

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Philip A. Brimmer

Civil Action No. 14-cv-01734-PAB-NYW

PATRICIA SCHNIEDWIND,

Plaintiff,

v.

AMERICAN FAMILY MUTUAL INSURANCE COMPANY,

Defendant.

**ORDER REGARDING DEFENDANT'S OBJECTIONS TO PLAINTIFF'S
INITIAL DESIGNATION OF DEPOSITION TESTIMONY OF AMERICAN
FAMILY MUTUAL INSURANCE COMPANY'S 30(b)(6) REPRESENTATIVE,
KENNETH RAY CAUDILL**

This matter comes before the Court on Defendant's Objections to Plaintiff's Initial Designation of Deposition Testimony of American Family Mutual Insurance Company's 30(B)(6) Representative, Kenneth Ray Caudill [Docket No. 65]. The Court rules as follows on defendant's objections:

Item #	Testimony	Objection	Ruling
1	5:7-21	No objection.	
2	6:3-7	No objection.	
3	8:11-17 (starting with "what was...")	No objection.	
4	13:25-14:19	No objection.	

Item #	Testimony	Objection	Ruling
5	15:18-24	No objection.	
6	18:16-19:3	No objection if 16:23-18:14 are included. The deponent was responding to Plaintiff's counsel's prior posed question which limited the response testimony identified by Plaintiff. It would be irrelevant, a misstatement of deponent's testimony, and highly prejudicial to Defendant to not allow the prior testimony clarifying the Deponent's statement/response.	No ruling is necessary since 16:23 to 18:14 have been designated by defendant without objection.
7	19:5-19:14	No objection if 19:22-20:2 are included. The deponent clarified Plaintiff's counsel's posed question. It would be irrelevant, a misstatement of deponent's testimony, and highly prejudicial to Defendant to not allow the testimony clarifying the Deponent's statement	No ruling is necessary since 19:22 to 20:2 have been designated by defendant without objection.
8	21:6-11 (starting with "A reasonable...")	No objection.	
9	22:9-22:18	Objection. This testimony refers to an exhibit for which no prior foundation has been identified.	Overruled. The witness acknowledged familiarity.
10	22:21-23:1	Objection. This testimony refers to an exhibit for which no prior foundation has been identified.	Overruled. The testimony does not refer to an exhibit.
11	23:3	Objection. This testimony refers to an exhibit for which no prior foundation has been identified.	Overruled. The testimony does not refer to an exhibit.
12	24:14-16	No objection.	
13	24:23-25:7	No objection.	

Item #	Testimony	Objection	Ruling
14	25:9-25:13	No objection.	
15	26:15-27:2	No objection.	
16	27:5-27:7	No objection.	
17	28:21-24	No objection.	
18	30:2-7 (starting with "Wouldn't you")	Objection, the testimony identified only indicates a question. This appears to be a mistaken identification of transcript testimony.	The objection is based on plaintiff's mistaken reference to "31:10" instead of "30:10." Overruled.
19	31:10-30:14 [30:10-30:14]	Objection, the testimony as identified does not follow any order and would seem to be a misidentification of the testimony intended to be identified.	Construing the intended designation as "30:10-30:14," overruled.
20	30:16-17	Objection, the testimony as identified is only an answer with no question, or prior questions, identified. This appears to be a mistaken identification of transcript testimony.	Construing the intended designation as "30:10-30:14," overruled.
21	31:24-32:14	No objection.	
22	32:16-32:24	No objection.	
23	33:1-33:8	No objection.	
24	33:10-33:23	No objection.	
25	34:2-34:13	No objection.	
26	34:15-34:22	No objection.	
27	34:24-35:10	No objection.	
28	35:12	No objection.	
29	45:12-46:14	Objection, form and foundation. The testimony and questions posed by Plaintiff's counsel to deponent concern what Plaintiff's counsel claims it has received. There is no foundation for the questions. No objection to 46:12-14 as long as the answer to the question is included, 46:17-23.	As to 45:12 to 45:25, overruled. As to 46:1 to 46:11, sustained. Irrelevant. As to 46:12-14, overruled. Defendant has designated 46:17 to 46:23, and plaintiff's objection has been overruled.

