

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

**ETHEL M. MINER, Personal
Representative of the Estate of Russell
Miner, Deceased,**

Plaintiff,

vs.

**JOHN C. WATSON, Personal
Representative of the Estate of Lois Miner,
Deceased,**

Defendant,

**SHARON KLASNA,
Intervener-Defendant.**

Case No. CI02-113

**ORDER DENYING MOTIONS
AND SETTING PRETRIAL
CONFERENCE**

DATE OF HEARING: August 4, 2003.
DATE OF RENDITION: August 24, 2003.
DATE OF ENTRY: See court clerk's file-stamp date per § 25-1301(3).
TYPE OF HEARING: Open court.
APPEARANCES:
For plaintiff: Mark D. Fitzgerald without plaintiff.
For defendants:
Watson: Thomas E. Brogan with defendant.
Klasna: Todd Flynn without defendant.
SUBJECT OF ORDER: (1) plaintiff's motion for summary judgment filed on June 27, 2003, and, (2) intervener-defendant's motion for summary judgment filed on July 29, 2003.
PROCEEDINGS: See journal entry rendered following hearing.
FINDINGS: The court finds and concludes that:

1. The court is not satisfied that either moving party has met her burden. See *Wagner v. Union Pacific R.R. Co.*, 11 Neb. App. 1, 642 N.W.2d 821 (2002) (where reasonable minds differ as to whether an inference supporting the ultimate conclusion can be drawn, summary judgment should not be granted).

2. Both motions should be denied.

3. The pretrial conference is scheduled subject to continuance if other nonfrivolous motions are filed on or before the pretrial motion filing deadline of August 29, 2003.

ORDER:

IT IS THEREFORE ORDERED that:

1. Both motions for summary judgment are denied.

2. Subject to continuance if any further nonfrivolous motions are timely filed and remain undisposed, the final pretrial conference is scheduled for **Monday, October 27, 2003**, at **1:40 p.m.**, or as soon thereafter as the same may be heard (third pretrial conference of afternoon).

3. All other provisions of the most recent progression order, as amended if applicable, remain fully effective.

4. Counsel are cautioned that issues lists should be produced in the form of the elements of each claim or defense (see <http://www.nol.org/home/DC8/faq/ptclists.html>) and that failure to comply with the requirement may result in continuance of the pretrial conference or limitation of issues to complying lists.

Signed in chambers at **Ainsworth**, Nebraska, on **August 24, 2003**;

DEEMED ENTERED upon file stamp date by court clerk.

If checked, the court clerk shall:

Mail a copy of this order to all counsel of record and any pro se parties.
Done on _____, 20____ by _____.

Note the decision on the trial docket as: [date of filing] **Signed "Order Denying Motions and Setting Pretrial Conference" for [date from order] at [time from order] entered.**
Done on _____, 20____ by _____.

Mailed to:

BY THE COURT:

William B. Cassel
District Judge