enclose is a motion for reconsideration, which I would like to be heard on at the court's first opportunity. I understand that Mr. Heretick's proffered order of substitution, which I had endorsed, had not been entered as of Monday. Had I known I certainly would have been present at the hearing; and therefore, I will of course be pleased to appear on this motion before Judge Luke.

I would appreciate your directing these motions to the judge's attention. Thank you for your assistance.

Sincerely,

Mary Jane Hall
Mary Jane Hall

MJH/esm
Enclosures

cc: Honorable James A. Luke, via hand delivery
Mr. A. R. Bowles, III, via fax and mail
Mr. Kevin V. Logan, via fax and mail
Mr. Stephen E. Heretick, via fax and mail

FILED AUG 19 1999
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY *Charles J. Matthews* D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

PAULINE BROWN,)	
)	
Plaintiff,)	
)	
v.)	Law No. 95-6
)	
WILLIAM BLACK,)	
)	
NATIONAL RAILROAD PASSENGER)	
CORPORATION, d/b/a AMTRAK,)	
)	
PAUL JONES ELLIOTT,)	
)	
CAR-CENTER,)	
)	
and)	
)	
CSX TRANSPORTATION, INC.,)	
)	
Defendants.)	

MOTION FOR RECONSIDERATION

Plaintiff, Pauline Brown ("Brown"), by counsel, respectfully moves the Court to reconsider its Order dismissing Brown' Motion for Judgment with prejudice. In support of this Motion, Brown states as follows:

1. Defendants William Black and National Railroad Passenger Corporation d/b/a Amtrak and CSX Transportation, Inc. (collectively "defendants") filed a Motion to Compel or in the alternative to dismiss Brown' Motion for Judgment with prejudice. At the time of this filing, the undersigned was attempting to secure substitute counsel in the case and preferred to have the requested depositions proceed with substitute counsel. Following the filing of the motion but prior to the hearing, new counsel for Brown, Stephen E. Heretick, was in the process of attempting to substitute as counsel in the case.

2. Mr. Heretick appeared for the hearing on the defendants' Motion with a consent order of substitution, which had been endorsed by Brown' present counsel.

3. This Court apparently declined to enter the Order of Substitution and, instead, dismissed Brown' motion for judgment with prejudice, apparently on the ground that discovery was not being conducted in a timely fashion.

4. Respectfully, Circuit Courts lack the authority to dismiss motions for judgment with prejudice on such grounds. Specifically, Rule 4:12(b)(2) permits a Court to impose sanctions on a party which has failed to "obey an order to provide or permit discovery..." This Court has not issued any Order compelling discovery and, accordingly, Brown has not failed to follow any such Order.

5. Brown has agreed to make herself available to be deposed in Virginia. Counsel for Brown regrets any inconvenience caused to counsel for the defendants as a result of the difficulty in coordinating discovery, but respectfully requests that the Court reconsider its ruling dismissing the Motion for Judgment with prejudice.

WHEREFORE, Brown respectfully request that the Court reconsider and, if already entered, vacate its Order dismissing Brown' Motion for Judgment with prejudice and, instead, enter an Order compelling the deposition of Brown in Virginia, with which Order the plaintiff intends to fully comply.

Respectfully submitted,

PAULINE BROWN


By Counsel

COUNSEL

Mary Jane Hall, VSB #26509
Mezzullo & McCandlish
999 Waterside Drive
Dominion Tower, Suite 512
Norfolk, Virginia 23510
(757) 627-4970
(757) 627-4989 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion for Reconsideration was mailed, postage prepaid, to Aubrey R. Bowles, III, Esquire, Bowles and Bowles, Two North Fifth Street, Richmond, Virginia 23219 and to Kevin V. Logan, Esquire, Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113 this 18th day of August, 1999.

MJ Hall

FILED AUG 19 1999
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY Carol Matthews D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

ELAINE HUGHES,)	
)	
Plaintiff,)	
)	
v.)	Law No. 95-5
)	
WILLIAM BLACK,)	
)	
NATIONAL RAILROAD PASSENGER)	
CORPORATION, d/b/a AMTRAK,)	
)	
PAUL JONES ELLIOTT,)	
)	
CAR-CENTER,)	
)	
and)	
)	
CSX TRANSPORTATION, INC.,)	
)	
Defendants.)	

