

JUDGE TORRES

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**15 COMPLAINT 03861**

**MICHAEL WALSH**

**Plaintiff,**

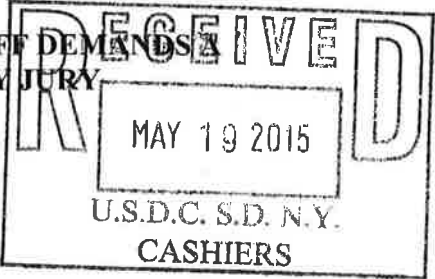
**v.**

**NATIONAL RAILROAD PASSENGER  
CORPORATION d/b/a AMTRAK**

**Defendant.**

**Docket No.**

**PLAINTIFF DEMANDS  
TRIAL BY JURY**



Plaintiff Michael Walsh, by his attorney, MORELLI RATNER, PLLC, respectfully  
alleges as follows:

**NATURE OF THE CASE**

1. This is a civil action for personal injuries suffered by Plaintiff Michael Walsh  
against Defendant National Railroad Passenger Corporation d/b/a Amtrak (“Defendant” or  
“Amtrak”). This action arises out of the Amtrak train No. 188 derailment on May 12, 2015. Mr.  
Walsh was a passenger in the first car of the train when it derailed. The Defendants’ negligence  
was a substantial contributing factor in causing Plaintiffs’ injuries.

**PARTIES**

- 2. Plaintiff Michael Walsh is an individual and citizen of County of Orange, State of  
New York.
- 3. Defendant National Railroad Passenger Corporation d/b/a Amtrak is a corporation  
duly organized and existing under and by virtue of the laws of the United States of America and  
regularly does business in the Southern District of New York.

## **VENUE AND JURISDICTION**

4. This Court has original jurisdiction over this action under 28 U.S.C. §1331, in that Amtrak was created under and is regulated by the laws of the United States.

5. This Court has original jurisdiction over this action under 28 U.S.C. § 1332, in that the amount of controversy exceeds seventy five thousand dollars (\$75,000) and Plaintiff is a citizen of the state which is different from the state where Defendants is incorporated and has its principal places of business.

6. Venue is proper in this district, because Plaintiff is a citizen of the County of Orange, State of New York, which falls within the jurisdiction of this Court.

## **FACTUAL ALLEGATIONS**

7. Amtrak is one of the largest commuter railroads in the country. Amtrak operates a nationwide rail network, serving more than 500 destinations in 46 states, the District of Columbia and three Canadian provinces on more than 21,300 miles of routes, with more than 20,000 employees. It is the nation's only high speed intercity passenger rail provider, operating at a top speed of 150 mph. More than half of its trains operate at top speeds of 100 mph or greater.

### The Northeast Corridor

8. One of Amtrak's most popular commuter train routes is on the "Northeast Corridor" route between Washington D.C. and Boston.

9. Amtrak trains are operated by engineers who are employed by Amtrak.

10. Train engineers control the speed of the trains on all sections of the track that do not have Positive Train Control ("PTC"), which is an automated safety system designed to keep trains below maximum speed and within the permissible speed limits. Three separate sections of the Northeast Corridor track are equipped with PTC.

11. The Frankfurt Junction section of the track, where the accident occurred, was not equipped with PTC.

12. Speed limits for trains on the Northeast Corridor route vary from as low as 29 miles per hour to above 100 miles per hour, based upon whether trains are rounding curves or on straight portions of the track.

13. The speed limit at the Frankfurt Junction section of the track, a curve, is 50 miles per hour.

#### The Accident

14. On May 12, 2015, Michael Walsh was a passenger on Amtrak train No. 188 to commute home to New York from a business trip in Washington D.C.

15. Mr. Walsh was a passenger in the first car of the railroad, which was also the “business class” car.

16. As the train entered the Frankfurt Junction section of the track at approximately 9:23 PM, it accelerated, rather than decelerated as it was supposed to.

