

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 OAKLAND DIVISION

4 NATIONAL RAILROAD PASSENGER
5 CORPORATION,

6 Plaintiff,

7 vs.

8 TAB TRANSPORTATION, INC.,

9 Defendant.
10

Case No: C-89-4540 DLJ and
Related Actions Nos.
C-91-0443-DLJ, C-91-0215-DLJ,
C-90-3587-DLJ, C-90-3499-DLJ,
C-90-2360-DLJ, C-90-1495-DLJ,
C-90-0219-DLJ, C-91-2611-DLJ,
C-91-2612-DLJ, C-91-2622-DLJ,
C-91-2623-DLJ, C-91-2649-DLJ,
C-91-2650-DLJ, C-91-3438-DLJ,
C-92-0991-DLJ, C-91-4446-DLJ,
C-92-1835-DLJ, C-94-0288-DLJ

**ORDER GRANTING PLAINTIFF'S
MOTION TO ALLOW PAYMENT OF
ATTORNEYS' FEES AND COSTS
FROM SETTLEMENT FUNDS AND
OTHER RELIEF.**

11
12
13
14
15 On October 16, 2009, National Railroad Passenger Corporation
16 submitted a motion on the papers to allow payment of attorneys'
17 fees and costs from settlement funds and other relief.

18 IT IS HEREBY ORDERED that B. Clyde Hutchinson, John J.
19 Farrell, and Frederick L. Nelson ("Trustees") pay the amount of
20 \$2,766.40 for attorneys' fees and costs to Lombardi, Loper &
21 Conant.

22 IT IS HEREBY ORDERED that Trustees pay the amount of
23 \$6,006.00 for accounting services rendered to Delagnes, Mitchell &
24 Linder.

25 IT IS HEREBY ORDERED that Trustees pay the amount of \$314.00
26 for Federal and State income tax to Lombardi, Loper & Conant.

27 IT IS HEREBY ORDERED that Trustees retain Gary A. Bartolotti
28 of GAB Investigations to locate missing Plaintiffs Brenda Kahn,

1 Laura Kahn, and Robert Kahn; that Bartolotti be paid up to \$2,000
2 for his services; and, that the cost of the investigation be
3 charged against the missing Plaintiffs' distributive shares.

4 If the missing Plaintiffs are not found by June 30, 2010,
5 Trustees are to pay the missing Plaintiffs' sums in escheat to the
6 State of California, and a thirty three and one third percent
7 (33 1/3 %) contingency fee to the Conservator of the Person and
8 Estate of William J. Cossette - counsel of record to the missing
9 Plaintiffs.

10 IT IS HEREBY ORDERED that Trustees pay the amount of \$314.00
11 for Federal and State income tax to Lombardi, Loper & Conant.

12 IT IS HEREBY ORDERED that Trustees transfer, from the
13 Lombardi, Loper & Contant Trust Account, amounts due to the
14 missing Plaintiffs noted above and all accrued interest resulting
15 therefrom, to the 1989 Stockton Derailment Trust Fund held by
16 Morgan, Stanley & Company of San Francisco, California.

17 IT IS HEREBY ORDERED that Trustees reserve \$5,000 from the
18 1989 Stockton Derailment Trust Fund to pay Delagnes, Mitchell &
19 Linder to prepare Federal and State Fiduciary tax returns for the
20 2009 tax year, and to cover estimated future legal fees and costs.
21 Any costs above and beyond the \$5,000 reserved is to be paid by
22 National Railroad Passenger Corporation.

23 IT IS HEREBY ORDERED that Trustees pay all remaining funds in
24 the same percentages as in the initial distribution.

25 IT IS HEREBY ORDERED that National Railroad Passenger
26 Corporation and The Atchison Topeka and Santa Fe Railway Company
27 be dismissed as having satisfied their judicially determined
28 obligations including both pre and post judgment interest.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

Dated: October 21, 2009



D. LOWELL JENSEN
United States District Judge