

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION
CA 3:09-183-CMC

ORIGINAL

N.O. TURNER, JR.,
Plaintiff,

VS.

CSX TRANSPORTATION, INC.,
a Virginia corporation,
Defendant.

DEPOSITION OF:

WILLIAM EGAN

Monday, August 24, 2009

9:00 AM to 9:31 AM

Florence, South Carolina

1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 N.O. TURNER

4 BY: RANDALL E. APPLETON (via telephone)

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10 FOR THE DEFENDANT:

11 CSX TRANSPORTATION, INC.

12 BY: STEVEN T. MOON

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24

25 (appearances continued:)

1 FOR THE DEFENDANT:

2 CSX TRANSPORTATION, INC.

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1 EXHIBIT INDEX
2 (No exhibits Marked.)
3 (However, Exhibit No. 1 to the deposition of
4 Serge Emelkin was referred to in this
5 deposition but not marked.)
6

7 WITNESS INDEX

8 WILLIAM EGAN:

9 Examination by Mr. Appleton
10 (via telephone) Page 5
11 Examination by Mr. Moon 28
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1 COURT REPORTER: Would you raise
2 your right hand, please.

3 Do you solemnly swear that the
4 testimony you are about to give shall be the
5 truth, the whole truth, and nothing but the
6 truth, so help you God?

7 THE WITNESS: Yes.

8 WILLIAM JOSEPH EGAN, III,
9 having been first duly sworn, on his oath,
10 testified as follows:

11 EXAMINATION

12 BY MR. APPLETON: (via telephone)

13 Q. Good morning, Mr. Egan.

14 A. Good morning.

15 Q. Can you hear me okay?

16 A. Yes, I can.

17 Q. All right. Great.

18 My name is Randy Appleton. I'm a
19 lawyer.

20 My office is in Virginia Beach, and
21 that's where I'm sitting as I take your
22 deposition.

23 I represent N.O. Turner in a case we
24 had filed concerning personal injuries he
25 suffered on June 4, 2007.

1 CSX has produced in that lawsuit, a
2 pretty extensive booklet concerning the
3 incident.

4 And you were listed as somebody that
5 was on the investigative team.

6 And so I'm going to ask you some
7 questions about what you know and don't know
8 about Mr. Turner's injury.

9 If you don't understand a question I
10 ask you, please let me know that so I can
11 rephrase it.

12 Okay?

13 A. Okay.

14 Q. And first, what I would like to get
15 from you is your full name and your residential
16 address.

17 A. All right.

18 It's William Joseph Egan, III.

19 Residential address is 2519 Seabird
20 Drive, Midlothian, Virginia, 23112.

21 Q. You work out of Richmond now?

22 A. That's correct.

23 Q. How long have you been in Richmond?

24 A. About a year and three months.

25 Q. And what position do you hold there

1 in Richmond?

2 A. Terminal manager.

3 Q. And apparently when Mr. Turner's
4 incident occurred --

5 MR. APPLETON: -- look at my
6 notes --

7 Q. -- what was your position?
8 You were training master in
9 Florence?

10 A. I may have been the line of road
11 train master based out of Charleston, South
12 Carolina, at the time.

13 Q. All right.

14 Have you seen the accident
15 investigation report that has been produced in
16 this lawsuit?

17 A. Yes.

18 Q. There it listed you as train master
19 in Florence; does that make any difference?

20 A. No.

21 Q. Okay.

22 A. I had the territory from Florence
23 down to Savannah.

24 Q. All right.

25 Do you recall the incident that

1 involved Mr. Turner over at the Kal Can
2 plant -- or Master Foods?

3 A. Yeah. I recall some of it, yes.

4 Q. Well, tell me what you recall.

5 A. I recall I was one of the responding
6 officers.

7 I believe I was one of the last
8 officers on the scene.

9 I did get up on the locomotive and
10 talk to the engineer and the conductor.

11 I'm not sure if I collected their
12 statements, but I remember some talk back and
13 forth; that the engineer had said that he had
14 seen the conductor trip over a piece of fencing
15 from his position on the locomotive.

16 Q. Do you remember how you found out
17 about the incident?

18 A. I'm not sure who called me, may have
19 been our operations center; usually that's
20 protocol.

21 Q. Do you remember where you were when
22 you got the call?

23 A. No, sir.

24 I was most likely probably in the
25 Charleston area.

1 Q. And did you go directly to the
2 scene?

3 A. Yes.

4 Q. Did you go with anybody else?

5 A. I don't recall if I had anyone with
6 me or not.

7 Q. All right.

8 And you -- once you arrived at the
9 scene -- did you just naturally go to the
10 locomotive?

11 Or did somebody assign particular
12 duties to you with regards to the
13 investigation?

14 A. Usually the first officer on the
15 scene, or the highest ranking officer, will
16 assign you some type of duty in an
17 investigation.

