## TUESDAY, JANUARY 13, 2009 10:00 A.M.

NO. 2

## #24892, #24904

DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION, Plaintiff and Appellant,

vs.

ACUITY, a Mutual Insurance Co., f/k/a HERITAGE MUTUAL INSURANCE COMPANY, d/b/a HERITAGE INSURANCE, Defendant and Appellee.

Mr. Brian J. Donahoe (FOR APPELLANT) Ms. Meredith A. Moore Mr. William D. Sims Cutler & Donahoe, LLP Attorneys at Law 100 North Phillips Ave 9<sup>th</sup> Floor Sioux Falls SD 57104-6725 PH: 335-4950

Mr. Gary P. Thimsen Mr. Jennifer L. Wollman Woods, Fuller, Shultz & Smith Attorneys at Law PO Box 5027 Sioux Falls SD 57117-5027 Ph 336-3890

The Honorable Robert L. Timm Third Judicial Circuit Beadle County (CIV 01-327)

(FOR APPELLEE)

NOTICE OF REVIEW FILED JUNE 6, 2008

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