

IN THE DISTRICT COURT OF BOX BUTTE COUNTY, NEBRASKA

GARY J. MOELLER,)
)
 Plaintiff,)
)
 Vs.)
)
 BURLINGTON NORTHERN)
 SANTE FE RAILWAY COMPANY,)
 A Delaware Corporation,)
)
 Defendant.)

Case No. CI 17-13

**AMENDED
JOURNAL ENTRY AND
ORDER**

2019
JAN 17 PM 3 06

STATE OF NEBRASKA SS
BOX BUTTE COUNTY, SS
FILED IN OFFICE OF CLERK OF
DIST. COURT OF SAID COUNTY

On January 14, 2019, this matter came on for jury trial. The Plaintiff, Gary J. Moeller, appeared with his attorney, Jim Zimmerman. The Defendant, Burlington Northern Sante Fe Railway Company appeared with its attorneys, Andrew Weeks and Tyler Spahn. The Honorable Travis P. O’Gorman presided.

A panel of jury candidates were sworn and qualified. The panel was examined by the Court, Mr. Zimmerman and Mr. Spahn. A panel of twelve jurors and one alternate was selected and sworn. The matter proceeded to trial.

Opening statements were given and Plaintiff presented evidence over the course of two days. At the close of Plaintiff’s case the Defendant motioned the Court for a Directed Verdict. The Motion was denied and Defendant presented evidence. At the close of the Defendant’s case the Defendant renewed its Motion for Directed Verdict. It was again denied. Plaintiff presented rebuttal evidence.

A jury instruction conference was held on the record. Thereafter the jury returned to the courtroom, instructions were read, and closing arguments were heard. The jury began deliberations at approximately 2:40 p.m. on January 16, 2019.

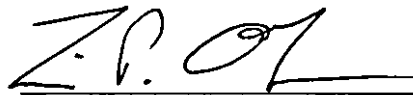


Thereafter, the jury advised the bailiff that a verdict had been reached. At 6:07 p.m. on January 16, 2019, the jury returned to the courtroom. The presiding juror handed Verdict Form 1 to the bailiff which was examined by the Court and read.

The jury found that Plaintiff did not meet his burden of proof and found in favor of the Defendant. The Court accepts the jury's verdict and finds in favor of the Defendant and against the Plaintiff. Plaintiff's action is dismissed, with prejudice.

IT IS SO ORDERED.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Z. P. O. L.", written over a horizontal line.

District Court Judge

Cc: Jim Zimmerman
Andrew Weeks
Tyler Spahn

CERTIFICATE OF SERVICE

I, the undersigned, certify that on January 17, 2019 , I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

Tyler K Spahn
tks@sattlerbogen.com

James L Zimmerman
jlz@jlzlaw.com

Date: January 17, 2019

BY THE COURT:

Kevin P. How

CLERK

