

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

JACKALENE ROSA JOHNSON and DAWAN RENE
EVERY

CIVIL ACTION

VERSUS

NO. 14-2369

CITY OF THIBODAUX, ET AL.

SECTION A(2)

ORDER AND REASONS

Before the Court is Defendants' **Motion in Limine Requesting Ruling on Objections During Trial Deposition of Dr. Christopher Cenac, Sr. (Rec. Doc. 123)**. Plaintiffs oppose Defendants' Motion (**Rec. Doc. 135**). Trial on this matter is set to begin on October 3, 2016 at 8:30 a.m. The Court rules as follows;

I. Plaintiffs' Memorandum in Opposition to Defendants' Motion in Limine

The Court denies Plaintiffs' objection to the entire deposition of Dr. Cenac. As to what the Court perceives to be the specific objections by Plaintiffs, the Court rules as follows: Plaintiffs' objections to Dr. Cenac's testimony on Page 51, Lines 20-25 and Page 52 Lines 1-3, as being outside Dr. Cenac's area of expertise, are overruled.

All other objections are overlybroad and do not comply with the Court's pre-trial order.

II. Defendants' Motion in Limine

a. Plaintiffs' Objections

1. Plaintiffs' Hearsay Objections

The following hearsay objections made by Plaintiffs are overruled:

- Page 62, line 11 - Page 65, line 8;
- Page 72, line 20 – Page 77, line 13;
- Page 81, line 5-line 13;

- Page 83, line 14 – Page 85, line 20;
- Page 130, lines 8-13; and
- Page 131, lines 11-14.

Experts are allowed to rely on documents, which would otherwise be inadmissible, in forming their opinions. See Fed. R. Evid. 703 advisory committee's notes to 1972 Proposed Rules and 2000 Amendments. Therefore, all testimony that the plaintiffs objected to as hearsay in the lines designated above is admissible in Dr. Cenac's video testimony for trial.

2. Plaintiffs' Objections to Dr. Cenac's Testimony as Outside His Field of Expertise

The following objection made by Plaintiffs to Dr. Cenac's testimony as being outside his expertise is overruled:

- Page 52, line 4 – Page 55, line 9.

The following objection made by Plaintiffs to Dr. Cenac's testimony is sustained and the following shall be excluded:

- Page 59, line 9¹ – Page 60, line 13.

Further, the language contained on Page 55, lines 15-20 shall be excluded.

Therefore, only the testimony from Page 55, lines 15-20 and from Page 59, line 9 – Page 60, line 13 shall be excluded from Dr. Cenac's video testimony for trial.

b. Defendants' Objections

1. Porteous Objections

The following objections made by Defendants to Dr. Cenac's testimony about an alleged connection to former Judge Thomas Porteous as being irrelevant are sustained:

- Page 27, line 20 – Page 33, line 16;
- Page 88, line 13 – Page 92, line 22.

¹ The Court notes that Defendants requested more testimony be removed from Dr. Cenac's testimony but found it more appropriate to exclude testimony beginning from Page 59, line 9 rather than page 58, line 13.

Therefore, verbage from Page 27, line 20 – Page 33, line 16 and Page 88, line 13 – Page 92, line 22 shall be excluded from Dr. Cenac’s video testimony for trial because it is irrelevant, and not based on facts shown.

2. Questions That May Confuse the Jury

The following objections made by Defendants to Plaintiffs’ line of questioning about the phrase “take your tortfeasors as you find them” are sustained:

Page 107, line 14 – Page 109, line 20.

Therefore, testimony from Page 107, line 14 – Page 109, line 20 shall be excluded from Dr. Cenac’s video testimony for trial.

3. Asked and Answered

The following objections made by Defendants to questions that were previously asked and answered are sustained:

- Page 119, line 11 – Page 120, line 25;
- Page 124, lines 11-22.

