

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

ROBERT HARVEY

CIVIL ACTION

VERSUS

NO. 07-5579, c/w 07-5580

BRENT D. BURLEY

SECTION "N" (5)

ORDER AND REASONS

Before the Court are the following three motions: (1) Motion for Sanctions Pursuant to FRCP 16(F) (Rec. Doc. 61); (2) Motion to Strike Exhibits Not in Conformity with Pre-Trial Notice and Pre-Trial Deadlines Order (Rec. Doc. 62); and (3) Motion to Strike Additional Witnesses and Defenses, or in the Alternative, to Continue Trial Date (Rec. Doc. 64). After reviewing the memoranda of counsel and the applicable law, this Court denies these motions, except as provided herein.

1. The May 19, 2008 trial date will not be continued.
2. Brent D. Burley ("Burley") shall send his pre-trial order inserts to Robert G. Harvey, Sr. ("Harvey") in electronic format so that Harvey and his counsel can easily add them to the pre-trial order.
3. Harvey shall supply Burley with a numbered list of trial exhibits, but need not reproduce exhibits to Burley that have already been produced *in this case*. Thus, if documents have already been produced in connection with the discovery process *in this case*, there is no need to re-

produce these documents to opposing counsel in connection with preparation of the pre-trial order. However, documents listed shall be sufficiently identified by bates number or title, such that opposing counsel may ascertain which document is referenced.

4. Harvey shall provide Burley with a list of proposed fact stipulations, and shall let Burley know why all of Burley's proposed stipulations were rejected.

5. Harvey claims Burley already has expert witness reports that Burley claims he does not have. Harvey shall communicate with Burley in an attempt to explain when Burley should have received these documents.

6. Any witnesses who were untimely disclosed to opposing counsel will not be allowed to testify.

7. If witnesses were timely disclosed to opposing counsel, and due and diligent attempts were made to depose these witnesses, to no avail, then these witnesses likely will not be allowed to testify. In contrast, if due and diligent attempts were not made to depose timely-disclosed witnesses, these witnesses likely will be allowed to testify. These issues should be the subject of motions in limine filed in connection with the pre-trial order.

8. Counsel are instructed to confer, cooperate, and communicate with one another like professional adults. The Court should only become involved in matters if counsel have a good faith disagreement that still exists after they have conferred in an attempt to resolve the particular dispute.

9. Because these motions would never have been necessary had counsel been working together professionally, this Court concludes that counsel on each side should be sanctioned in the amount of \$1,000 each.

10. Counsel are warned that failure to file a timely, properly-prepared pre-trial order will result in an additional sanction on each side of \$2,500.

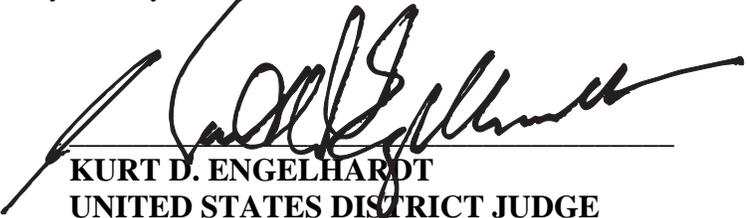
Considering the foregoing, **IT IS ORDERED** that the **Motion for Sanctions Pursuant to FRCP 16(F) (Rec. Doc. 61)** is **DENIED**, except as provided herein.

IT IS FURTHER ORDERED that the **Motion to Strike Exhibits Not in Conformity with Pre-Trial Notice and Pre-Trial Deadlines Order (Rec. Doc. 62)** is **DENIED** except as provided herein.

IT IS FURTHER ORDERED that the **Motion to Strike Additional Witnesses and Defenses, or in the Alternative, to Continue Trial Date (Rec. Doc. 64)** is **DENIED** except as provided herein.

IT IS FINALLY ORDERED that counsel on each side are **SANCTIONED** in the amount of \$1,000 each, payable to the Clerk of Court, within fifteen (15) days of entry of this order. Counsel are warned that failure to file a timely, properly-prepared pre-trial order will result in an additional sanction of \$2,500 each.

New Orleans, Louisiana, this 6th day of May, 2008.



KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE