

FILED
US DISTRICT COURT
DISTRICT OF NEBRASKA
JUN 25 2013
OFFICE OF THE CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNION PACIFIC RAILROAD COMPANY,

Plaintiff,

vs.

**PROGRESS RAIL SERVICES
CORPORATION,**

Defendant.

8:10CV38

**VERDICT FORM 1
DEWITT DERAILMENT**

This verdict form relates to the DeWitt, Iowa, Derailment, as submitted in Instruction No. 7. Complete this form by placing an "X" on the appropriate line, or by writing the name required by your verdict, according to the directions provided to you with respect to a given question.

1. With respect to Union Pacific's negligence claim as submitted in Instruction No. 7

§ I., we, the jury find:

- a. Union Pacific has met its burden of proof.
- b. Union Pacific has not met its burden of proof.

If you find that Union Pacific has met its burden of proof with respect to the DeWitt, Iowa, Derailment, please proceed to Question 2.

If you find that Union Pacific has not met its burden of proof, you must return a verdict for Progress Rail. Please proceed to Question 4.

2. With respect to Progress Rail's affirmative defense as submitted in Instruction

No. 7 § II., we, the jury find:

- a. Progress Rail has met its burden of proof with respect to its affirmative defense of comparative negligence.
- b. Progress Rail has not met its burden of proof with respect to its affirmative defense of comparative negligence.

If you find that Progress Rail has met its burden of proof with respect to its affirmative defense of comparative negligence, please proceed to Question 3.

If you find that Progress Rail has not met its burden of proof with respect to its affirmative defense, you must return a verdict for Union Pacific. Please proceed to Question 4.

3. With respect to Progress Rail's affirmative defense of comparative negligence as submitted in Instruction No. 7 § III., we, the jury find as follows:

a. Union Pacific's negligence was _____% of the total negligence of all parties.

b. Progress Rail's negligence was _____% of the total negligence of all parties.

NOTE: The total negligence must add up to 100%

If you find that Union Pacific's negligence was equal to 50% or more, then you must return a verdict for Progress Rail. Please proceed to Question 4.

If you find that Union Pacific's negligence was less than 50%, then you must return a verdict for Union Pacific and, using Instruction No. 12, you must determine the total amount of damage suffered by Union Pacific. Please Proceed to Question 4.

4. We, the jury, find in favor of:

Progress Rail

(write "Union Pacific" or "Progress Rail")

If you wrote Progress Rail on the line above, you have finished your deliberations with respect to the DeWitt, Iowa, Derailment. Please have your foreperson sign and date the last page of this verdict form, and proceed to fill out Verdict Form 2. If you have already completed Verdict Form 2, call the Judge's chambers because you have completed your deliberations.

If you wrote Union Pacific on the line above, please proceed to Question 5.

5. As submitted in Instruction No. 12, we find Union Pacific's total damages to be:

\$ _____
(state the amount, or if none, write the word "none")

If you did not answer Question 3, above, and you answered Question 5, above, Union Pacific will be awarded the total amount of damage you listed in Question 5.

If you answered Question 3 above, the amount of money that will actually be awarded to Union Pacific is not the total amount of damage you have listed in Question 5. The amount of money Union Pacific will receive will be figured as follows: Once you have returned your verdict, the Court will take the figure you have entered as the total amount of Union Pacific's damage in Question 5, and reduce it by the percentage of the negligence you have attributed to Union Pacific. That amount is the amount of money that will be awarded to Union Pacific. In other words, if Union Pacific's negligence was X%, then the judge will reduce Union Pacific's total damages by X%, and the remainder will be awarded to Union Pacific.

You have finished your deliberations with respect to the DeWitt, Iowa, Derailment. Please have your foreperson sign and date this verdict form, and proceed to fill out Verdict Form 2. If you have already completed Verdict Form 2, call the Judge's chambers because you have completed your deliberations.

