

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
MACON DIVISION**

<b>NORFOLK SOUTHERN RAILWAY COMPANY,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CIVIL ACTION NO. 5:16-CV-107(MTT)</b>
	)	
<b>FREDERICK J. CLARK</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

**ORDER**

At the May 11, 2018 hearing, the Court heard oral arguments from the parties regarding their respective motions for summary judgment. With regard to Plaintiff Norfolk Southern Railway Company’s motion for partial summary judgment (Doc. 29), the parties have stipulated that Defendant Frederick J. Clark will not defend against Norfolk Southern’s property damage claim or prosecute his Federal Employers’ Liability Act (“FELA”) claim based upon any theory of negligence relating to the method of operation used by Norfolk Southern to control the trains on the track where the collision occurred or the issuance and terms of the track authority.<sup>1</sup> As discussed at the lengthy hearing, numerous factual issues exist regarding the parties’ negligence and the consequences of their negligence.

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<sup>1</sup> At the hearing, counsel for Norfolk Southern acknowledged that the alleged negligence of Romenski L. Williams, the conductor of train 208, is imputable to Norfolk Southern.

Accordingly, the Court hereby **GRANTS** Norfolk Southern's motion for partial summary judgment (Doc. 29) and **DENIES** Clark's motions for summary judgment (Docs. 37; 38), with the exception of Clark's motion for summary judgment on the issue of whether the FELA preempts Norfolk Southern's state law property damage claim.<sup>2</sup>

**SO ORDERED**, this 15th day of May, 2018.

S/ Marc T. Treadwell  
MARC T. TREADWELL, JUDGE  
UNITED STATES DISTRICT COURT

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<sup>2</sup> The Court will address this issue in a separate order.