MOTION FOR RECONSIDERATION

Plaintiff, Elaine Hughes ("Hughes"), by counsel, respectfully moves the Court to reconsider its Order dismissing Hughes' Motion for Judgment with prejudice. In support of this Motion, Hughes states as follows:

1. Defendants William Black and National Railroad Passenger Corporation d/b/a Amtrak and CSX Transportation, Inc. (collectively "defendants") filed a Motion to Compel or in the alternative to dismiss Hughes' Motion for Judgment with prejudice. At the time of this filing, the undersigned was attempting to secure substitute counsel in the case and preferred to have the requested depositions proceed with substitute counsel. Following the filing of the motion but prior to the hearing, new counsel for Hughes, Stephen E. Heretick, was in the process of attempting to substitute as counsel in the case.

2. Mr. Heretick appeared for the hearing on the defendants' Motion with a consent order of substitution, which had been endorsed by Hughes' present counsel.

3. This Court apparently declined to enter the Order of Substitution and, instead, dismissed Hughes' motion for judgment with prejudice, apparently on the ground that discovery was not being conducted in a timely fashion.

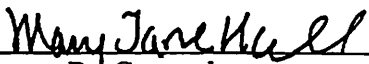
4. Respectfully, Circuit Courts lack the authority to dismiss motions for judgment with prejudice on such grounds. Specifically, Rule 4:12(b)(2) permits a Court to impose sanctions on a party which has failed to "obey an order to provide or permit discovery..." This Court has not issued any Order compelling discovery and, accordingly, Hughes has not failed to follow any such Order.

5. Hughes has agreed to make herself available to be deposed in Virginia. Counsel for Hughes regrets any inconvenience caused to counsel for the defendants as a result of the difficulty in coordinating discovery, but respectfully requests that the Court reconsider its ruling dismissing the Motion for Judgment with prejudice.

WHEREFORE, Hughes respectfully request that the Court reconsider and, if already entered, vacate its Order dismissing Hughes' Motion for Judgment with prejudice and, instead, enter an Order compelling the deposition of Hughes in Virginia, with which Order the plaintiff intends to fully comply.

Respectfully submitted,

ELAINE HUGHES


By Counsel

COUNSEL

Mary Jane Hall, VSB #26509
Mezzullo & McCandlish
999 Waterside Drive
Dominion Tower, Suite 512
Norfolk, Virginia 23510
(757) 627-4970
(757) 627-4989 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion for Reconsideration was mailed, postage prepaid, to Aubrey R. Bowles, III, Esquire, Bowles and Bowles, Two North Fifth Street, Richmond, Virginia 23219 and to Kevin V. Logan, Esquire, Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113 this 18th day of August, 1999.

mj Hall

FILED AUG 19 1999
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY George J. MacCandlish D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

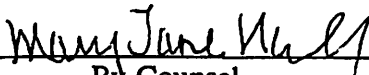
PAULINE BROWN,)	
)	
Plaintiff,)	
)	
v.)	Law No. 95-6
)	
WILLIAM BLACK,)	
)	
NATIONAL RAILROAD PASSENGER)	
CORPORATION, d/b/a AMTRAK,)	
)	
PAUL JONES ELLIOTT,)	
)	
CAR-CENTER,)	
)	
and)	
)	
CSX TRANSPORTATION, INC.,)	
)	
Defendants.)	

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT ON Tuesday, August 31, 1999 at 1:30 p.m. or as soon thereafter as counsel may be heard, the undersigned will bring on for hearing its Motion for Reconsideration previously filed herein.

Respectfully submitted,

PAULINE BROWN


By Counsel

COUNSEL

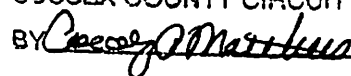
Mary Jane Hall, VSB #26509
Mezzullo & McCandlish
999 Waterside Drive
Dominion Tower, Suite 512
Norfolk, Virginia 23510
(757) 627-4970
(757) 627-4989 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Hearing was mailed, postage prepaid, to Aubrey R. Bowles, III, Esquire, Bowles and Bowles, Two North Fifth Street, Richmond, Virginia 23219, to Kevin V. Logan, Esquire, Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, and to Stephen E. Heretick, Payne, Gates, Farthing & Radd, 1515 Dominion Tower, 999 Waterside Drive, Norfolk, Virginia 23510 this 24th day of August, 1999.



