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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR PIERCE COUNTY

GARRICK FREEMAN,

Plaintiff,

v.

NATIONAL RAILROAD PASSENGER
CORPORATION, d.b.a. AMTRAK; and
DOES ONE THROUGH FIFTY.

Defendants.

NO.

COMPLAINT

COMES NOW Plaintiff GARRICK FREEMAN and alleges as follows:

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COMPLAINT
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1. PARTIES

1.1 At the time of the tortious acts and omissions alleged herein, and at all times relevant hereto, Plaintiff GARRICK FREEMAN was and is an individual living in the State of Washington.

1.2 Defendant NATIONAL RAILROAD PASSENGER CORPORATION, d.b.a. AMTRAK (hereinafter “AMTRAK”) conducts business throughout the United States, including Pierce County, Washington. AMTRAK is a common carrier by railroad. AMTRAK owns and operates AMTRAK Cascades train 501 between Seattle, Washington and Portland, Oregon.

1.3 The true names and capacities, whether individual, corporate, associate or otherwise, of Defendants herein designated as DOES ONE through FIFTY are unknown to Plaintiff at this time. AMTRAK and DOES ONE through FIFTY owned, planned, designed, built, financed, approved, inspected, maintained, repaired the train tracks at the Point Defiance bypass, Lakewood Subdivision in DuPont, Pierce County, Washington State where AMTRAK Cascades train 501 derailed on December 18, 2017; designed, manufactured, supplied, purchased, inspected, maintained, repaired and operated the locomotives and cars on AMTRAK Cascades train 501 and all components and parts thereto; and provided training related to the train and the track at issue.

1.4 Plaintiff is informed and believes and therefore alleges that each of said Defendants are responsible in some manner for the events and happenings and legally caused injuries and damages alleged herein. Plaintiff will seek leave to amend this complaint to allege their true names as they are discovered.

1 sitting on the fireman side of the locomotive when the locomotive derailed and hurtled to a stop on
2 Interstate 5.

3 3.4 As a result of the accident, Plaintiff GARRICK FREEMAN suffered severe, permanent,
4 and disabling injuries including injuries to his hip and ribs, severe pain and suffering, and emotional
5 shock giving rise to damages herein set forth.

6 3.5 Plaintiff GARRICK FREEMAN was forced to and did incur indebtedness for the services
7 of duly licensed physicians and surgeons for x-rays, MRI's, medicines, appliances, surgery,
8 hospitalization, and household care in a sum as yet unascertainable, and Plaintiff is informed and
9 believes, and thereupon alleges, that he will require further medical attention as a result of said injuries
10 and will therefore incur a further indebtedness in an amount as yet unascertainable, and to be proven at
11 trial.

12 3.6 Plaintiff GARRICK FREEMAN has incurred, and will likely continue to incur lost
13 wages, lost earning capacity, and loss of fringe benefits as a result of his injuries, which shall be shown
14 according to proof at the time of trial.

15 3.7 Plaintiff GARRICK FREEMAN has suffered, and will continue to suffer, physical pain
16 and suffering, and other general damages, which shall be shown according to proof at the time of trial
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1 **4. CAUSES OF ACTION**

2 *First Cause of Action*

3 (FELA Negligence as to AMTRAK)

4 4.1 Plaintiff re-alleges and incorporates all preceding paragraphs contained in this complaint
5 as if set forth in full and at length herein.

6 4.2 That at all times herein mentioned, Defendant AMTRAK was a common carrier by
7 railroad engaged in interstate commerce. Plaintiff GARRICK FREEMAN was employed by Defendant
8 AMTRAK as an Assistant Conductor in such interstate commerce, and the injuries complained of arose
9 while Plaintiff GARRICK FREEMAN was performing duties in the furtherance of, or affecting,
10 interstate commerce.

11 4.3 That this action is brought under and by virtue of the provisions of the Federal Employers'
12 Liability Act, ("FELA"), 45 U.S.C. §§51, *et seq.*

13 4.4 That during that time, Defendant AMTRAK owed to Plaintiff GARRICK FREEMAN
14 the non-delegable duty of exercising ordinary care to provide Plaintiff GARRICK FREEMAN with a
15 reasonably safe place in which to work; to institute and oversee reasonably safe procedures and methods
16 for the performance of said work; to warn and educate Plaintiff GARRICK FREEMAN of unsafe
17 conditions in the workplace; to monitor Plaintiff GARRICK FREEMAN's workplace for hazards; and
18 to take action to make the workplace safe when on notice of dangerous conditions and injuries to other
19 employees; that Defendant AMTRAK, through its agents and employees, other than Plaintiff GARRICK
20 FREEMAN, carelessly and negligently failed in its aforesaid duties by, among other things, failing to
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1 provide a safe place to work and failing to train its agents and employees to operate trains safely on the
2 new Point Defiance Bypass, Lakewood Subdivision track.

3 4.5 That, at all times herein mentioned, Defendant AMTRAK, as Plaintiff GARRICK
4 FREEMAN's employer, was under an obligation to comply with the FELA and that, at all times herein
5 mentioned, Defendant AMTRAK violated said statute, and said violation, played a part in legally causing
6 Plaintiff GARRICK FREEMAN to suffer and sustain the injuries and damages herein set forth.

7 *Second Cause of Action*

8 *(Negligence as to DOES ONE through FIFTY)*

9 4.6 Plaintiff re-alleges and incorporates all preceding paragraphs contained in this complaint
10 as if set forth in full and at length herein.

11 4.7 At all times relevant, Defendants DOES ONE through FIFTY owed Plaintiff GARRICK
12 FREEMAN a duty to exercise ordinary care in the performance of their respective duties related to the
13 train track on which AMTRAK Cascades train 501 operated on December 18, 2017, the locomotives
14 and cars on the train, and training for operation of the train on the track.

15 4.8 Defendants failed to exercise ordinary care in that they did not take the care that a
16 reasonable person would take under the circumstances in the performance of their respective duties
17 related to the track, locomotives, cars, and training. Defendants failed to design, build, inspect, approve,
18 maintain, repair and operate the tracks safely, including failing to activate positive train control
19 technology on the track; failed to design, manufacture, inspect, maintain, and repair the locomotives and
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1 cars on AMTRAK Cascades train 501 and all components and parts thereto safely; and failed to provide
2 adequate training related to the track at issue.

3 4.9 As a direct and legal cause of Defendants' negligence, Plaintiff GARRICK FREEMAN
4 has suffered injuries and damages as herein alleged.

5 **5. PRAYER FOR RELIEF**

6 5.1 WHEREFORE, Plaintiffs prays for judgment against the Defendants, as follows:

7 5.2 For general damages, including pain and suffering, disability, and loss of enjoyment of
8 life, and other damages provided by law and in amounts to be proven at trial.

9 5.3 For past and future medical and out-of-pocket expenses, in an amount to be proven at
10 trial.

11 5.4 For past and future economic damages, in an amount to be proven at trial.

12 5.5 For lost earning capacity, in an amount to be proven at trial.

13 5.6 For pre-judgment and post-judgment interest as allowed by law.

14 5.7 For costs of suit incurred herein.

15 5.8 For all such other and further relief as the Court deems just and equitable and all other
16 damages provided by law.
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1 DATED this 3rd day of January, 2018.

2 BRENEMAN GRUBE OREHOSKI, PLLC

3 By: /s/ Joseph A. Grube

4 Joseph A. Grube WSBA #26476

5 Karen K. Orehoski, WSBA #35855

6 Attorneys for Plaintiff

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11 By: /s/ John Coletti

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13 Attorneys for Plaintiff

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22 COMPLAINT

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