



NJ Transit pays over \$8M to settle suits from fatal Hoboken train crash

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By Larry Higgs | NJ Advance Media for NJ.com

NJ Transit paid a total of \$8.15 million to four injured people and the family of a woman killed when a Pascack Valley Line train crashed through a barrier in Hoboken Terminal on Sept. 29, 2016.

The lawsuit settlements, approved by NJ Transit's Board on May 12 were announced Monday by attorneys from **Kline & Specter** and Saltz, Mongeluzzi & Bendesky.

They represented the family of 34-year old Fabiola Bittar de Kroon, a Brazilian-born attorney and mother who was walking through the station at the time of the crash and was killed by falling debris. Her family filed a \$20 million wrongful death suit in June 2017.

The firm also represented Sheldon Kest of Tenafly, who filed a \$2 million suit. He was a passenger on the train commuting to his job in Jersey City. He lost half of a finger in the wreck, suffered a concussion, facial cuts and a shoulder injury after the roof of the train car he was riding in caved in, according to his lawsuit. He later testified about the crash to a joint legislative committee probing NJ Transit.

The firm represented Bagyalakshmi Subramaniam, a Bergenfield resident who was on the train and suffered multiple facial and nasal fractures "requiring surgical internal fixation," as well as swelling, bruising, scarring disfigurement and amnesia. Also in the settlements were Karl Ward and Alexis Valle, who were among the 108 people injured in the crash that caused \$6 million in property damage.

The attorneys' announcement did not specify the settlement amounts by person.

"These settlements collectively amounting to more than \$8 million should never be confused with or viewed as a substitute for closure, because there is no closure for loved ones who've lost a mother and spouse, or survivors suffering from life-altering physical and psychological injuries," attorneys **Thomas Kline** and Robert Mongeluzzi said in a statement.

The fatal crash involved a Pascack Valley line commuter train occurred as it was near the end of the trip and arriving in Hoboken Terminal at 8:45 a.m. that day.

The train sped up to 21 mph as it entered the station, twice the posted speed limit, crashed through a concrete bumper at the end of track five and into the station. Engineer Thomas Gallagher was found unconscious in the cab of the train and told investigators he had no recollection of the crash.

After an investigation, the National Transportation Safety Board (NTSB) ruled in 2018 that the crash resulted from Gallagher's undiagnosed sleep apnea and the lack of technology, known as Positive Train Control, to automatically stop or slow the train.

Gallagher was fired by NJ Transit, but was reinstated in 2019 after appealing his termination. He is not running trains carrying passengers and must meet strict medical conditions, including sleep apnea treatment.

Several of the lawsuits contended the crash wouldn't have happened if Gallagher's sleep apnea had been detected or if PTC or a similar system was in place to stop the train when it exceeded the 10 mph speed limit.

NJ Transit has since installed PTC on its rail lines, to meet a federally-mandated Dec. 31, 2020, deadline to have it approved and operational. It has also improved its medical screenings and examinations for sleep apnea.

"This was a preventable catastrophe," the attorneys said. "We and our clients are hopeful that NJT has now implemented and will continue to implement all the necessary safety improvements – systemwide, from rail operations to crew medical screenings - to protect its passengers, agency personnel, and the general public from harm. Such a tragedy must never happen again."