Item #	Testimony	Objection	Ruling
30	46:17-14:23	No objection.	
31	46:24-47:21 (starting with "That's not")	Foundation. Plaintiff's counsel's question is argumentative regarding hypothetical stucco repair due to window damage.	Overruled.
32	47:23-48:3	See objection to 31 above.	Overruled.
33	49:18-50:1	Objection, as this testimony refers to an exhibit that is not been identified. To the extent that foundation for the exhibit is demonstrated and the exhibit is found to be admissible, no objection as long as 50:6-17 is included.	Overruled.
34	50:3-20	No objection.	
35	50:6-20	No objection.	
36	52:7-10 (ending with "No.")	Objection. Plaintiff's counsel omits part of deponent's answer, 52:10-12 and further omits the prior question and answer, 52:2 and 52:4-5 which is an attempt to misstate deponent's testimony.	Sustained.
37	55:5-12	No objection.	
38	55:14-56:1	No objection.	
39	58:19-59:4	No objection.	
40	59:6-59:12	No objection.	
41	59:14-17	No objection.	
42	59:19-60:1	No objection.	
43	60:3-60:10	No objection.	
44	60:19-61:3	No objection.	
45	61:6-61:12	No objection.	
46	61:14-23	No objection.	
47	61:25	No objection.	
48	62:2-63:6	Objection. Relevance and lack of foundation.	As to 62:2 to 62:20, overruled. As to 62:21 to 63:6, sustained since it is a question not answered until 63:11-18.

49	63:8-63.9 (ending with "absolutely")	Objection. Relevance and lack of foundation. Further, Plaintiff seeks to leave out deponent's answer from 63:9-18.	Sustained as to incompleteness.
50	64:16-64:20	Objection. Deponent clarified this answer with his response to Plaintiff's counsel's next questions, 64:21-65-1. It would be irrelevant, a misstatement of deponent's testimony and highly prejudicial to Defendant to not allow the testimony clarifying Defendant's statement.	Overruled.
51	66:20-67:7	No objection.	
52	67:11-67:21	Objection, form and lacks proper foundation.	Sustained. No foundation.
53	67:25-68:1	See objection to 52. Further, Deponent clarified this answer with his response to Plaintiff's counsel's next questions, 68:2-69-5. It would be irrelevant, a misstatement of deponent's testimony and highly prejudicial to Defendant to not allow the testimony clarifying Defendant's statement.	Sustained. No foundation.
54	70:2-70:7	Objection, foundation.	As to 70:2 to 70:5, overruled. As to 70:6 to 70:10, sustained. No foundation.
55	70:10-71:16	Objection, form, hearsay, and foundation. Plaintiff's counsel's questions refer to an exhibit that has not yet been admitted into evidence.	Conditionally sustained. 70:12 to 71:8 may not be played until the exhibit has been admitted.
56	72:14	Objection, no question is identified and this would appear to be a misidentification of transcript testimony.	Sustained.

57	73:2-73:25	Objection, form of question is compound and improper, re "yada, yadda, yadda."	As to 73:2 to 78:18, overruled. Moreover, objection waived for lack of contemporaneous objection. As to 73:19 to 74:7, overruled.
58	74:3-74:18	Objection, form of question, argumentative, irrelevant, and lacks foundation.	As to 74:3 to 74:7, see ruling above. As to 74:8 to 74:18, sustained. Compound.
59	74:21-74:22	See objections to 58.	Sustained. Question refers to compound questions.
60	77:21-78-1	No objection.	
61	78:3-5	No objection.	
62	78:9-78:20	No objection.	
63	78:23-24	No objection.	
64	79:2-79:16	No objection.	
65	79:18-80:4	No objection.	
66	80:5-80:12 (starting with "that's not")	Objection, hearsay, form of question, argumentative, irrelevant, and lacks foundation.	As to 80:5 to 80:10, sustained. As to 80:11 to 80:12, overruled.
67	80:14-80:23	See objections to 66.	Overruled.
68	80:25	See objections 66, also this identification is only a portion of an answer.	Overruled.
69	81:10-14	No objection.	
70	82:7-84:1	Objection, hearsay, form and foundation. Plaintiff's counsel's question is argumentative, misstates prior testimony and lacks foundation.	As to 82:7 to 83:16, overruled. As to 83:17 to 84:1, sustained. Hearsay and argumentative.
71	84:3-24	See objections to 70.	As to 84:3 to 84:8, sustained. As to 84:9 to 84:20, overruled. As to 84:21 to 85:14, sustained. Argumentative and hearsay.
72	85:1-85:9	See objections to 70.	See previous ruling.

73	85:13-86:1	See objections to 70.	As to 85:15 to 86:1, overruled.
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DATED January 13, 2016.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge