

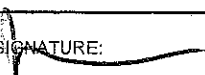


Appendix XII-B1

	<h2 style="margin:0;">CIVIL CASE INFORMATION STATEMENT</h2> <h3 style="margin:0;">(CIS)</h3> <p style="margin:0;">Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>, if information above the black bar is not completed or attorney's signature is not affixed</p>		FOR USE BY CLERK'S OFFICE ONLY
			PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA
			CHG/CK NO.
			AMOUNT:
			OVERPAYMENT:
		BATCH NUMBER:	
ATTORNEY / PRO SE NAME Bruce H. Nagel, Esq.		TELEPHONE NUMBER (973) 618-0400	COUNTY OF VENUE Essex
FIRM NAME (if applicable) Nagel Rice, LLP		DOCKET NUMBER (when available)	
OFFICE ADDRESS 103 Eisenhower Parkway Roseland, NJ 07068		DOCUMENT TYPE Complaint	
		JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
NAME OF PARTY (e.g., John Doe, Plaintiff) Emilio Fonseca and Leticia Oliveira, h/w, Plaintiffs		CAPTION Emilio Fonseca and Leticia Oliveira, h/w, Plaintiffs vs. National Railroad Passenger Corporation d/b/a Amtrak, Defendants	
CASE TYPE NUMBER (See reverse side for listing) 699 - <i>complex litigation FEHA claim</i>	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		IF YES, IS THAT RELATIONSHIP: <input checked="" type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .			
ATTORNEY SIGNATURE: 			



CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under *Rule 4:5-1*

CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

Track II - 300 days' discovery

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

Multicounty Litigation (Track IV)

- | | |
|---|---|
| <ul style="list-style-type: none"> 271 ACCUTANE/ISOTRETINOIN 274 RISPERDAL/SEROQUEL/ZYPREXA 278 ZOMETA/AREDIA 279 GADOLINIUM 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL 282 FOSAMAX 285 STRYKER TRIDENT HIP IMPLANTS 286 LEVAQUIN 287 YAZYASMIN/OCELLA 288 PRUDENTIAL TORT LITIGATION | <ul style="list-style-type: none"> 289 REGLAN 290 POMPTON LAKES ENVIRONMENTAL LITIGATION 291 PELVIC MESH/GYNECARE 292 PELVIC MESH/BARD 293 DEPUY ASR HIP IMPLANT LITIGATION 295 ALLODERM REGENERATIVE TISSUE MATRIX 296 STRYKER REJUVENATE/ABG II MODULAR HIP STEM COMPONENTS 297 MIRENA CONTRACEPTIVE DEVICE 601 ASBESTOS 623 PROPECIA |
|---|---|

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category Putative Class Action Title 59

NAGEL RICE, LLP
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(973) 618-0400
Attorneys for Plaintiffs

SUPERIOR COURT OF NJ
CIVIL DIVISION
ESSEX VICINAGE

2015 MAY 10 P 1:22

FINANCE DIVISION
RECEIVED/FILED
88

EMILIO FONSECA AND LETICIA
OLIVERIA, h/w,

Plaintiffs,

v.

NATIONAL RAILROAD PASSENGER
CORPORATION d/b/a AMTRAK,

Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION-ESSEX COUNTY
DOCKET NO.:

Civil Action

COMPLAINT AND JURY DEMAND

Plaintiffs, Emilio Fonseca and Leticia Oliveria, his wife, residing at 155 Dukes Street, Apt. 2, Kearny, New Jersey by way of Complaint against the defendant says:

FACTS COMMON TO ALL COUNTS

1. Defendant, National Railroad Passenger Corporation ("Amtrak"), is and was at all times material hereto a corporation duly organized and existing under and by virtue of law and was engaged in owning and operating a line and system of railroads and railroad properties as a common carrier of goods and passengers for hire in interstate commerce and transportation in, through and between various and several states of the United States with its principal place of business at 30th Street Station, Philadelphia, Pennsylvania and doing business in Essex County, New Jersey.

2. The defendant owns, maintains and operates tracks and equipment within Essex County, New Jersey.

3. At all times material hereto and for some time prior thereto, plaintiff, Emilio Fonseca ("Emilio"), was in the employ of the defendant as a conductor in furtherance of the carrier's business of interstate commerce and transportation by railroad.

4. This action is brought pursuant to the Federal Employers' Liability Act, 45 U.S.C.A. §§ 51 et seq., ("FELA") and the Federal Safety Appliance Act, 45 U.S.C.A. §§ 1 et seq., recodified in 49 U.S.C.A. §§ 20301 et seq.

5. Defendant is legally responsible for Emilio Fonseca's personal injuries and damages he has suffered as a result of an incident on May 12, 2015. Defendant is legally responsible for these injuries and damages because of its failure to provide the plaintiff with a safe workplace.

6. FELA is remedial legislation originally enacted by the United States Congress in 1908 to compensate railroad workers for personal injuries and death suffered in the course of their employment.