DATED: 6/25/13

FOREPERSON

US DISTRICT COURT
DISTRICT OF NEBRASKA
JUN 25 2013
OFFICE OF THE CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNION PACIFIC RAILROAD COMPANY,

Plaintiff,

vs.

PROGRESS RAIL SERVICES
CORPORATION,

Defendant.

8:10CV38

VERDICT FORM 2
MARTIN BAY DERAILMENT

This verdict form relates to the Martin Bay, Nebraska, Derailment, as submitted in Instruction No. 8. Complete this form by placing an "X" on the appropriate line, or by writing the name required by your verdict, according to the directions provided to you with respect to a given question.

1. With respect to Union Pacific's negligence claim as submitted in Instruction No. 8

§ I., we, the jury find:

- a. Union Pacific has met its burden of proof.
- b. Union Pacific has not met its burden of proof.

If you find that Union Pacific has met its burden of proof with respect to the Martin Bay, Nebraska, Derailment, please proceed to Question 2.

If you find that Union Pacific has not met its burden of proof, you must return a verdict for Progress Rail. Please proceed to Question 4.

2. With respect to Progress Rail's affirmative defense of comparative negligence as submitted in Instruction No. 8 § II., we, the jury find:

- a. Progress Rail has met its burden of proof with respect to its affirmative defense of comparative negligence.
- b. Progress Rail has not met its burden of proof with respect to its affirmative defense of comparative negligence.

If you find that Progress Rail has met its burden of proof with respect to its affirmative defense of comparative negligence, please proceed to Question 3.

If you find that Progress Rail has not met its burden of proof with respect to its affirmative defense, you must return a verdict for Union Pacific. Please proceed to Question 4.

3. With respect to Progress Rail's affirmative defense of comparative negligence as submitted in Instruction No. 8 § III., we, the jury find as follows:

a. Union Pacific's negligence was _____% of the total negligence of all parties.

b. Progress Rail's negligence was _____% of the total negligence of all parties.

NOTE: The total negligence must add up to 100%

If you find that Union Pacific's negligence was equal to 50% or more, then you must return a verdict for Progress Rail. Please proceed to Question 4.

If you find that Union Pacific's negligence was less than 50%, then you must return a verdict for Union Pacific and, using Instruction No. 12, you must determine the total amount of damage suffered by Union Pacific. Please Proceed to Question 4.

4. We, the jury, find in favor of:

Progress Rail

(write "Union Pacific" or "Progress Rail")

If you wrote Progress Rail on the line above, you have finished your deliberations with respect to the Martin Bay, Nebraska, Derailment. Please have your foreperson sign and date the last page of this verdict form. If you have also completed Verdict Form 1, call the Judge's chambers because you have completed your deliberations. If you have not completed Verdict Form 1, please proceed to fill out Verdict Form 1.

If you wrote Union Pacific on the line above, please proceed to Question 5.

5. As submitted in Instruction No. 12, we find Union Pacific's total damages to be:

\$ _____
(state the amount, or if none, write the word "none")

If you did not answer Question 3, above, and you answered Question 5, above, Union Pacific will be awarded the total amount of damage you listed in Question 6.

If you answered Question 3 above, the amount of money that will actually be awarded to Union Pacific is not the total amount of damage you have listed in Question 5. The amount of money Union Pacific will receive will be figured as follows: Once you have returned your verdict, the Court will take the figure you have entered as the total amount of Union Pacific's damage in Question 5, and reduce it by the percentage of the negligence you have attributed to Union Pacific. That amount is the amount of money that will be awarded to Union Pacific. In other words, if Union Pacific's negligence was X%, then the judge will reduce Union Pacific's total damages by X%, and the remainder will be awarded to Union Pacific.

You have finished your deliberations with respect to the Martin Bay, Nebraska, Derailment. Please have your foreperson sign and date this verdict form. If you have also completed Verdict Form 1, call the Judge's chambers because you have completed your deliberations. If you have not completed Verdict Form 1, please proceed to fill out Verdict Form 1.

DATED: 6/25/13

FOREPERSON