

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
GREAT FALLS DIVISION

DAVID BREWER,

Plaintiff,

vs.

BNSF RAILWAY COMPANY, a  
Delaware Corporation,

Defendant.

CV 14-65-GF-BMM-JTJ

**ORDER**

Mr. Brewer filed a Motion to Conduct Additional Discovery on April 18, 2017. (Doc. 214.) BNSF filed its response on May 22, 2017, and Mr. Brewer filed his reply on June 7, 2017. (Docs. 223; 226.) The Court conducted a hearing on the motion on June 14, 2017. (Doc. 227.)

The crux of the issue before the Court is BNSF's response to some of Mr. Brewer's discovery requests. Mr. Brewer argued that BNSF's original response to his request for emails relevant to this case was deficient. (Doc. 215 at 6.) Mr. Brewer stated that although BNSF claims its document retention policy provides that emails are only retained for thirty days, the email system BNSF uses would allow it to retain emails indefinitely. (Doc. 215-11 at 7.) In the Court's view, this

discrepancy provides good cause to allow Mr. Brewer to conduct additional limited discovery via written questions under Federal Rule of Civil Procedure 31.

For this reason, the Court issues the following order:

1. The Court will allow Mr. Brewer to conduct additional discovery via written questions.
2. The parties will file with the Court a list of written questions that they agree Mr. Brewer may ask no later than June 28, 2017.
3. If necessary, Mr. Brewer may file with the Court on the same date an additional list of questions he sought to ask but BNSF did not agree to.
4. If Mr. Brewer submits an additional list of questions, the Court will conduct a hearing on the additional list of questions and entertain any objections BNSF has to them before determining whether to allow Mr. Brewer to ask the additional questions.

DATED this 16th day of June 2017.



John Johnston  
United States Magistrate Judge