

END OF JANUARY 2024

# EAST PALESTINE JUSTICE

CLIENT NEWSLETTER

We hope this update finds you well. We are writing to provide you with a report on the progress of our legal efforts regarding the East Palestine Justice case. We want to ensure you are kept informed about the latest developments.

This report provides an update on recent developments, but also includes brief series of frequently asked questions. We urge our clients to send us questions in writing, and we will do our best to respond.

Public news sources report that Norfolk Southern has now spent or committed over \$1 billion as a result of the East Palestine derailment. [NS News-\\$1 Billion](#) The company also says it will lay off a percentage of “management” workers.

## CONTACT INFORMATION

1-866-381-1190

EASTPALESTINEJUSTICE@  
WATTSGUERRA.COM



**(Links are pasted above the newsletter for visiting)**

News outlets report that Norfolk Southern will participate in a program established by the Federal Railroad Administration that allows employees to report safety concerns without fear of discipline. The program is known as the Close Call Reporting System or C3RS. As you may know, there are reports that Norfolk and other railroads discouraged such reports in order to maximize train movement. This is a new program, so it will be interesting to see how it functions in the real world. [Close Call Reporting System](#)



**YOU'RE  
INVITED**

## **East Palestine Justice Commemorative Event**

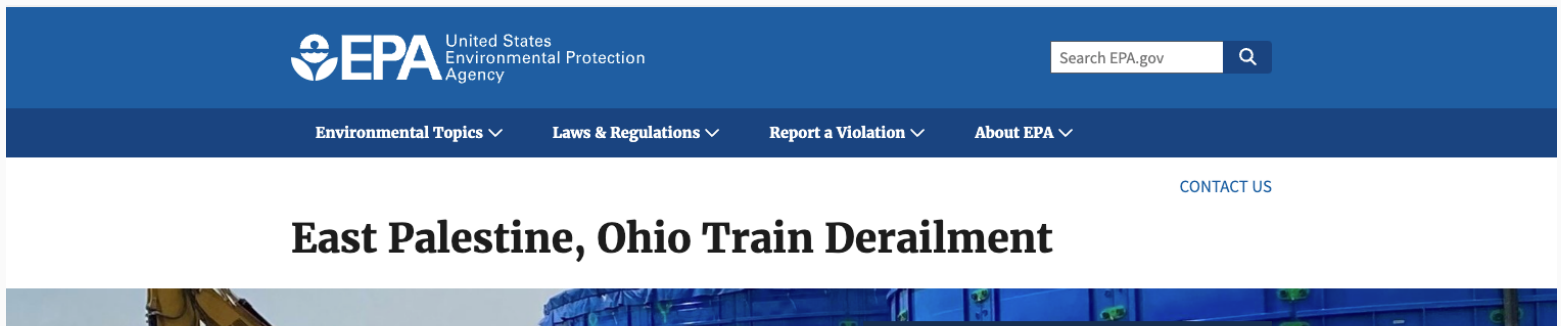
**Saturday, February 3rd, 2024  
2:30 PM - 4:00 PM - Columbiana, OH**

East Palestine Justice is proud to announce that on Saturday, February 3rd, at the Main Street Theater in Colombiana, Ohio, we will be sponsoring the East Palestine Justice Commemorative Event, where we will take time on the first anniversary to reflect on the aftermath of the Norfolk Southern train derailment. The assembled group of speakers has dedicated the last year of their lives to fighting for answers and accountability for those affected by the Norfolk Southern derailment.

Joining us for the East Palestine Justice Commemorative Event includes East Palestine Justice and Ohio-based Bevan & Associates lawyers Anjali Mehta and Brennan Osborn, Lesley Pacey from the Government Accountability Project, and Fred Schumaker from Case Western Reserve University, who will discuss his Healthy Futures Research. Additionally, we will screen the Years Project Documentary, a special message from our lead trial attorney Mikal Watts, and inspirational words from Consumer Advocate Erin Brockovich.

