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## Intermodal designer on trial in mystery case

JAMES HALPIN

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MARK MORAN / THE CITIZENS' VOICE FILE Riders exit buses at the James F. Conahan Intermodal Transportation Facility in Wilkes-Barre.

In the grainy surveillance footage, 86-year-old Wilkes-Barre resident Edward Rehill can be seen walking slowly, using a cane, behind a parked Luzerne County Transportation Authority bus just seconds before his death.

Driver Donna Smith, who had been outside the bus as passengers departed at the James F. Conahan Intermodal Transportation Facility on Sept. 22, 2011, steps aboard the opposite side of the bus and honks the horn before backing out of the bus stop.

The video shows Rehill, who had been about 5 feet behind the vehicle, try to run away before falling backward, losing his hat as the bus rolls over him.

Video from another angle shows people waving and rushing toward the bus screaming, "Stop!"

"Oh my God!" a woman is heard shouting after Smith gets off the bus.

Jurors saw the morbid footage Thursday during a civil trial that has been shrouded in mystery. When attorney David J. Selingo filed the suit on behalf of Rehill's estate in November 2011, he targeted the Luzerne County Transportation Authority, the City of Wilkes-Barre, which owns the center, and the Philadelphia-based Pennoni Associates Inc. that designed it.

The status of the LCTA and city in the lawsuit, however, is a mystery — only Pennoni Associates is represented in the courtroom during the trial this week.

Assistant city attorney William Vinsko and LCTA solicitor Joseph Blazosek

did not immediately return messages Thursday, and Pennoni Associates attorney John O'Rourke refused to comment. He urged Selingo not to even provide his name when a reporter asked for it, although Selingo did identify himself over O'Rourke's protests.

A check at the public database in the prothonotary's office delivered no results for the case even as it was in progress upstairs. The Citizens' Voice learned the entire case had been sealed by an order by presiding Judge Thomas F. Burke Jr.

The fact that an entire case file has been removed from the public docket with no public explanation "raises significant constitutional issues," said Melissa Melewsky, media law counsel for the Pennsylvania NewsMedia Association.

"Decisions made by the court have to be reviewable," she said. "That undermines the entire open court system."

Despite the secrecy of the case filings, The Citizens' Voice was permitted to sit in the courtroom during the proceedings Thursday.

Jurors heard deposition testimony from LCTA bus driver Kenneth Burkhardt, who said he had warned Rehill several times about crossing behind the buses — including the day before he died. He characterized Rehill as polite and respectful, saying he always listened when told to stay off the asphalt but would walk there when the driver wasn't looking.

On the day of the accident, Wilkes-Barre police Sgt. Phillip Myers, a collision reconstructionist, arrived on the scene to find Rehill on his stomach beneath the bus, which had Rehill's handprints on the rear bumper, he said. Myers acknowledged the video showed Rehill falling to his back and said he could not explain how Rehill came to be found lying on his stomach.

Rehill came to rest with his right leg pinned under the bus tires and his chest compressed by the rear axle, Luzerne County Coroner Bill Lisman testified. His ribs were "like mush," having sustained multiple fractures, and Rehill likely asphyxiated as a result of the pressure, he said.

Targeting Pennoni Associates for its role in the death, the prosecution called engineering expert Rich Balgowan, of the Lancaster-based firm Robson Forensic Inc. He told jurors that the design of the transportation facility was flawed because it failed to include fences, rails or other safeguards to prevent pedestrians from walking amid the buses.

"(Rehill) was doing nothing different than everybody else was doing in that facility," Balgowan said. "The design is what caused Mr. Rehill's incident."

During cross-examination, O'Rourke repeatedly asked Balgowan where he would have put rails in the transportation facility

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to make it safer. Balgowan offered several suggestions, maintaining that the current design is dangerous.  
 "This is a design I would never ever approve," Balgowan said. "It should have never been submitted because it's not safe."  
 The trial, expected to last through the middle of next week, continues today.

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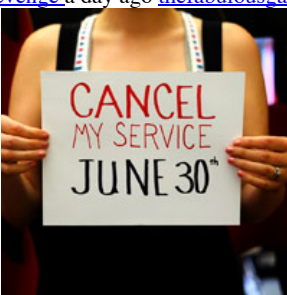
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