

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

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CUDD PUMPING SERVICES, INC.

CIVIL ACTION NO. 11-cv-1913

VERSUS

JUDGE ELIZABETH ERNY FOOTE

COASTAL CHEMICAL CO., LLC et al

MAGISTRATE JUDGE MARK HORNSBY

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ORDER

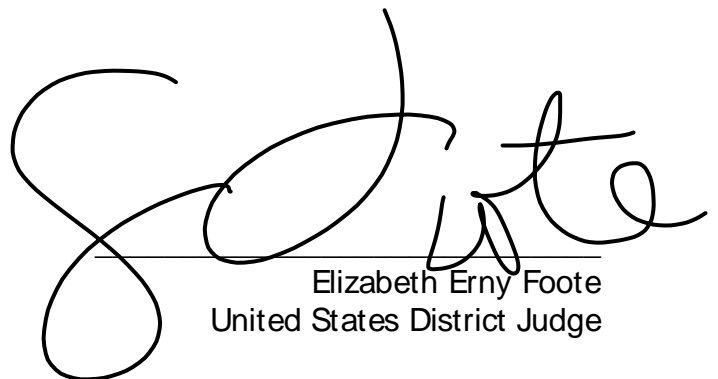

Before the Court are the following two motions, both filed by Plaintiff Cudd Pumping Services Inc. (“Cudd”): Motion in Limine to Limit the Testimony of Coastal's Expert Derek Nolen [Record Document 45] and Motion in Limine to Limit the Testimony of Coastal's Expert Nestor J. Camara [Record Document 46]. Coastal Chemical Co., L.L.C. (“Coastal”) filed a response to each motion [Record Documents 62 and 60, respectively], and Cudd likewise filed replies to each [Record Documents 76 and 78, respectively].

Collectively, the two motions seek to limit the testimony of Coastal's experts, by asking the Court to act as the pretrial arbiter of potentially conflicting opinions, which should more properly be weighed by the finder of fact at trial. As the Supreme Court acknowledged in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 596 (1993), the district court's role as a gatekeeper does not replace the traditional adversary system and the place of the jury within the system. “Vigorous cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof are the traditional and appropriate means of attacking shaky but

admissible evidence.” *Id.* In determining the admissibility of expert testimony, the Fifth Circuit has added that a district court must defer to “the jury’s role as the proper arbiter of disputes between conflicting opinions.” *United States v. 14.38 Acres of Land, More or Less Situated in Leflore County, Miss.*, 80 F.3d 1074, 1077 (5th Cir. 1996) (quoting *Viterbo v. Dow Chemical Co.*, 826 F.2d 420, 422 (5th Cir. 1987)). “As a general rule, questions relating to the bases and sources of an expert’s opinion affect the weight to be assigned that opinion rather than its admissibility and should be left for the jury’s consideration.” *Id.*

Upon due consideration, the Court finds that each of these motions seeks to unnecessarily limit the opinion of a Coastal expert prior to trial. Counsel for Cudd should pursue the underlying arguments via the traditional mechanisms of the adversary system during trial. Therefore, the Court hereby DENIES the motions [Record Documents 45 and 46].

THUS DONE AND SIGNED in Shreveport, Louisiana this 9<sup>th</sup> day of September, 2014.



Elizabeth Erny Foote  
United States District Judge