

1 IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

2 CIVIL DIVISION

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4 CLINT E. HEFLIN, ORIGINAL

5 Plaintiff,

6 Va. CA No. 04245-95

Calendar 10

7 NATIONAL RAILROAD Judge Milliken

PASSENGER CORPORATION,

8 Defendant.

9 - - - - -x

10 Washington, D. C.

11 Monday, March 11, 1996

12 Deposition of

13 JESSE JOHN MCARTHUR

14 a witness, called for examination by counbel for the

15 plaintiff, pursuant to notice, at the Amtrak Claims

16 Office, 900 Second Street, N.E., Washington, D. C.,

17 beginning at 2:23 p.m., before Karen Hinnenkamp, RMR,

18 a Notary Public in and for the District of Columbia,

19 when were prebent:

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1 For the Plaintiff:

2 WILSONT HAJEK AND SHAPIRO, P.C.
3 BY: RICHARD N. SHAPIRO, ESQ.
4 1294 Diamond Springs Road
5 P.O. Box 5369
6 Virginia Beach, Virginia 23455
7 804-460-7776

8 For the Defendant:

9 GILBERG AND KURENT
10 BY: ERIC A. SPACEK, ESQ.
11 1250 Eye Street, N.W.
12 Washington, D. C. 20005
13 202-842-3222

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C O N T E N T S

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EXAMINATION BY COUNSEL FOR:

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PLAINTIFF DEFENDANT

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WITNESS: (Mr. Shapiro) (Mr. Spacek)

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JESSE JOHN MCARTHUR 3 - - -

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I Thereuponr
2 JESSE JOHN MCARTHUR
3 a witneBS, was called for examination by counsel for
4 the plaintiff and, after having been first duly sworn
5 by the Notary, was examined and testified as follows:
6 EXAMINATOR BY COURSEL FOR THE PLAINTIFF
7 BY MR. SHAPIRO:
8 Can you please state your full name?
9 A Jesse John McArthur.
10 Q What is your home address, sir?
11 A 120 Southwest 91st Avenue, Apartment 102,
12 Plantation, Florida, zip code is 33324.
13 Q Are you presently in Florida for thib
14 deposition?
15 A That is correct.
16 Q Are you employed with the National Railroad
17 PaBBenger Corporation, otherwise known as Amtrak?
18 A Yes.
19 Q What is your present title, air?
20 A Manager of terminal serviceb.
21 How long have you worked with Amtrak or itB
22 predecessor railroads?

1 A I started to work with the Seaboard
2 Coastline on October 18th 1979.
3 Q What is your age, sir?
4 A Forty-two.
5 Q Can you tell me as of June of 1992 what
6 your position was with Amtrak?
7 A I was transportation manager one.
8 Q Were you based out of the Washington
9 division?
10 A Yes.
11 Q Generally working out of the Amtrak station
12 or yard in Washington, D.C.?
13 A Yes.
14 Q Can you tell me what that position of I
15 think you said transportation manager one, what types
16 of duties you had?
17 A At that time I was managing the Zone 5 T&E,
18 that's train and engine crew, crew base in Washington,
19 and those crews worked the Amtrak trains that went to
20 Pittsburgh, Florence, Newport News.
21 Q As of June of 1992 did Clint Heflin, the
22 plaintiff in this case, work under your supervision?

1 A The best I can recollect, yes. I do
2 remember knowing Clint Heflin. Somewhere in there my
3 duties had changed from Washington terminal which were
4 yard crews which I would not have been directly
5 supervising Mr. Heflin. But it was in May or June of
6 that year that my duties changed to Mr. Heflin's area.

7 Q He is or was a conductor with Amtrak at
8 that time.

9 A At that time, yes.

10 Q I want to ask you questions today, sir,
11 about the Amfleet II passenger coach cars. Are you
12 familiar with those?

13 A Yes.

14 Q Those particular passenger cars have a
15 vestibule area where steps lead for entry or exit from
16 the passenger cars?

17 A Yes, there is a vestibule area on those
18 cars.

19 Q In a single vestibule area I take it there
20 are steps that would lead to either side of the
21 passenger car; in other words, one staircase on one
22 side and one on the other side?

1 A on the vestibules there are trap doorb that
2 open and steps fold down so you can step down off the
3 car onto ground level.

