

END OF OCTOBER 2023

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.

As you know, the Environmental Protection Agency maintains a website with information on current developments. The site is: [EPA-East Palestine](https://www.epa.gov/east-palestine)

The EPA site notes that Norfolk Southern has been ordered to do additional cleanup of waterways affected by the derailment – Sulphur Run and Leslie Run creeks. Soil sampling continues, and we are told that results will be available soon. Thus far, all reports from EPA are that soil samples show no contamination. However, there were several testing groups, and the results of those tests have not been reviewed by independent experts. We are working with the experts at this time and will report back.

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We can advise that certain third parties have produced air sampling data. In the past two weeks, we obtained air data from Carnegie Mellon University and Texas A&M. That information has been provided to experts for analysis. We continue to negotiate with other testing entities and expect to obtain further air-sampling data in the coming weeks.

News outlets report that the National Academies of Sciences, Engineering, and Medicine have formed a committee to study health concerns resulting from the derailment and its consequences. This committee is sponsored by the United States Centers for Disease Control and Prevention - Agency for Toxic Substances and Disease Registry and the National Institutes of Health. These are the lead federal healthcare agencies, so we are optimistic their review will be objective and scientifically valid. You can read more details here: [EP Committee](#)

We have had a couple of inquiries about water well testing. That is not part of what the law firms will undertake, but we certainly understand your desire to be confident the water you use is safe. The decision of whether to test and who to use is up to each client. We have been made aware of one entity that does testing of this type in the vicinity. The company is <https://k2environmentalllc.com/> and they are located in East Palestine. Please make your own review of this company and others. If you do proceed with this type of testing, please pass along the information to the law firm.

Regarding developments in the litigation, the new defendants who owned or maintained portions of the Norfolk Southern rail cars have appeared in court. As expected, they deny liability. Norfolk Southern has taken the position that these other parties are partially responsible for the damages in this litigation. Norfolk blames OxyVinyls (owner of 3 cars), Trinity Industries (owner of 1 car), and GATX (owner of the car that is alleged to have had a faulty bearing). You can read more details here: [Norfolk Southern news story](#).

Norfolk Southern has produced thousands of pages of documents, and the various law firms are currently reviewing the evidence. Depositions will start in November. Norfolk Southern CEO Alan Shaw will be deposed in November, and we will report on that event.

(Links are pasted above the newsletter for visiting)

DIFFERENCES BETWEEN CLASS ACTION AND MASS ACTION

There have been questions raised about the nature of the litigation that is underway in federal court in Youngstown, Ohio. To understand that lawsuit, we need to revisit the distinction between a “class action” and a “mass tort” lawsuit. There are several legal nuances for these types of lawsuits, but the following summary may help you better understand the situation arising from the East Palestine derailment.

CLASS ACTION

The lawsuit pending in Youngstown is a federal class action. In a class action, “class representatives” are chosen to represent all members of the class – there is one large case with thousands of claimants or class members. Everyone in the class is before the same judge, with the same evidence and witnesses, all subject to the same outcome. There are several requirements for a class action, but one of the most important is that all class members face similar circumstances and harms. In this case, the class is composed of people who suffered property damage from the derailment. The goal is to obtain a settlement or jury award that will compensate all class members for damages to their property.

MASS ACTION

A mass tort case is a collection of individual lawsuits – no class. It is customary that the individual cases are assigned to one judge for consistency and efficiency. In East Palestine, lawsuits have been filed seeking damages for personal injuries (vs. property damage). Obviously, each individual has unique personal injuries, which is one reason personal injury claims are typically handled as a “mass tort” vs. a class action – individual circumstances, injuries, and compensation.

While both types of damages resulted from the derailment, they will be handled differently because of the nature of property damages vs. personal injury damages. Most personal injury claims have not been filed because it is important to understand the extent of one's injuries before pursuing a legal claim. As of today, the health effects of the derailment are not well understood, particularly the long-term effects. Thus, we have advised our clients that we need to hear from medical and scientific experts before filing personal injury claims. You have two years from the date of injury to file.

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 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.

CONTACT US

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