17. In approximately the minute before the accident, the train accelerated from 70 miles per hour to over 100 miles per hour.

18. The train was traveling at approximately 106 miles per hour, more than double the speed limit, when it derailed.

19. All seven of the train’s cars derailed.

20. The first car, in which Mr. Walsh was a passenger, was mangled and sustained the most damage of all of the cars.

21. As a result of the accident, Mr. Walsh sustained severe personal injuries including, but not limited to multiple fractures which required multiple surgeries, extensive medical treatment, and will require significant physical rehabilitation.

22. Amtrak stated, "Had the train been operating at the maximum authorized speed heading into the curve, it would not have come off the tracks."

### **Negligence**

23. Plaintiffs incorporate by reference all preceding paragraphs of this Complaint as if fully set forth herein.

24. On May 12, 2015, Mr. Walsh was a passenger on Amtrak train No. 188.

25. Amtrak has a duty of care to Mr. Walsh as a passenger on its train.

26. Amtrak breached its duty of care to Mr. Walsh when the engineer operating the train, an employee of the company working in the course of his employment, operated the train at a rate of speed above the speed limit entering the Frankfurt Junction section of the track, and at more than twice the speed limit once in the Frankfurt Junction section of the track.

27. Had the train been operating at the maximum authorized speed it would not have derailed.

28. Defendant was careless and negligent in the ownership, maintenance, supervision and operation of its train, which caused Mr. Walsh to suffer severe personal injuries.

29. Defendant was careless and negligent in failing to properly train and instruct the train crew on safe train operations, particularly at or near the accident site, which resulted in the train's derailment.

30. As a direct and proximate result of the train derailment, Mr. Walsh sustained severe personal injuries including, but not limited to multiple fractures which required multiple surgeries, extensive medical treatment, and will require significant physical rehabilitation.

31. As a direct and proximate result of the physical injuries sustained by Mr. Walsh in the train derailment, he has been incapacitated from pursuing his usual employment and other activities, left with disabilities that will in the future similarly incapacitate him, and has caused him pain and suffering, and require medical treatment.

32. On May 12, 2015, Defendant acted with a wanton disregard and reckless indifference to the rights and welfare of Mr. Walsh and the other passengers on train No. 188, including but not limited to operating the train on the curved track at more than twice the track speed limit.

33. On May 12, 2015, Defendant acted with a wanton disregard and reckless indifference to the rights and welfare of Mr. Walsh and the other passengers on train No. 188 on or about May 12, 2015.

34. As a result of the outrageous, willful and grossly reckless conduct of Defendant, in which there was a wanton disregard and reckless indifference to the rights and welfare of Mr. Walsh and the other passengers on train No. 188, Mr. Walsh is entitled to punitive damages from Defendant.

#### **DEMAND FOR A JURY TRIAL**

Plaintiffs hereby demand a jury trial as to all issues so triable as a matter of right, pursuant to F.R.C.P. 38(b)(1) and 38(c).

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs demand upon Defendants:

- a. actual, compensatory and statutory damages;
- b. punitive damages as allowed by law;
- c. pre and post-judgment interest as allowed by law;
- d. injunctive relief;
- e. an award of attorneys' fees as allowed by law;
- f. an award of taxable costs; and
- g. any and all such further relief as this Court deems just and proper.

**MORELLI/RATNER PLLC**

  
By: \_\_\_\_\_  
Benedict P. Morelli  
bmorelli@morellilaw.com  
S.D.N.Y. Bar ID: BM7597  
David S. Ratner  
dratner@morellilaw.com  
S.D.N.Y. Bar ID: DR7758  
David T. Sirotkin  
dsirotkin@morellilaw.com  
S.D.N.Y. Bar ID: DS4863  
777 Third Avenue, 31<sup>st</sup> Floor  
New York, New York 10017  
Tel: (212) 751-9800  
Fax: (212) 751-0046  
dsirotkin@morellilaw.com  
Attorneys for Plaintiffs

Date: May 18, 2015