Mary Jane Hall

FILED AUG 25 1999
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY  D.C.

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

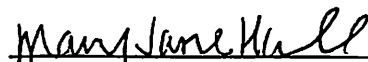
ELAINE HUGHES,)	
)	
Plaintiff,)	
)	
v.)	Law No. 95-5
)	
WILLIAM BLACK,)	
)	
NATIONAL RAILROAD PASSENGER)	
CORPORATION, d/b/a AMTRAK,)	
)	
PAUL JONES ELLIOTT,)	
)	
CAR-CENTER,)	
)	
and)	
)	
CSX TRANSPORTATION, INC.,)	
)	
Defendants.)	

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT ON Tuesday, August 31, 1999 at 1:30 p.m. or as soon thereafter as counsel may be heard, the undersigned will bring on for hearing its Motion for Reconsideration previously filed herein.

Respectfully submitted,

ELAINE HUGHES


By Counsel

COUNSEL

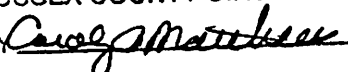
Mary Jane Hall, VSB #26509
Mezzullo & McCandlish
999 Waterside Drive
Dominion Tower, Suite 512
Norfolk, Virginia 23510
(757) 627-4970
(757) 627-4989 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Hearing was mailed, postage prepaid, to Aubrey R. Bowles, III, Esquire, Bowles and Bowles, Two North Fifth Street, Richmond, Virginia 23219, to Kevin V. Logan, Esquire, Sinnott, Nuckols & Logan, P.C., 13811 Village Mill Drive, Midlothian, Virginia 23113, and to Stephen E. Heretick, Payne, Gates, Farthing & Radd, 1515 Dominion Tower, 999 Waterside Drive, Norfolk, Virginia 23510 this 24th day of August, 1999.



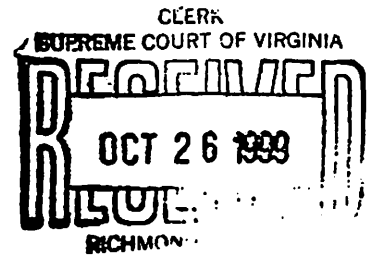
Mary Jane Hall

AUG 25 1999
FILED _____
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY  D.C.

992751

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY



PAULINE BROWN

v.

WILLIAM BLACK, et 'al

Consolidated Cases
95-5 and 95-6

August 31, 1999

Prince George, Virginia

HEARING ON MOTIONS

Before Honorable J. A. Luke, Judge

COOK & WILEY, INC.
Registered Professional Reporters
Post Office Box 14582
Richmond, Virginia 23221
(804) 359-1984

ORIGINAL

FILED OCT 4 1999
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY Cecelia M. Williams D.C.

APPEARANCES:

Mary Jane Hall, Esq.
Mezzullo & McCandlish
Attorneys at Law
999 Waterside Drive
Dominion Tower, Suite 512
Norfolk, VA 23510
Counsel for Plaintiff

Aubrey R. Bowles, III, Esq.
Bowles & Bowles
Attorneys at Law
Two North 5th Street
Richmond, VA 23219
Counsel for Defendant

Mark Nanavati, Esq.
Sinnott, Nuckols & Logan
Attorneys at Law
13811 Village Mill Drive
Midlothian, VA 23113
Counsel for Defendant

1 (1:40 PM)

2 THE COURT: Good afternoon.

3 MS. HALL: Good afternoon, Judge Luke. I'm
4 Mary Jane Hall with Mezzullo and McCandlish from
5 Norfolk, Virginia. We are here this afternoon on
6 my motion for reconsideration of the Court's
7 ruling that was announced from the bench on
8 August 16 in these consolidated matters.

9 Your Honor, I have been endeavoring for some
10 time on these cases to withdraw as counsel and to
11 coordinate the transfer of these files to
12 substitute counsel, and that has been a somewhat
13 time-intensive process.

