

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
HONORABLE MARCIA S. KRIEGER**

Courtroom Deputy: Patricia Glover
Court Reporter: Paul Zuckerman

Date: March 13, 2009

Civil Action No. 05-cv-01282-MSK-KLM

Parties:

Counsel Appearing:

JEFFREY SCOTT DURHAM,

Plaintiff,

Marci Gilligan
Philip Rosmarin

v.

ROBERT A. HOOD,
T.G. WERLICH,
RANDY MADISON,

Marcy Cook

Defendants.

COURTROOM MINUTES

HEARING: Continued F.R.E. 702 (Joint Motion at Doc # 237)

This hearing is continued from February 24, 2009.

9:03 a.m. Court in session.

Continued cross examination of witness Dale Drysdale by Mr. Rosmarin. Mr. Drysdale appears by video conference.

James Repace is present by telephone.

No redirect examination.

9:25 a.m. Court in recess

9:37 a.m. Court in session

Defendants rest.

Rebuttal testimony of plaintiff.

Witness for the plaintiff : James Repace:

9:40 a.m. Direct Examination by Mr. Rosmarin. The witness appears by video conference and has previously been sworn.

Mr. Drysdale is present by telephone.

Cross examination of witness by Ms. Cook.

No redirect examination.

No further testimony.

Argument by Mr. Rosmarin and Ms. Cook.

Oral findings are incorporated herein and made a part of the record.

ORDER: (James Repace) Opinions 1, 2 and 3 were stipulated to by counsel as to adequate factual foundation under Rule 702 and may be proffered at the time of trial. Opinions 4 through 10 have inadequate foundation under Rule 702 and are excluded. Opinion No. 11 was previously withdrawn.

ORDER: Motion for Summary Judgment (**Doc. #239**) is **DENIED without prejudice.**

ORDER: Motion to Seal Exhibits (**Doc. #250**) is **DENIED as moot, but the documents will remain sealed.**

ORDER: Dispositive motions, if any, will be filed by **April 13, 2009.**

11:48 a.m. Court in recess.

Total Time: 2 hours 33 minutes.

Hearing concluded.