

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

DEBRA S. WALL

Plaintiff,

v.

JENNIFER L. BASCOMBE,

Defendant.

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No. 09-0674-CV-W-FJG

ORDER

Before the Court are plaintiff's objections to defendant's deposition designations (Doc. No. 67) and plaintiff's amended objections to defendant's deposition designations (Doc. No. 86). The Court rules as follows:

PLAINTIFF'S SPECIFIC OBJECTIONS TO DR. CLYMER'S TESTIMONY

PROPOSED DESIGNATION

OBJECTION

21:24-25

No answer designated.

RULING: Overruled.

22:11-18

Hearsay and expert testimony, Dr. Clymer is reading another doctor's notes, nothing establishes his reliance in furtherance of Mrs. Wall's treatment.

RULING: Overruled.

23:22 - 24:5

Foundation, compound, no answer, hearsay, relevance, expert testimony, prejudice outweighs probative value.

RULING: Sustained.

24:10 - 25:3

Expert testimony, relevance.

RULING: Overruled.

25:4 - 26:17	Expert testimony, hearsay. RULING: <u>Overruled.</u>
26:18 - 27:15	Expert testimony. RULING: <u>Sustained.</u>
27:20 - 29:12	Expert testimony, hearsay, speculation. RULING: <u>Overruled.</u>
30:7-14	Expert testimony, foundation, not related to treatment, see p. 15:21 - 16:5. RULING: <u>Sustained.</u>
30:15 - 32:2	Expert testimony, hearsay, foundation. RULING: <u>Sustained.</u>
32:3 - 33:9	Expert testimony, hearsay, foundation: Dr. Clymer is opining about a record he never saw prior to deposition. RULING: <u>Sustained.</u>
33:11 - 36:9	Expert testimony, hearsay. RULING: <u>Sustained in part as to 35:3-25 and 36:1-9. Otherwise overruled.</u>
36:22 - 37:15	Expert testimony, foundation. RULING: <u>Sustained.</u>
38:21 - 39:1	Expert testimony. RULING: <u>Sustained.</u>
39:2 - 10	Expert testimony, relevance, prejudice outweighs probative value. RULING: <u>Sustained.</u>

39:17 - 24	Expert testimony. RULING: <u>Sustained.</u>
46:4 - 7	Hearsay. RULING: <u>Overruled.</u>
47:15 - 20	Relevance, prejudicial effect outweighs probative value, cumulative. RULING: <u>Sustained.</u>
49:11 - 50:6	Hearsay, prejudicial effect outweighs probative value - see pp. 69:1 - 70:20. RULING: <u>Overruled.</u>
50:23 - 25	Incomplete question, no answer. RULING: <u>Overruled.</u>
52:14 - 53:8	Expert testimony, foundation. RULING: <u>Sustained.</u>
55:6 - 13	Expert testimony, relevance, prejudicial effect outweighs probative value. RULING: <u>Sustained.</u>
58:13 - 59:8	Expert testimony, foundation. RULING: <u>Sustained.</u>
59:9-13	Expert testimony, speculation, foundation, prejudicial effect outweighs probative value. RULING: <u>Sustained.</u>
70:6 - 11	No question, incomplete answer. RULING: <u>Sustained.</u>

72:7 - 73:2

Expert testimony, collateral source rule, prejudicial effect outweighs probative value.

RULING: This appears to have already been ruled by the Court's order on motions in limine (Doc. No. 97); the proposed testimony is prohibited by the collateral source rule.

73:3 - 20

Expert testimony, hearsay.

RULING: Sustained.

73:21 - 76:7

Expert testimony, speculation.

RULING: Sustained.

76:21 - 24

Cumulative.

RULING: Sustained.

76:25 - 77:1

Expert testimony, speculation.

RULING: Sustained.

78:13 - 19

Relevance, prejudicial effect outweighs probative value, cumulative.

RULING: Sustained.

81:5 - 13

Relevance, prejudicial effect outweighs probative value.

RULING: Overruled.

IT IS SO ORDERED.

/s/Fernando J. Gaitan, Jr.
Fernando J. Gaitan, Jr.
Chief United States District Judge

Dated: 01/10/11
Kansas City, Missouri