

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

v.

CASE NO. 3:09-CV-00031 BSM

BOBBY L. HURT AND SUE R. HURT

DEFENDANT

ORDER

Defendants Bobby L. and Sue R. Hurt seek to counterdesignate certain portions of defendant Bobby L. Hurt's deposition testimony to be used at trial. [Doc. No. 65]. Plaintiff United States of America ("the government") has objected [Doc. No. 69], and the Hurts have responded. [Doc. No. 76]. The government's objection is summarily sustained. As set forth in Federal Rule of Civil Procedure 32(a)(6), the purpose of permitting counterdesignations is to give context to any proffered designation by the opposing party. When used properly, counterdesignations round out the testimony and prevent improper inferences. Hurt does not show how his counterdesignations give context to the government's designations. Instead, it appears Hurt is attempting to defend this case through his deposition. This is absolutely improper because he cannot get around testifying by designating portions of his deposition to use at trial.

Accordingly, all of the government's objections are sustained, and Bobby Hurt is prohibited from designating any of his deposition testimony for use at trial.

IT IS SO ORDERED this 18th day of October, 2010.

Brian J. Miller

UNITED STATES DISTRICT JUDGE