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NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 08-5458

**UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT**

RONALD R. GAW, Administrator of the Estate
of Clint C. Gaw, deceased; ALEXIS
FRANCISCO, by and through her mother,
guardian and next friend, Robin Francisco,

Plaintiffs-Appellants,

MEGAN NEWTON,

Intervenor-Plaintiff-Appellant,

v.

ON APPEAL FROM THE
UNITED STATES DISTRICT
COURT FOR THE WESTERN
DISTRICT OF KENTUCKY

CSX TRANSPORTATION, INC.,

Defendant-Appellee.

_____ /

Before: MARTIN, SUHRHEINRICH, and GIBBONS, Circuit Judges.

BOYCE F. MARTIN, JR., Circuit Judge. Clint Gaw was killed when the car he was driving collided with a train operated by CSX as he crossed railroad tracks bisecting a gravel driveway. In the pickup truck with him was his girlfriend, Megan Newton, and their six week old son, Riley Gaw. Ms. Newton and Riley Gaw were injured; Riley Gaw will likely never fully recover. Gaw's survivors brought a diversity tort suit against CSX, charging that the railroad was negligent under Kentucky law in failing to make the crossing safer or providing sufficient warnings. The district court granted CSX's motion for summary judgment, finding that it had not breached its

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“limited” state law duties.

Having reviewed the briefs, the record, and the lower court opinion, we find that we have nothing to add to the district court’s thorough disposition of this tragic and unfortunate case. Thus, for the reasons stated by the lower court, *Gaw v. CSX Transportation, Inc.*, No. 3:05CV-220-MO, 2008 U.S. Dist. LEXIS 23131, 2008 WL 793655 (W.D. Ky. Mar. 24, 2008), we AFFIRM.