

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
RENO, NEVADA

NATIONAL RAILROAD PASSENGER CORPORATION, )

Plaintiff, )

vs. )

JOHN DAVIS TRUCKING COMPANY, INC., )  
a Nevada corporation, )

Defendant. )

3:11-cv-00461-HDM-VPC

MINUTES OF COURT  
AUGUST 27, 2014

JOHN DAVIS TRUCKING COMPANY, INC., )  
a Nevada corporation, )

Counterclaimant, )

vs. )

NATIONAL RAILROAD PASSENGER CORPORATION, UNION PACIFIC RAILROAD COMPANY, and DOES 1-5 )

Counter-defendants. )

UNION PACIFIC RAILROAD COMPANY, )

Counterclaimant, )

vs. )

JOHN DAVIS TRUCKING COMPANY, INC., )  
a Nevada corporation, )

Counter-defendant. )

PROCEEDINGS: JURY TRIAL (DAY 18)

PRESENT:

THE HONORABLE HOWARD D. McKIBBEN, SENIOR U.S. DISTRICT JUDGE

Deputy Clerk: Paris Rich      Court Reporter: Kathryn French

At 9:30 a.m., the Court convenes.

Mark Landman, Vincent Castillo, John Moore, and Liza Sui Mendoza are present on behalf of Plaintiff and Counter-defendant NATIONAL RAILROAD PASSENGER CORPORATION (“Amtrak”) and Counter-defendant and Counterclaimant UNION PACIFIC RAILROAD (“UPRR”) with electronic technician Mark Anton.

Steven Jaffe and Karen Bashor are present on behalf of Defendant JOHN DAVIS TRUCKING COMPANY, INC. with electronic technician Greg Scott. Stephen Thompson, George Kirklin, Rick Pope, Kristen Chambers, and Gary Di Grazia are present on behalf of Counterclaimant JOHN DAVIS TRUCKING COMPANY, INC. with electronic technician Megan Thompson. Also present are John Davis and Shane Davis, corporate designees of John Davis Trucking Company, Inc.

Outside the presence of the jury, the Court advises the jury has reached a verdict.

At 9:33 a.m., the jury enters the courtroom. Counsel stipulate all the jurors are present.

The jury foreperson indicates the jury has reached a verdict.

The Special Verdict is published by the Courtroom Clerk.

The Court finds the verdict is unanimous.

Mr. Jaffe requests the polling of the jury. The Court polls the jury.

**IT IS ORDERED, with respect to Amtrak’s negligence claim, Judgment is entered in favor of Amtrak and against John Davis Trucking Company, Inc.**

**IT IS FURTHER ORDERED, with respect to John Davis Trucking Company, Inc.’s counterclaim against Union Pacific Railroad (“UPRR”), Judgment is entered in favor of UPRR.**

**IT IS FURTHER ORDERED, with respect to UPRR’s counterclaim against John Davis Trucking Company, Inc., Judgment is entered in favor of UPRR.**

The Court addresses the jury regarding the remaining damage portion of the case.

At 9:39 a.m., the jury is admonished and excused.

Outside the presence of the jury, the Court and counsel confer regarding the damages phase of the trial and pending motions in limine. **IT IS ORDERED, the pending motions in limine are DENIED without prejudice. The Plaintiff and Counterdefendant shall be allowed to call the witness and John Davis Trucking Company, Inc. reserves the right to present objections.**

The Court and counsel further confer regarding the anticipated witnesses and trial schedule

The Court recites a preliminary instruction it intends to present to the jury regarding damages.

The Court and counsel further discuss the trial schedule and anticipated witnesses.

At 9:47 a.m., the Court stands at recess until 12:00 p.m. this date.

At 11:07 a.m., the Court reconvenes outside the presence of the jury.

Mr. Jaffe and Ms. Bashor are present on behalf of John Davis Trucking Company, Inc. Mr. Jaffe confirms he has authority to be present without Mr. Thompson, Mr. Kirklin and Mr. Pope.

