Former Union Pacific Attorney Blows the Whistle in Federal Lawsuit

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For the past seven years, I have been the whistleblower in a pending federal lawsuit against Union Pacific Railroad. This is a matter of national interest, and I invite you all to follow along.

To my brothers and sisters at UP: I come in peace. Serving as your colleague from 2014-2019 and leading your Federal Railroad Safety Act team was the highlight of my career. I will always love the railroad founded by Abraham Lincoln; the railroad my great-grandfather, Max, joined as an orphaned teenager 100 years before I did. You all deserve better, and I hope my voice helps.

Greg Haskin was a proud, 28-year-old, third-generation Union Pacific conductor when a jagged, broken steel bar protruding from a passing railcar sliced open his head. He awoke in a pool of his own blood, a bevy of managers congregating around him.

What happened next will sound incomprehensible to any decent person. No one called 911. No one offered to rush Haskin to the emergency room. These actions would have risked making Haskin's injury reportable to the Federal Railroad Administration (FRA), the railroad's safety watchdog. As every railroader knows, a unit's reportable-injury metrics can make or break careers in the Operating Department. Instead, for two hours, management hemmed and hawed, "hoping and waiting to see if my head would eventually quit bleeding," Haskin later recalled. When it didn't, a manager drove Haskin across state lines, past four hospitals, to a clinic blocks away from UP's regional headquarters — where a UP nurse had already called ahead to arrange which doctor would see him.

According to Haskin's sworn statement: "After quick examination, [the doctor] told me I would need staples to close the wound and to talk with the manager about what I wanted to do. The manager stated that if I received staples, my injury would turn into an FRA reportable accident, which would follow me for the rest of my railroad career and that I would have no chance of promotion and it could ultimately cost me my job. I was scared to death. I was doing the job I was born to do, and here I was about to lose it all." Faced with this dilemma, "I chose not to have the staples."

Haskin also didn't get a tetanus shot. Or any prescription-strength medication. Like the staples, either of these paths would have made his injury FRA-reportable. Instead, he went home, alone, passed out for 17 hours, and woke up with a throbbing headache, nausea, and more head-bleeding. Haskin would eventually undergo seven surgeries desperately searching for relief from his chronic pain and migraines. As he described it, under oath: "A probe was heated to 178 degrees and placed on three separate nerves in my neck. Each nerve was burned for 60 seconds. No anesthesia could be given, as the doctors needed to make sure they were not burning the wrong nerves. The only way to describe this pain is to place your hand on a stove top on 'high' and leave it there until you can no longer feel your hand."

Two years after this incident, at just 30 years old and battling uncontrollable headaches, UP medically disqualified Haskin from service, ending his career. Haskin's condition left him "with impotency and depression. . . . I have lost every ounce of pride I once had," he said. His manager, on the other hand, fared much better: He was promoted, twice, to become Superintendent — UP's highest-ranking service-unit officer.

When I started at Union Pacific, its safety track record was industry-leading. In fact, 2016 marked an all-time low for employee-injury rates and the first year in UP's storied history without a single worker fatality.

That all changed in late 2018 with the adoption of Precision Scheduled Railroading, or PSR, via UP's newly unveiled "Unified Plan 2020." This new, ultra-lean Operating philosophy axed more than 10,000 employees, including the railroad's entire Safety Department. With UP's massive geographical footprint (32,000+ route miles) unchanged, those who remained were pushed ever harder to cover more ground, faster, with fewer resources.

The safety reversal was immediate. Three days after Unified Plan 2020 took effect, a runaway freight train struck a stationary train near Cheyenne, Wyoming, killing two employees. It wasn't happenstance: The National Transportation Safety Board investigated and found UP's failure to conduct federally mandated air-brake tests caused the fatalities: "Had UP complied with federal regulations . . . any defective conditions . . . would likely have been identified and repaired prior to the railcars being put into service."

This was only the beginning. Within months, UP's worker-injury rates had spiked 16%, prompting its CEO, Lance Fritz, to acknowledge in an open letter to employees: "We lost ground in safety, which is not where we want to be." The next year, Union Pacific sang a different verse of the same song: "Unfortunately, our 2019 safety results were not good enough. . . . We must do better in 2020."

But UP would not "do better." Quite the opposite: By 2021, the railroad's personal-injury rate had ballooned 31% from its 2016 baseline. By 2023, worker injuries were up a staggering 56% from pre-PSR levels. Logically and mathematically, these numbers equated to hundreds of extra employee injuries in the years following PSR's adoption. Including life-changing, and even life-ending, injuries.

All of this assumes UP's self-reported numbers are trustworthy. But as former Congressman James Oberstar noted, railroads have a documented "long history of under-reporting of accidents and noncompliance with Federal regulations," which "makes accident statistics look better than they really are." Indeed, based on these findings, Congress enacted a series of targeted anti-retaliation laws against the industry "to address and rectify railroads' history of systematically suppressing employee injury reports through retaliatory harassment and intimidation," to quote a U.S. Court of Appeals.

