

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
JUDGE LEWIS T. BABCOCK

Courtroom Deputy: Deborah Hansen
Court Reporter: Gwen Daniel

Date: November 16, 2010

Civil Case No. 07-cv-01355-LTB-MJW

Counsel:

UNITED STATES OF AMERICA FOR THE USE AND
BENEFIT OF SUN CONSTRUCTION COMPANY, INC.,
a Colorado corporation,

Curtis R. Henry
Jeffrey C. Culbertson

Plaintiff,

and

FIDELITY AND DEPOSIT COMPANY OF MARYLAND,
a Maryland corporation,

Patrick Q. Husted
Connor L. Cantrell

Intervenor Plaintiff,

v.

TORIX GENERAL CONTRACTORS, LLC, a Colorado
limited liability company f/k/a Alliance General
Contractors, LLC; and
ST. ANDREWS/ALLIANCE JOINT VENTURE, a joint
venture,

Bret R. Gunnell
Matthew O. Stromquist

Defendants and Counterclaimants,

and

TRAVELERS CASUALTY AND SURETY COMPANY OF
AMERICA, a Connecticut corporation,

Bret R. Gunnell
Matthew O. Stromquist

Defendants.

COURTROOM MINUTES

JURY TRIAL - Day Eleven

09:00 a.m. Court in Session - without jury

Discussion re Richard Kerr

09:02 jury present

Court's reminder to the jury regarding experts and opinion testimony

DEFENDANT JOINT VENTURE'S SIXTH WITNESS RICHARD KERR

09:04 Direct (by Mr. Gunnell)

Defendant Joint Venture tenders Mr. Kerr as an expert witness on behalf of the Joint Venture to provide opinion testimony for this jury in the areas of construction scheduling and damages analysis based on his qualifications and special expertise and using methodologies accepted within the construction industry.

09:51 jury excused

Court's comments

Voir dire re Intervenor Plaintiff's Motion to Strike Expert Testimony of Richard Kerr Under Fed. R. Evid. 702 (Doc No. 215)

09:55 Voir dire (by Mr. Cantrell)

10:10 Voir Dire (by Mr. Gunnell)

10:20 Court's findings entered on the record.

ORDERED: The objection goes to the weight rather than its admissibility. Intervenor Plaintiff's Motion to Strike Expert Testimony of Richard Kerr Under Fed. R. Evid. 702 (Doc No. 215) is DENIED.

10:44 Court in Recess

10:58 Court in Session - jury present

The Court advises the jury that the Court qualifies Mr. Kerr as a witness who can state opinions as to delay, cause for delay, damages and back charges and their reasonableness, which, of course, are opinions for the jury to consider.

DEFENDANT JOINT VENTURE'S SIXTH WITNESS RICHARD KERR

10:58 Direct continued (by Mr. Gunnell)

11:56 Court in Recess

01:00 Court in Session

DEFENDANT JOINT VENTURE'S SIXTH WITNESS RICHARD KERR

01:00 Direct continued (by Mr. Gunnell)

02:24 Court in Recess

02:40 Court in Session - without jury

Mr. Henry's comments - they may renew the motion to strike Mr. Kerr's testimony

02:45 jury present

03:09 Cross (by Mr. Husted)

03:54 p.m. Court in Recess
Trial continued
Time: 5/20