

**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,)	
)	ORDER
Plaintiffs,)	
)	
vs.)	
)	
BNSF Railway Company, a Delaware)	
corporation, Roland S. Pederson, and)	Case No. 4:09-cv-049
KC Transport, LLC, a Montana corporation,)	
)	
Defendants.)	

The scheduling and discovery order submitted by the parties and approved by the court on November 6, 2009, established a dispositive motion deadline of October 29, 2010. It is the court's general practice in the western division to provide at the very least a four month window from the dispositive motion deadline date to the time of trial. This four month window has recently proven to be insufficient in some cases given the court's civil and criminal caseload and of complexity of some of the motions now pending before it. The trial in this case is scheduled for March 7, 2011.

On October 25, 2010, the parties filed a "Stipulation for Second Amended Scheduling/Discovery Plan." Therein they agreed to extend the dispositive motion deadline until November 19, 2010.

The court appreciates that the parties are in agreement. It routinely grants mutually agreed upon extensions. However, it is concerned here that the proposed extension will not afford sufficient time to address any dispositive motions prior to trial, particularly when the court considers the other civil cases that are scheduled for trial during the same time frame - all of which are fairly complicated and likely will require consideration of detailed motions for summary judgment as well

as motions in limine - as well as the criminal cases that are already being scheduled over the top of civil cases during the same time frame. The court attempted to find a date when the parties would be available for a short conference call to discuss various scheduling options (*e.g.*, keeping the present dates but allowing some supplementation, granting a short extension and possibly also shortening the time periods for response, finding a new trial date), but was unable to come up with a time in the near future when everyone is available.

Absent an indication that the parties are amenable to rescheduling the trial (which may not be desirable given that the next two-week blocks presently open on the court's calendar are in January 2012 and April 2012), the court is not inclined to extend the dispositive motion deadline date to the requested date of November 19, 2010. However, the court will extend the deadline until November 12, 2010. Any further requests to extend response dates which are due 21 days later will likely be viewed with disfavor. Further, for any party filing a motion for summary judgment after October 29, 2010, their replies are due no later than seven days after the responsive briefs are served.

IT IS SO ORDERED

Dated this 26th day of October, 2010.

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