FILED
May 27, 2009
LEONARD GREEN, Clerk

File Name: 09a0374n.06

NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 08-5458

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

RONALD R. GAW, Administrator of the Estate of Clint C. Gaw, deceased; ALEXIS FRANCISCO, by and through her mother, guardian and next friend, Robin Francisco,

Plaintiffs-Appellants,

MEGAN NEWTON,

Intervenor-Plaintiff-Appellant,

v.

CSX TRANSPORTATION, INC.,

Defendant-Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF KENTUCKY

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Before: MARTIN, SUHRHEINRICH, and GIBBONS, Circuit Judges.

BOYCE F. MARTIN, JR., Circuit Judge. Clint Gaw was killed when the car he was driving collided with a train operated by CSX as he crossed railroad tracks bisecting a gravel driveway. In the pickup truck with him was his girlfriend, Megan Newton, and their six week old son, Riley Gaw. Ms. Newton and Riley Gaw were injured; Riley Gaw will likely never fully recover. Gaw's survivors brought a diversity tort suit against CSX, charging that the railroad was negligent under Kentucky law in failing to make the crossing safer or providing sufficient warnings. The district court granted CSX's motion for summary judgment, finding that it had not breached its

"limited" state law duties.

Having reviewed the briefs, the record, and the lower court opinion, we find that we have nothing to add to the district court's thorough disposition of this tragic and unfortunate case. Thus, for the reasons stated by the lower court, *Gaw v. CSX Transportation, Inc.*, No. 3:05CV-220-MO, 2008 U.S. Dist. LEXIS 23131, 2008 WL 793655 (W.D. Ky. Mar. 24, 2008), we AFFIRM.