

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

GQ SAND, LLC,

Plaintiff and Counterclaim Defendant,

v.

ORDER

15-cv-152-wmc

CONLEY BULK SERVICES, LLC,

Defendant, Counterclaim Plaintiff and Crossclaim Defendant ,

RANGE MANAGEMENT SYSTEMS, LLC, and

Defendant and Counterclaim Plaintiff,

and

NEJGID, LLC,

Defendant and Counterclaim/Crossclaim Plaintiff.

Having reviewed the parties' deposition designations, objections and counter-designations and objections to counter-designations, the court issues the following rulings as to the parties' objections to witnesses Scott Hohensee and Robert Schenken and defendants' objection to plaintiff's designations of witness Carl Hudspeth.¹ The approved designations may be presented to the jury unless the witness is available to testify in person. **The party proposing the testimony shall remove all objections and any other asides or discussions between counsel and/or with the court reporter, even where not noted by the court in its rulings.**

¹ The court awaits plaintiff's filing of amended objections to defendants' designations of witness Carl Hudspeth.

I. Plaintiff's Designations

A. Scott Hohensee

GQ Sand Designation	Defendants' Objections	Defendants' Counterdesignation	GQ Sand's Response/Objections	Ruling
19:15-21:1	Calls for speculation	21:2-13	Question was looking for an estimate not exact number; no objection to addition of counterdesignation if original designation allowed	Overruled.
25:5-26:6	Calls for speculation		Actually document references phone call asked about; refreshed recollection	Sustained as to 25:5-19; otherwise overruled.
48:3-49:7	Calls for speculation		He is identifying crush values from sand tests with documents in front of him - no speculation	Overruled.
49:15-18, 22-25	Calls for speculation		No speculation - if had additional product	Sustained.

B. Robert Schenken

GQ Sand Designation	Defendants' Objections	Defendants' Counterdesignation	GQ Sand's Response/Objections	Ruling
65:10-13		65:14-66:11	Relevance, doesn't remember if specific order and normal course of business is irrelevant	Overruled.

C. Carl Hudspeth

GQ Sand Designation	Defendants' Objections	Defendants' Counterdesignation	GQ Sand's Objections	Ruling
64:8-65:9		81:12-15; 81:22-25; 82:1-9	Objection as to Court's ruling on Prior/Other Acts	Sustained.
121:20-23		89:10-11; 90:6-16; 91:15-21	Objection as to Court's ruling on Prior/Other Acts	Sustained.
124:3-125:7		116:18-117:6	Objection as to Court's ruling on Prior/Other Acts	Sustained.
135:4-7, 12-25		136:25-137:10	Hearsay	Counter-designation withdrawn.
167:1-9		167:19-168:2; 173:5-15	Objection as to Court's ruling on Prior/Other Acts	Sustained.
180:14-181:4		180:2-13	Relevance 401, does not matter what he doesn't know	Counter-designation withdrawn.

II. Defendants' Designations

A. Robert Schenken

Conley Bulk Services, LLC's Designations	GQ Sand, LLC's Objections	Conley Bulk Services LLC's Counter-Designations	GQ Sand, LLC's Objections	Ruling
7:16-8:1	Relevance		This is the witness' name.	Overruled.
8:13-9:18	Relevance of 8:13-19		This is relevant, because it provides background on the witness.	Overruled.
19:21-20:1	Relevance of work history		Mr. Schenken's work history provides context for the jury, which is relevant.	Overruled.
21:22-22:1	Completeness	22:2-6	No objection.	Sustained; add 22:2-6.
61:23-62:2	Completeness	Add, 60:14-18,	No objection.	Sustained;

Conley Bulk Services, LLC's Designations	GQ Sand, LLC's Objections	Conley Bulk Services LLC's Counter-Designations	GQ Sand, LLC's Objections	Ruling
		61:9-20		add 60:14-18, 61:9-20.
64:17-67:18	Foundation; 64:24-66:4 doesn't recall if GQ Sand ordered specific crush value, sales order "probably" would state out of the norm		This is not an issue of foundation. The jury can infer from Mr. Schenken's testimony his credibility.	Withdrawn.
83:2-84:2	Completeness	Add 84:3-13	No objection.	Sustained; add 84:3-13.
89:1-90:2	Relevance; duplicative 89:21-90:2, see designation 32:12-33:7 and objection above		This testimony is directing the witness to a certain topic.	Sustained as to 89:1-3, 89:21-90:2; otherwise overruled.
92:19-93:13	93:8-13 is Hearsay "ownership said"		Mr. Schenken was testifying on behalf of WWS; this is not hearsay.	Overruled.

Entered this 24th day of June, 2016.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge