

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Vanguard Fiduciary Trust Company, as)
trustee for the Burlington Northern Santa Fe)
Investment and Retirement Plan,)
)
Plaintiff,)
)
-vs-)
)
Dana L. Stuart and Elisha N. Kabanuk,)
)
Defendants.)

Case No. 3:08-cv-44

**ORDER ADOPTING MAGISTRATE
JUDGE’S REPORT AND
RECOMMENDATION**

On October 1, 2008, Defendant Elisha N. Kabanuk moved to dismiss the cross-claim made against her by defendant Dana L. Stuart (Doc. #23). On January 13, 2009, the Honorable Karen K. Klein, Magistrate Judge, recommended that defendant Kabanuk’s motion be denied (Doc. #34). No party has objected to the Report and Recommendation within the requisite time period.

The Court has reviewed the Report and Recommendation, along with the entire file, and agrees with the Magistrate Judge’s analysis and recommendation. Accordingly, the Court hereby adopts the Report and Recommendation in its entirety. For the reasons set forth therein, defendant Kabanuk’s motion to dismiss defendant Stuart’s cross-claim is **DENIED**.

IT IS SO ORDERED.

Dated this 26th day of January, 2009.

/s/ Ralph R. Erickson
Ralph R. Erickson, District Judge
United States District Court