Some of you may be familiar with an organization known as the Government Accountability Project. <https://whistleblower.org/> We note news reports that this group filed a freedom of information request with the United States Centers for Disease Control and Prevention (CDC) seeking records regarding the CDC's response to the February 3 train derailment in East Palestine, Ohio, and related potential health impacts on the community there. [GAP-FOIA](#) We will monitor this effort and report back.

As you know, the Environmental Protection Agency maintains a website with information on current developments. The site is: [EPA-East Palestine](#)



The EPA site provides a link to their periodic newsletter. The latest report is from January 10: [EPA Report-Jan 10, 2024](#) Most of these reports contain routine information. The report for January advises that preliminary findings from qualitative stream assessments in Sulphur and Leslie Run show different levels of oily sheen found in each stream when sediments are intentionally disturbed. Over the last few months, crews assessed both impacted downstream and unaffected upstream areas. A total of 821 locations were assessed and qualitatively graded on a zero to three-point scale depending on the amount of visible sheen. In Leslie Run, 59% of observed areas had some sheen, compared to 66% of observed areas in Sulphur Run. In background areas, such as unaffected upstream areas, 92% of observed areas had no sheen. We know many of you have reported seeing this “oily sheen.” EPA tells us that the “preliminary results of that sampling are undergoing review.”

We reported that the National Academies of Sciences, Engineering, and Medicine held a public workshop on November 6 and 7, which included experts to discuss human health impacts, surveillance priorities, and research on similar incidents. There is now a compilation of information from this meeting available here [National Academies Workshop](#) Part of this report covers hazards, exposures, and risks. The publications notes there have been deficiencies in the type and quality of information being provided to the public – what the report describes as “gaps in rapidly communicating complex datasets to the public in readily understandable formats and contexts.” For those of you who are frustrated with the lack of reliable information that is available, you are not alone.

The image shows the cover of a report titled "Public Health Research and Surveillance Priorities from the East Palestine Train Derailment". The cover features the National Academies logo (Sciences, Engineering, Medicine) and the subtitle "Proceedings of a Workshop—in Brief". The main title is in large blue font. Below the title, there is a paragraph of text describing the workshop, followed by a section titled "IMPACT OF THE EAST PALESTINE TRAIN DERAILMENT" and a section titled "Community Member Perspectives". At the bottom right, it says "JANUARY 2024 | 1".

**NATIONAL ACADEMIES** Sciences  
Engineering  
Medicine

**Proceedings of a Workshop—in Brief**

**Public Health Research and Surveillance  
Priorities from the East Palestine Train  
Derailment**  
Proceedings of a Workshop—in Brief

On November 6–7, 2023, the National Academies of Sciences, Engineering, and Medicine hosted a 2-day virtual public workshop on health research and surveillance priorities related to the East Palestine, Ohio, train derailment and hazardous material release that occurred on February 3, 2023.<sup>1</sup> The workshop was intended to explore potential human health impacts and lessons learned from the incident, focusing on research questions specific to affected communities in East Palestine and surrounding areas of Ohio and Pennsylvania. Kristen Malecic, a professor and the division director of Environmental and Occupational Health Sciences at the University of Illinois Chicago, opened the workshop emphasizing the development of a research agenda responsive to community questions and concerns across hazards, exposures, risks, and health impacts to inform strategies for protecting residents now and in the future.

Richard Woychik, the director of the National Institute of Environmental Health Sciences (NIEHS) and the National Toxicology Program, urged participants to actively

discuss strategies such as characterizing exposures, determining appropriate health surveillance, examining acute and long-term health effects, and applying insights from prior transportation disasters to aid East Palestine. Discussions centered on perspectives on the impact of the incident, hazardous material exposures and risks, risk characterization and communication, and challenges in and strategies for addressing and monitoring long-term community health impacts. Dr. Woychik also urged for the development of very specific actions for all involved parties to take and address the challenges faced by the East Palestine community.

