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## SETTLEMENTS REACHED IN 2002 CANADIAN PACIFIC RAILWAY DISASTER

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MINNEAPOLIS: Zimmerman Reed and Solberg, Stewart, Miller and Tjon announced today that they have reached an agreement in principle with Canadian Pacific Railway ("CP") to settle claims of Minot residents related to the railroad's January 2002 train derailment in Minot, North Dakota. The derailment caused the largest release of anhydrous ammonia in U.S. history, killing one man and injuring residents trapped in the toxic cloud. In March 2006, a Minnesota state court jury awarded four plaintiffs \$1.86 million for life-long physical injuries caused by the derailment and subsequent release of anhydrous ammonia. At the same time, CP sought to dismiss all cases claiming that a federal law (the Federal Rail Safety Act - FSRA) precluded the lawsuits from proceeding. The federal court in North Dakota and then a federal court in Minnesota dismissed certain cases brought by residents. Those courts concluded that Congress did not intend through its enactment of the FRSA for injured residents to recover from a railroad, even though the railroad admitted it was negligent and caused the derailment. Those rulings put all filed cases at risk - - and also created a furor within Congress over such an unfair and unintended result. Responding to the dismissals, several members of Congress stepped forward and filed "Friend of the Court" briefs stating that Congress in fact *never* intended the FRSA to preclude such suits.

The settlements represent a meaningful resolution for many in the Minot community, but they still leave unresolved a court decision, which describes itself as "harsh," and which the plaintiffs were in the process of appealing. According to Gordon Rudd, one of the attorneys representing victims, "We urge Congress to continue its efforts to clarify that it never intended for injured victims to be denied their day in court. Without such action, the railroads will have no incentive to maintain their rail."

The settlement resolves two categories of claims: First, it provides a global settlement of individual, personal injury claims represented by the Zimmerman Reed and Solberg Stewart firms. Second, through a class action settlement, it provides compensation to others in Minot at the time of the spill who did not previously sign a valid release with CP and have not filed their own case. Residents who have been injured from the chemical spill but who have not brought a lawsuit will also have the option to exclude themselves from the settlement.

Mike Miller, attorney with the Solberg Stewart in Fargo, heralded the settlements as a victory for the residents: "These recent settlements will provide meaningful relief to injured victims who have suffered greatly and gone too long without a fair resolution." Charles Zimmerman, founding partner of Zimmerman Reed, also stated, "They represent a fair resolution after unprecedented efforts by the railroad to avoid all responsibility."

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