

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**In re: Oil Spill by the Oil Rig
“Deepwater Horizon” in the Gulf
Of Mexico, on April 20, 2010**

Applies to: All Cases.

* MDL No. 2179
*
* SECTION: J
*
* JUDGE BARBIER
* MAGISTRATE SHUSHAN

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**ALL PARTIES OBJECTIONS TO DEPOSITION DESIGNATIONS OF
STEPHEN BERTONE**

| <u>From</u> | | <u>To</u> | | <u>Objecting Party</u> | <u>Objection</u> | <u>Ruling</u> |
|-------------|-------------|-------------|-------------|------------------------|---|---------------|
| <u>Page</u> | <u>Line</u> | <u>Page</u> | <u>Line</u> | | | |
| 16 | 12 | 16 | 15 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 21 | 5 | 21 | 7 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 21 | 16 | 21 | 19 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Vague | |
| 22 | 2 | 22 | 4 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; hearsay; Vague | |
| 22 | 7 | 22 | 12 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 25 | 1 | 25 | 4 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Vague | |

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| 25 | 7 | 25 | 11 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 25 | 13 | 25 | 15 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Vague | |
| 26 | 7 | 26 | 11 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Vague | |
| 26 | 21 | 26 | 23 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 26 | 25 | 27 | 3 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 29 | 9 | 29 | 14 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Vague | |
| 29 | 21 | 29 | 25 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 30 | 3 | 30 | 4 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 30 | 6 | 30 | 15 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Compound | |
| 37 | 20 | 37 | 21 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Vague; Misstates the Record | |
| 37 | 24 | 38 | 1 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Vague; Misstates the Record | |

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| 38 | 4 | 38 | 8 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Vague | |
| 38 | 11 | 38 | 15 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Vague; Compound; Misstates the Record | |
| 38 | 18 | 38 | 23 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Vague; Compound; Misstates the Record | |
| 39 | 1 | 39 | 4 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Vague; Misstates the Record | |
| 39 | 7 | 39 | 11 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment; Vague; Misstates the Record | |
| 93 | 4 | 93 | 6 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 102 | 8 | 102 | 10 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 102 | 16 | 102 | 19 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 102 | 21 | 102 | 22 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 102 | 24 | 103 | 3 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |

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| 103 | 5 | 103 | 6 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 103 | 22 | 104 | 1 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 104 | 3 | 104 | 6 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 104 | 8 | 104 | 11 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 104 | 13 | 104 | 16 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 104 | 18 | 104 | 21 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 104 | 23 | 105 | 2 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 105 | 4 | 105 | 7 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 105 | 9 | 105 | 14 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 105 | 16 | 105 | 19 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |
| 113 | 7 | 113 | 10 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment | |

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| 113 | 21 | 113 | 24 | BP | FRE 602; Testimony not admissible against BP for any purpose based on the witness's invocation of the Fifth Amendment |
| 27 | 5 | 27 | 11 | HESI | Assumes facts not in evidence; foundation; speculation: The witness was asked to confirm facts not in evidence. No proper foundation has been laid for the question, and it necessarily calls for speculation—there is no showing that the witness is qualified or possesses the knowledge to make any such statement. |
| 27 | 12 | 27 | 17 | HESI | Assumes facts not in evidence; foundation; speculation; vague and ambiguous: The witness was asked to confirm facts not in evidence. No proper foundation has been laid for the question, and it necessarily calls for speculation—there is no showing that the witness is qualified or possesses the knowledge to make any such statement. Further, it is vague and ambiguous as to discussions in the drill shack being referenced. |
| 110 | 23 | 111 | 2 | HESI | Assumes facts not in evidence; foundation; speculation; vague and ambiguous: The witness was asked to confirm facts not in evidence. No proper foundation has been laid for the question, and it necessarily calls for speculation—there is no showing that the witness is qualified or possesses the knowledge to make any such statement. Further, it is vague and ambiguous and does not clearly indicate what information is being sought. |

