

**FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DYNA-DRILL TECHNOLOGIES, INC.,	§	
ET AL.,	§	
Plaintiffs,	§	CIVIL ACTION NO. H-03-5599
	§	
v.	§	
CONFORMA CLAD, INC.,	§	
Defendants.	§	JUDGE KEITH P. ELLISON
	§	

PLAINTIFFS' OBJECTIONS TO CONFORMA CLAD'S EXHIBITS

Plaintiffs Dyna-Drill Technologies, Inc. and Michael Speckert object to and move to strike each and every document on Conforma Clad's second amended exhibit list that contains a label of "attorney eyes only" or "confidential" that was not on the document in its original form. These documents are not authentic, not originals or proper duplicates, and the label is prejudicial as stated in Plaintiff's Motion in Limine No. 6, which the Court granted. Despite the grant of Plaintiff's motion, Defendant has failed to comply with the local rules and refused to provide an authentic copy of the proposed exhibits to Plaintiffs with the label removed. In addition, Plaintiffs also object to the sheer volume of exhibits as it is an unreasonable number. Most of the exhibits are irrelevant to the six alleged trade secrets at issue in this lawsuit. Plaintiffs object to each and every exhibit that is cut-off at the top or illegible. Plaintiffs' specific objections to the exhibits submitted by defendant Conforma Clad, Inc. are indicated below according to the following numbered objections:

#1 -- Plaintiffs object to this exhibit on the grounds that the documents have not been authenticated, *see* FED.R. EVID. 901.

#2 -- Plaintiffs object to this exhibit on the grounds that the documents are hearsay and there is no applicable exception to the hearsay rule, *see* FED.R. EVID. 801.

#3 -- Plaintiffs object to this exhibit on the grounds that the documents (in whole or in part) are not relevant, *see* Fed. R. Civ. P. 401 & 402 and/or any relevance of the documents is outweighed

by the prospect of prejudice, confusion of the issues, and misleading the jury, *see* FED. R. EVID. 403.

#4 -- Plaintiffs object to the admission of expert reports and expert declarations on the grounds that (i) they are hearsay and there is no applicable exception to the hearsay rule, *see* FED. R. EVID. 801, (ii) they are replete with "facts and data" that are not otherwise admissible, *see* FED. R. EVID. 703, (iii) they include opinions that are not reliable and are not based on sufficient facts or data, *see* FED. R. EVID. 702, (iv) to the extent that the expert is permitted to testify to the contents of the report, the report itself is cumulative and puts undue emphasis on the opinion, *see* FED. R. EVID. 611, and (v) the prospect of prejudice, confusion of the issues, and misleading the jury outweighs any relevance of the report, *see* FED. R. EVID. 403.

#5 -- Plaintiffs object to this exhibit on the grounds that the description precludes Plaintiffs from determining what Defendant intends to introduce and the description precludes Plaintiffs from marshaling whatever objections it might reasonably interpose to the exhibit's admission into evidence.

#6 -- Plaintiffs object to this exhibit on the grounds that the original document requirement has not been satisfied, *see* FED. R. CIV. P. 1002 and 1003.

#7 -- Plaintiffs object to this exhibit on the grounds that it is a part of Defendant's pattern and practice of improperly withholding and selectively producing documents, *see Plaintiffs' Motion in Limine No. 4 and separate Memorandum of Law in support of its preclusion of damages theory regarding sale of Conforma Clad to Kennametal*, each of which is incorporated herein

#8 -- Plaintiffs object to this exhibit on the grounds that the document is inadmissible as a settlement discussion. *See* FED. R. EVID. 408.

#9 -- Plaintiffs object to this exhibit on the grounds that the document was produced well past the close of discovery and/or Plaintiffs were not provided adequate discovery. *See* FED. R. CIV. P. 26 AND 37.

#10 -- Plaintiffs object to this exhibit on the grounds that the document is incomplete or contains additional material not contained in the original document.

#11 -- Plaintiffs object to this exhibit on the grounds that it is a deposition and is not a proper document.

#12 -- Plaintiffs object to this exhibit as including deposition testimony in violation of the Local Rules and the Court's Procedures, as Defendant has not cited page and line numbers of the deposition. In addition, Defendant has not established that the particular deposition complies with Fed. R. Civ. P. 32 and/or Fed. R. Evid. 804 in order to be admissible. Plaintiffs object to the extent that the deposition transcript contains hearsay and there is no applicable exception to the hearsay rule, *see* FED. R. EVID. 801. Plaintiffs also object to the extent that the deposition testimony includes opinions that do not comply with Fed. R. Evid. 701-703.