Now let's talk about the other side of the safety coin: Derailments, which impact the general public.

Thirteen years ago, around 1:15 a.m., 63 tank cars originating from North Dakota derailed in the small Canadian village of Lac-Mégantic. The wreck unleashed six-million litres of burning crude oil, literal pools of liquid fire, on the town's sleeping citizens in the dead of night. Forty-seven people were killed, 115 businesses were destroyed, and the land and waterfront were so torched and toxic that for a month, emergency responders and investigators could only work the site in 15-minute increments. All from a single runaway train.

Today, an estimated 150 million Americans live within one mile of train tracks. And flammable liquids aren't even the greatest risk: That prize goes to toxic-inhalation hazards like chlorine and anhydrous ammonia — poisonous gases that travel with the wind and don't burn out. In 2005, a single punctured chlorine car in Graniteville, South Carolina killed nine people and hospitalized another 550. Graniteville had just 2,500 residents.

Now, put that same punctured car on the Alameda Corridor in Los Angeles. At Englewood Yard in Houston's Fifth Ward. Or in Chicago, the nation's rail bottleneck, where a quarter of all U.S. freight moves through dense neighborhoods packing 12,000 people per square mile.

This risk is not theoretical. In the first full year under Unified Plan 2020, UP's derailment rate skyrocketed 46% from pre-PSR levels. In 2021, the FRA took note of the "significant number of reportable derailments" at Union Pacific, calling it "an outlier in the railroad industry for Class I railroads." Critically, the FRA's audit found UP's failure rate for the same defect responsible for Lac-Mégantic — securement of unattended equipment — had more than doubled.

And once again, UP's safety regulator cast doubt on the railroad's reporting integrity. In one instance, the FRA investigated how UP conducts its own safety testing. Comparing results at five locations, the agency found employees failed rules-compliance tests roughly three times as often when federal inspectors were watching. It concluded: "When not accompanied by FRA personnel, the railroad is failing to properly record the true state of rules compliance by employees," suggesting UP's data "may be flawed and/or otherwise inaccurate."

"The importance of these findings cannot be understated," the FRA warned. The agency urged action by UP to prevent "catastrophic damage to communities."

My whistleblower lawsuit against UP is important, but not complicated. In 2015, OSHA issued a punitive-damages award against Union Pacific for repeatedly disciplining injured employees who sought medical attention, citing UP's "culture of retaliation." One key aspect of my job was to fix this culture. Among other things, I wrote the systemwide rule — called Operating Instruction 35 (OI 35) — requiring Law Department approval before UP terminated any employee in connection with a personal injury.

With Unified Plan 2020, as injuries soared and federal pressure mounted, OI 35 was immediately abolished. That same week, UP's Chief Compliance Officer and Director of Corporate Investigations — key figures who assisted me in OI 35's drafting and rollout — were both terminated, on the same day. Then, when I stood in the way of Operating's worst retaliatory impulses, it cost me my career.

By all appearances, nothing has changed at UP. In 2024, federal regulators reported Union Pacific was intentionally undermining their efforts "to assess safety at the railroad in the wake of several high-profile derailments" by "coaching employees on how to respond and suggesting they might be disciplined," per AP reporting. Indeed, UP's "meddling was so widespread" that the FRA "had no choice but to suspend its safety assessment of the company." Seizing on this, U.S. Senator Maria Cantwell wrote to UP president Beth Whited: "I am deeply concerned about these FRA findings and the chilling effect the Union Pacific actions have on employee reporting of safety issues," adding: "I worry this is an indication of a weak safety culture, especially in light of Union Pacific's derailment rate, which is the highest of any Class I railroad — 30 percent higher than the next highest Class I railroad's derailment rate, and 43 percent above average overall."

Just last year, OSHA found the railroad illegally retaliated against a Houston-area locomotive engineer by firing him for filing an injury report. Citing a persisting "culture of hostility and animus towards injury reporting," the agency called UP a "serial violator" of federal anti-retaliation laws and noted the railroad's 20 previous formal violations "had no deterrent effect" on Union Pacific's "illegal conduct." In short, UP showed "reckless and callous disregard" for federal law.

My Great Grandpa Max served Union Pacific for 45 years as a master steam-engine machinist. After he retired, he died of mesothelioma developed over decades of on-the-job asbestos exposure at UP.

My lawsuit against Union Pacific is for Max, for Greg Haskin, for the hundreds of injured workers devastated by PSR, and for all Americans who urge UP to act decisively to prevent the "catastrophic damage to communities" the FRA warned about in 2021.

UP is long overdue for a complete public reckoning. And soon, I hope and expect a Nebraska jury will have the opportunity to deliver it.

(Case Detail: U.S. District Court, District of Nebraska, Case No. 8:22-CV-00239)