

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

OFFSHORE MARINE CONTRACTORS, INC. CIVIL ACTION

VERSUS NO: 10-4151

PALM ENERGY OFFSHORE, L.L.C. ET AL. SECTION: R

ORDER

Plaintiff Offshore Marine Contractors, Inc. moves to exclude as inadmissible hearsay the draft report of Tim Anselmi, whom Chet Morrison Well Services, LLC and Chet Morrison Contractors, LLC (collectively "Chet Morrison") attempt to offer as a witness. The Court resolved this issue at the pre-trial conference but will reiterate its determination in light of the misrepresentations in Chet Morrison's opposition memorandum.

In continuing the trial, the Court entered a revised scheduling order, which set April 1, 2013 as the date by which to tender expert reports and a list of witnesses and exhibits.¹ Chet Morrison did not list Mr. Anselmi as a witness but listed his report as an exhibit.² On May 2, 2013, Chet Morrison filed a motion, mislabeled as ex parte, for leave to amend its witness

¹ R. Doc. 139.

² R. Doc. 166.

list and to add, among others, Mr. Anselmi as an expert.³ The Court denied the motion as untimely,⁴ and thus Mr. Anselmi is not properly listed as a witness.

Accordingly, contrary to Chet Morrison's assertion, Mr. Anselmi will *not* be permitted to testify at trial, as plainly stated by the Court during the pre-trial conference in rejecting Chet Morrison's contention that the inclusion on its witness list of any witnesses "necessary to authenticate any document" or "identified through subsequent discovery"⁵ cured its failure to identify Mr. Anselmi as a witness. Therefore, the introduction of Mr. Anselmi's draft report at trial represents inadmissible hearsay. See Fed. R. Evid. 801(c). The Court thus GRANTS plaintiff's motion to exclude the draft expert report of Mr. Anselmi. The Court also notes that further misrepresentations on the part of Chet Morrison's counsel will be met with sanctions.

New Orleans, Louisiana, this 17th day of June, 2013.



SARAH S. VANCE
UNITED STATES DISTRICT JUDGE

³ R. Doc. 191.

⁴ R. Doc. 198.

⁵ R. Doc. 166.