

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

JOHN WECKESSER and	§	
BARBRA WECKESSER	§	PLAINTIFFS
	§	
v.	§	CIVIL ACTION NO. 1:08CV357-LG-RHW
	§	
CHICAGO BRIDGE AND IRON; L.G.	§	
BARCUS AND SONS INC.; A.J.	§	
HOLLOWAY; and CITY OF BILOXI	§	DEFENDANTS

ORDER GRANTING MOTION TO STRIKE AND/OR EXCLUDE WITNESSES

BEFORE THE COURT is the Motion to Strike and/or Exclude Witnesses [131] filed by Chicago Bridge and Iron (“CB&I”). The plaintiffs have not responded to the Motion. Upon reviewing the Motion and the applicable law, the Court finds that the Motion should be granted.

DISCUSSION

This lawsuit arises out of the construction of a water tower by the defendants, which allegedly caused damage to the plaintiffs’ property. On May 5, 2009, the plaintiffs included CB&I’s counsel of record, Richard E. King and Matthew J. Lindsay, in their Supplement to Witness List. The plaintiffs stated that they wished to call these attorneys as representatives of Zurich Insurance Company to testify regarding: the reasons why all discovery responses should be addressed to Mr. Lindsay in the care of CB&I’s Texas address; Mr. King’s knowledge regarding why it took three to four months for Zurich to send its adjuster; Mr. King’s knowledge regarding the law and/or authority that allows an insurance company to set the wages and/or costs of independent contractors; and Mr. King’s knowledge concerning the law that permits an insurance company to set the limit of overhead at ten percent, to set the limit of profit at ten percent, and then deduct fifteen percent for depreciation. CB&I has filed a Motion seeking to

prevent the plaintiffs from calling its attorneys as witnesses at trial.

The Court finds that CB&I's Motion should be granted. Zurich is not a party to this lawsuit, and the attorneys at issue have not made an appearance in this lawsuit on behalf of Zurich. None of the allegations in the plaintiffs' Complaint or Amended Complaint concern Zurich or its handling of the investigation of the plaintiffs' claims that their home was damaged. Additionally, the address where discovery responses are sent is irrelevant to the issue of whether the plaintiffs' home was damaged by the defendants' conduct. As a result, the topics on which the plaintiffs wish to question these attorneys are irrelevant to this lawsuit. Therefore, CB&I's Motion to Exclude King and Lindsay as witnesses is granted.

IT IS THEREFORE ORDERED AND ADJUDGED that Motion to Strike and/or Exclude Witnesses [131] filed by Chicago Bridge and Iron is **GRANTED**. The plaintiffs will not be permitted to call Richard E. King or Matthew J. Lindsay as witnesses.

SO ORDERED AND ADJUDGED this the 15th day of September, 2009.

s/ Louis Guirola, Jr.
Louis Guirola, Jr.
United States District Judge