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U.P. damages bid rejected

A federal jury rejects Union Pacific's \$5.1 million lawsuit against a rail supplier over two derailments. **Page 3D**

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Union Pacific loses in lawsuit over derailments

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Union Pacific failed in an effort to collect \$5.1 million in damages from a railroad supplier related to Nebraska and Iowa derailments.

The Omaha-based railroad alleged in a suit filed in U.S. District Court that Progress Rail, a Caterpillar subsidiary based in Albertville, Ala., that supplies products and services to the rail industry, was to blame for two U.P. derailments. The railroad sought to be paid

damages: nearly \$950,000 in one case and nearly \$4.2 million in the other.

After a two-week trial, a jury on Tuesday found that the railroad had not met its burden of proof.

The first part of the suit stems from 2007 after a U.P. train with 135 loaded coal cars, including one owned by a third party, derailed near DeWitt, Iowa. The second part relates to a 2010 incident when a U.P. train derailed near Martin Bay at Lake McConaughy. That train had 123 loaded cars, including a railcar owned by a third party.

In each case, U.P. said its investigators determined that the train derailed because of the failure of an axle and that Progress Rail, which reconditions rail sets, mounted a roller bearing on the axle without properly inspecting it for corrosion pits or cracks, "allowing the axle to fracture."

U.P. alleged in the complaint originally filed in January 2010, and amended in September 2010 to add the Nebraska derailment, that if Progress Rail had properly removed the corrosion pits before mounting the roller bearing, the

axle "would not have failed and the derailment would not have occurred."

Following the decision on Tuesday, a U.P. spokesman said in a statement that the company is "reviewing the jury's verdict."

Fraser Stryker attorney Michael Coyle, who represented Progress Rail, said the company was grateful for all the hard work of the jury and believes "they reached the right result."

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