

## CityNews Rewind 2012: Via Rail derailment in Burlington

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Emergency crews attend the scene where a Via train derailed with passengers on board in Burlington on Feb. 26, 2012. THE CANADIAN PRESS/Nathan Denette

On the last weekend in February, Rosanne Martin hopped on a Via train bound for Toronto after a visit with her niece in St. Catharines.

She had taken that route hundreds of times, so everything seemed fine when Train 92 pulled out of St. Catharines at 2:06 p.m. that Sunday. But as the train approached Aldershot, Martin — who was reading her Kindle in the third car from the front — thought, “Wow the train was going fast.”

She felt a couple of bumps, so she stood up and looked out to see what was happening and as she did the train ran off the tracks.

“I started to fly around, grabbed onto the seat in front of me and that was the last thing I remember,” she says.

The train had switched tracks abruptly at 3:30 p.m. and collided with a building, causing all six-passenger cars to derail in Burlington.

Three Via crew members in the first car died on Feb. 26. They were: trainee Patrick Robinson, 40, of Cornwall, Ont., and veteran engineers, Peter Snarr, 52, and Ken Simmonds, 56, both of Toronto.

Martin was one of 46 passengers injured in the derailment.

After the crash, Martin remembers immense silence and then mayhem inside her passenger car. People were in pain and screaming, but more agony could be heard in the car ahead, the second passenger car where the most critical injuries occurred.

She escaped from one end of her car, which had been torn off and was hanging over a deep culvert. Martin and a fellow passenger helped the rest of the passengers escape by using themselves as a human bridge. She and the other walking wounded waited about two hours in the cold in a parking lot before they were taken to a hospital to be treated.

Days later, the lead investigator with the Transportation Safety Board of Canada (TSB) said that excess speed caused the derailment. The train was travelling at around 67 mph or 108 km/h, which was more than four times the authorized speed when switching tracks.

TSB's Tom Griffith said the train's black box — which records speed and brake pressure among other things — showed the brakes were not used before the crash. He also said the track signals appeared to be working.

TSB didn't return calls to provide an update on its investigation. But the agency said March 1 that the cause of the derailment was still being investigated.

"We need to figure out why," Griffith said at the time. "We need to understand the environment in which the crew was operating and why they made the decisions they did."

In the meantime, Falconer Charney LLP of Toronto and Sutts Strosberg LLP of Windsor, Ont., are representing many of the passengers, including Martin, in a class-action lawsuit against Via Rail.

The class-action seeks at least \$10 million in general damages for negligence and breach of contract, plus pre-judgment and post-judgment interests and costs.

On Nov. 1, Ontario's Superior Court ruled that the lawsuit could proceed as a class action.

Via Rail declined to comment for this story as the case is before the court, a spokeswoman says. But the company offered each passenger a \$3,000 settlement in April, according to Martin, who sprained both her knees, her right

ankle and suffered cuts and bruises in the accident. Three people have accepted the Via offer so far, The Canadian Press says.

Ted Charney, whose law firm handled class actions in the Sunrise propane explosion and the Maple Leaf Foods listeria outbreak, said that he expects it will take about a year before the case goes to trial.

“We’re definitely going to get a judgment,” he told CityNews.ca. “There’s no doubt there was negligence that caused this derailment.”

For the passengers, the physical injuries have healed, but the psychological ones have taken longer to heal. Martin is still seeing a counsellor who specializes in post-traumatic stress. She took a short trip on the GO Train, but, she says, “As the train started to speed up my anxiety went up the roof.”

She now drives to see her niece in St. Catharines. She even drove around Italy to avoid taking the train in September. Via sent her a free ticket but she won’t be using it anytime soon.