

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Craig B. Shaffer**

Civil Action No.: 07-cv-01379-WYD-CBS
Date: January 15, 2009

FTR - Reporter Deck - Courtroom A402
Courtroom Deputy: Cathy Coomes

ASHER ASSOCIATES, LLC,
a Colorado limited liability company, and
PETRA ENERGY, INC., a Colorado corporation,

Scott Thomas Varholak
Scott Thomas Rodgers

Plaintiffs,

v.

BAKER HUGHES OILFIELD OPERATION, INC.
d/b/a CENTRILIFT, a California corporation,

Dennis W. Brown
M. Antonio Gallegos

Defendant.

COURTROOM MINUTES/MINUTE ORDER

EVIDENTIARY HEARING

Court in Session: 1:31 p.m.

Court calls case. Appearances of counsel. Also present: Lee Goldstein, Raiford Patton, Harold Patton, Kent Wells, Lynn Wood, and Terry Brittenham.

Discussion regarding Plaintiffs' Motion to Strike Late Disclosure of Defendant's Expert Witnesses (Doc. #96, filed 12/2/08).

ORDERED: For reasons stated on the record, Plaintiffs' Motion to Strike Late Disclosure of Defendant's Expert Witnesses (Doc. #96, filed 12/2/08) is DENIED without prejudice.

Discussion regarding Plaintiffs' Motion to this Court's Inherent Power to Control Litigation to Impose Sanctions for Defendant's Spoliation of Evidence (Doc. #64, filed 9/16/08).

2:24 p.m. Plaintiffs' witness, Lynn Woodard, is sworn, examined by Mr. Varholak and questioned by the Court.
Witness identifies Plaintiffs' Exhibits 14 and 13.

3:02 p.m. Lynn Woodard is cross-examined by Mr. Gallegos and further questioned by the Court.
Witness identifies Defendant's Exhibits A09 and A28, and is referred to Plaintiffs' Exhibit 13. Witness identifies Defendant's Exhibits A30 and A07.

3:38 p.m. Redirect examination by Mr. Varholak. Witness is questioned by the Court.
Witness is referred to Plaintiffs' Exhibits 14 and identifies Plaintiffs' Exhibit 1.

3:49 p.m. Lynn Woodard is excused.

3:49 p.m. Plaintiffs' Witness, D. Kent Wells, is sworn, examined by Mr. Varholak, and questioned by the Court.
Witness identifies Defendant's Exhibits A13 and A15.

4:14 p.m. D. Kent Wells is cross-examined by Mr. Gallegos and further questioned by the Court.
Witnesses identifies Defendant's Exhibits A15, A11, A14, A23, and A16.

4:40 p.m. Redirect Examination by Mr. Varholak.
Witness identifies Defendant's Exhibit A5.

4:44 p.m. D. Kent Wells is excused.

4:46 p.m. Stipulation entered on the record that Asher was not told that they could inspect the ESP after the second failure, and that Asher did not ask if they could inspect the ESP after the second failure.

4:47 p.m. Mr. Brown makes an offer of proof as to deposition testimony of Raiford Patton and Harold Patton and refers the Court to Defendant's Exhibits A2, A3, and A26.

5:02 p.m. Defendant's Witness, Terry Brittenham, is sworn and examined by Mr. Brown.
Witness identifies Defendant's Exhibit A53 and A38.

5:16 p.m. Discussion regarding Mr. Varholak's objection to questions asked by Mr. Brown.

Counsel waive oral argument.

The Court takes the Motion (Doc. #64, filed 9/16/08) under advisement.

HEARING CONCLUDED.

Court in recess: 5:53 p.m.

Total time in court: 04:22