Therefore, testimony and verbiage from Page 119, line 11 – Page 120, line 25 and Page 124, lines 11-22 shall be excluded from Dr. Cenac’s video testimony for trial.

c. Other Discussions and Testimony That Should Be Removed

1. Testimony About Plaintiffs’ Truthfulness

The following testimony and verbiage shall be removed from Dr. Cenac’s video testimony for trial in order to comply with a prior Court order:

- Page 14, line 19 – Page 16, line 2;
- Page 97, line 3 – Page 101, line 17;
- Page 111, line 5 – Page 116, line 8;

- Page 121, line 24² – Page 122, line 20; and
- Page 125, line 9 – Page 126, line 7.

This Court previously ordered that Dr. Cenac shall not testify as to his observations of Plaintiffs' truthfulness to other doctors or law enforcement. (Rec. Doc. 95, Pg. 2). Therefore, testimony and verbiage from Page 14, line 19 – Page 16, line 2; Page 97, line 3 – Page 101, line 17; Page 111, line 5 – Page 116, line 8; Page 121, line 24 – Page 122, line 20; and Page 125, line 9 – Page 126, line 7 shall be excluded from Dr. Cenac's video testimony for trial.

2. Irrelevant Discussions

The following testimony and verbiage shall be removed from Dr. Cenac's video testimony for trial because it is irrelevant:

- Page 17, line 19 – Page 18, line 22;
- Page 25, line 5-line 12;
- Page 27, lines 3-7;
- Page 49, line 15 – Page 50, line 23; and
- Page 127, line 11 – Page 128, line 20.

Therefore, testimony and verbiage from Page 17, line 19 – Page 18, line 22; Page 25, line 5-line 12; Page 27, lines 3-7; Page 49, line 15 – Page 50, line 23; and Page 127, line 11 – Page 128, line 20 shall be excluded from Dr. Cenac's video testimony for trial.

3. Requests to Allow Dr. Cenac to Answer the Question

The following testimony and verbiage shall be removed from Dr. Cenac's video testimony for trial:

- Page 36, line 21 – Page 37, line 17
- Page 38, line 11 – Page 39, line 5;

² The Court notes that Defendants requested fewer lines be removed from Dr. Cenac's testimony but found it more appropriate to exclude testimony beginning from page 121, line 24 rather than page 122, line 2.

- Page 44, lines 4- 22;
- Page 56, lines 12-16;
- Page 103, lines 7-23; and
- Page 104, lines 10-24.

Therefore, testimony and verbiage from Page 36, line 21 – Page 37, line 17; Page 38, line 11 – Page 39, line 5; Page 44, lines 4- 22; Page 56, lines 12-16; Page 103, lines 7-23; and Page 104, lines 10-24 shall be excluded from Dr. Cenac’s video testimony for trial.

4. Objections Defendants Agree to Withdraw

The following verbiage shall be removed from Dr. Cenac’s video testimony for trial as objections that Defendants have agreed to withdraw:

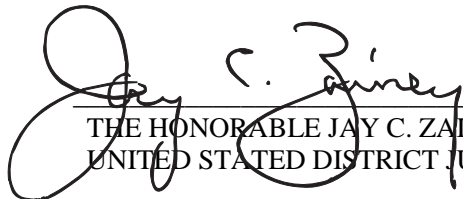
- Page 125, line 4;
- Page 126, lines 15-17; and
- Page 126, lines 23-24.

Therefore, verbiage from Page 125, line 4; Page 126, lines 15-17; and Page 126, lines 23-24 shall be deleted from Dr. Cenac’s video testimony for trial.

Accordingly;

IT IS ORDERED that Defendants’ **Motion in Limine Requesting Ruling on Objections During Trial Deposition of Dr. Christopher Cenac, Sr. (Rec. Doc. 123)** is **GRANTED** as explained herein above.

New Orleans, Louisiana, September 27, 2016


 THE HONORABLE JAY C. ZAINERY
 UNITED STATES DISTRICT JUDGE