



Jury Awards Union Pacific Railroad Conductor \$2.8 Million



We are pleased to announce a victory for our client, Joe Pasionek, in the case of *Joseph S. Pasionek v. Union Pacific Railroad Company*, Case No. : 2007 CV 4620, in the District Court, City and County of Denver, Colorado.

This case was tried to a jury verdict on behalf of Mr. Pasionek by Martin E. Jackson. The verdict in this case was received on July 29, 2009.

Mr. Pasionek, a 28 year Union Pacific employee, was a freight conductor operating a locomotive in the Union Pacific's 36th Street yard on February 4, 2005. As he was moving a locomotive next to the yard office using a remote control device, he ran over two railroad torpedoes which had been placed on the rail by unknown Union Pacific employees. The torpedoes exploded, creating a concussive blast wave which struck him, causing a traumatic brain injury. He was not struck by any physical object such as debris or shrapnel. Mr. Pasionek was disabled from work. His

wage losses were approximately 1.5 Million dollars.

The Union Pacific denied liability alleging that the unknown employees who placed the torpedoes on the rail were not acting in the course and scope of their employment with the Union Pacific. Mr. Jackson, using the Union Pacific's own internal corporate documents, countered that a torpedo collection program instituted by the Union Pacific in 2002 was conducted negligently, that the torpedoes were not secured against misuse and that the torpedoes were allowed to fall into the wrong hands, leading to this incident.

Union Pacific also denied that the Mr. Pasionek had received a traumatic brain injury. At trial, 12 expert witnesses testified on Mr. Pasionek's behalf in the fields of Neurology, Psychiatry, Neuro-psychiatry, Neuro-imaging (brain scans), Psychology, Physics and Explosive Investigation, Acoustics, Neurotology, Family Medicine and Economics. The jury found that Mr. Pasionek had sustained a traumatic brain injury caused by the explosion, contrary to the testimony of the Union Pacific's expert witnesses.

Finally, the Union Pacific claimed that the force of the torpedo explosion was insufficient to cause a traumatic brain injury. Mr. Jackson was able to demonstrate that the data presented to the jury from a Union Pacific expert's recreation of the incident was invalid because the expert had tested the wrong end of the locomotive during his reconstruction and thus did not accurately replicate the explosive blast wave to which Mr. Pasionek was exposed in the incident.

After an eight day trial, judgment was entered by the Court on behalf of Mr. Pasionek and against the Union Pacific Railroad Company, based upon the jury's verdict, in the amount of \$2,800,000.00.

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