

# DAILY LOCAL NEWS

## Family of Amtrak worker killed in Chester crash files lawsuit

*By Kathleen E. Carey*

June 2, 2016

PHILADELPHIA >> Joe Carter was a 40-year Amtrak worker who loved his job so much he was working overtime Sunday, April 3 — and that decision cost him his life.

Now, his son, Brandon, and his daughter, Montia, want answers and a lawsuit filed on their behalf is hoping to unearth them for their own sense of closure and to prevent others from experiencing their pain.

“The Carter family has asked (us) to do two things — to find out what happened to their dad and to make sure this never happens again,” attorney Robert J. Mongeluzzi of Saltz, Mongeluzzi, Barrett & Bendesky, P.C. said.

He is corepresenting the Carter family with Tom Kline of Kline & Specter P.C. in a lawsuit claiming Amtrak was negligent in keeping the 61-year-old Wilmington, Del., resident safe as oncoming Train 89 slammed into his backhoe at milepost 15.7 in Chester.

“We set on a mission today ... to learn why a man who should have been safely operating his backhoe on a track which should have been protected and out of service, how he lost his life,” Mongeluzzi said. “We have very good reason to believe that he was a victim of a failed system and a failure of communications and a breakdown that led to his death.”

The suit filed in the Philadelphia Court of Common Pleas seeking in excess of \$500,000 for expenses including medical, funeral and burial costs, the loss of income, retirement and Social Security income, as well as pain and suffering damages.

“When you lose a loved one, one of the things that you go through in searching for closure is what happened,” Mongeluzzi said. “And so, they are struggling to understand why their father was killed. Part of what they want us to do is expose the flaws in that system ... and to make sure that those flaws are corrected so that other families don’t have to bury their father.”

The suit outlines 23 ways it claims Amtrak was negligent from failure to divert the train from where work was being performed to violating governmental regulations.

On April 3, Carter was out on the tracks in a backhoe with his friend and supervisor Peter Adamovich, 59, of Lincoln University, cleaning ballasts and remediating fouled ones.

Around 8 a.m., a 300-passenger Amtrak train was headed from New York to Savannah, Ga., and was traveling 106 mph when it collided with the backhoe, causing it to ignite. The collision killed Carter and Adamovich and injured about 30 others.

All this was caused, the suit stated, as “a direct result of Amtrak’s negligence.”

The suit states “Amtrak ... failed to follow its own procedures, federal regulations and industry standards for ensuring the safety of its employees on its tracks.”

Those standards included diverting trains from tracks where work was being performed; notifying personnel on and off the trains where workers were on the tracks; and ensuring train engineers were notified of track workers.

The engineer on that April southbound Palmetto train had only five seconds to brake prior to crashing into the backhoe.

Following the accident, the Federal Railroad Administration ordered Amtrak to retrain rail workers on basic safety rules, specifically that a track will not be reopened until all workers have left the area or been warned about an approaching train.

Amtrak representatives declined comment, citing a policy not to comment on litigation.

### **Kline outlined the core of their case.**

**“What we have focused our attention on is that the dispatcher apparently failed to make the appropriate walkie-talkie call and we have focused on the fact that there was a shift change,” he said, adding that there was also no communication with the engineer operating the oncoming train. “We believe that that plays a paramount role in this whole situation and that’s been the focus of our investigation.”**

Mongeluzzi added, “Any time there are workers on the tracks, there has to be redundancy. There has to be multiple levels of protection.”

If not, people like Carter can potentially get hurt.

“‘Stookie’ ... was a man who was working on Sunday because he wanted to get his job done,” Kline said. “He liked doing his job and he was the best at doing his job. He actually, like a lot of workers on the rails, loved to be out there and loved to be working.

“He expected to be there safely,” Kline said. “He had been in that position literally for four decades.”

And now his family tries to make sense of his passing.

“Stookie, as he was affectionately known to family, friends and co-workers was a warm, larger-than-life figure whose greatest joy was helping others,” his daughter, Montia, said. “A truly kind man, he was a loving father and uncle, a renowned cook at his Honeycomb Union AME Church, mastering every dish from collards to orange-glazed lemon pound cake. When he cooked, there were never leftovers.”

Kline and Mongeluzzi also serve on the Plaintiffs’ Management Committee in relation to the May 12, 2015 Amtrak Train 188 derailment that killed eight people and injured more than 200.

“Ten deaths in 10 and a half months on Amtrak’s rails in Philadelphia alone,” Mongeluzzi said. “How many more will it take before Amtrak wakes up and realizes that safety starts at the top and safety on the rails affects both employees and passengers?”

And, he said their investigation has just begun in the case of Train 89 with the filing of this lawsuit.

“As we set out not knowing exactly what happened, we begin our journey to find out how this tragedy occurred, how there possibly could have been a colossal miscommunication that killed two men,” Mongeluzzi said.

In their exploration, Kline said they hope to find a way to make the rails safer.

“What we are looking for is to dig deeper and to find the answers because finding the answers will help cure the problem for the future,” Kline said. “We can’t bring back Joe Carter. What we can do is have Joe Carter’s death serve as an impetus for safety and as an impetus for change to help the workers.”