

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

Howard Hoy,)
)
 Plaintiff,)
)
 vs.)
)
 Soo Line Railroad Company d/b/a/
 Canadian Pacific Railway Company,)
)
 Defendant and)
 Third-Party Plaintiff,)
)
 vs.)
)
 The Arthur Companies,)
)
 Third-Party Defendant and)
 Fourth-Party Plaintiff,)
)
 vs.)
)
 R&R Contracting, Inc. and E.E.E., Inc.,)
)
 Fourth Party Defendants.)

**ORDER GRANTING MOTION FOR
CONTINUANCE; FINDING AS MOOT
MOTION FOR SEPARATE TRIAL**

Case No. 4:12-cv-088

Before the court is “Fourth-Party Defendant E.E.E., Inc.’s Motion for Continuance or, in the Alternative, for Separate Trial” filed February 14, 2014.¹ On February 26, 2014, Defendant Soo Line Railway Company filed a response supporting the motion for continuance and opposing the motion for separate trial.

¹ Prior to filing the motion, E.E.E., Inc. requested a telephonic status conference to discuss continuing discovery deadlines and the trial due to E.E.E.’s late addition to the case. The court held the status conference on February 7, 2014. Plaintiff’s counsel opposed the continuance, arguing that plaintiff would be prejudiced by a continuance and indicating that plaintiff would be prepared to proceed to trial as scheduled. The court did not decide the issue and directed E.E.E. to file an appropriate motion. After the motion was filed, plaintiff’s counsel contacted the court and indicated that all parties had subsequently agreed that the trial should be continued.

On February 28, 2014, the court held a telephonic status conference to discuss continuing the discovery deadlines and the trial. Michael P. McReynolds and Michel F. Tello appeared plaintiff's behalf. Lee A. Miller appeared on behalf of Soo Line Railroad Company. Bradley J. Beehler appeared on behalf of The Arthur Companies. Thomas R. Olson appeared on behalf of R&R Contracting, Inc. James S. Hill and Rebecca S. Thiem appeared on behalf of E.E.E., Inc.

During the call, all parties agreed that additional time is needed for discovery and the filing of dispositive motions and that the trial should be continued. Accordingly, E.E.E., Inc.'s Motion For Continuance (Docket No. 58) is **GRANTED** and E.E.E., Inc.' Motion for Separate Trial (Docket No. 65) is **DEEMED MOOT** at this time but can be renewed later if necessary. As discussed, the final pretrial conference will be reset for March 31, 2015 at 2:00 PM by telephone and the jury trial will be reset for April 13-24, 2015.

In addition, the parties agreed to extend several discovery deadlines. The court will issue a separate Amended Scheduling Order reflecting those deadlines. Unless the court orders otherwise, the pending motions for summary judgment will be held in abeyance until the completion of discovery and may be supplemented on or before the new dispositive motions deadline. Any party requesting earlier resolution of its pending motion is directed to contact the court to request a status conference.

IT IS SO ORDERED.

Dated this 3rd day of March, 2014.

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