Second Amended Exhibit List

Conforma Clad Exhibit	Objection
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5	2, 3
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7	2, 3
8	2, 3
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18	1, 2, 3,
19	3 -- copy has fax line from attorney to attorney. Joint defense agreement is excluded.
20	3 --copy has fax line from attorney to attorney. Joint defense agreement is excluded.
21	3 -- copy has fax line from attorney to attorney. Joint defense agreement is excluded.
22	3 -- copy has fax line from attorney to attorney. Joint defense agreement is excluded.
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28	3
29	3
30	1, 2, 3
31	1, 2, 3
32	1, 2, 3
33	1, 2, 3
34	1, 2, 3, 10
35	1, 2, 3, 10
36	1, 2, 3
37	1, 2, 3, 10
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Conforma Clad Exhibit	Objection
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45	1, 2, 3
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61	1, 2, 3
62	1, 2, 3
63	1, 2, 3 -- Also, Conforma Clad refused to inspect or allow testing on the mounts and destroyed the bearing. [Faust, pp. 42-43] and never produced the samples requested in requests for production.
64	1, 2, 3 -
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Conforma Clad Exhibit	Objection
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Conforma Clad Exhibit	Objection
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194	2, 3 -- copy has fax line from attorney to attorney. Any joint defense agreement is excluded.
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Conforma Clad Exhibit	Objection
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Conforma Clad Exhibit	Objection
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Conforma Clad Exhibit	Objection
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Conforma Clad Exhibit	Objection
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471	2, 3
472	2, 3, 4
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474	1, 2, 3, 9
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Conforma Clad Exhibit	Objection
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496	1, 2, 3 – incomplete in that CCEO9473-9634 is missing CCP-007 among others. CCEO9635 on is undated.
497	2, 3
498	2, 3
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500	1, 2, 3
501	1, 2, 3
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503	1, 2, 3
504	1, 2, 3, 9 - Also, Conforma Clad refused to inspect or allow testing on the mounts and destroyed the bearing. [Faust, pp. 42-43] and never produced the samples requested in requests for production.
505	1, 2, 3
506	1, 2, 3
507	2, 3 -- illegible
508	2, 3
509	2, 3, 10
510	2, 3, 10
511	2, 3, 10
512	1, 2, 3
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519	1, 2, 3
520	1, 2, 3, 9
521	1, 2, 3, 9
522	1, 2, 3, 9

Conforma Clad Exhibit	Objection
523	1, 2, 3, 9
524	1, 2, 3, 9
525	1, 2, 3, 9, 1
526	12
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Respectfully submitted,



Gregory L. Porter
Attorney-in-Charge *w/permission*
Texas Bar No. 24002784
Southern District I.D. No. 34185 *Jel W*
JONES DAY *Bayko*
717 Texas, Ste. 3300
Houston, Texas 77002-2712
Telephone: (832) 239-3939
Facsimile: (832) 239-3600

ATTORNEYS FOR PLAINTIFF
DYNA-DRILL TECHNOLOGIES, INC. AND
PLAINTIFF IN INTERVENTION MICHAEL
SPECKERT

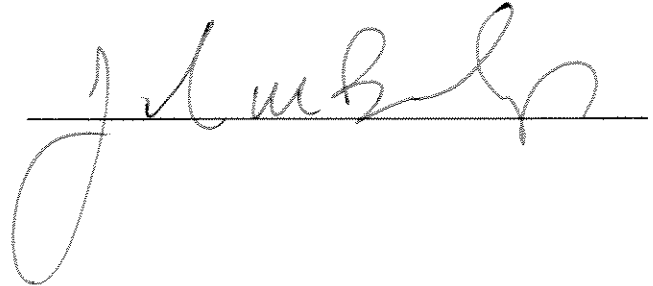
OF COUNSEL:

Joseph M. Beauchamp
Texas Bar No. 24012266
Tom Bayko
Texas Bar No. 01864500
Southern District I.D. No. 2815
JONES DAY
717 Texas, Ste. 3300
Houston, Texas 77002-2712
Telephone: (832) 239-3939
Facsimile: (832) 239-3600

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following counsel of record via ECF on this the 24th day of June 2005:

Jennifer S. Sickler
Gardere Wynne Sewell LLP
1000 Louisiana, Suite 3400
Houston, TX 77002

A handwritten signature in cursive script, appearing to read "J. Sickler", is written over a horizontal line.