14 I was aware that Mr. Bowles had asked the
15 Plaintiffs to make themselves available for
16 deposition. I certainly apologize to the Court
17 and to counsel for any inconvenience that has
18 been caused by my conduct in this matter;
19 however, the case had not been brought on on a
20 motion compelling discovery and there was no
21 order compelling discovery in this case so I
22 governed my actions on the timetable that would
23 dovetail with the hearing that Mr. Bowles had
24 scheduled for his motion to compel. And I,
25 perhaps in mistaken overconfidence, considered

1 that as long as substitute counsel was in place
2 and in a position to coordinate these depositions
3 and to assume responsibility for them and to
4 conduct them that I was not in danger of putting
5 my clients in a position of suffering sanctions
6 in this case.

7 Mr. Heretick, who I believe appeared before
8 the Court on August 16, has had these files from
9 my office for probably a month or more and I was
10 simply concluding that he had assumed
11 responsibility and entered or arranged for the
12 entry of the order substituting counsel that I
13 had endorsed and that these cases were finally in
14 a position to go forward, albeit after some
15 delay, again for which I apologize to the Court.

16 Mr. Heretick advised me that the Court
17 declined to enter the order of substitution when
18 he had it on the 16th of August.

19 I have with me again today an order
20 substituting. Your Honor, Mr. Heretick is
21 perfectly amenable as are the Plaintiffs to
22 consenting to an order compelling discovery to
23 making themselves available in Virginia for
24 deposition on any terms that the Court feels are
25 appropriate, given the nature of these

1 proceedings.

2 The basis for this instant motion is that
3 Rule 4:12 authorizes the Court to enter sanctions
4 upon a party that has failed to obey an order
5 permitting for discovery. And in this case, as I
6 said, since no such order had been entered. I
7 perhaps falsely or overconfidently assumed that
8 that was not an option that the Court would or
9 should take as of the 16th of August.

10 I do apologize to the Court and I am here
11 asking the Court not to enter the order that was
12 announced on August 16th dismissing the case with
13 prejudice but to enter instead an order that I
14 have allowing substitute counsel to proceed and
15 compelling the Plaintiffs to appear for
16 deposition as well as such other further measures
17 the Court feels are necessary.

18 MR. BOWLES: Your Honor, I don't know what I
19 can add to what was said on the 16th, but I gave
20 notice for the hearing on the 16th on the 26th of
21 May and there were no dates available for
22 Ms. Hall until the 16th of August. Now, when she
23 wants something it seems that she can make
24 herself available fairly quickly.

25 The situation is simply this: This accident

1 occurred in January of '93, two years to the day
2 the suits are brought, one more year before you
3 ask for an issuance of a notice of motion, then a
4 delay, the maximum delay for service.

5 This is one of the files of the basic
6 harassment of my clients Amtrak and CSX, 51
7 separate pleadings filed asking 90-some different
8 Interrogatories to the three clients. I have an
9 engineer, Mr. Black, who was not operating the
10 train. I've told them right from the beginning
11 he was not operating the train. He's faced with
12 two lawsuits against him that were pending and
13 messes up his credit.

14 I can't get anything done and now at the
15 last moment want to come in and do everything.
16 On top of that, judge, these are absolutely
17 nothing cases. The people in the dining car of
18 this train didn't even have their coffee spilled
19 when the collision occurred and it wasn't until
20 20 minutes after the accident had occurred that
21 any of the passengers knew what happened.

22 Amtrak people went through the train,
23 emergency people that removed Mr. McNeil, who was
24 stone drunk at the time, went through the train
25 and asked everybody was anybody hurt, and nobody

1 fessed up. The cases are just absolutely nothing
2 cases. And I think your previous ruling is
3 correct and you have the authority to do what you
4 did.

5 THE COURT: Ms. Hall, you stated a moment
6 ago that Mr. Heretick says the Court declined to
7 enter an order. No order has ever been presented
8 to the Court. Now, Mr. Heretick sat here at that
9 last hearing, he did come and said he was not
10 going to take the case.

11 MS. HALL: Your Honor, I certainly apologize
12 for any misstatement. My information is, of
13 course, hearsay by Mr. Heretick but there was an
14 order that I saw that bore both of our
15 endorsements.

16 THE COURT: I did not say there was not an
17 order around. I have never been asked to sign an
18 order substituting counsel. And Mr. Heretick
19 declined. He said he was not going to accept it.

20 MS. HALL: I do have his endorsement on this
21 order so perhaps you'd reconsider since he made
22 this statement to the Court. He told me to pass
23 along that if the matters were reinstated he was
24 in a position to conduct these depositions at the
25 Court's earliest opportunity. And, as I said, he

1 does, with his entry, with his endorsement on the
2 two orders that I have with the Court, Your
3 Honor, he does consent to take these cases and he
4 will take these cases.

