

FILED

18 JAN 03 PM 2:23

KING COUNTY  
SUPERIOR COURT CLERK  
E-FILED

CASE NUMBER: 18-2-00341-5 SEA

IN THE SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

PENNIE COTTRELL, individually,

Plaintiff,

v.

NATIONAL RAILROAD PASSENGER  
CORPORATION d/b/a AMTRAK,

Defendant.

NO.

COMPLAINT FOR DAMAGES

COMES NOW the Plaintiff and pursuant to the common law, the constitution and other statutes, and claims as follows:

**1. IDENTIFICATION OF PARTIES**

1.1 Plaintiff, Pennie Cottrell, is an adult U.S. citizen.

1.2 Defendant, NATIONAL RAILROAD PASSENGER CORPORATION a/ka/ AMTRAK (AMTRAK), is a corporation organized and existing under the laws of the United States of America with a principal place of business in Washington, D.C. Defendant AMTRAK has an office for the transaction of business, and transacts business in King County, Washington.

COMPLAINT FOR DAMAGES - 1

**LUVERA LAW FIRM**  
ATTORNEYS AT LAW

6700 COLUMBIA CENTER • 701 FIFTH AVENUE  
SEATTLE, WASHINGTON 98104  
(206) 467-6090

1           1.3     There may be unknown entities or “John Does” who may be at fault and when their  
2 identification becomes known, these pleadings may be amended accordingly.

3                               **2.     JURISDICTION AND VENUE**

4           2.1     The court has general and specific jurisdiction over the claims asserted herein by  
5 Plaintiff pursuant to RCW 4.28.185 and other Washington statutes. Venue is proper in King  
6 County, Washington, as AMTRAK resides in King County within the meaning of RCW 4.12.025  
7 as it transacts business in King County, has an office for the transaction of business within King  
8 County, transacted business in King County at the time this cause of action arose, and/or has  
9 persons residing in King County upon whom service of process for the corporation may be made.

10                              **3.     NATURE OF OCCURRENCE**

11           3.1.     On and before December 18, 2017, Defendant, AMTRAK, was a corporation doing  
12 business as a common carrier engaged in the transportation of passengers between various  
13 destinations in the State of Washington.

14           3.2     On December 18, 2017, Defendant, AMTRAK, through its employees and/or  
15 agents, operated, managed, maintained, supervised, owned, designed, constructed and/or  
16 controlled AMTRAK Train No. 501, that originated in Seattle, Washington and was destined for  
17 other stops.

18           3.3     Pennie Cottrell purchased tickets, and on December 18, 2017, boarded AMTRAK  
19 Train No. 501 at the King Street Station in Seattle, Washington.

20           3.4     At approximately 7:33 a.m., AMTRAK Train No. 501 traveled on a segment of  
21 railroad track about 40 miles south of Seattle, Washington that was operated, managed,  
22 maintained, supervised, owned, designed, constructed and/or controlled, or contracted to operate,  
23

1 manage, maintain, supervise, own and/or control by Defendant AMTRAK. AMTRAK Train No.  
2 501 was operated by employees and/or agents of Defendant AMTRAK.

3 3.5 A sharp and dangerous curve existed on this segment where the railroad track  
4 crossed over I-5 from west to east.

5 3.6 On December 18, 2017, at approximately 7:33 a.m., AMTRAK Train No. 501  
6 approached the curve and bridge crossing I-5 at a speed greatly exceeding the authorized, posted,  
7 safe and lawful speed limit for this segment of the track.

8 3.7 AMTRAK Train No. 501 derailed through the curve and at the bridge crossing I-5,  
9 causing serious injuries to Pennie Cottrell who was a passenger on board the train.

10 3.8 At all times relevant to this accident, Defendant AMTRAK equipped AMTRAK  
11 Train No. 501 with a Positive Train Control system (hereinafter "PTC"), but knowingly failed to  
12 make the system operable.

13 3.9 In 2008, Congress enacted the Rail Safety Improvement Act of 2008 (RSIA), which  
14 requires passenger railroads to install a PTC system no later than the end of 2015.

15 3.10 The PTC systems mandated by Congress were designed specifically to increase  
16 safety and prevent derailments caused by excessive speeds, among other purposes.

17 3.11 PTC provides real-time information to train crew members about, among other  
18 things, the areas in which a train must be slowed or stopped and the speed limits at approaching  
19 curves and other reduced-speed locations.

20 3.12 PTC also warns the train crew of the train's safe braking distance in curved or  
21 reduced-speed locations, and displays the same on screens inside the locomotive's cab.



- 1 a. Failed to slow down its train at the aforesaid point when it knew or should have  
2 known that the speed was too fast for the sharp and dangerous curve;
- 3 b. Operated the train in excess of the authorized, posted, safe and lawful speed limit;
- 4 c. Failed to install and render operable proper train-control safety and speed system;
- 5 d. Operated the train without keeping a safe and proper lookout;
- 6 e. Failed to comply with Defendant's own operational and safety plan, rules,  
7 standards and procedures;
- 8 f. Failed to comply with the applicable federal standards of care, including but not  
9 limited to the failure to comply with applicable federal statutes or regulations;
- 10 g. Failed to properly train its agents and/or employees in the safe operations of the  
11 train;
- 12 h. Failed to properly supervise its agents and/or employees in the proper operation of  
13 the train.

14 4.4 Defendant AMTRAK is also liable for punitive and/or exemplary damages under  
15 choice of law principles for the reckless and/or willful disregard of the rights and safety of the  
16 passengers and the public.

17 4.5 Defendant AMTRAK failed to provide material information to Pennie Cottrell, thus  
18 acting unfairly or deceptively in trade or commerce in violation of the Washington Consumer  
19 Protection Act, RCW 19.86. et seq., including, but not limited to, the failure to inform her that:

- 20 a. The engineer had insufficient experience and training to safely operate AMTRAK  
21 Train No. 501 on the route originating in Seattle on December 18, 2017;
- 22 b. AMTRAK operated the train with an assistant conductor who was neither certified  
23 nor qualified;
- 24 c. AMTRAK operated the train without enabling and/or providing a fully operational  
PTC or other safety devices.

## 5. INJURIES, HARM AND DAMAGES



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

David M. Beninger, WSBA 18432  
Andrew Hoyal, WSBA 21349  
6700 Columbia Center  
701 Fifth Avenue  
Seattle, WA 98104  
Telephone: (206) 467-6090  
[robert@luveralawfirm.com](mailto:robert@luveralawfirm.com)  
[david@luveralawfirm.com](mailto:david@luveralawfirm.com)  
[andy@luveralawfirm.com](mailto:andy@luveralawfirm.com)

CLIFFORD LAW OFFICES, P.C.  
Robert A. Clifford  
Michael S. Krzak  
Sean P. Driscoll  
(pending issuance of order granting motion to be filed for  
Limited Admission Pursuant to APR 8(b))  
120 N. LaSalle Street, 31st Floor  
Chicago, Illinois 60602  
Telephone: (312) 899-9090  
Telephone: (312) 251-1160  
[rac@cliffordlaw.com](mailto:rac@cliffordlaw.com)  
[mks@cliffordlaw.com](mailto:mks@cliffordlaw.com)  
[spd@cliffordlaw.com](mailto:spd@cliffordlaw.com)

Attorneys for Plaintiff