

**VERDICT: Defense verdict, product liability, derailment.**

A 12-0 Billings jury rejected claims of negligence and strict liability by railcar manufacturer Gunderson Inc. in connection with a \$2 million BN derailment.

18 cars derailed near Dodson in 6/86, including a twin-stack 5-unit articulated container car made by Gunderson. BN alleged that a wheel became loose on its seat and walked inboard due to improper boring and mounting, causing the derailment. The wheel was made by Griffin Wheel, which was voluntarily dismissed 2 months before trial.

An outbound inspection in Minneapolis and a roll-by inspection in Glasgow revealed no defects. The FRA concluded that the track was in good condition and evidence was introduced that BN had inspected it that day. Equipment drag detectors which preceded the derailment did not indicate any problems while the train was passing. BN excluded 2 other loose wheels found at the scene because they had marks indicating that they had been forced off their axles.

Gunderson contended that the wheel did not cause the derailment since it had been bored and mounted properly and had traveled 100,000+ miles and was unmarked.

Plaintiff's experts: P.C. Keim, BN; metallurgist Robert Carbonara, Columbus, Ohio.

Defendant's experts: George Cameron (Finite Element Analysis), Portland, Ore.; metallurgist Carl Loper, U. of Wisconsin; Larry Bengston, Clinton, Iowa (railroad wheel boring/mounting); William Ruprecht, St. Charles, Mo. (derailments); Robert Hitson, Eugene, Ore. (RR operations/derailments).

Pretrial demand, \$2.35 million; midtrial demand \$1.5 million; pretrial offer, \$50,000; midtrial offer, \$200,000.

Jury deliberated one hour 10th day before Judge Speare.

***BN v. Gunderson Inc., Yellowstone DV 88-841, 11/90.***

Arthur Beeman & Terrence Bishop (Robins, Kaplan, Miller & Ciresi), Minneapolis, and Kent Koolen, Brad Anderson, and Tom Singer (Moulton, Bellingham, Longo & Mather), Billings, for BN; James Halverson (Herndon, Hartman, Sweeney & Halverson), Billings, and Terry Baker (Tonkon, Torp, Galen, Marmaduke & Booth), Portland, for Gunderson.