7. Railroad workers covered under the Act are not eligible for state workers' compensation, and FELA provides the sole remedy against their railroad employers for job-related injuries.

8. Under FELA, railroads such as the defendant may not delegate the duty to provide employees with a reasonably safe work place.

9. Defendant is now and, at all times relevant to this case has been, a "common carrier by railroad" engaged in interstate commerce within the meaning of 45 U.S.C.A. § 51.

FIRST COUNT

10. On or about May 12, 2015, while working within the scope of his duties as a conductor for the defendant on Amtrak Northeast Regional Train No. 188 from Washington, D.C. to New York (the "Train"), Emilio was injured due to the defendant's negligence.

11. As a result of Amtrak's negligence and carelessness as well as its violation of federal regulations, local statutes and ordinances, local regulations, and accepted industry rules, regulations, standards and practices, the Train and all of the railcars derailed at or near Frankford Junction in or near the Port Richmond section of Philadelphia, Pennsylvania.

12. At the time of his injuries, Emilio was working as part of the defendant's business as a railroad engaged in interstate commerce.

13. Emilio's duties with the defendant were "in furtherance of interstate commerce" as contemplated by 45 U.S.C.A. § 51.

14. Emilio's duties with the defendant "directly and substantially affected" interstate commerce as contemplated by 45 U.S.C.A. § 51.

15. Emilio was working on the train when the accident happened.

16. As a result of the derailment, Emilio sustained serious and permanent personal injuries.

17. The negligence of Amtrak, individually and/or through its employees, agents, servants, consisted of, amongst other things, failing to properly and safely operate the train; operating the train at excessive speed, operating the train at a speed that was excessive due to the geographic conditions and the train and track configuration; failing to provide him with a reasonably safe workplace; acting or failing to act through its officers, agents, and employees in ways that were otherwise negligent; failing to have sufficient personnel to safely operate the train; failing to provide available, necessary and appropriate systems to slow and/or stop the train, if and/or when the engineer failed to properly operate the train; failing to provide available, necessary and appropriate systems to slow and/or stop the train when other circumstances caused the train to operate at an unsafe speed; failure to make certain that the train was being operated safely; failure to properly train and instruct the train crew on safe train operations, particularly

at or near the accident site; failure to properly oversee and control the movement of the train; operating the train in an area of curved track at twice the legal track speed limit; and failure to warn Emilio of these dangerous conditions.

18. Said conduct was wanton and with reckless disregard for the safety of the plaintiffs and exposed plaintiffs, passengers, and the public to the potential for severe injury and death.

19. Such conduct forms the basis for punitive damages.

20. Emilio has suffered serious, painful, and permanent injuries. Emilio has also suffered emotional trauma. These injuries harm the quality of his life. His injuries have also required significant medical treatment that is expected to continue indefinitely into the future. These injuries may end his railroad career.

21. As a direct and proximate result of the negligence, carelessness, recklessness and/or unlawful conduct of the defendant, Emilio demands compensation for all economic, non-economic, special, and general damages permitted under the FELA. This demand includes, without limitation, past and future lost wages and associated benefits, impaired or diminished earning capacity, the past and future cost of medical treatment not covered by railroad-provided health insurance, pain and

suffering, inconvenience, mental anguish, and the loss of quality of his life.

WHEREFORE, plaintiff, Emilio Fonseca demands judgment against defendants for compensatory and punitive damages, interest, and costs of suit.

SECOND COUNT

22. Plaintiffs repeat every preceding paragraph of this Complaint.


23. At all times relevant hereto, plaintiff, Leticia Fonseca was the lawful wife of plaintiff, Emilio Fonseca.

24. As such, plaintiff, Leticia Fonseca, was entitled to the society, services, support, companionship, advice and guidance of her husband, Emilio Fonseca.

25. As a direct and proximate result of the negligence and carelessness of Defendants, plaintiff, Leticia Fonseca, has been and will in the future continue to be deprived of the society, services, support, companionship, advice and guidance of her husband, Emilio Fonseca.

WHEREFORE, plaintiff, Leticia Fonseca demands judgment against defendants for damages, interest, and costs of suit.

NAGEL RICE, LLP
Attorneys for Plaintiffs

By: 
BRUCE H. NAGEL

Dated: May 18, 2015

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues.

DESIGNATION OF TRIAL COUNSEL

Bruce H. Nagel, Esq. is hereby designated as trial counsel in the above captioned matter.

NAGEL RICE, LLP
Attorneys for Plaintiffs

By: _____

BRUCE H. NAGEL

Dated: May 18, 2015

RULE 4:5-1 CERTIFICATION

I hereby certify that to the best of my knowledge the matter in controversy is not the subject of another action pending in any Court or of a pending arbitration proceeding and that no other parties are necessary to join at this time.

I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

NAGEL RICE, LLP
Attorneys for Plaintiffs

By: _____

BRUCE H. NAGEL

Dated: May 18, 2015