18 I'm not sure who did assign what.

19 Q. Do you remember who directed the
20 investigation?

21 A. Well, there were several people
22 there.

23 All the way from train master level
24 to the division manager level.

25 Q. Right.

1 arrived?

2 A. No, sir.

3 Q. What about Mr. Mayo?

4 A. According to the report, he's listed
5 on there, he may have been there.

6 Q. You don't recall?

7 A. No.

8 Q. And what about this fellow Wiley,
9 W-i-l-e-y, do you remember if he was there or
10 not?

11 A. No. I don't remember.

12 Q. And did you have any interaction
13 with any Master Food personnel at the scene?

14 A. Yeah.

15 I did retrieve one of the local
16 personnel there to bring him to the scene.

17 I don't recall if he was -- what his
18 name was.

19 Q. Do you remember how you retrieved
20 him; where you went to get him?

21 A. Yeah.

22 Just -- I believe I drove my vehicle
23 down to a little house or shack and just
24 started asking people who the supervisor was.

25 Q. And was the house or the shack, was

1 that near the parking lot for the industry?

2 A. I don't remember.

3 Q. Was it a security building that you
4 went into?

5 A. I don't believe it was a security
6 building.

7 I just believe it was a -- housed
8 the foreman or the supervisor of the plant.

9 Q. And so when you went into that
10 building, the person that you brought to the
11 scene was actually in the building when you
12 arrived?

13 A. I don't recall exactly.

14 I know I talked to one guy. And
15 then I believe he had a supervisor that he was
16 going to retrieve and bring to the scene.

17 Q. Can you describe him for me -- what
18 he looked like?

19 A. No. I don't really recall.

20 Q. All right.

21 And do you remember why you
22 retrieved him?

23 A. Just to bring their personnel -- the
24 plant personnel -- to the scene.

25 Q. But why would you want to do that?

1 A. (No response.)

2 Q. Was that your idea?

3 Or did somebody ask you to do that?

4 A. I believe I was asked to.

5 Q. Do you know why?

6 A. Well, normally, you are on their
7 property.

8 You want them to get involved in --
9 those are usually the reasons.

10 Q. But in this instance, you don't
11 know, specifically -- you know, generally, why
12 you would get the personnel for the industry
13 involved, but not specifically in this
14 instance?

15 A. Correct.

16 Q. And do you know what that personnel
17 from the industry did when they came to the
18 scene?

19 A. No.

20 I don't recall exactly what they
21 did.

22 Q. Do you remember generally what they
23 did?

24 A. I mean, I'm sure they would have got
25 a briefing by someone and, you know, we would

1 have pointed out the situation -- that it
2 happened.

3 Q. Did you have anything to do --
4 anything -- did you have any contact with them,
5 once you brought them to the scene?

6 A. I don't recall any specific contact.

7 Q. All right.

8 Other than getting on the locomotive
9 and speaking with the crew, did you do anything
10 else in connection with the investigation of
11 this incident?

12 A. One thing I recall, I did write a
13 division letter addressing the situation that
14 went out under the division manager's signature
15 on the CSX report.

16 Q. Is that the personal injury report?

17 A. Correct.

18 Q. You have it there in front of you?

19 A. No.

20 MR. APPLETON: Steve, can you make
21 the report available to him?

22 MR. MOON: The only copy I have got
23 has all my notes on it -- if you want him to
24 see my secrets -- but I'm not going to let him
25 read them to you.

1 MR. APPLETON: That's fine.

2 I just want to make sure I'm looking
3 at the right document.

4 I don't care for him to read to me
5 what your notes are.

6 (OFF THE RECORD.)

7 MR. MOON: What did you want to look
8 at, specifically?

9 MR. APPLETON: He wrote a division
10 letter that went out over the division
11 manager's signature.

12 I would like for him to identify for
13 me the date stamp that's on that letter.

14 MR. MOON: I don't have a stamped
15 copy with me.

16 I think it's the final -- the final
17 page -- he's pointing to it.

18 MR. APPLETON: Is it dated June 5,
19 2007, to CSX Florence Division Team Member?

20 MR. MOON: Correct.

21 MR. APPLETON: Okay.

22 Q. (BY MR. APPLETON:) When you
23 composed this, Mr. Egan, tell me what
24 information you had available to you, other
25 than appearing at the scene and speaking with

1 the engineer and -- or the switchman on the
2 crew?

