

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

MID-MISSOURI WASTE SYSTEMS, LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	No. 07-233-CV-W-FJG
	)	
LAFARGE NORTH AMERICA, INC.,	)	
	)	
Defendant.	)	

**ORDER**

**James D. Menefee – November 11, 2008**  
**Plaintiff's Objections**

<b>Defendant's Designations</b>	<b>Mid-Missouri's Objection(s)</b>	<b>Ruling</b>
<b><u>Page Line(s)</u> <u>Page Line(s)</u></b>		
11 22      12 4	Non-responsive, foundation, speculation.	Overruled
19 1-2	Only a question designated, no answer.	Sustained
22 6-25	Foundation, speculation.	Sustained
23 24      24 4	Leading, foundation.	Sustained
24 22      25 8	Foundation, speculation.	Overruled
30 14      31 22	Foundation, speculation.	Overruled
59 12-15	Foundation, speculation.	Sustained
59 18-22	Foundation, speculation.	Sustained
67 3-8	Foundation, calls for legal conclusion.	Overruled
67 11-16	Foundation, calls for legal conclusion.	Overruled
67 19-21	Foundation, calls for legal conclusion.	Overruled

67 24	68 2	Foundation, calls for legal conclusion.	Overruled
68 6-7		Foundation, calls for legal conclusion.	Overruled
71 3-6		No question pending/designated.	Overruled
86 3-4		Witness never answered this question.	Overruled
89 11-13		Answer not designated.	Sustained
92 7-10		Relevance.	Sustained

**James Menefee - November 12, 2008**  
**Defendant's Objections**

**Plaintiff's Designations**

P Line(s) P Line(s)  
20 12-14

**Lafarge's Objection(s)**

Object: Relevance: 1997 is pre MMWS's involvement testimony regarding an alleged breach in 1997 is irrelevant to the current litigation. Furthermore, Mr. Menefee was unable to recall if he ever told Lafarge that they were in breach. There has been no testimony presented or documents produced to evidence that he notified them of a breach. Menefee never claimed that Lafarge was in breach.

**Ruling**

Sustained

20 16            21 3

Object: Relevance: 1997 is pre MMWS's involvement testimony regarding an alleged breach in 1997 is irrelevant to the current litigation. Furthermore, Mr. Menefee was unable to recall if he ever told Lafarge that they were in breach. There has been no testimony presented or documents produced to evidence that he notified them of a breach. Menefee never claimed that Lafarge was in breach.

Sustained

44 23            45 1

Objection: Witness didn't understand the question as he testify to later. Objection to form of question, lack of foundation.

Overruled

66 21	67 2	Objection to form as to what does “okay” mean. Answer isn’t responsive to the question, it’s argumentative and is unsupported by the facts and testimony in this matter. Objection as to relevance.	Overruled
79 16-18		Objection: Mis-states the testimony and evidence in this matter.	Sustained
80 5-20		Objection: Mis-states the testimony and evidence in this matter.	Sustained

**Jane Witheridge – November 24, 2008**  
**Plaintiff's Objections**

<b>Defendant's Designations</b>		<b><u>Mid-Missouri's Objection(s)</u></b>	<b><u>Ruling</u></b>
<b><u>Page Line(s)</u></b>	<b><u>Page Line(s)</u></b>		
23 16	24 4	Foundation, speculation, relevance.	Sustained
24 7-18		Foundation, speculation, relevance.	Sustained
37 5-6		Answer to question is not designated.	Sustained
37 11		Question is not designated.	Sustained
40 12-20		Foundation, speculation.	Overruled
41 14-16		No answer to question posed.	Overruled
41 18	44 1	Foundation, speculation.	Overruled
52 3-7		Question is vague and confusing. Foundation, speculation.	Overruled
52 15-17		Question is vague and confusing. Foundation, speculation.	Overruled
65 14	66 15	Foundation, speculation, hearsay.	Overruled
81 3-9		Foundation, speculation, relevance.	Sustained
81 15	82 9	Foundation, speculation, relevance.	Sustained
82 14	84 19	Foundation, speculation, hearsay, vague and ambiguous question.	Overruled
85 14	86 15	Foundation, speculation, hearsay, leading.	Overruled
87 13-16		Foundation, speculation, hearsay, leading.	Overruled
87 20	88 14	Foundation, speculation, hearsay, leading.	Overruled
88 20	90 3	Foundation, speculation, hearsay, leading.	Overruled
94 4	95 2	Foundation, speculation, vague and ambiguous, no question designated.	Sustained
106 18	107 4	Foundation, speculation.	Sustained

