

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

J.R. SIMPLOT COMPANY,

Plaintiff,

v.

McCAIN FOODS USA, INC.,

Defendant.

McCAIN FOODS LIMITED,

Plaintiff,

v.

J.R. SIMPLOT COMPANY,

Defendant.

Case No. 1:16-cv-00449-DCN

**MEMORANDUM DECISION AND
ORDER**

I. INTRODUCTION

In preparation for trial, Simplot has designated three witnesses—David Rogers, Samantha Melson, and Michael Baughman—as “unavailable” pursuant to Federal Rule of Civil Procedure 32(a)(4). As such, Simplot intends to offer their depositions in lieu of live testimony. McCain does not object to Simplot calling these individuals via deposition. The Court, therefore, finds good cause to allow each to testify via deposition at trial. The parties submitted their designations, counter designations, and objections of each witness’s deposition for the Court’s review.

II. ANALYSIS

Below are the Court's rulings as to the specific objections regarding David Rogers.

For simplicity, the Court *has not* included designations where no objection was lodged.

Simplot Designations	McCain Objections	McCain Counter-Designations	Simplot Objections	Simplot Counter Designations	Court Ruling on Objections
162:21-163:8	Relevance (401/402); unfair prejudice (403); foundation (602)				Overruled, relevant to show they were discussing multiple variations
		179:3-10	Speculation; foundation	179:11-180:19 (if objection overruled)	Sustained
		181:14-182:10	Speculation; foundation	179:11-180:19 (if objection overruled)	Sustained
		190:7-191:2	Hearsay; foundation; speculation; authentication		Sustained
		224:9-225:7	Relevance (FRE 401-402); hearsay; invalidity due to improper inventorship 35 U.S.C. §§ 101, 116; prejudicial/confusing (FRE 403)		Sustained as to lines 13 – 25 as hearsay
225:9-18	Relevance (401/402); unfair prejudice (403)				Overruled
226:8-227:7	Relevance (401/402); unfair prejudice (403)				Overruled
227:9-12, 14-25	Relevance (401/402); unfair prejudice (403); foundation (602)				Overruled
228:1-4, 8-18	Relevance (401/402); unfair prejudice (403); foundation (602)				Overruled
228:20-230:21	Legal conclusion; expert testimony; relevance (401/402); unfair prejudice (403); foundation (602)				Overruled

Simplot Designations	McCain Objections	McCain Counter-Designations	Simplot Objections	Simplot Counter Designations	Court Ruling on Objections
230:24-231:6	Relevance (401/402); unfair prejudice (403); foundation (602)				Overruled
231:10-20	Relevance (401/402); unfair prejudice (403)				Overruled
232:16-234:12	Relevance (401/402); unfair prejudice (403)				Overruled
241:22-25	Relevance (401/402); unfair prejudice (403); foundation (602)				Overruled
242:3-13	Relevance (401/402); unfair prejudice (403); foundation (602)				Overruled
242:22-247:15	Relevance (401/402); unfair prejudice (403); foundation (602)				Sustained as not relevant and outside personal knowledge
247:25-252:9	Relevance (401/402); unfair prejudice (403); foundation (602)				Sustained as not relevant and outside personal knowledge
252:11-253:5	Relevance (401/402); unfair prejudice (403)				Sustained
253:8-254:16	Relevance (401/402); unfair prejudice (403)	254:17-255:12			Sustained
		267:11-25	Calls for legal conclusion; speculation; relevance (FRE 401-402); invalidity due to improper inventorship 35 U.S.C. §§ 101, 116; prejudicial/confusing (FRE 403)		Sustained
		273:7-274:25	Hearsay; foundation; speculation; subject to admission of an exhibit; invalidity due to improper inventorship 35 U.S.C. §§ 101, 116;		Sustained

Simplot Designations	McCain Objections	McCain Counter-Designations	Simplot Objections	Simplot Counter Designations	Court Ruling on Objections
			prejudicial/confusing (FRE 403)		



DATED: August 16, 2024

David C. Nye
Chief U.S. District Court Judge