3 A. I'm not sure specifically what
4 you're asking.

5 But as part of the investigating
6 team, whatever information was gathered that
7 day --

8 Q. Okay.

9 A. -- is what I would have known.

10 Q. Did you have access to everything
11 else that is in this report when you wrote the
12 letter?

13 A. I don't recall if I had that report
14 with me or not.

15 Q. Is this letter just addressing the
16 general situation that either caused or
17 contributed to Mr. Turner's injury?

18 A. No.

19 It's a general letter addressing
20 division wide, different areas that conductors
21 would work in or around at industries within
22 the Florence division.

23 Q. When it goes out to CSX Florence
24 Division Team Members, who were the Florence
25 Division Team Members, generally?

1 I don't need to know the names. I
2 just want to know who this letter went to.

3 A. It would have went to the engineers
4 and conductors on the Florence division.

5 Q. And do you know if there were any
6 other similar fencing extensions at any other
7 industries on the Florence division at the time
8 you sent this letter out?

9 A. None that I'm aware of.

10 Q. Were you out at the scene -- were
11 you surprised to see that fencing extension?

12 A. I don't believe I was surprised.
13 To me, it looked like some type of
14 security feature.

15 Q. Do you know whether or not that
16 structure violated any CSX operating or safety
17 rules, or any rules that deal with the
18 existence of close clearance?

19 A. No.
20 It wouldn't have anything to do with
21 close clearance.

22 Close clearance deals with riding
23 equipment.

24 Q. Do you know who Bill T-h-i-e-b-e-a-u
25 is?

1 A. Yes.

2 Q. Who is he?

3 A. He was the, I believe, the assistant
4 division engineer -- was his title.

5 Q. And what would his duties be as
6 assistant division engineer?

7 A. He would have charge of all the road
8 masters in a certain amount of territory on the
9 Florence division, relating to engineering.

10 Q. And engineering deals with the track
11 roadbed and related track appliances?

12 A. Correct.

13 Q. Had you ever worked in the
14 maintenance-way department?

15 A. No, sir.

16 Q. All right.

17 You spoke with the crew, you
18 retrieved the Kal Can or Master Foods
19 personnel, brought them to the scene.

20 What else did you do in the context
21 of the investigation of Mr. Turner's incident.

22 A. (No response.)

23 Q. You told me you sent the letter out.

24 A. Yes.

25 Q. Anything else?

1 statement from him?

2 A. No, sir.

3 Q. All right.

4 Did you take any photographs at the
5 scene?

6 A. Nothing that I recall.

7 Q. Do you recall who took photographs,
8 if anyone?

9 A. No.

10 Again, there was several managers.

11 I'm not sure exactly who was
12 snapping the camera.

13 Q. Did you see anybody taking any
14 measurements?

15 A. No, not that I recall.

16 I know measurements were taken, but
17 I don't recall who was taking them.

18 Q. Was the equipment still at the
19 scene?

20 A. Yes.

21 Q. Do you know if it had been moved at
22 all between the time Mr. Turner got hurt, and
23 the time you arrived?

24 A. I don't recall.

25 Q. Do you know how long you were at the

1 scene?

2 A. Not specifically.

3 Q. Were you there over an hour?

4 A. Most likely.

5 Q. More than two?

6 A. I don't recall.

7 Q. Did you have any additional contact
8 with the crew members after speaking with them
9 at the scene?

10 A. Over this incident?

11 Q. Yes, sir. Yes, sir.

12 MR. APPLETON: That wasn't a good
13 question.

14 Q. Any additional contact with the crew
15 members concerning either the cause of
16 Mr. Turner's injuries or the extent of his
17 injuries?

18 A. Not that I recall.

19 Q. Did you form any opinion as to
20 whether or not Mr. Turner violated any company
21 rules in connection with this injury?

22 A. Did I form any opinion? Is that the
23 question?

24 Q. Yes, sir.

25 A. (No response.)

1 Q. It's a fancy way of saying:

2 Do you think Mr. Turner violated any
3 rules in connection with being hurt?

4 A. Well, again, I wasn't witness to
5 it.

6 But CSX does have operating rules
7 that address slips, trips and falls.

8 Q. And while those rules may be
9 applicable to this situation, do you have an
10 opinion as to whether or not Mr. Turner
11 violated those rules?

12 A. I don't believe I have an opinion.

13 Q. Did you participate in any efforts
14 to recreate Mr. Turner's incident or injuries?

15 A. I don't recall.

16 Q. Did you participate in the
17 completion of any documents in connection with
18 Mr. Turner's injuries --

19 A. (No response.)

20 Q. -- other than what you told me about
21 the creation of the letter that was sent out
22 for the division, and potentially collecting
23 the statements from the engineer -- the
24 break man?

