

An Article on Operation Lifesaver

Safety Program or Jury Tampering?

Over the last several years I have made a conscious effort to discuss Operation Lifesaver with as many railroad employees, law enforcement officers, jurors, and ex-railroad employees as possible. I have watched railroad presentations of Operation Lifesaver and reviewed written materials associated with this program. One thing is certain; it is effective. The people of our country have been hearing the phrase "stop, look, and listen" for decades. The railroad industry, its various associations, and any governmental entity willing to work with the railroads have inundated the people of this country with Operation Lifesaver propaganda. This massive campaign to "educate" the public cannot be ignored. As trial lawyers, we need to accept the fact that Operation Lifesaver has embedded many false concepts into the minds of potential jurors and has become one of the most effective forms of covert jury tampering. Jurors have been conditioned to believe that all reasonable drivers should "stop, look, and listen" before crossing a railroad track. A vast majority of potential jurors also have a deep-rooted belief that anybody who has been involved in a grade crossing collision with a train must have been "trying to beat the train" or grossly negligent through failure to maintain a proper lookout. Decade after decade of propaganda has been disseminated by the railroads on a national scale. The longevity of this campaign has spanned many generations. We are now confronted with multi-generational propaganda that has woven its way into the very thread of our belief system. **WE CANNOT IGNORE THE FACT THAT OPERATION LIFESAVER IS EMBEDDED INTO THE MIND OF EVERY PERSON IN THIS COUNTRY.**

Although circumstances have changed since the time when railroads owned many politicians and symbolized progress, the message from Operation Lifesaver has remained the same. It is our duty as trial lawyers to recognize this anomaly and educate each and every prospective juror about this situation. We must acknowledge that there is a part in each of us which recalls early "teachings" based upon the concepts of Operation Lifesaver. However, we must reveal that those "teachings" originated from the railroad industry itself. A critical analysis of Operation Lifesaver with each juror can cast an entirely new light on the true purpose behind that program. Ask any juror if he has ever heard of an Operation Lifesaver

program which included education about the duties owed by the railroad to the motoring public. Those would include the following:

1. The correct whistle sequence that should be heard before a train crosses any railroad grade crossing.
2. The appropriate sight triangle that should be made available to the motorist approaching a railroad grade crossing.
3. The need for well-placed and well-maintained warning devices to advise the motoring public of the presence of grade crossings.
4. The need for active grade crossings to be closely monitored, maintained, and upgraded when necessary.
5. The need to work closely with local authorities to identify special hazards.

The list of duties could go on forever. There are innumerable responsibilities placed upon a railroad at public grade crossings. Unfortunately, none of these concepts have ever been included in the teachings of Operation Lifesaver. Given this simple point for consideration, jurors will readily recognize the self-serving nature of Operation Lifesaver. They need to be asked if they have ever seen a railroad post a 1-800 number to gather information on how their conductors and engineers are performing their safety duties. All of those jurors have seen semi-trailer trucks which bear notices soliciting information about the safety practices of their drivers. No juror will likely have any personal knowledge of a railroad doing anything to enhance the safety of the motoring public. In fact, you need to challenge jurors to ask about any safety programs in which the railroads have taken it upon themselves to ask for public input for the purpose of finding out how grade crossings could be made safer, or ask for public input regarding ways in which they could make their trains easier to see or hear, or ask for public input on how to locate visibility hazards at grade crossings caused by the shoddy vegetation control practices.

In the late 1970's and early 1980's the insurance industry began concerted efforts to tamper with all potential jurors in this country. The "insurance crisis" was pasted all over the newspapers and magazines and aired on radio and television. The insurance companies all used their tremendous resources to paint jurors as gullible and capable of making terrible decisions to adversely affect the rights of the insurance industry. Allegations of widespread insurance fraud were manufactured by the

industry for the sole purpose of poisoning potential jurors throughout the country. Most lawyers who tried cases during that era remember the significant impact of this industry-wide jury tampering.

Operation Lifesaver makes the efforts of the insurance industry pale in comparison. It is due time for us to quit ignoring the fact that Operation Lifesaver is a form of mass jury tampering. We need to call it what it is. Spread the truth about Operation Lifesaver as far and wide as juries will listen. The bright light of knowledge will make the shadows of non-existent villains disappear.