

# LETTER OF THE LAW

AUGUST 2004

## Client Profile: Walter Conway

April 21, 2000, should have been like any other day for Walter Conway. On that day, however, Walter's career – and life – would be changed forever.

A machine operator for Van Leer Industries in Houston, Walter enjoyed his job with the plastics manufacturer. One of the regular duties he had to perform was to thread the top roller of a large machine called a stretching unit, which was used in the making of plastic film.



Walter Conway

While threading the film in the stretching unit, Walter's right-hand became wedged into the in-going nip between the rollers. A co-worker saw this and quickly hit the emergency stop button. But the rollers did not have a "neutral" position so they could be released and free Walter's hand. Tragically, Walter would be forced to wait over 30 minutes before he could be freed.

By then, permanent damage had been done: the third and fourth fingers of Walter's right hand were so devastated by the machine that they had to be amputated. To this day, even simple tasks like

holding loose change are impossible for Walter. "I can't use my hand like I used to."

Once he was released from the hospital, one of the first calls Walter made was to Williams Bailey. "My legal situation was explained thoroughly, and I was made to feel welcome," recalls Walter. Attorneys and staff immediately went to work on filing a lawsuit against the company that manufactured the dangerous machine. Meanwhile, Walter began to consider what to do next with his life.

As Williams Bailey prepared for trial, Walter decided he would use this tragedy as an opportunity to go back to school. Not only did he complete his undergraduate degree in mathematics at the University of Houston, but also plans to pursue a graduate degree in atmospheric sciences. This will enable him to work in fields such as meteorology, resource conservation and environmental studies, where he will be able to identify and correct the effects of pollution on the air and water.

The defendant in the case ultimately decided to settle out of court, which left Walter "with a nice nest egg." Now that he has moved on with his life, Walter is filled with optimism for his future.

*"My legal situation was explained thoroughly, and I was made to feel welcome."*

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## Staff Spotlight

### Rick Jenkins

One of the things that WB's attorneys and staff take for granted is that their laptops, programs and printers always will be running smoothly – whether they're working in the office or involved with a case thousands of miles away. A big reason for why this is possible is Rick Jenkins. Rick is the firm's Director of MIS, which means that he and his five-person staff are responsible for all hardware, software and essentially anything that requires technical expertise.



When you consider that WB now has 150+ computers, it's almost hard to imagine a time when there were only three! But that's how many existed when Rick, fresh out of the University of Texas, showed up for his first day in the fall of 1986. "The original office was in Pasadena," not far from "the infamous Gilley's night club," Rick recalls. The firm – known as Burrow and Williams at the time – had "about 500 clients" with "12 employees packed into an old suite of doctor's offices." Today, WB's database of clients consists of over 120,000 clients.

Although born in the U.S., Rick spent most of his childhood living in the Far East, including Bangkok and Tokyo,

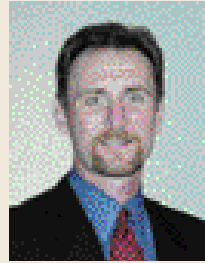
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## Three Deadly Myths about Railroad Crossings

by John Fabry

### Myth #1: Railroad Crossing Collisions Are Rare

According to Federal Railroad Administration (FRA) records, railroad tracks and public roads intersect at more than 154,000 locations in the United States. More than 11,500 of those intersections, known as grade crossings, are in Texas. **Nearly 70% of the grade crossings in Texas do not have gates and signal lights to warn drivers when a train is approaching.**



Last year, 2,924 grade crossing collisions were reported to the FRA nationally, resulting in 324 deaths and many more injuries. **Texas was an unfortunate leader in those statistics, with 282 collisions and 36 deaths in 2003.** As you consider these statistics, keep in mind that the accuracy of the FRA's information depends upon the data collection and reporting processes of the nation's railroads. The FRA admits: "It is not possible to identify reportable events that were omitted from a railroad's submission." In other words, *the numbers could actually be even higher.*

### Myth #2: A Driver Can Always See an Approaching Train

Trees, vegetation, buildings and other structures along a road leading to a crossing can block a driver's view of an approaching train. If the road intersects railroad tracks at a skewed angle, the driver might not be able to see an approaching train. Where more than one track is present at a crossing, a parked locomotive and/or rail cars on one track can obstruct the view of an approaching train on the other track.