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| 112 | 1 | 112 | 8 | HESI | Assumes facts not in evidence; foundation; speculation; vague and ambiguous: The witness was asked to confirm facts not in evidence. No proper foundation has been laid for the question, and it necessarily calls for speculation—there is no showing that the witness is qualified or possesses the knowledge to make any such statement. Further, it is vague and ambiguous as to the "decisions about the integrity of the well." |
| 112 | 9 | 112 | 17 | HESI | Vague and ambiguous; assumes facts not in evidence; foundation; speculation: The question is vague and ambiguous as to "the decisions about the integrity of the well." The witness was asked to confirm facts not in evidence. The question also lacks foundation and necessarily calls for speculation—there is no showing that the witness is qualified or possesses the knowledge to make any such statement. |
| 112 | 18 | 112 | 24 | HESI | Assumes facts not in evidence; foundation; speculation: The witness was asked to confirm facts not in evidence. The question also lacks foundation and necessarily calls for speculation—there is no showing that the witness is qualified or possesses the knowledge to make any such statement. |
| 120 | 5 | 120 | 10 | HESI | Assumes facts not in evidence; foundation; speculation; misstates evidence: The witness was asked to confirm facts not in evidence. The question also lacks foundation and necessarily calls for speculation—there is no showing that the witness is qualified or possesses the knowledge to make any such statement. The question further misstates the evidence in the record as to whether a float collar is "never" |

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| | | | | | a barrier. | |
| 105 | 9 | 105 | 15 | M-I | <p>This testimony should be stricken as not relevant under Federal Rule of Evidence 402. See Fed. R. Evid. 402. Additionally, no adverse inference should be imputed against M-I for this witness' invocation of the Fifth Amendment because this witness (1) is not a current or former employee of M-I, (2) was not under M-I's control, and (3) does not have compatible interests with M-I in this litigation. See <i>FDIC v. Fid. & Deposit Co. of Md.</i>, 45 F.3d 969, 977-78 (5th Cir. 1995); see also <i>LiBuitti v. United States</i>, 107 F.3d 110, 123 (2nd Cir. 1997). Furthermore, there is no independent evidence to corroborate this adverse inference against M-I. See <i>State Farm Life Ins. Co. v. Gutterman</i>, 896 F.2d 116, 119 n.3 (5th Cir. 1990). Finally, imputing an adverse inference from this unaffiliated, third-party witness to M-I would be significantly more prejudicial than probative under Federal Rule of Evidence 403. See Fed. R. Evid. 403.</p> | |
| 16 | 8 | 16 | 16 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 18 | 21 | 18 | 24 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 19 | 11 | 19 | 23 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 20 | 11 | 21 | 8 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 21 | 10 | 21 | 21 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |

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| 22 | 2 | 22 | 6 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 22 | 7 | 25 | 17 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 25 | 18 | 26 | 11 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 31 | 2 | 32 | 25 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 33 | 1 | 33 | 15 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 33 | 17 | 34 | 4 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 34 | 5 | 36 | 23 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 36 | 24 | 37 | 6 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 38 | 11 | 39 | 13 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 43 | 13 | 44 | 5 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 48 | 11 | 49 | 12 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 50 | 22 | 51 | 22 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 53 | 2 | 55 | 19 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |

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| 55 | 21 | 60 | 3 | Transocean | Hearsay (Fed. R. Evid. 802); lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. |
| 60 | 4 | 60 | 19 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. |
| 60 | 20 | 64 | 2 | Transocean | Hearsay (Fed. R. Evid. 802); lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. |
| 64 | 24 | 65 | 5 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. |
| 65 | 6 | 65 | 24 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. |
| 66 | 5 | 68 | 7 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. |
| 68 | 8 | 69 | 8 | Transocean | Hearsay (Fed. R. Evid. 802); lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. |
| 77 | 25 | 83 | 5 | Transocean | Hearsay (Fed. R. Evid. 802); lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. |
| 83 | 8 | 86 | 20 | Transocean | Hearsay (Fed. R. Evid. 802); lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. |
| 86 | 21 | 93 | 25 | Transocean | Hearsay (Fed. R. Evid. 802); lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. |
| 94 | 25 | 95 | 8 | Transocean | Hearsay (Fed. R. Evid. 802); lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. |
| 110 | 3 | 111 | 25 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. |

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| 112 | 1 | 114 | 22 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 114 | 24 | 116 | 18 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 117 | 5 | 117 | 25 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |
| 118 | 11 | 120 | 9 | Transocean | Lacks foundation (Fed. R. Evid. 602); no adverse inference should be drawn against Transocean. | |