**IMPACT OF THE EAST PALESTINE TRAIN DERAILMENT**  
This section covers the physical, emotional, and social impacts described by community members and local responders and providers after the derailment. It highlights the acute health symptoms, mental trauma, loss of trust, financial hardships, gaps in disaster preparedness, mental health care access, and uncertainties concerning long-term health risks reported in the community.

**Community Member Perspectives**  
Panelists representing community perspectives described the physical, emotional, and social tolls that

<sup>1</sup>The workshop agenda and presentations are available at [https://www.nationalacademies.org/event/2023\\_11-2023\\_public-health-research-and-surveillance-priorities-from-the-east-palestine-ohio-train-derailment-a-workshop](https://www.nationalacademies.org/event/2023_11-2023_public-health-research-and-surveillance-priorities-from-the-east-palestine-ohio-train-derailment-a-workshop) (accessed December 12, 2023).  
<sup>2</sup>Additional background about the incident is available at <https://www.epa.gov/east-palestine-ohio-train-derailment/background> (accessed November 13, 2023).

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The National Academies report also provides an update on work being done by one group of researchers: “Erin Haynes, the chair of the Department of Epidemiology and Environmental Health at the University of Kentucky, presented preliminary data from a community health tracking survey that showed high rates of respiratory, neurological, dermal, and gastrointestinal symptoms as well as indicators of stress and PTSD attributed to the derailment.” We know many people in the area have reported similar problems and wanted to make you aware of this finding.

The presentation from the National Academies is the most thorough and objective update we've seen thus far. It is somewhat complex and difficult to follow, but we encourage you to review it. The overriding conclusion from this report is that there are many unique challenges to understanding what occurred in East Palestine, how the various chemicals interacted initially and upon combustion, and the long-term health effects are not known. This is the concluding paragraph:

In her closing remarks, Kristen Malecki, a professor and the division director of Environmental and Occupational Health Sciences at the University of Illinois Chicago, described ongoing challenges in East Palestine that have been reported by community members, including persistent health issues, uncertainty regarding future health risks, trauma from the events that unfolded, and ongoing displacement coupled by longer-term feelings of hopelessness for those with unanswered questions and continued health concerns. She emphasized the need for research to monitor the longer-term health impacts and how this event and those that were discussed can support more robust research to advance disaster preparedness particularly for VOCs with short half-lives and unknown health risks. The community remains divided regarding the adverse impacts and ongoing issues adding to the psychosocial toll and pervasive mental health concerns. However, she noted that residents primarily desire that action be taken, rather than simply having additional recommendations shared with them.

Our team remains committed to pursuing justice on your behalf. We understand that you may have questions or concerns along the way. Therefore, we encourage you to email us directly at [eastpalestinejustice@wattsguerra.com](mailto:eastpalestinejustice@wattsguerra.com) or reach out to our office at 1-866-381-1190. Our legal team is available to provide updates, address any queries you may have, and offer the necessary support throughout this process.

Thank you for your continued trust in the Watts Guerra Law firm, Sunridge Law Firm, the Law Office of Douglas Boxer, and the Bevan firm. We are honored to represent you and remain steadfast in our dedication to achieving a favorable outcome in your East Palestine Justice case. We will keep you updated as new information arises.

## **EAST PALESTINE CLIENT QUESTIONS AND ANSWERS**

### **WHAT IS THE BEST INTERNET SITE FOR UPDATES ON THE SITUATION IN EAST PALESTINE?**

A: Residents should monitor the local news and stay in touch with officials who provide updates on the situation in the area. The EPA also maintains a site that is updated regularly: [EPA-East Palestine](#)

EPA frequently asked questions: [EPA FAQs](#)

### **WHAT IS THE CURRENT STATUS OF THE EAST PALESTINE CLEAN-UP?**

A: EPA provides regular status reports on conditions in East Palestine. Please see the January 19, 2024 update here: [EPA Status Site](#) and past status reports here: [EPA Update](#)

### **WHAT RESOURCES ARE AVAILABLE FOR RESIDENTS?**

A: [EPA Resources](#)

# EAST PALESTINE CLIENT QUESTIONS AND ANSWERS

## CAN YOU EXPLAIN THE STATUS OF THE LEGAL PROCEEDINGS?

A: There is a lawsuit pending in federal court in Youngstown, Ohio before Judge Benita Y. Pearson. The formal designation is Case [4:23-cv-00242-BYP In re: East Palestine Train Derailment](#). The current legal petition is available at this link: [East Palestine Complaint](#)

## WHAT IS THE GENERAL NATURE OF THE LAWSUIT IN YOUNGSTOWN?

A: This federal lawsuit is where all current activity is centered. The complaint is over 100 pages and contains a great deal of complex information and allegations. The current complaint is a “class action” complaint that names specific “class representatives” who own property in the area affected by the derailment.

Paragraph 241 begins the “class allegations.” This portion of the complaint describes a “class” and various “subclasses” based on where the plaintiffs live (“the resident class”), property ownership (“the property owners class”), employees, and businesses.

Please note paragraph 243: “Also excluded from the Class(es) are any claims of physical manifestation of personal or bodily injury.” To be clear, this means that personal injury claims are not included in this class. This lawsuit seeks recovery of money for damages to property.

(Continued on the next page)

# EAST PALESTINE CLIENT QUESTIONS AND ANSWERS

## WHAT IS THE GENERAL NATURE OF THE LAWSUIT IN YOUNGSTOWN?

A: Continued

Starting at paragraph 263 of the complaint are allegations seeking to establish a “medical monitoring class.” This means the group of plaintiffs want the court to order Norfolk Southern to pay to have citizens obtain medical check-ups to monitor for health effects.

The specific legal claims begin at paragraph 274. It is typical to include diverse theories of liability, which are explained in detail.

The federal judge will rule on the request for a class action at a future date to be determined. It is customary that members of a proposed class action have the opportunity to elect to stay in the class or “opt out.” In other words, you can choose to be included in the property damages class, or you can file your own lawsuit and go on your own. This is a complicated situation, so this explanation is overly simple, but the main conclusion is that you should not be “bound” by this lawsuit if you choose to not be included.

This information is subject to change based on court rulings. We will keep you advised when court proceedings occur and rulings are made.



# EAST PALESTINE CLIENT QUESTIONS AND ANSWERS

## WHAT IS THE STATUS OF CLAIMS FOR PERSONAL INJURIES?

A: As noted above, the current class action is limited to claims for property damage and business and economic claims. Citizens injured by the derailment and aftermath can file a separate claim for personal injuries at any time. There are several injury lawsuits on file, but most are unfiled. It is important to do our best to understand the nature of the health risks that resulted from the derailment, the “controlled burn,” and the remediation process. Water, soil, and air in the area are still polluted and contain dangerous chemicals. The health effects on individuals are being studied, but are not well known. If an injury lawsuit was to be filed now, the nature of the damages would be difficult to describe or quantify.

Under Ohio and Pennsylvania law, the time period for filing an injury claim is two years from the date of the injury. Thus, claimants have until February 3, 2025 to file a legal claim.

We continue to urge clients to monitor their health and that of family and loved ones. You should see a healthcare provider if you have concerns and keep all records and reports that concern your health.

## WHAT FIRMS ARE IN THE LEADERSHIP OF THE LITIGATION AGAINST NORFOLK SOUTHERN?

A: See the Order on Plaintiffs’ Motion to Appoint Interim Class Counsel and a Plaintiffs’ Leadership Structure at [Leadership Order](#)

## CONTACT US

**1-866-381-1190**

**[eastpalestinejustice@wattsguerra.com](mailto:eastpalestinejustice@wattsguerra.com)**