4 Q And there is a trap door on each side, like
5 the east or west Bide of the car.

6 A Yes.

7 Q Can you explain to me a little further,
8 when we talk about this trap door, how does a worker
9 lift that trap door up first of all?

10 A He cannot do it from the ground. He has to
11 do it from the vestibule. There is a foot latch on
12 the trailing end of the car that you would step on and
13 the weight of the steps dropping would lift the door
14 up and you reach down with your hand, there is kind of
15 a i channel or a little lip you can put your hand
16 under to lift the door up and then change to put your
17 hand to the outside of that trap and PUBH it up
18 against the bulkhead or what would be the leading end
19 of that vestibule, it could be on your left or right
20 depending on which door you were using, and it
21 latches. And the steps are down and the trap door iB
22 up latched against the bulkhead.

1 Are there handrails on the underbide of the
2 trap door once it's in an upright position?

3 A YeB, there is.

4 Q What's the pUrPOBe of those handrailb?

5 A It is the same purpose as the handrail
6 that's on the trailing end. It's to steady passengers
7 aB they come in and out of the car.

8 Q What is the purpose of the latching
9 mechanism that holds the trap door up against the wall
10 or the leading edge of the vestibule?

11 A It holds the trap door up againbt the wall
12 or the leading edge of the vebtibule.

13 Q Okay. If the latch doesn't properly hold
14 the trap door snug or secure against the wall and a
15 perbon or a crew member pulls on the handrail on the
16 underbide, what will or what can happen?

17 MR. SPACEK: Objection.

18 THE WITNESS: I don't quite understand your
19 question.

20 BY MR. SHAPIRO:

21 Q In other words, if a person pulls on the
22 handrail on the underbide as they are entering or

1 exiting the stairs and if the latch does not securely
2 hold the trap door, the trap door can pull away from
3 the wall obviously; right?

4 MR. SPACEK: objection.

5 THE WITNESS: I don't -- I personally don't
6 think that pulling -- again, it's a picture I'm trying
7 to draw in my mind. What you are saying is pulling on
8 the handrail. The handrail is used to pull coming
9 from the ground up into the car and you are pulling
10 not away from the wall with the handrail but you are
11 pulling toward the outside is the way the handrail is
12 used.

13 BY MR. SHAPIRO:

14 Well, if a person puts pressure on the
15 handrail toward the trailing side of the locomotive --

16 A Of the car.

17 Q Yeah, excuse me. The car, not the
18 locomotive. Sorry. -- the trap door would naturally
19 pull toward the trailing side of the car unless it's
20 latched securely against the wall; right?

21 A Yes. Or you could pull on the door itself.
22 You wouldn't even have to pull on the handle.

1 Q Okay.

2 A Which that is, you know, a safety
3 precaution that most crews will do iB when they open
4 this trap door and it latches, they are to pull on it
5 to make sure that it is latched.

6 MR. SHAPIRO: Off the record.

7 (DiBCUBsion off the record.)

8 MR. SHAPIRO: Back on the record.

9 BY MR. SHAPIRO:

10 On June 14th or June 15th, 1992 do you
11 recall how you first heard that Clint Heflin had made
12 an injury report or an accident report?

13 A I have no recollection whatsoever.

14 Q Do you have any recollection of the first
15 thing that you did to actually go and do any type of
16 inspection?

17 A No.

18 Q I want to refer you to the methods or the
19 procedureb that are followed when there is an
20 investigation committee that iSBues a report. How
21 does that work? Are they done for just injury report
22 situations or for accidentb or when are they done?

1 MR. SPACEK: Mr. McArthur, before you
2 answer, I'm just going to object for the record to the
3 line of questioning on the Investigation Committee
4 Report. That's just for the record. You can answer
5 his questions.

6 THE WITNESS: Are you referring to what we
7 call a 405?

8 MR. SPACEK: Yes.

9 MR. SHAPIRO: Okay, yes.

10 THE WITNESS: A 405 is a document that a
11 supervisor instigates, and it could be any supervisor,
12 when an injury has occurred or been, or an injury is
13 alleged or occurred, to formally go through an
14 investigation of exactly what happened, something that
15 is more detailed or more elaborate than just what we
16 call the 260.

17 BY MR. SHAPIRO:

18 There is usually a committee of three
19 supervisors that take part in this 405 committee
20 report?

21 A It's been some time since I have done one,
22 but I think three is the max. It could be a committee

1 of one if that's all that's available. So it could be
2 one person, two people or three.

