

IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF MONTANA  
 BILLINGS DIVISION

**FILED**  
 AUG 20 2012  
 BY PATRICK E. DUFFY CLERK  
 Deputy Clerk

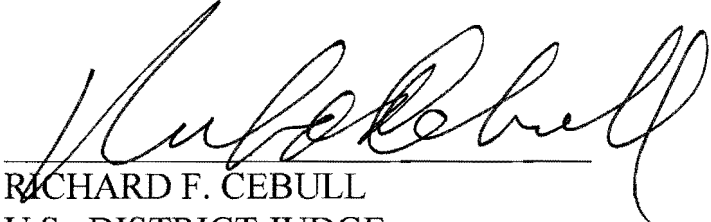
FRANCIS HORIEL, CROWN )  
 CREATIONS CABINETMAKERS, INC., )  
 )  
 Plaintiffs, )  
 )  
 vs. )  
 )  
 BURLINGTON NORTHERN AND )  
 SANTA FE RAILWAY COMPANY, a )  
 foreign corporation f/k/a BURLINGTON )  
 NORTHERN, INC., and BURLINGTON )  
 NORTHERN RAILROAD COMPANY, )  
 a Delaware Corporation, )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

CV 08-135-BLG-RFC  
  
 ORDER ADOPTING FINDINGS  
 AND RECOMMENDATIONS  
 (DOC. 63)

United States Magistrate Judge Carolyn Ostby recommends this Court deny Defendant’s Motion to Dismiss (doc. 21) because Defendants failed to follow through with their representation that it would be withdrawn. Doc. 63. There being no objection to Judge Ostby’s sound recommendation, her Findings and Recommendations are fully adopted by this Court.

Accordingly, **IT IS HEREBY ORDERED** Defendants’ Motion to Dismiss (doc. 21) is **DENIED WITHOUT PREJUDICE**.

DATED this 20<sup>th</sup> day of August, 2012.



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RICHARD F. CEBULL  
U.S. DISTRICT JUDGE