

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

FRANCIS E. ENGLISH,

Plaintiff,

vs.

BNSF RAILWAY COMPANY,

Defendant.

CV-18-77-GF-BMM

**ORDER REGARDING PLAINTIFF'S
RULE 37(b) MOTION**

Plaintiff Francis E. English (“English”) filed a Rule 37(b) Motion on May 4, 2020. (Doc. 93.) Defendant BNSF Railway Company (“BNSF”) opposes English’s Motion. (Doc. 102.) The parties dispute which BST Organizational Cultural Assessments BNSF must produce in discovery. (Doc. 94 at 8-9 (English understood that Judge Morris placed no time-period restrictions on BNSF’s production of the assessments); Doc. 102 at 1-2 (BNSF understood that Judge Morris directed BNSF to produce assessments for the years 2014-2017).) United States District Court Judge Brian Morris referred English’s motion to this Court pursuant to 28 U.S.C. 636(b)(1)(A). (Docs. 95 & 98.)

The Court held a hearing on English's Motion on June 10, 2020. (Doc. 111.)

For the reasons stated in open Court, Plaintiff's Rule 37(b) Motion (Doc. 93) is

GRANTED, IN PART, and DENIED, IN PART, as follows:

1. BNSF is directed to produce, or before June 19, 2020, all BST Organizational Cultural Assessments relating to the Northwest Division and the Twin Cities Division dated January 1, 2009, through December 31, 2017. The BST Organizational Cultural Assessments are relevant and proportional to the needs of the case.

2. English's request for sanctions, attorneys' fees, and costs, is **DENIED**. The parties had a good-faith misunderstanding regarding Judge Morris's instructions.

DATED this 10th day of June, 2020.



John Johnston
United States Magistrate Judge