<b>Defendant's Designations</b>		<b>Mid-Missouri's Objection(s)</b>	<b>Ruling</b>	
<b>Page</b>	<b>Line(s)</b>			
111	14	114 5	Vague and confusing questions, foundation, speculation, narrative answer.	Overruled
120	14-22		Relevance.	Sustained
122	24	123 13	Foundation, speculation, no answer designated.	Sustained
124	2	125 5	Foundation, speculation, vague and confusing questions, leading.	Sustained
135	16	136 6	Foundation, speculation.	Sustained
152	15-17		Vague and ambiguous question, foundation, speculation.	Overruled
152	20	153 3	Vague and ambiguous question, foundation, speculation.	Overruled
153	16	154 1	Foundation, speculation, hearsay.	Overruled
154	5-14		Foundation, speculation, hearsay.	Overruled
160	4-18		Foundation, speculation.	Overruled
160	22	162 10	Foundation, speculation, hearsay.	Overruled
200	13	201 16	Foundation, speculation.	Overruled
201	18	202 2	Foundation, speculation.	Overruled

**Jane Witheridge - November 24, 2008**  
**Defendant's Objections**

<b><u>Plaintiff's Designations</u></b>		<b><u>Lafarge's Objection(s)</u></b>	<b><u>Ruling</u></b>
P Line(s)	P Line(s)		
55 15	56 5	Objection: Calls for a legal conclusion.	Sustained
65 4-5		Objection. Answer is not designated.	Overruled
176 14-22		Objection: Calls for a legal conclusion. Lack of foundation. Object to Form. Compound.	Sustained
177 4-13		Objection: Calls for a legal conclusion. Lack of foundation. Object to Form. Compound.	Sustained
178 10-24		Objection: Form. Compound. Lack of foundation. Vague. Ambiguous.	Sustained
179 2-8		Objection, calls for a legal conclusion, lack of foundation.	Sustained
179 9-16		Object to Form-Compound. Seeks a legal conclusion.	Sustained
179 23	180 14	Objection: Form. Compound. Lack of foundation. Calls for a legal conclusion. Mis-states witnesses prior testimony. Questioning on re-direct is also leading, coaching.	Overruled
180 12	181 2	Objection: Compound. Mis-states prior testimony. Leading, coaching. Seeks legal conclusion as to whether those activities constitute mining.	Overruled
181 13	185 6	Objection: Calls for a legal conclusion. Compound. Mis-states prior testimony. Calls for speculation and use of a hypothetical.	Sustained
185 7	185 19	Objection: Form. Compound. Calls for speculation. Uses a hypothetical and calls for speculation. Seeks a legal conclusion.	Sustained

<u>Plaintiff's Designations</u>		<u>Lafarge's Objection(s)</u>	<u>Ruling</u>
P Line(s)	P Line(s)		
185 20	186 9	Objection: Form. Compound. Lack of foundation.	Sustained
186 16-24		Objection: Mis-states the contents of the document. Lack of foundation.	Overruled
187 3-11		Objection: Lack of foundation, object to form-compound.	Overruled
187 12	188 3	Objection: Seeks a legal conclusion, lack of foundation, object to form. Compound.	Sustained
188 20	189 10	Objection: Form. Vague. Ambiguous. Doesn't define what he means by use of the term "concern."	Overruled
189 22	190 7	Objection: Form. Vague. Ambiguous. Doesn't define what he means by use of the term "concern."	Overruled
189 11-15		Objection, is seeking expert testimony.	Sustained
189 22	190 7	Objection: Form-compound. Calls for speculation. Lack of foundation.	Overruled
191 5-13		Objection: Calls for a legal conclusion. Form. Leading.	Sustained
195 24	196 24	Objection: Form. Leading. Mis-states the contents of the document. Seeks a legal conclusion. Lack of foundation.	Sustained
197 22	200 8	Objection: Mis-states the contents of the document. Form-leading questions on direct exam. Calls for a hypothetical and speculation. Seeks a legal conclusion.	Sustained

Date: 5/15/09  
Kansas City, Missouri

**S/ FERNANDO J. GAITAN, JR.**  
Fernando J. Gaitan, Jr.  
Chief United States District Judge