

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
NORTHWESTERN DIVISION**

Robert C. Campbell and Brenda Southern, )  
individually and as husband and wife, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
BNSF Railway Company, a Delaware )  
corporation, Roland S. Pederson, KC )  
Transport, LLC, a Montana corporation, )  
and Berthold Farmers' Elevator, L.L.C., a )  
North Dakota corporation, )  
 )  
Defendants. )

**ORDER (AMENDED) RE EXPERT  
DISCLOSURES AND SETTLEMENT  
CONFERENCE**

Case No. 4:09-cv-049

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The court conducted a status conference with the parties on September 14, 2010. Pursuant to the parties discussions, it is **ORDERED** that the Scheduling/Discovery Plan be amended as follows. First, Defendants shall have until November 1, 2010, to serve expert witness disclosures compliant with the language of Fed. R. Civ. P. 26(a)(2). Second, plaintiffs shall have until December 1, 2010 to serve rebuttal expert disclosures.

It is further **ORDERED** that a settlement conference will be held before the magistrate judge on December 14, 2010, at 8:30 a.m. at the U.S. Courthouse located in Bismarck, North Dakota (courtroom #2).

The conference shall be attended by all parties, together with trial counsel (if they are represented) for each party. An insured party need not attend unless the settlement decision will be made in part by the insured. When the settlement decision will be made in whole or in part by an insurer, the insurer shall send a representative. The persons attending shall be vested with the

necessary settlement authority. Any relief from these requirements must be obtained in advance. Failure to produce the appropriate person(s) at the conference may result in an award of costs and attorney fees incurred by the other parties in connection with the conference and/or other sanctions against the noncomplying party and/or counsel.

Each party shall submit a confidential settlement statement to the Court no later than two days prior to the final settlement conference. The settlement statement shall not become a part of the file of the case, but shall be for the exclusive use of the Court in preparing for and conducting the settlement conference.

The settlement statement shall contain a specific recitation of the facts, a discussion of the strengths and weaknesses of the case, the parties' positions on settlement, including a present settlement proposal, and a report on settlement efforts to date. If not already part of the court file, copies of any critical agreements, business records, photographs or other documents or exhibits shall be attached to the settlement statement. The settlement statement should not be lengthy, but should contain enough information to be useful to the Court in analyzing the factual and legal issues in the case. The parties are directed to be candid in their statements.

The parties shall submit their settlement statement to the court via fax (701-530-2325), email ([ndd\\_J-Miller@ndd.uscourts.gov](mailto:ndd_J-Miller@ndd.uscourts.gov)), or mail (P.O. Box 670, Bismarck, North Dakota 58502-0670) at least two (2) days prior to the settlement conference. The settlement statement shall not be filed with the Clerk's office. Copies of the settlement statement shall not be provided to the other parties in the case.

Counsel are directed to confer with their clients in advance of the conference to explore the parties' settlement positions, and the parties are encouraged to exchange settlement proposals prior

to the conference. These steps will enable the conference to progress more expeditiously.

Dated this 14th day of September, 2010.

/s/ Charles S. Miller, Jr. \_\_\_\_\_  
Charles S. Miller, Jr.  
United States Magistrate Judge