

## **YJB Team Triumphs in Chicago**

### **3.1 Million “Plus”**

On November 17, 2006, oblivious to the presence of an oncoming train, a Marten Transport tractor-trailer crossed over a set of railroad tracks in Rochelle, Illinois, right into the path of a BNSF train. Riding the point of the shove movement was BNSF conductor, Ronald Hinton. In the ensuing crash, Hinton’s lower leg was crushed and had to be amputated.

At the time of the collision, Hinton was in compliance with all applicable BNSF Safety Rules. Just prior to the collision, Hinton saw the Marten semi stopped at the yield sign and then saw it suddenly, and without warning, start up and pull out in front of the Shove. Hinton immediately gave the command to stop the train. Unfortunately, there just wasn’t enough time to avoid the collision.

At first, these two giant corporations (BNSF and Marten Transport) tried to blame Mr. Hinton for the collision and his own injuries, but they were unsuccessful! They then each insisted it was the other company’s fault, but after three weeks of trial, both corporations were forced to swallow their share of the responsibility and liability.

At the end of the third week of trial, Marten Transport was the first to cry “uncle.”

Initially, both the BNSF and Marten argued that as a veteran conductor, familiar with this particular railroad crossing, Mr. Hinton was in the best position to prevent and avoid this collision.

The railroad, incredulously, argued that even though Mr. Hinton complied with all the Safety Rules, he, somehow, should have done more. Even though its trainmasters and supervisors never disciplined or even questioned the manner in which Mr. Hinton previously made this shove in the years prior to the collision, the railroad arrogantly argued he should have done it differently that day.

Meanwhile, Marten wanted the jury to ignore its driver’s failure to yield, failure to see, and failure to avoid the obvious train, on this clear day, on this unobstructed road. Marten joined the BNSF in trying to blame Mr. Hinton, but the jury would have none of it!

Lead counsel, Ron Barczak, and his dedicated team put on witness after witness and exhibit after exhibit showing clearly that: Mr. Hinton had done no wrong; that the trucking company had employed a careless driver who was, at the time of the collision, in violation of federal Hours of Service safety regulations and on her cell phone; and that the railroad’s much touted Safety Rules were inadequate to protect Mr. Hinton as he worked this passively protected crossing.

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# YJB Team Triumphs in Chicago (Continued from Page 1)

In addition to blaming Hinton, the Defendants created multiple legal and factual issues, and attempted to wear down, outlast, outspend, and outwork Mr. Hinton.

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The Defendants attempted to make a case that should have been simple (essentially, the truck driver failed to yield to the oncoming train and the railroad failed to adequately protect this crossing or provide greater protection for its employees through better, clearer, Safety Rules) and make it so confusing that a jury would not be able to see the clear truth. To effectively beat back this strategy, over 100 motions in limine were briefed and argued, over 80 depositions were taken, thousands of exhibits were marked, and over 38 experts on a vast array of hard-fought subjects were examined. In battling each and every factual and legal issue, the Defendants were attempting to bully their way through the case by the use of their deep pockets and stall tactics. Their strategy failed.

At the end of the third week of trial, Marten Transport was the first to cry “uncle.” Prior to getting this case before the Cook County jury, Marten Transport had never offered more than \$250,000. Marten insisted that Mr. Hinton was primarily at fault; that the railroad was

secondarily at fault (because of the angle of this crossing and lack of adequate protection for it); and that their driver was innocent due to the visually confusing crossing, exonerating them and her from liability. After powerful plaintiff’s witnesses testified not only on liability, but also on the extent of Mr. Hinton’s injuries, Marten Transport escaped the potential wrath of the jury by resolving its portion of the case for \$3,100,000.00. The BNSF also capitulated when faced with the prospect of being the lone defendant and finally faced its share of the responsibility, insisting, however, on non-disclosure of the dollar amount of its settlement.

Mr. Hinton sustained a very significant injury, and nothing can give him his leg back or make up for what he and his family have endured at the hands of these two giant corporations, but at least now Mr. Hinton and his family will be able to get on with their lives and can focus on the future.

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**To:** Ron Barczak

**Subject:** Great Work!

Ron, Roberta, Holly, Trish and All!!! Thanks so much for all your efforts and the diligence which you put forth on our behalf, great work all!! I am certain that my story needs to be told. It is an opportunity to let people know that there is hope for help out there when dealing with these corporations who would just as soon sweep you under the rug as take responsibility for their actions and those in their employ! I know after reading this report some will be helped and encouraged by the outcome! I hope you and yours are well, we are great. Thanks again all, God bless!

RHH (Ron Hinton)