

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

**FILED**

**DEC 13 2018**

Clerk, U.S. Courts  
District Of Montana  
Missoula Division

ZACHARY WOOTEN,

Plaintiff,

vs.

BNSF RAILWAY COMPANY, a  
Delaware Corporation,

Defendant.

CV 16-139-M-DLC

ORDER

Before the Court is Defendant BNSF Railway Company's ("BNSF") Motion for Stay of Execution of Judgment and Waiver of Supersedeas Bond (Doc. 298).

Pursuant to Federal Rule of Civil Procedure 62(b)<sup>1</sup>, BNSF requests that the Court stay execution of the judgment entered following the jury trial of this matter on November 7, 2018, pending "disposition of new trial and post-trial motions and any appeal to the United States Court of Appeals for the Ninth Circuit." (Doc. 299 at 2-3.) BNSF further requests the Court waive the supersedeas bond. (*Id.* at 2.)

Plaintiff Zachary Wooten ("Wooten") does not object to staying execution of judgment but does object to waiving the supersedeas bond at this time because the

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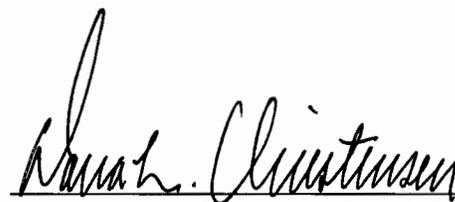
<sup>1</sup> Effective December 1, 2018, the authority providing the Court with the discretion to stay execution of judgment pending resolution of post-trial matters is now found within Federal Rule of Civil Procedure 62(a) which allows the Court to order a stay extending beyond the 30-day automatic stay upon entry of judgment.

request is premature under the plain language of Rule 62(d). (Doc. 300 at 1–3.)

BNSF concedes this point in its reply brief. (Doc. 305 at 2.) Accordingly,

IT IS ORDERED that BNSF’s Motion (Doc. 298) is GRANTED IN PART AND DENIED IN PART. Execution of the November 7, 2018 Judgment (Doc. 294) is hereby STAYED pending resolution of the Parties’ post-trial motions pursuant to Federal Rule of Civil Procedure 62(a). Namely, Wooten’s Motion to Alter Judgment (Doc. 296), Wooten’s Motion for Attorney’s Fees and Non-Taxable Costs (Doc. 301), and BNSF’s Renewed Motion for Judgment as a Matter of Law, Motion for New Trial, to Alter or Amend Judgment, and Remittitur (Doc. 307). BNSF’s request for waiver of a supersedeas bond is DENIED SUBJECT TO RENEWAL at the appropriate time.

DATED this 13<sup>th</sup> day of December, 2018.

  
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Dana L. Christensen, Chief Judge  
United States District Court