3 Q All right. What is the purpose of the
4 committee investigation?

5 A Usually it's to determine any outside
6 forces that may have caused an injury and to come up
7 with a recommendation BO that an injury would not
8 occur again or that a similar incident not occur
9 again.

10 Q If there are any malfunctions or defeCtB
11 found in any particular equipment or train car, are
12 those reported in the committee report?

13 A If they are known by the person, if they
14 come to the light of the committee, yes, it would be
15 appropriate for them to be included in a 405.

16 Q Are you familiar with the way the trap
17 doors look and Becure onto the vestibule walls on the
18 Amfleet II coach cars?

19 A Yes, I am.

20 Q Are there more than one type of latch means
;II that were securing trap doors in June of 1992 babed on
42 the investigation that waB conducted by the committee?

1 A I do not know.

2 Q Without looking at the report you don't
3 remember if there were more than one type?

4 A No, I do not. You know, there could be,
5 but I really have no idea or any recollection.

6 Q Okay.

7 A I reckon I can say the latcheb, there may
8 be more than one type of latch. If you look at it,
9 there are different latches. They may not be
10 identical, but they all do the same function. They
11 latch the door to the bulkhead.

12 Q Right. Why don't we just hold up at this
13 point, I'm sort of out of questions, until we get you
14 the report.

15 A All right. Let me Bstep out here and see if
16 it has come in.

17 Okay.

18 (Brief receBS.)

19 MR. SHAPIRO: Back on the record.

20 BY MR. SHAPIRO:

21 Q Mr. McArthur, have you got at least the
z2 first two pages in front of you of a document entitled

1 Amtrak Investigation Committee Report and it has a
2 date of injury of June 14th, 1992?

3 A Yes, I do. I have a page numbered one and
4 a page numbered two.

5 Q Okay. Can you take a moment and scan
6 through the two pages before you to see if they assist
7 in refreshing your recollection about any particular
8 events relating to Mr. Beflin's injury claim.

9 A Okay.

10 Q This is the first two pages of a report
11 maintained by the company in its records relating to
12 the coach car involved in Mr. Heflin's accident claim;
13 is that true?

14 A If you say it's true.

15 Well, I guess I need to ask you. You took
16 part in the committee report, didn't you?

17 A I see my name here at the bottom. I don't
18 see my signature.

19 But you took part with Mr. Quigley and
20 Mr. Ware in this particular investigation, didn't you?

21 A I do not recall specifically doing that.

22 Q Okay. Who types the committee report?

1 A It could be any clerk. Who typed this
2 report? I have no -- there is no way I could recall
3 or know.

4 Q Okay. Who would have been in charge in
5 this particular investigation? That is the names,
6 your name, Mr. Quigley and Mr. Ware, are listed here.
7 Were those individuals also working out of the
8 Washington division at that time here in Washington,
9 D.C.?

10 A Wo, they were not. Mr. Quigley, my memory
11 serves me, was in Richmond, Virginia and Mr. Ware waB
12 based out of Salisbury. But they generally had
13 oversight over the same area I did. The different
14 crews overlapped. So you may Bee these gentlemen in
15 Washington or you may see me in their areas.

16 Q All right. The general format of this
17 report is the typical format that you are familiar
18 with.

19 A Yes, it is.

20 Q The committee analyzed the manner in which
21 Mr. Heflin's accident occurred, isn't that true, under
22 the accident analyBiS?

1 A There is an analyBiS written down on thib
2 form.

3 Can you describe for me what the analysis
4 of how the accident happened was?

5 A I could read to you what the form says.

6 Q Well, particularly the portion that
7 describeb the accident, yes.

8 A What this form in front of me BAYB under
9 "Accident Analysis" iB "A 42 year old male with nearly
10 six years of Amtrak service and Bervice with RF&P
11 prior to that, he was assigned as regular conductor on
12 train number 90 at Quantico, Virginia on June 14th,
13 1992. At approximately 7:13 p.m. Mr. Heflin opened
14 the trap door to coach 25047 and detrained on the west
15 platform. His assistant conductor Thompson followed,
16 and as Mr. Thompson was debcending the steps, the trap
17 door latch gave way and the platform dropped, hitting
18 is Mr. Heflin's left elbow as he was reaching into hiB
19 left shirt pocket.,,

20 Q What did the investigation committee
21 determine had caused the accident to occur?

22 A What thib form says under "Cause,, iB

1 "Mr. Heflin and his assistant conductor examined the
2 trap door latch and found that the screws were
3 sufficiently loose to allow the latch to pull away
4 from the bulkhead and allow the trap door to come
5 unlatched.,,

6 Q Now Mr. Thompson was holding or was using
7 the handrail on the underbide of the trap door as he
8 descended the stairs after the plaintiff. Is that the
9 understanding here?

