

Deadly Via Rail derailment class action lawsuit goes forward

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ST. CATHARINES, Ont. -- A class action lawsuit against Via Rail Canada on behalf of dozens of passengers of a fatal train derailment near Aldershot, Ont., in February has been certified by the court.

The decision announced Thursday means a multimillion-dollar class action suit can proceed against the company and Canadian National Railway Co.

The train was travelling from Niagara Falls, Ont., to Toronto on Feb. 26 when it left the tracks at 3:30 p.m., killing three crew and injuring several passengers.

Passenger Allison Von Wallis, 19, of St. Catharines, said she joined the class lawsuit after learning the train had allegedly been speeding.

"It was four times the speed limit," she alleged Thursday. "That's really ridiculous."

The Transportation Safety Board of Canada said in March the train entered the crossover from Track 2 to Track 3 at approximately 107 km/h. The maximum authorized speed at that spot is 24 km/h.

The locomotive and five coaches left the track at the point, with the locomotive striking a building and being totally destroyed.

The lawsuit, filed March 1, is being led by Sandra Lundy of Niagara Falls and a couple from Quebec. Reached at home Thursday, Lundy said she wasn't commenting.

Shortly after the crash, Toronto lawyer Ted Charney said Lundy had been treated with non-life threatening injuries after a number of fellow passengers fell on top of her when the train crashed.

"We are determined to obtain justice for those whose lives were altered by this terrible event," Charney said in a press release Thursday, issued by the three law firms involved in the suit.

"We believe the ruling brings us closer to resolving the matter."

The class action seeks \$10 million in compensation for physical and emotional injury, damage to property and loss of income for approximately 68 passengers.

Charney is with law firm Falconer Charney LLP, which is acting with Sutts, Strosberg LLP in Windsor, Ont., and Koskie Minsky LLP of Toronto.

It's not known how many of the passengers on board the train were from Niagara.

Von Wallis was returning to McGill University in Montreal in the second coach of the train when it crashed. She said she received bruises and scratches and saw a counsellor for anxiety attacks.

In the same coach was Katharine Yagi, 26, of Fonthill, Ont., who was also heading back to McGill University where she's studying for a PhD in biology.

Yagi, who was not injured in the crash, said she settled with VIA earlier this year when it offered her \$3,000 and first-class passes for travel.

She said she felt those who were actually injured should be involved in the lawsuit and didn't want to seem greedy. And as a student she said she needed the money offered.

"I do think about it a lot," she said of the crash. "It comes up in conversations with people I haven't seen in a while."

"I did experience the whole wreck."

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