25 A. I don't recall any specific

1 documents.

2 Q. Had you visited that industry prior
3 to this incident?

4 A. No.

5 Q. And as the train master, do you go
6 out and inspect industries that your crewmen
7 were servicing?

8 A. Yes.

9 Industries on my territory, I would
10 go out there and do inspections.

11 Q. And how often would you do that?

12 A. There was no set amount or time how
13 often we would do it.

14 Just on occasion. If you were in
15 the area, or if you were going to work along
16 side your crew members that day.

17 Q. And did you take any -- well, let me
18 ask it another way:

19 What was the purpose of the
20 inspection or the visit to the industry?

21 A. First of all, just to make contact
22 with your crew, where they were doing their
23 work.

24 And like always in the railroad
25 industry, you are there to make critical

1 observations on anything out of the ordinary.

2 Q. And if you made such a critical
3 observation, what would you do?

4 A. Well, depends on what type of
5 situation you are in.

6 I mean, there's different
7 observations you make.

8 Q. Well, take me through the spectrum
9 of them, because I don't know.

10 I mean, would there be some critical
11 observations that you could make and you
12 wouldn't react to at all?

13 A. If it concerned any type of safety
14 issue, yes, you would react to it.

15 Q. All right.

16 And tell me how you would react to a
17 critical observation that involved a safety
18 issue.

19 A. Well, you would protect the area.

20 Q. When you say "protect the area,"
21 what does that mean?

22 A. Well, again, it depends.

23 If you found a hole in the ground,
24 you would get somebody from the industry to
25 come out there and address it immediately.

1 mark it?

2 Or would you report to the industry
3 to have the industry mark it?

4 A. Well, first I would need to consult
5 with my engineering group who actually takes the
6 measurements from the track centers.

7 Q. And what are those positions?

8 When you say "your engineering group"
9 -- who are those people?

10 A. That would be the road masters.

11 Q. So you would speak to the people that
12 supervise maintenance-way department, and then
13 would they decide what needed to be done?

14 Or would you decide?

15 A. No.

16 They would, based on measurements
17 that they take from the track centers.

18 Q. Okay.

19 MR. APPLETON: I don't have any other
20 questions for you.

21 I appreciate your time.

22 MR. MOON: All right. Bill, this is
23 Steve Moon, for the record.

24 EXAMINATION

25 BY MR. MOON:

1 Q. I believe you said you thought you
2 were one of the last ones to arrive -- last
3 managers to arrive -- at the scene?

4 A. Correct.

5 Q. And by that, you mean that the
6 other managers were already there and doing
7 what they were doing before you got there?

8 A. Yes.

9 Q. Do you have any way to know what
10 they did before you were there, to see what
11 they were doing?

12 A. No.

13 MR. MOON: That's all I have.

14 Thanks.

15 MR. APPLETON: All right.

16 What do you want to do about
17 signature, Steve?

18 (The witness did not waive read and
19 sign.)

20 (The deposition concluded at
21 approximately 9:31 AM.)

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ERRATA SHEET

Deposition of WILLIAM EGAN

Page/Line	Description	Reason for Change
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CERTIFICATE OF DEPONENT

I, WILLIAM EGAN, hereby certify
that I have read the foregoing pages of my
deposition of testimony taken in these
proceedings on August 24, 2009, and with the
exception of the changes listed on the next
page and/or corrections, if any, find them to
be a true and accurate transcription thereof.

TAWYANA ATHEY
NOTARY PUBLIC
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES FEB. 28, 2011
COMMISSION #7151046

Signed: William Egan

Name: William Egan

Date: 9-11-09

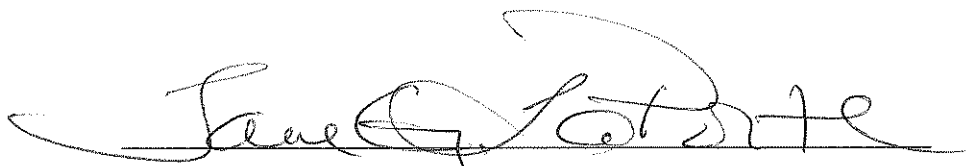
Tawyana R. Athey, Notary
State of Virginia
County of Henrico
Tawyana R. Athey 9/11/09

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REPORTER'S CERTIFICATE

I, Jane G. LaPorte, do hereby
certify that the above and foregoing is a true
and complete transcription of my stenographic
notes taken and transcribed by me.

Dated this first day of September,
2009.



Jane G. LaPorte
Court Reporter

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