10 A I don't read that.

11 Q How do you understand the accident to have
12 happened then?

13 A Well, I don't see anything here that says
14 that he was using the handrail. Unless I have missed
15 it. I reckon I could read it again.

16 Q Well, what would have caused the trap door
17 to pull away from the wall if Mr. Thompson wasn't
18 using it?

19 A The trap door, you don't have to pull on
20 it. You can pull the latch and the weight of the
21 steps coming up and the trap door dropping will pull
22 it away from the wall. That's how you close it.

1 Q Say that again?

2 A The weight of the door itself, if you
3 unlatch it, the door will come away from the wall
4 under its own weight.

5 Q Okay. Well, you understood that
6 Mr. Heflin, I believe he said that he opened the trap
7 door and it did latch initially; right?

8 A The report here says that Mr. Heflin opened
9 the trap door to coach 25047 and detrained on the west
10 platform. If I were to make an assumption, if he
11 opened the door, the assumption would be that it did
12 latch.

13 MR. SPACEK: We don't want you to assume
14 anything. If you don't know, just say you don't know.

15 THE WITNESS: All I know is what I'm
16 reading here.

17 BY MR. SHAPIRO:

18 Q Okay. The report indicates that you did an
19 examination of the car on June 15th, which was the
20 next day. Do you recall that?

21 A No, I do not.

22 Q You don't recall being there with

1 Mr. Heflin and looking at the car?

2 A Wo, I do not.

3 Q Are you denying that it happened or are you
4 just saying you don't remember, Mr. McArthur?

5 A I do not recall it at all. I do not deny
6 it happened at all, but I do not recall it.

7 Q Okay. Can you tell me what the report
8 indicated were contributing factors to cause the
9 accident?

10 A What the report says is "Committee Member

11 McArthur examined this car on June 15, 1992 and found

12 that the latch was secured by screws of varying sizes

13 and was indeed loose. Committee Member McArthur found

14 that if the handrail attached to the bottom of the
15 trap was used, the trap door could be pulled from
16 under itB latch and drop.,,

17 Now I notice that the contributing factors
18 there doesn't Bay anything about the door dropping on
19 itB own. It jUBt talks about being pulled on. Do you
20 see that?

21 A I see what I just read, yes, sir.

22 And the McArthur they are referring to is

1 yourself; right?

2 A That's the only thing I could assume since
3 my name is typed on the bottom on the committee. I
4 know of no other McArthur in a management position
5 with Amtrak.

6 Q What I guess I'm asking you, Mr. McArthur,
7 is under contributing factors, that paragraph didn't
8 contain any language about the trap door falling on
9 its own, did it?

10 A None that I read.

11 All right.

12 A To clarify what you said, it haB nothing
13 that, during the accident it doesn't refer to it being
14 pulled on at all. But this is referring to Committee
15 Member McArthur pulling on the trap door.

16 Q Right. And the committee examined other
17 similar cars; is that true?

18 A I don't know.

19 Did the committee have recommendations that
20 it made in the report?

21 A The report has a written recommendation on
22 thib sheet that you faxed to me.

1 official report.

2 A AbBolutely not.

3 Q Let's take a moment. Do you know if those
4 other two pages have come through?

5 A Let me check and see. Hold on.

6 (Brief recess.)

7 MR. SHAPIRO: Back on the record.

8 BY MR. SHAPIRO:

9 Q Mr. McArthur, on page three of the
10 Investigation Committee Report there is some
11 discussion about the equipment. Have you got that
12 page before you?

