

NO. DA 19-0085

IN THE SUPREME COURT OF THE STATE OF MONTANA

.....  
BNSF RAILWAY COMPANY,

Petitioner,

-VS-

THE ASBESTOS CLAIMS COURT OF THE STATE OF MONTANA,  
THE HONORABLE AMY EDDY, PRESIDING JUDGE,

Respondent.  
.....

**PETITIONER'S UNOPPOSED MOTION TO VACATE AND  
RESET ORAL ARGUMENT**

=====

*On Review from the Asbestos Claims  
Court of the State of Montana, Cause No.  
AC-17-0694  
Hon. Amy Eddy*

\_\_\_\_\_

## APPEARANCES:

### *Attorneys for Petitioner BNSF*

Chad Knight  
Anthony Nicastro  
Jim Roberts  
Nadia Patrick  
KNIGHT NICASTRO MACKAY,  
LLC  
304 W. 10<sup>th</sup> Street  
Kansas City, MO 64105  
Telephone: (303) 815-5869  
[roberts@knightnicastro.com](mailto:roberts@knightnicastro.com)  
[knight@knightnicastro.com](mailto:knight@knightnicastro.com)  
[nicastro@knightnicastro.com](mailto:nicastro@knightnicastro.com)  
[npatrick@knightnicastro.com](mailto:npatrick@knightnicastro.com)

### *Asbestos Claims Court Judge, Respondent*

Honorable Amy Eddy  
ASBESTOS CLAIMS COURT  
90 South Main Street, Suite 310  
Kalispell, MT 59901  
Telephone: 406-758-5906  
[aeddy@mt.gov](mailto:aeddy@mt.gov)

### *Attorneys for Plaintiff*

Roger Sullivan  
Ethan Welder  
Jinnifer Jeresek Mariman  
MCGARVEY, HEBERLING,  
SULLIVAN & LACY, P.C.  
345 First Avenue East  
Kalispell, MT 59901  
Telephone: (406) 752-5566  
[rsullivan@mcgarveylaw.com](mailto:rsullivan@mcgarveylaw.com)  
[ewelder@mcgarveylaw.com](mailto:ewelder@mcgarveylaw.com)  
[jmariman@mcgarveylaw.com](mailto:jmariman@mcgarveylaw.com)

### *Attorney for Amicus Curiae Montana Trial Lawyers Association*

Michael D. Cok  
COK KINZLER, PLLP  
P.O. Box 1105  
Bozeman, MT 59770  
(406) 587-4445  
[mikecok@cokkinzlerlaw.com](mailto:mikecok@cokkinzlerlaw.com)

COMES NOW the Petitioner, BNSF RAILWAY COMPANY (“BNSF”), and pursuant to Rule 16 of the Montana Rules of Appellate Procedure and through the undersigned counsel, hereby moves the Court to vacate the Notice of Hearing and reset the hearing for one week later.

On August 8, 2019, this Court, upon motion, issued its Notice of Hearing and set oral argument for October 30, 2019, at 9:30 AM. As the Court will recall, the undersigned counsel is scheduled for trial in another matter from September 30 – October 18, 2019. That case has not settled, and all indications are that it will proceed to trial. The dates for trial are not dates certain, and the trial may not be concluded by October 18. Consequently, in an effort to be adequately prepared for arguments in front of this Court, BNSF requests an additional week before this matter is heard. BNSF moves the Court to vacate the October 30, 2019 hearing currently scheduled and reset the hearing for oral argument in this matter for November 6, 2019.

Pursuant to Mont. R. App. P. 16(1), BNSF certifies that it has conferred with Counsel for Plaintiffs and they have no objection to the relief sought. A proposed order is submitted herewith.

Respectfully submitted this 20<sup>th</sup> day of September, 2019.

KNIGHT NICASTRO MACKAY, LLC

s/Chad M. Knight  
Chad M. Knight  
*Attorneys for BNSF Railway Company and  
John Swing*

## **CERTIFICATE OF SERVICE**

I, Chad M. Knight, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed - Extension of Time - Other to the following on 09-20-2019:

Roger M. Sullivan (Attorney)  
345 1st Avenue E  
MT  
Kalispell MT 59901  
Representing: Tracie Barnes, Rhonda Braaten, Gerrie A Flores  
Service Method: eService

Allan M. McGarvey (Attorney)  
345 1st Avenue East  
Kalispell MT 59901  
Representing: Tracie Barnes, Rhonda Braaten, Gerrie A Flores  
Service Method: eService

Ethan Aubrey Welder (Attorney)  
345 1st Avenue East  
Kalispell MT 59901  
Representing: Tracie Barnes, Rhonda Braaten, Gerrie A Flores  
Service Method: eService

Jinnifer Jeresek Mariman (Attorney)  
345 First Avenue East  
Kalispell MT 59901  
Representing: Tracie Barnes, Rhonda Braaten, Gerrie A Flores  
Service Method: eService

Nadia Hafeez Patrick (Attorney)  
929 Pearl Street Suite 350  
Boulder CO 80302  
Representing: BNSF Railway Company  
Service Method: eService

James E. Roberts (Attorney)  
283 West Front Street  
Suite 203  
Missoula MT 59802  
Representing: BNSF Railway Company

Service Method: eService

Anthony Michael Nicastro (Attorney)  
27 Shiloh Road, Ste 10  
Billings MT 59106  
Representing: BNSF Railway Company  
Service Method: eService

John F. Lacey (Attorney)  
345 1st Avenue East  
Kalispell MT 59901  
Representing: Tracie Barnes, Rhonda Braaten, Gerrie A Flores  
Service Method: eService

Dustin Alan Richard Leftridge (Attorney)  
345 First Avenue East  
Montana  
Kalispell MT 59901  
Representing: Tracie Barnes, Rhonda Braaten, Gerrie A Flores  
Service Method: eService

Michael D. Cok (Attorney)  
35 North Bozeman  
Bozeman MT 59715  
Representing: Montana Trial Lawyers Association  
Service Method: eService

Amy Eddy (Respondent)  
920 S. Main, Ste. 310  
Kalispell MT 59901  
Service Method: Conventional

Tammy Peterson (Interested Observer)  
Asbestos Court Clerk  
Helena MT 59601  
Service Method: Conventional

Matthew Cuffe (Interested Observer)  
512 California  
Libby MT 59923  
Service Method: Conventional

Electronically Signed By: Chad M. Knight  
Dated: 09-20-2019