

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

INTEGON PREFERRED INSURANCE  
CO.

Plaintiff,

vs.

SUSANA ISZTOJKA, d/b/a California  
Gold Star Hauling,

Defendant.

FRANCESCA EISENBRANDT;  
CONNIE EISENBRANDT; and SCOTT  
EISENBRANDT,

Intervenors.

No. 2:07-cv-00526-TMB

ORDER

[Re: Objections at Docket No. 112]

At Docket No. 112 Intervenors Francesca Eisenbrandt, Connie Eisenbrandt, and Scott Eisenbrandt, have filed an objection to numerous exhibits offered by Integon. The court has reviewed those objections. To the extent that the objection is based upon a lack of foundation, the court enters the below order. With respect to all objections on other grounds, the court overrules the objections without prejudice to the objections being renewed at the time the exhibit is offered into evidence.

**IT IS HEREBY ORDERED THAT:**

1. All exhibits that are identified in Intervenors' Final Pretrial Statement may be admitted without further foundation.
2. All other documents that are part of Integon's records to which Intervenors have objected on the grounds of foundation must be legible and, unless the objection is withdrawn, authenticated by the custodian of records;

3. Drivers License Report on Ian Isztojka, IPIC-RF-0297 through IPIC-RF-0299 (Item 14), objection on the grounds of foundation overruled [this is a public record, the authenticity of which may be verified by a simple check of the public records];

4. Ian Isztojka recorded statement transcription, IPIC-RF- 0634 through IPIC-RF-0646 (Item 16), unless the objection is withdrawn, authenticated by the person who actually transcribed the recorded statement; and

5. Jeffrey Mangelli recorded statement transcription, IPIC-RF-0658 through IPIC-RF-0665 (Item 18), the objection to foundation is overruled. Intervenors submitted the Declaration of Kirk J. Wolden in Support of Intervenor's Trial Brief as part of their Trial Brief. In that declaration, it is stated: "4. Attached hereto as **Exhibit "3"** to this declaration and incorporated by this reference are true and correct copies of excerpts from Integon's recorded statement of Jeffrey Mangelli dated November 1, 2006."<sup>1/</sup> Exhibit 3 bears the Bates Nos IPIC-RF-0658, what appears to be IPIC-RF-0660, and IPIC-RF-0661. In the Trial Brief, Intervenors quote from that statement in support of their arguments.<sup>2/</sup> Intervenors also added the following in a footnote:

This must be considered as admissible as against Integon given Integon identifies the Mangelli Statement as an Exhibit it intends to introduce at trial. While Intervenors reserve their rights to object to the introduction of certain portions of that statement for the truth of the matter asserted on hearsay grounds, this particular passage from the statement would appear to be admissible as a prior consistent or inconsistent statement of the trial witness Mangelli, referring to a business record he himself created.<sup>3/</sup>

Having introduced the document into evidence, Intervenors have waived any objection to foundation.

Dated: February 18, 2011

\_\_\_\_\_  
s/ Timothy M. Burgess  
TIMOTHY M. BURGESS  
United States District Judge

---

<sup>1/</sup> Docket No. 94-1, p. 2.

<sup>2/</sup> Docket No. 94, p. 16.

<sup>3/</sup> Docket No. 94, n. 6, pp. 16-17.