5 If Mr. Bowles' suggestion is that I was
6 deliberately making myself unavailable for this
7 hearing, I assure the Court that's not the case.
8 My legal assistant generally gives out dates and
9 I believe she did give out dates. I was on
10 vacation for the first part of August, so if he
11 was told I wasn't available until the 16th, I
12 certainly don't have any reason to believe that
13 that wasn't the case, but this is a matter, of
14 course, that greatly concerns us, Your Honor,
15 greatly concerns my firm and, of course, greatly
16 distresses my client.

17 I defend cases. I don't have but about one
18 other Plaintiff's case in my entire practice and
19 candidly, I have a lot of Plaintiffs cases that
20 the only person doing anything to push them along
21 is me, and if it was up to the Plaintiffs to move
22 the cases, there's a lot of cases out there that
23 wouldn't be pushed forward, so Mr. Bowles'
24 representation that these have been pending for
25 some time, of course, there's two parties who can

1 move a case along.

2 / The length of his file certainly contradicts
3 any suggestion that we have been dilatory from
4 the commencement of the case because we haven't.
5 We did pursue the case to the point where I
6 realized I need to withdraw and that's when the
7 case went into a stall.

8 THE COURT: I don't see any reason to change
9 the ruling of the Court from the 16th. Dismissed
10 and it remains dismissed.

11 MR. BOWLES: An order has been sent. I sent
12 it to Mr. Logan and I got a copy of a letter
13 forwarding it to you.

14 THE COURT: I don't know where he forwarded
15 it. If he sent it to Sussex, I have not been
16 there so I would not have seen it. If it isn't
17 in here, we haven't received it. I'll be in
18 Sussex tomorrow. If Mr. Williams has it in
19 Sussex, I can get it there.

20 MR. BOWLES: I have a copy but it's not
21 endorsed. At least I think I do. I think it's
22 in the mail to you, judge, by Mr. Logan.

23 MS. HALL: For the record, the Court's
24 reasons for the dismissal with prejudice since I
25 wasn't at the August 16th hearing?

1 THE COURT: I'd hate to try to recall what I
2 stated August 16.

3 MS. HALL: I don't believe there was a
4 reporter there.

5 THE COURT: No one has paid any attention to
6 this and there was no -- you were the one who was
7 supposed to be here. Mr. Heretick came and said
8 I came to take a look and see, and I decline to
9 participate. I didn't see any interest in the
10 case. And I saw a lot of what Mr. Bowles has
11 phrased as harassment and I guess it's pretty
12 close to that.

13 MS. HALL: Thank you.

14 HEARING CONCLUDED AT 1:50 PM

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

I, Mary Ann Payonk, RMR CRR, shorthand
reporter, certify the foregoing is a true, correct
and full transcription of my shorthand notes
taken in the above-referenced matter.

Mary Ann Payonk

Mary Ann Payonk, RMR, CRR, RDR

121

Shorthand Reporter

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

PAULINE BROWN,

Plaintiff,

v.

Law No. 95-6

WILLIAM BLACK,

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,


Defendants.

DISMISSAL ORDER

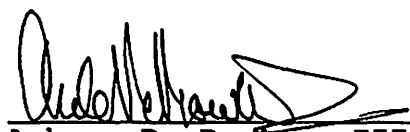
This day came the defendants William Black, National Railroad Passenger Corporation, d/b/a Amtrak, and CSX Transportation, Inc., by counsel, on their Motion to Compel Answers to Interrogatories, Deposition of Plaintiff, Independent Medical Examination of Plaintiff or In The Alternative to Dismiss Plaintiff's Motion for Judgment With Prejudice after notice to all parties which was served May 26, 1999 and also came defendants Paul Jones Elliott and Car Center, by counsel, and asked leave to join in the motion, which leave was granted and was argued by counsel and it appearing to the Court that the plaintiff has not appeared either in person or by counsel after due notice and that plaintiff has not responded to interrogatories filed more than a year ago and has not pursued

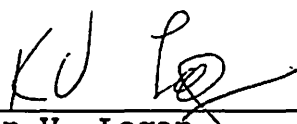
her cause of action with diligence for more than a year, it is
ORDERED that plaintiff's Motion for Judgment is dismissed as to all
defendants.

