

IN THE UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF NEBRASKA

BOBBY DAVIS, BRENDA DAVIS,	)	
and GEOFFREY DAVIS,	)	
	)	
Plaintiffs,	)	8:11CV69
	)	
v.	)	
	)	
BAMFORD, INC., and	)	ORDER
NANCY MARET PACKER, Personal	)	
Representative of the ESTATE	)	
OF MICHAEL PACKER,	)	
	)	
Defendants.	)	
	)	

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This matter is before the Court upon plaintiffs' objections to defendants' page-line deposition transcript designations, requesting a ruling on videotape depositions taken for use at trial (Filing No. 152). The Court has also taken into account defendants' amended list of deposition testimony to be offered at trial, submitted following the Court's order on plaintiffs' motion for partial summary judgment (Filing No. 182). Following are the Court's rulings on objections asserted by plaintiffs.

**Deposition of Shannon Shipp.**

Page 59, line 25- page 60, line 6. Includes objection language; repetitive - asked and answered. Overruled.

Page 62, line 1-14. Includes objection language; improper form and foundation. Overruled.

Page 62, line 15 - page 63, line 7. Includes objection language; improper form and foundation. Overruled.

Page 64, lines 5-13. Includes objection language; improper form and foundation. Overruled.

Page 65, lines 5-10. Includes objection language; improper form and foundation. Overruled.

Page 66, lines 13-19. Includes objection language; improper form and foundation. Sustained; the Court strikes page 66, lines 13-19.

Page 73, line 18 - page 74, line 3. Includes objection language; improper form and foundation. Overruled.

**Deposition of Dr. Richard Bevan Thomas.**

Page 35, lines 18-23. Form, foundation; lack of proper prejudice. Sustained to the extent that the Court strikes page 35, lines 18-20; otherwise overruled.

Page 35, line 24 - page 36, line 2. Relevance; no question and answer. Sustained; the Court strikes page 35, line 24 - page 36, line 2.

Page 38, lines 11-25. Relevance; no question and answer. Sustained to the extent that the Court strikes page 38, line 11 to the first half of line 23; otherwise overruled.

Page 56, lines 18-22. Relevance. Sustained to the extent that the Court strikes page 56, line 18 to the first half of line 21; otherwise overruled.

**Deposition of Dr. Charles Banta**

Page 63, lines 13-15. Foundation; counsel testifying; no answer to question. Sustained; the Court strikes pages 63, lines 13-15.

Page 63, lines 16-24. Repetitive- asked and answered. Overruled.

Page 64, lines 2-16. Repetitive- asked and answered. Overruled.

Page 65, lines 5-10. Repetitive- asked and answered. Overruled.

Page 66, lines 2-21. Repetitive- asked and answered. Overruled.

Page 66, line 22 - page 67, line 15. Relevance; Davis does not smoke. Sustained; the Court strikes page 66, line 22 - page 67, line 15.

Page 67, line 16 - page 68, line 14. Repetitive- asked and answered. Overruled.

Page 83, line 18 - page 84, line 25. Repetitive- asked and answered. Overruled.

Page 85, lines 1-2. Relevance. Overruled.

Page 85, lines 3-16. Relevance; videographer discussion. Sustained; the Court strikes page 85, lines 3-16.

Page 89, line 3 - page 90, line 4. Repetitive- asked and answered. Overruled.

Page 90, line 11 - page 91, line 17. Repetitive- asked and answered. Overruled.

Page 91, line 18-25. Relevance. Sustained to the extent that the Court strikes page 91, lines 18-24; otherwise overruled.

**4. Deposition of Dr. Andrew Cottingham**

Page 26, line 6 - page 29, line 24. Relevance; speculation, defense counsel's attempt to inject Health insurance into trial proceeding, hearsay. Sustained in to the extent that the Court strikes page 26, line 11-14 and page 26, line 20 - page 29, line 24; otherwise overruled.

**5. Deposition of Dr. Scott Howe**

Page 24, line 11- page 25, line 2. Relevance/speculation- lack of proper predicate. Sustained; the Court strikes page 24, line 11 - page 25, line 2.

Page 25, lines 13-22. Repetitive- asked and answered. Overruled.

Page 27, line 7- page 29, line 6. Repetitive- asked and answered. Overruled.

**6. Deposition of Dr. Kerry Buser**

Page 56, lines 10-16. Form, foundation, leading, repetitive- asked and answered. Sustained; the Court strikes page 56, lines 10-16.

Page 56, lines 17-21. Form, foundation; vague, ambiguous. Sustained; the Court strikes page 56, lines 17-21.

## **7. Deposition of Jacob Rosenstein**

Page 14, line 14 - page 15, line 15. Includes objection language; insufficient foundation; speculation. Overruled.

Page 17, line 12 - page 18, line 18. No question/answer; relevance; videographer comments. Sustained; the Court strikes page 17, line 12 - page 18, line 18.

Page 22, lines 5-10. Includes objection language; includes exchange between counsel; question with no response. Sustained; the Court strikes page 22, lines 5-10.

Page 25, line 1. Includes objection language. Sustained; the Court strikes page 25, line 1.

Page 25, lines 11-16. Includes objection language; counsel narrative objection. Sustained; the Court strikes page 25, lines 11-16.

Page 26, line 11. Includes objection language. Sustained; the Court strikes page 26, line 11.

Page 29, lines 4-10. Relevance. Sustained; the Court strikes page 29, lines 4-10.

Page 33, line 5. Includes objection language. Sustained; the Court strikes page 33, line 5.

Page 37, lines 16-17. Includes objection language.  
Sustained; the Court strikes page 37, lines 16-17.

Page 40, line 19. Includes objection language.  
Sustained; the Court strikes page 40, line 19.

Page 40, line 24. Includes objection language.  
Sustained; the Court strikes page 40, line 24.

Page 48, lines 11-12. Counsel statement. Sustained;  
the Court strikes page 48, lines 11-12.

Page 49, lines 15-19. Includes objection language;  
misstated prior testimony; improper form and foundation.  
Overruled.

Page 50, line 25 - page 51, line 10. Videographer  
statements; relevance. Sustained; the Court strikes page 50,  
line 15 - page 51, line 10.

Page 52, lines 10-16. Includes objection language;  
misstated prior testimony; improper form and foundation.  
Sustained; the Court strikes page 52, lines 10-16.

Page 53, line 14 - page 54, line 19. Includes  
objection language; misstated prior testimony; improper form and  
foundation. Sustained; the Court strikes page 53, line 14- page  
54, line 19.

Page 59, line 23 - page 60, line 6. Includes objection  
language. Overruled.

Page 60, lines 16-19. Counsel statement regarding objections. Sustained; the Court strikes page 60, lines 16-19.

Page 61, lines 2-7. Counsel statement regarding objections. Sustained; the Court strikes page 61, lines 2-7.

IT IS ORDERED:

1) Plaintiffs' request for ruling on videotape depositions taken for use at trial (Filing Nos. 152) is granted.

2) Defendants are instructed to edit the videotape depositions in accordance with the Court's rulings listed above.

DATED this 21st day of June, 2012.

BY THE COURT:

/s/ Lyle E. Strom

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LYLE E. STROM, Senior Judge  
United States District Court