According to the American Association of State Highway Officials, "Site distance is a primary consideration at crossings with-

out signals or gates. The condition at a railroad grade crossing is comparable to that of intersecting highways where a corner site triangle must be kept clear of obstructions." **Drivers must not only be able to see an approaching train, but have enough time to stop before reaching the tracks.**

### Myth #3: Crossing Collisions Occur Because the Driver Broke the Law or Tried to Beat the Train

Drivers in Texas approaching a railroad crossing equipped only with the familiar cross buck sign are required to yield the right-of-way to a train in "hazardous proximity" to the crossing. Although it might seem obvious, Texas courts have recognized that drivers must have a reasonable opportunity to learn of a train in hazardous proximity to a crossing before they can be expected to yield the right-of-way. As at least one court has noted, "[e]very railroad crossing is a place of danger." However, Texas law recognizes that some crossings are "extra-hazardous." A crossing is extra-hazardous if it is "so dangerous that persons using ordinary care cannot pass over it in safety" without some warning other than the cross buck sign.

A crossing may be classified as extra-hazardous if a permanent condition (such as a building), or a temporary condition (such as parked railcars), obstructs a driver's view of an approaching train. **The railroad has a duty to use extraordinary measures to warn drivers of an approaching train at extra-hazardous crossings. Extraordinary measures might include gates, signal lights, bells, or a railroad employee waving a flag.** The railroad may be held responsible if the failure to provide such warnings results in a collision with a vehicle attempting to cross its tracks.

If you or someone you know has been injured by a railroad crossing, please call John Fabry at (713) 230-2284, or email him at [jfabry@williamsbailey.com](mailto:jfabry@williamsbailey.com).

**Election Day is November 2nd.**  
**Are you registered to vote?**  
**Tell politicians to protect your rights to a fair trial!**

## Political Corner

### More "tort reform" myths

The pro-business lobbyists and politicians love to make the connection between rising malpractice insurance for physicians and the purported increase in medical malpractice lawsuits.

Not so, says the Center for Justice and Democracy, a consumer advocacy group: "It may be hard to understand why 'tort reform' is even on the national agenda at a time when **insurance industry profits are booming**, tort filings are declining, **only 2 percent of injured people sue**

**for compensation**, punitive damages are rarely awarded, liability insurance costs for businesses are miniscule, medical malpractice insurance and claims are both less than 1 percent of all health care costs in the U.S., and **premium-gouging underwriting practices of the insurance industry have been widely exposed.**"

**BOTTOM LINE:** Don't believe the hype. What tort reformers don't want you to know **can** hurt you.

*don't believe the hype*

## Union News

### PACE 4-227 gets a new website

One of the initiatives of WB's new marketing group is to create websites for our union clients that don't have one. The first organization to be the recipient of a new site is PACE 4-227, located in Pasadena.



PACE 4-227  
President  
Mack Hickerson

PACE 4-227, which is affiliated with the Paper, Allied-Chemical and Energy Workers International Union, represents over 1,600 workers in Houston, Pasadena and Freeport. PACE 4-227 members work at companies such as Chevron Phillips, Lyondell-Citgo and CenterPoint Energy.

The new website, designed entirely from scratch by WB's web designer Hilary Catherall, will provide secure, up-to-date news and information to PACE 4-227's members. The site will prove especially

beneficial to members who are unable to attend the union's regular meetings.

Here is what the homepage will look like:



## In Memoriam

The Williams Bailey family lost one of its most beloved members last month.

After battles with breast cancer and then later brain cancer, Betty Lee Ferguson passed away; she was only 74. Many of our clients from the past



decade will remember Betty. She was a secretary in the Probate Department before retiring from WB in 1999.

Betty was an active member of Park Place United Methodist Church, where she sang in the choir and taught Sunday school. She had two children and two grandchildren.

If you're interested in making a donation in Betty's name, please contact the Houston Hospice, Park Place United Methodist Church or the American Cancer Society.

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which he says "was a great experience" for him. Rick's wife Beth is the administrator for the Houston Trial Lawyers Association; coincidentally, John Eddie Williams is a past president of the organization.

Considering how many hours a week Rick spends doing everything from fine-tuning WB's case management system to preparing audio-visual tools for attorneys to use in trial, one would think he has little time to devote to much else. But one of his passions is mentoring children. Rick is one of the main reasons why WB has invested time and money into John F. Kennedy Elementary for the past 10 years. Students receive weekly mentoring, as well as benefit from the sponsorship of various activities.

Thanks for all your contributions, Rick!

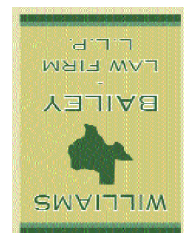
# Attention all clients in our asbestos docket!

Have you:

- 1) Updated us on your disease progression, particularly with cancer diagnosis?
- 2) Told us about the death of a client?  
(There is a two-year statute of limitations in Texas.)
- 3) Updated us with your change of address, telephone number or email address?

Please call WB with your new information: 1.800.220.9341

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