ENTER: 8 / 11 / 99


Judge

We ask for this:


Aubrey R. Bowles, III, VSB #05267
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768 (telephone)
804-648-8134 (fax)
Counsel for defendants William Black,
National Railroad Passenger Corporation,
d/b/a Amtrak and CSX Transportation, Inc.


Kevin V. Logan
Sinnott, Nuckols & Logan
13811 Village Mill Drive
Midlothian, Virginia 23113
804-378-7600 (telephone)
804-378-2610 (fax)
Counsel for Defendants
Paul Jones Elliott
and Car Center

VIRGINIA:

IN THE CIRCUIT COURT OF SUSSEX COUNTY

ELAINE HUGHES,

Plaintiff,

v.

Law No. 95-5

WILLIAM BLACK,

NATIONAL RAILROAD PASSENGER
CORPORATION, d/b/a AMTRAK,

PAUL JONES ELLIOTT,

CAR CENTER,

and

CSX TRANSPORTATION, INC.,

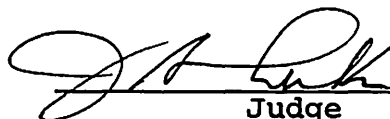
Defendants.

DISMISSAL ORDER

This day came the defendants William Black, National Railroad Passenger Corporation, d/b/a Amtrak, and CSX Transportation, Inc., by counsel, on their Motion to Compel Answers to Interrogatories, Deposition of Plaintiff, Independent Medical Examination of Plaintiff or In The Alternative to Dismiss Plaintiff's Motion for Judgment With Prejudice after notice to all parties which was served May 26, 1999 and also came defendants Paul Jones Elliott and Car Center, by counsel, and asked leave to join in the motion, which leave was granted and was argued by counsel and it appearing to the Court that the plaintiff has not appeared either in person or by counsel after due notice and that plaintiff has not responded to interrogatories filed more than a year ago and has not pursued

her cause of action with diligence for more than a year, it is
ORDERED that plaintiff's Motion for Judgment is dismissed as to all
defendants.

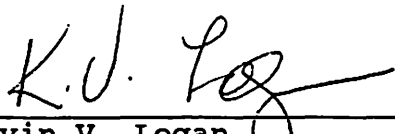
ENTER: 9/11/99


Judge

We ask for this:



Aubrey R. Bowles, III, VSB #05267
Two North Fifth Street
Richmond, Virginia 23219-2218
804-643-6768 (telephone)
804-648-8134 (fax)
Counsel for defendants William Black,
National Railroad Passenger Corporation,
d/b/a Amtrak and CSX Transportation, Inc.



Kevin V. Logan
Sinnott, Nuckols & Logan
13811 Village Mill Drive
Midlothian, Virginia 23113
804-378-7600 (telephone)
804-378-2610 (fax)
Counsel for Defendants
Paul Jones Elliott
and Car Center

MEZZULLO & McCANDLISH

A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW

999 WATERSIDE DRIVE
DOMINION TOWER, SUITE 512
NORFOLK, VIRGINIA 23510

MARY JANE HALL
E-MAIL: hallmj@pilot.infi.net

TELEPHONE: (757) 627-4970
FACSIMILE: (757) 627-4989
WEB SITE: www.mezzullo.com

September 1, 1999

VIA FEDERAL EXPRESS

Mr. Gary M. Williams, Clerk
SUSSEX COUNTY CIRCUIT COURT
15088 Courthouse Road
Sussex, Virginia 23884

Re: Brown v. Amtrak, et. al.
Case No.: 95-6

Dear Mr. Williams:

I enclose the order that was the subject of my motion to reconsider, argued August 31, 1999. The order is endorsed by Stephen Heretick and myself. Judge Luke would not enter this proposed order.

I would appreciate your filing this proposed order and including it in the record in this matter.

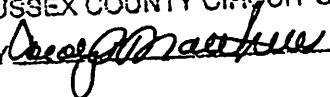
Sincerely yours,



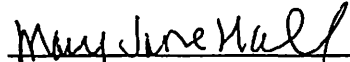
Mary Jane Hall

MJH/esm
Enclosure

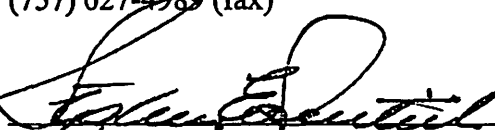
cc: Mr. A. R. Bowles, III
Mr. Kevin V. Logan
Mr. Stephen E. Heretick

SEP 2 1999
FILED
GARY M. WILLIAMS, CLERK
SUSSEX COUNTY CIRCUIT COURT
BY  D.C.

