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Appeals court upholds \$12.5M verdict for ex-BNSF worker

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A Missouri appeals court upheld a \$12.5 million verdict for a former southeast Missouri railroad worker whose right leg was amputated below the knee after a Crystal City railyard accident.

A three-judge panel of the Court of Appeals Eastern District on June 23 said there was enough evidence that BNSF Railway Co. could have known of the presence of the large rock over which Michael Bolen reportedly tripped and fell onto the tracks. A slow-moving railcar struck him in the Memorial Day 2012 [accident](#).

The judges also said that though the jury instructions didn't include a requirement that the jury decide percentage of fault, the railway's attorneys had the opportunity to argue that Bolen was partly to blame for his accident. BNSF also had the chance to have his portion of the fault "reflected in diminishing Bolen's total damages through the instructions and verdict form."

In a memorandum accompanying an order, Judges Sherri Sullivan, Mary Hoff and Philip Hess also found that the plaintiff's attorney's closing arguments weren't improper, as BNSF had argued.

The case is *Michael Bolen v. BNSF Railway Co.*, ED101342.