

# San Jose Mercury News

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## Train crew sues activist who lost legs Claim of 'humiliation, anguish' is 'outrageous,' Willson's lawyer says

By Dean Congbalay  
Mercury News Staff Writer

Three civilians who operated the train that ran over S. Brian Willson in September have filed a lawsuit against the peace activist, claiming they suffered mental anguish because of the accident.

The suit, filed Friday in Contra Costa County Superior Court in Martinez, alleges that Willson, who lost both legs below the knee and suffered a fractured skull when he was run over by the 120-ton locomotive, and

two other men "intended to physically stop said train by having their bodies physically impact with said train, with conscious and deliberate disregard to the rights, feelings and consequences to plaintiffs."

San Francisco lawyer Tom Steel, who is representing Willson, called the lawsuit "outrageous."

"I think it's incredible that someone could run over another human being and cut off his legs and then ask him to pay money," Steele said on Monday. "If there was any

emotional distress, it was to Brian Willson and his family."

The lawsuit seeks unspecified damages from Willson, two other protesters — Duncan Murphy and David Duncombe — and Nuremberg Actions, the group that had sponsored a series of protests at the Concord Naval Weapons Station, where the incident occurred.

On Sept. 1, Willson and the two other protesters sat on railroad tracks outside the

weapons depot in an attempt to block alleged arms shipments to Central America.

The suit states that Duncombe and Murphy "negligently and carelessly pushed, shoved and jostled . . . Willson into the path of said incoming train in their individual efforts to avoid injuries to themselves."

The plaintiffs seek unspecified damages for "humiliation, embarrassment, mental anguish and emotional and physical dis-

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*Tuesday morning, January 12, 1988*



S. Brian Willson  
... *Tried to stop train*

## Mutilated peace activist is sued by train crew

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tress" and loss of earnings, the lawsuit states.

Murphy and Duncombe leaped aside and escaped injury.

Conductor Ralph Dawson of Vallejo, engineer David Humiston of Antioch and brakeman Robert Mayfield of Vacaville accuse the demonstrators of intending to stop the train by allowing it to hit them with conscious disregard to the operators' rights and feelings.

Their attorney, William Kolin of Oakland, could not be reached for comment Monday.

Only one of the crew members, who are under treatment for depression, anger and feelings of isolation, reportedly has returned to work since the incident. The Department of Labor is considering their applications to the worker's compensation program to cover the costs of psychiatric bills and lost wages.

Steel said investigations by the Navy, Contra Costa Sheriff's Department and Willson's lawyers all found that the Navy never attempted to stop the train.

If the crew didn't run over Willson deliberately, they at least acted with "reckless disregard for his

safety," according to Steel.

"They ran right over the man, they cut off his legs, and now — after leaving him a cripple for life — they want him to pay them money," he said.

Steel said he and other attorneys for Willson were preparing to file a claim against the Navy, asking that the Navy be held responsible for the incident, compensate Willson for his loss and pay his medical expenses.

Steel said Willson is "recuperating well" but has accumulated almost \$100,000 in medical bills.

The Navy will have six months to respond to the claim; if it rejects the claim, Willson then could file a lawsuit against the Navy, Steel said.

*Mercury News Wire Services contributed to this report.*