

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

Civil Action:11-cv-01611-MSK-CBS
Date: January 28, 2013

FTR - Reporter Deck-Courtroom A402
Courtroom Deputy: Robin Mason

Parties:

WESTERN CONVENIENCE STORES,
INC., *et al.*,

Plaintiffs/Counter
Defendants/ThirdParty Defendants,

Counsel:

Kathleen E. Craigmile
Kenneth Ronald Bennington
Philip Wayne Bledsoe

v.

SUNCOR ENERGY (U.S.A.) INC., *et al.*,

Defendants/Counter
Claimants/ThirdParty
Plaintiffs/Interested Party.

Anthony J. Shaheen
Christopher Anthony Taravella
Michael Robert McCormick

COURTROOM MINUTES/MINUTE ORDER

HEARING: MOTION HEARING

Court in Session: 1:30 p.m.

Court calls case. Appearances of counsel.

The court addresses the parties regarding the plaintiff's Renewed MOTION for Order to on Motion Challenging Defendant Suncor's and Interested Party Dillon's Designation of Certain Documents and Data as "Highly Confidential" and "Secret" Pursuant to the Supplemental Protective Order (Docket No. 153, filed on 12/18/2012) and the interested parties MOTION to Quash or Modify Kroger and Wilson Subpoenas (Docket No. 159, filed on 1/3/2013).

The court wants to start with the interested parties MOTION to Quash or Modify Kroger and Wilson Subpoenas (Docket No. 159, filed on 1/3/2013).

Mr. Bledsoe presents oral argument and engages in discussion with the court.

Mr. Taravella presents oral argument and engages in discussion with the court.

For reasons as stated on the record,

ORDERED: The court **DENIES AS MOOT** the interested parties MOTION to Quash or Modify Kroger and Wilson Subpoenas (Docket No. 159, filed on 1/3/2013).

The court moves next to the plaintiff's Renewed MOTION for Order to on Motion Challenging Defendant Suncor's and Interested Party Dillon's Designation of Certain Documents and Data as "Highly Confidential" and "Secret" Pursuant to the Supplemental Protective Order (Docket No. 153, filed on 12/18/2012).

Discussion between the court and the parties regarding the calling of witnesses who are present and how the parties interpret the phrase information "derived from".

Ms. Craigmile presents oral argument and engages in discussion with the court.

Mr. Shaheen presents oral argument and engages in discussion with the court.

Mr. Taravella presents oral argument and engages in discussion with the court.

Relevant case law cited by the court.

The court shall take a recess in order to allow the parties to confer with their clients and decide if they will need to call their witnesses who are present.

Court in recess: 2:04 p.m.

Court in session: 2:34 p.m.

Continued discussion between the court and the parties regarding the plaintiff's Renewed MOTION for Order to on Motion Challenging Defendant Suncor's and Interested Party Dillon's Designation of Certain Documents and Data as "Highly Confidential" and "Secret" Pursuant to the Supplemental Protective Order (Docket No. 153, filed on 12/18/2012).

Discussion between the court and plaintiff's counsel regarding the above motion being viewed by the court as a motion for reconsideration, their MOTION for Order to Re-Designate Certain Discovery Material as Confidential Information (Docket No. 59, filed on 5/21/2012), the transcript of the hearing held on September 14, 2012, the transcript of the hearing held on October 11, 2012, and their expert's affidavit. The court informs plaintiff's counsel that it is inclined to give their expert an opportunity to provide a redacted summary.

More relevant case law cited by the court.

Discussion between the court and Mr. Bennington regarding the plaintiff's MOTION for Protective Order (Supplemental) (Docket No.139, filed on 10/16/2012), the SUPPLEMENTAL PROTECTIVE ORDER signed by Magistrate Judge Craig B. Shaffer (Docket No. 140, filed on 10/17/12), Rule 702, Rule 26(c), and related case law.

For reasons as stated on the record (and as supported by case law cited on the record),

ORDERED: The court shall treat this motion like a motion for reconsideration. The court **DENIES** the plaintiff's Renewed MOTION for Order to on Motion Challenging Defendant Suncor's and Interested Party Dillon's Designation of Certain Documents and Data as "Highly Confidential" and "Secret" Pursuant to the Supplemental Protective Order (Docket No. 153, filed on 12/18/2012). The court will not change the designation nor will it require, based on the showing set forth in this motion, that Dillon or Suncor change those designations. The court informs the parties that it feels that the phrase information "derived from" is too broad.

The court encourages and recommends that plaintiff's counsel prepare a redacted version of the report that meets the literal intent and the spirit unlined in the supplemental protective order. Plaintiff's counsel should then provide this redacted report to counsel for Suncor and counsel for Dillon. Once this is done, the parties should have a meet and confer regarding the redacted report to see if any further action is necessary.

The court informs that if someone wants to file an objection to the court's decision, the fourteen days shall start from today's date.

HEARING CONCLUDED.

Court in recess: 3:18 p.m.

Total time in court: 01:18

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