

The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843-2011

PHILADELPHIA, WEDNESDAY, APRIL 13, 2016

An **ALM** Publication

Kline, Mongeluzzi Named Liaison Counsel in Amtrak MD

BY P.J. D'ANNUNZIO

Of the Legal staff

The plaintiffs attorneys handling the largest share of cases against Amtrak in the Philadelphia-based multidistrict litigation—**Thomas R. Kline** and Robert Mongeluzzi—have been tasked with assisting in case management and coordinating communication between attorneys and the court on a temporary basis.

In an order issued Tuesday, U.S. District Judge Legrome Davis of the Eastern District of Pennsylvania named the lawyers temporary liaison counsel, as well as laid out the framework for a future plaintiffs' management committee.

"Liaison counsel will be uncompensated, however counsel shall keep track of -expenses and hours spent undertaking" their activities, Davis said.

Mongeluzzi, speaking on behalf of -himself and Kline, said, "We're honored to help get the ball rolling on behalf of the victims of this derailment."

Most recently, Davis denied a motion for preliminary settlement class certification to two plaintiffs injured in the May 2015 derailment.

The plaintiffs, Mark and Nicola Tulk, argued that creating a settlement class would reduce legal fees incurred by the MDL, allowing plaintiffs \$50 million to \$70 million more in recovery of the maximum \$295 million damages allowed by law. Davis said last week in his opinion that such a certification would be premature because the extent of damages has not yet been determined.

"Amtrak has stated that they are in the process of disseminating and completing damages questionnaires as a first step to assess the injuries suffered by each plaintiff," Davis wrote. "This process is ongoing, and no reasonable estimate of the damages is possible at this juncture. Therefore, without any basis to find that damages exceed the statutory limit, the court will not resort to broad speculation."

He added that the certification of a -settlement class at this stage of the litigation would not enhance judicial efficiency.

"Of primary importance to this court is facilitating a swift and efficient -process that will work towards a fair and appropriate result for the victims of this derailment. Prior judicial experience has shown that when the parties to an action work cooperatively together, better results are achieved. Only

one represented party is in favor of settlement class certification, the Tulk," Davis said. "Counsel for nearly all of the plaintiffs in the MDL have expressed vehement opposition to their motion. Any current grant of class certification would likely ensure that this litigation will drag on, raising legal costs and reducing the funds available to the victims in this matter."

A major development affecting the cases against Amtrak was the increase of the maximum combined compensation for -injured Train 188 passengers from \$200 million to \$295 million.

In December, Congress agreed to raise the damages cap, which the passengers' attorneys had feared would not be enough to adequately compensate the injured parties. Even with the \$95 million -increase, Mongeluzzi previously said the combined damages would likely surpass the new cap.