

Veterans' Families Ask US Supreme Court to Hear Midland Train Crash Case

The families of three American war veterans who died at a railroad crossing in Midland, Texas, in 2012 are asking the U.S. Supreme Court to review their legal case, arguing it could impact safety at many of the nation's 250,000 railroad crossings.

The veterans – Army Sgt. Maj. Lawrence Boivin, Marine Chief Warrant Officer 3 Gary Stouffer and Army Sgt. Maj. William Lubbers – were three of the four who died when a Union Pacific train rammed a parade float carrying wounded war heroes. The veterans' families sued Union Pacific, but a Texas court granted summary judgment for the railroad, and the 11th Court of Appeals in Eastland affirmed. Earlier this year, the Texas Supreme Court declined to hear the case.

“We believe the Texas courts have made significant errors of nationwide importance and we're asking the U.S. Supreme Court to correct them before there's another needless tragedy elsewhere,” said attorney Doug Alexander of Alexander Dubose & Jefferson in Austin, who represents the plaintiffs.

According to Alexander, the most critical error involves the amount of warning time that elapsed before the Union Pacific train entered the Garfield Street crossing, where the crash occurred. Based on a federally mandated agreement between the railroad and the Texas Department of Transportation, the warning time was supposed to have been set at 30 seconds.

Union Pacific actually set the timer higher – to 35 seconds – which compensated for a defect in the track's warning-system circuitry and allowed the system to give 30 seconds warning, as it was supposed to, plaintiffs claim in filings.

According to a release from the plaintiffs' law firm, eight months before the crash, Union Pacific reduced the warning time by 10 seconds, without getting written approval from the Texas DOT or the City of Midland, as it had agreed to do. Coupled with the circuitry defect, the float the veterans were riding on received only 20.4 seconds of warning, almost 10 seconds less than mandated.

Union Pacific argued the warning still exceeded the 20-second minimum that a Federal Railway Administration (FRA) regulation requires and the Texas courts agreed.

But the plaintiffs argue the 20-second amount is a baseline minimum, not intended to replace the requirements of the agreement, but rather enforce them. They point to one of the FRA's own bulletins, which says some crossings require at least 35 seconds of warning time or even more.

"If this decision is allowed to stand, then Texas courts have effectively nullified the federally mandated agreements for warning times at crossings all over the country," Mr. Alexander said. "We don't believe that's what Congress intended and we certainly don't believe it is safe."

Supporters of the veterans' families have been signing an online petition (<https://www.change.org/p/union-pacific-justice-for-all-veterans-killed-by-union-pacific-train>) asking Union Pacific to take care of the veterans' families.

The case is *Catherine Stouffer et al. v. Union Pacific Railroad Co.*, in the Supreme Court of the United States.