

December 20, 2006

ATTORNEY GENERAL FILES BRIEF IN MINOT TRAIN DERAILMENT CASE

BISMARCK – Attorney General Wayne Stenehjem has filed an amicus curiae (friend of the court) brief with the United States Supreme Court on behalf of North Dakota and 19¹ other states, asking the Supreme Court to hear the appeal of the parties to 49 separate lawsuits. The lawsuits arise out of the derailment of a Canadian Pacific Railway freight train west of Minot on January 18, 2002, that ruptured 12 railcars and released a toxic cloud of anhydrous ammonia gas that remained over the area for several hours.

Stenehjem asked his fellow Attorneys General to sign on to the brief in support of the right of states to have railroad negligence claims handled in state courts, and not shuffled off to the federal courts where the railroad argues federal law allows no right to recover for injuries caused by the railroad's own negligence. At Stenehjem's request, 19 other states joined North Dakota's amicus filing, including Attorneys General from five of the seven states in the 8th circuit.

The 49 cases were removed by the Eighth Circuit Court of Appeals from state court to federal court last fall when lawyers for CP Railway argued that state law claims were pre-empted by federal law. A motion to dismiss all of those claims based upon the Eighth Circuit's ruling is currently pending in federal district court in Minnesota.

"This case has enormous implications for people injured by the negligent acts of railroads," said Stenehjem. "These people, some of whom suffered devastating and life-threatening chemical burns from the derailment, deserve to have their day in court."

"This case illustrates what happens when lawyers get caught up in arguing legal technicalities - and forget about doing justice and addressing real-world injuries," said Stenehjem. "State courts have a long history with these kinds of cases. Five years after the derailment, the argument is still over jurisdiction not substance, with no end in sight. We are filing this brief to ask the Supreme Court to hear this case to ensure that state-law claims are heard in state courts and not subject to prolonged fights over jurisdiction and preemption that the victims of the Minot derailment have suffered in this case."

The Petition to the United States Supreme Court asking the Court to hear the case was filed by the 49 sets of plaintiffs in mid-October.

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[ND Amicus Brief](#)
[Lundeen for Writ of Certiorari](#)
[CP Rail](#)

¹ The 19 states that joined North Dakota's brief are: California, Indiana, Iowa, Maryland, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, Oklahoma, Oregon, South Dakota, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.