Mr. Castillo is present on behalf of Amtrak and UPRR with authority to be present without Mr. Landman.

The Court and counsel confer regarding a brief extension of the Court recess to allow for party negotiations on damages. The Court and counsel further confer.

**IT IS ORDERED, the recess extension is GRANTED.**

At 11:12 a.m., the Court stands at recess until 2:00 p.m. this date.

At 1:56 p.m., the Court reconvenes outside the presence of the jury.

Mark Landman, Vincent Castillo, John Moore, and Liza Sui Mendoza are present on behalf of Plaintiff and Counter-defendant NATIONAL RAILROAD PASSENGER CORPORATION (“Amtrak”) and Counter-defendant and Counterclaimant UNION PACIFIC RAILROAD (“UPRR”) with electronic technician Mark Anton.

Steven Jaffe and Karen Bashor are present on behalf of Defendant JOHN DAVIS TRUCKING COMPANY, INC. with electronic technician Greg Scott. Stephen Thompson, George Kirklin and Gary Di Grazia are present on behalf of Counterclaimant JOHN DAVIS TRUCKING COMPANY, INC. Also present are John Davis and Shane Davis, corporate designees of John Davis Trucking Company, Inc.

**IT IS ORDERED, with respect to the contribution claim, Judgment is entered in favor of Union Pacific Railroad (“UPRR”) and against John Davis Trucking Company, Inc.**

**IT IS FURTHER ORDERED, all remaining and pending motions before the Court are DENIED. IT IS SO ORDERED.**

**Jury Trial–Damages (Day One) commences.**

The Court directs that counsel shall provide proposed jury instructions and verdict forms regarding damages on the morning of Thursday, August 28, 2014.

Mr. Jaffe confirms the matter during the recess did not resolve and the damages portion of the trial will go forward.

The Court and counsel further confer regarding the Defendant’s witness scheduling.

At 2:00 p.m., the jury enters the courtroom.

The Court addresses the jury and accepts responsibility for the continued recess and delay this date.

The Court recites preliminary instruction to the jury relating to damages.

On behalf of Amtrak and UPRR, Mr. Landman presents opening statements regarding damages.

On behalf of John Davis Trucking Company, Inc., Ms. Bashor presents opening statements regarding damages.

ROSA RICHMOND, called on behalf of Amtrak, is sworn, examined on direct by Mr. Castillo, and released subject to recall.

**Amtrak’s Exhibits A-75 (1-3) and A-41 (224-230) are received into evidence.**

At 3:02 p.m., the jury is admonished and excused. The Court stands at recess.

At 3:13 p.m., the Court reconvenes with all parties and the jury present.

ROSA RICHMOND, resumes the witness stand, is cross-examined by Mr. Jaffe, examined by the Court, examined on redirect by Mr. Castillo, examined on re-cross by Mr. Jaffe, and excused.

PHILIP BALLDERSTON, called on behalf of Amtrak, is sworn, examined on direct by Mr. Landman, cross-examined by Mr. Jaffe, examined on redirect by Mr. Landman, examined on re-cross by Mr. Jaffe, examined by the Court, and excused.

**Defendant's Exhibits D-519-3, D-519-4 and D-519-5 are received into evidence.**

**Amtrak's Exhibits A-73 and A-76 are received into evidence.**

At 4:27 p.m., the jury is admonished and excused until Thursday, August 28, 2014 at 8:30 a.m.

Outside the presence of the jury, the Court and counsel discuss witness scheduling.

**Jury Trial–Damages (Day 2) is continued to Thursday, August 28, 2014 at 8:30 a.m. in Reno Courtroom 4 before Howard D. McKibben. IT IS SO ORDERED.**

At 4:30 p.m., the Court adjourns.

LANCE S. WILSON, CLERK

By: /s/ Paris Rich  
Deputy Clerk