

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA

JEFFREY A. BOWERMASTER,)	
)	
Plaintiff,)	
)	
)	Civ. 12-254-FHS
)	
vs.)	
)	
BNSF RAILWAY COMPANY and)	
KIAMICHI RAILROAD COMPANY,)	
)	
Defendants, and)	
)	
BNSF RAILWAY COMPANY,)	
)	
Crossclaimant)	
)	
vs.)	
)	
KIAMICHI RAILROAD COMPANY,)	
)	
Crossclaim Defendant.)	

OPINION AND ORDER

GRANTING KIAMICHI RAILROAD COMPANY'S MOTION TO COMPEL
ARBITRATION AND STAY OF BNSF RAILWAY COMPANY'S CROSSCLAIM

Before the court for its consideration is the Kiamichi Railroad Company's Motion to Compel Arbitration and Stay BSNF Railway Company's Crossclaim (doc. 30). No response or objection was filed. Thus, the court deems the motion confessed by the parties. Nevertheless, the court will address the merits of the motion.

The court finds the facts as follows. Plaintiff filed this action on or about June 8, 2012. BNSF filed a Crossclaim against Kiamichi on or about November 29, 2012. BNSF's Crossclaim is based on an Interchange Agreement. The Crossclaim states in relevant part:

3. The Interchange Track Agreement provides that in the case of a collision between engines, cars or trains occurring upon the Interchange Track and caused solely by the negligence of enginemen or trainmen or other sole employees of one of the sole employees of the parties, the party whose sole employee caused the same shall be responsible for and pay the entire loss causes thereby.

The Interchange Agreement contains the following provision:

If at any time a question or controversy shall arise between the parties hereto touching the construction of any part of this Agreement... (it) shall be submitted to arbitration...

The court finds the issues to be resolved in the Crossclaim are subject to arbitration. Arbitration provisions that are part of a valid contract are enforceable under the Federal Arbitration Act. 9 U.S.C. Sec. 2.

Accordingly, the court orders arbitration between Kiamichi and BNSF. Further the court stays BNSF's Crossclaim.

IT IS SO ORDERED this 14th day of January, 2013.



Frank H. Seay
United States District Judge