

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:08-CV-25-F

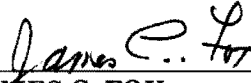
ABB, INC.,)
Plaintiff,)
v.)
CSX TRANSPORTATION, INC.,)
Defendant.)

ORDER

The court again has reviewed CSXT’s Motion for Summary Judgment [DE-48-1] on the issues that remain following entry of this court’s order of March 22, 2012 [DE-105] allowing CSXT’s motion for summary judgment on its affirmative defense of limitation of liability [DE-48-2]. In that resolution of the remaining issues will require evaluation of witness credibility and fact-finding upon assessment of conflicting “expert” (or “opinion”) witness testimony concerning mechanical, scientific and technical evidence, the court concludes that genuine issues of material fact abound necessitating a trial. CSXT’s Motion for Summary Judgment [DE-48-1] as to ABB’s Carmack claim is DENIED.

A trial date during this court’s May 14, 2012, term of court¹ has been announced. The Clerk of Court is DIRECTED to re-schedule the parties’ Pretrial Conference with Magistrate Judge David W. Daniel, at his direction in light of that trial date.

SO ORDERED. This, the 6th day of April, 2012.



JAMES C. FOX
Senior United States District Judge

¹ The last scheduled trial date, June 6, 2011, was abandoned after the parties requested a court-hosted settlement conference, which concluded unsuccessfully on June 7, 2011. See Minute Entry [DE-103]. At that point, the matter was re-submitted to the undersigned on the cross-motions for summary judgment.