

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

**FILED**

AUG 30 2017

Clerk, U.S. District Court  
District Of Montana  
Billings

DENNIS LEDOUX,

Plaintiff,

vs.

BNSF RAILWAY COMPANY, a  
Delaware Corporation,

Defendants.

CV 17-16-BLG-SPW

ORDER ADOPTING  
MAGISTRATE'S FINDINGS  
AND RECOMMENDATION

Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendations filed on August 15, 2017. (Doc. 19). Judge Cavan recommends that this Court grant LeDoux's motion to remand, deny LeDoux's request for attorney fees, and deny BNSF's motion to dismiss.

Pursuant to 28 U.S.C. § 636(b)(1), the parties were required to file written objections within 14 days of the filing of Judge Cavan's Findings and Recommendations. No objections were filed. When neither party objects, this Court reviews Judge Cavan's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendations, this Court does not find that Judge Cavan committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by United States Magistrate Judge Cavan (Doc. 19) are ADOPTED IN FULL.

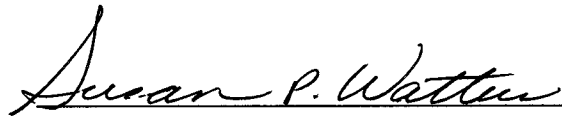
IT IS FURTHER ORDERED that LeDoux's motion to remand (Doc. 8) is GRANTED.

IT IS FURTHER ORDERED that LeDoux's request for attorney fees is DENIED.

IT IS FURTHER ORDERED that BNSF's motion to dismiss (Doc. 3) is DENIED without prejudice.

The Clerk of Court shall remand this case to the Montana Thirteenth Judicial District Court, Yellowstone County, and close this matter.

DATED this 30<sup>th</sup> day of August, 2017.

  
SUSAN P. WATTERS  
United States District Judge