
IN THE SUPREME COURT OF THE STATE OF MONTANA

OP 19-0085

BNSF RAILWAY COMPANY,

Petitioner,

vs.

THE ASBESTOS CLAIMS COURT OF
THE STATE OF MONTANA,
HONORABLE AMY EDDY,
Presiding Judge,

Respondent.

Notice of Supplemental Authority

Original Proceeding Arising from the Montana Asbestos Claims Court,
In Re Asbestos Litigation, Cause No. AC-17-0694,
Honorable Amy Eddy Presiding Judge;
Applicable to *Barnes, et al. v. BNSF Railway Company, et al.*,
Lincoln County Cause No. DDV-16-111

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Pursuant to Rule 6, M.R.App.P., authorizing a party to promptly advise, without argument, the Clerk of the Montana Supreme Court when “pertinent and significant authorities come to the attention of a party after its brief has been filed,” Plaintiffs provide this *Notice of Supplemental Authority*. On July 23, 2019, after the parties’ briefs were filed in this matter, this Court entered its *Opinion* in the matter of *Covey et al. v. Brishka et al.*, 2019 MT 164 (Montana Supreme Court Cause No. DA 18-0498). A copy of that *Opinion* is attached hereto as **Exhibit A**. As required by Rule 6, M.R.App.P., the pages of *Plaintiffs’ Answer Brief* to which that *Opinion* pertains is as follows:

1. Pages 20-31 (Section V.2., entitled “BNSF was engaged in an abnormally dangerous activity”); and
2. Pages 36-46 (Section V.4., entitled “BNSF cannot apportion fault to non-parties to avoid liability by arguing that non-parties caused Plaintiffs’ injuries”).

Respectfully submitted this 31st day of July, 2019.

McGARVEY, HEBERLING, SULLIVAN
& LACEY, P.C.

By: /s/ Roger Sullivan
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CERTIFICATE OF SERVICE

I, Roger M. Sullivan, hereby certify that I have served true and accurate copies of the foregoing Notice - Supplemental Authority to the following on 07-31-2019:

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