13 A Yes, I do.

14 Q Were any malfunctions or defeCtB found with
15 respect to coach 25047 in the vebtibule?

16 A Under the equipment where it sayb "List all
17 malfunctions or defects found," it'B written on this
18 page three, it BAYB "Loose trap door screWB on coach
19 25047 right side.,,

20 Q WaB everything else about Mr. Heflin aB far
21 as his safety equipment in appropriate condition or
22 order?

1 A I can tell you what the report says. Under
2 "Employee Data,, it says "Conductor's uniform with
3 proper shoes and safety glasses. That is under a
4 section that says "List personal protective equipment
5 required.,, It doesn't say whether he had it on or
6 not. It just says "Conductor's uniform with proper
7 shoes and safety glasses."

8 Q The committee found no safety rule
9 violations applicable to the accident, did it, from
10 the perspective of Mr. Heflin or his crew members?

11 A I think that is on a previous page. Page
12 one says "Was safety rule violated?" and it's checked
13 no.

14 Q Again, you don't have any independent
15 recollection of these events or any inspection by you
16 except by referring to the document itself.

17 A No, I'm afraid I do not. It's an extremely
18 demanding position there and a demanding area and
19 there is so many things you get involved in. After
20 this length of time I just have no recollection of
21 this particular incident. The last thing I remember
22 about Mr. Heflin is I think he had a heart attack, the

1 last knowledge I remember of Mr. Heflin.

2 Q Was that in response to you don't remember
3 learning anything about the report?

4 A I'm sorry, what was your question?

5 Q Nothing. I will withdraw that.

6 When Mr. Heflin was injured on June 14th,
7 1992 he was on duty with the railroad, wasn't he?

8 A According to this Investigative Committee
9 Report, yes.

10 Q Once the committee report is completed by a
11 clerk what is done with the committee report?

12 A The committee report goes to the department
13 head for their approval, review, any changes they deem
14 necessary, and they sign off on it.

15 Q who was the department head with respect to
16 this particular report at that time?

17 A This copy I have haB nO Bignature, but my
18 memory would be it would be William Browder who was
19 transportation superintendent at that time.

20 Can you spell that last name, please?

21 A B-r-o-w-d-e-r.

22 Q Where is Mr. Browder these days?

1 A He no longer works for Amtrak. I have been
2 told, I think he works for the American Association of
3 Railroads, but I do not know that for a fact.

4 Q Do you know who is now transportation
5 Supervisor in the similar position which Mr. Browder
6 was in at that time?

7 A That position no longer existb. We have
8 restructured and that pobition no longer existiStB. The
9 transportation department no longer exists.

10 Q So who would receive Investigation
11 Committee Reports at the present time once they are
12 completed?

13 A That really is different in every area.
14 Give me a specific area and I maybe can tell you.

15 Q Such as for the same type of accident.

16 A If this was happening to a Zone 5
17 Washington based conductor now, I suppose it would go
18 to a Mr. Staska, and he reports directly to a
19 Mr. Simpson.

20 Q Can you spell Mr. Staska's name?

21 A S-t-a-s-k-a, I believe.

22 Q Is he based out of Washington?

1 A He is presently in Washington.

2 MR. SHAPIRO: Okay. That's all the
3 questions I have. I thank you for your time.

4 THE WITNESS: Okay.

5 MR. SPACEK: I don't have any questions for
6 you, Mr. McArthur.

7 (Whereupon, at 3:05 p.m. the deposition was
8 adjourned.)

9 (I have read the foregoing
10 pages of this transcript of
11 my deposition and, as
12 corrected in my handwriting
13 and/or on the attached errata
14 sheet, this is a true and
15 accurate reflection of my
16 testimony.)

17

18 signature Waivrd
19 See Attached Le't'ter

19

20 JESSE JOHN MCARTHUR

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2 2

1 CERTIFICATE OF VOTARY PUBLIC
2 I, Karen Hinnenkamp, the officer before whom
3 the foregoing deposition was taken, do hereby
4 certify that the witness whose testimony appears in
5 the foregoing deposition was duly sworn by me; that
6 the testimony of said witness was taken by me in
7 machine shorthand and thereafter reduced to writing
8 by means of computer-aided transcription; that said
9 deposition is a true record of the testimony given
10 by said witness; that I am neither counsel for,
11 related to, nor employed by any of the parties to
12 the action in which this deposition was taken; and
13 further that I am not a relative or employee of any
14 attorney or counsel employed by the parties thereto,
15 nor financially or otherwise interested in the
16 outcome of the action.

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or
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21 My commission expires:

22 July 31, 1998