WE ASK FOR THIS:



Mary Jane Hall, VSB #26509
MEZZULLO & McCANDLISH
999 Waterside Drive
Dominion Tower, Suite 512
Norfolk, Virginia 23510
(757) 627-4970
(757) 627-4989 (fax)



Stephen E. Heretick
PAYNE, GATES, FARTHING & RADD, P.C.
1515 Dominion Tower
999 Waterside Drive
Norfolk, Virginia 23510-3309
(757) 640-1500
(757) 627-6583 (fax)

SEEN AND OBJECTED TO:

Aubrey R. Bowles, III
BOWLES & BOWLES
Two North Fifth Street
Richmond, Virginia 23219
(804) 643-6768
(804) 648-8134 (fax)

Kevin V. Logan
SINNOTT, NUCKOLS & LOGAN, P.C.
13811 Village Mill Drive
Midlothian, Virginia 23113
(804) 378-7600
(804) 378-2610 (fax)

Nature of the Case

This is an appeal from a Dismissal Order dated September 1, 1999 in the Circuit Court of Sussex County, J.A. Luke, Judge, granting the motion to dismiss of the Appellees, William Black, National Railroad Passenger Corporation, d/b/a Amtrak, Paul Jones Elliott, Car Center and CSX Transportation, Inc. A hearing was held in the trial court on August 31, 1999 and a copy of the transcript of the hearing was filed with the trial court and made a part of the record. It is not expected that there will be any question about the statement of facts.

Assignments of Error

1. The trial court erred in granting Appellees' motion to dismiss pursuant to Rule 4:12 of the Rules of the Supreme Court of Virginia.
2. The trial court abused its discretion when it dismissed the action with prejudice.

Statement of Facts

This action was initiated by a Motion for Judgment filed by the plaintiff on January 12, 1995 naming as defendants William Black, National Railroad Passenger Corporation, d/b/a Amtrak, Paul Jones Elliott, Car Center and CSX Transportation, Inc. ("CSX") The action arose out of a collision between an Amtrak train and a tractor trailer.

On or about June 22, 1999, defendants Black, Amtrak and CSX filed a Motion to Compel Answers to Interrogatories, Deposition of Plaintiff, Independent Medical Examination of Plaintiff or, in the alternative, Motion to Dismiss Plaintiff's Motion for Judgment with Prejudice (the "Discovery Motion"). The prayer for relief in the Discovery Motion requests that the action be dismissed with prejudice unless plaintiff's

Nature of the Case

This is an appeal from a Dismissal Order dated September 1, 1999 in the Circuit Court of Sussex County, J.A. Luke, Judge, granting the motion to dismiss of the Appellees, William Black, National Railroad Passenger Corporation, d/b/a Amtrak, Paul Jones Elliott, Car Center and CSX Transportation, Inc. A hearing was held in the trial court on August 31, 1999 and a copy of the transcript of the hearing was filed with the trial court and made a part of the record. It is not expected that there will be any question about the statement of facts.

Assignments of Error

1. The trial court erred in granting Appellees' motion to dismiss pursuant to Rule 4:12 of the Rules of the Supreme Court of Virginia.
2. The trial court abused its discretion when it dismissed the action with prejudice.

Statement of Facts

This action was initiated by a Motion for Judgment filed by the plaintiff on January 12, 1995 naming as defendants William Black, National Railroad Passenger Corporation, d/b/a Amtrak, Paul Jones Elliott, Car Center and CSX Transportation, Inc. ("CSX") The action arose out of a collision between an Amtrak train and a tractor trailer.

On or about June 22, 1999, defendants Black, Amtrak and CSX filed a Motion to Compel Answers to Interrogatories, Deposition of Plaintiff, Independent Medical Examination of Plaintiff or, in the alternative, Motion to Dismiss Plaintiff's Motion for Judgment with Prejudice (the "Discovery Motion"). The prayer for relief in the Discovery Motion requests that the action be dismissed with prejudice unless plaintiff's