

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

TIMM ADAMS, et al.,)	Case No. CV-03-0049-E-BLW
)	
Plaintiffs,)	MEMORANDUM DECISION
)	AND ORDER REGARDING
v.)	DUPONT’S MOTION TO
)	STRIKE IMPROPER REBUTTAL
UNITED STATES OF AMERICA,)	REPORTS
et al.,)	
)	
Defendants.)	
_____)	

INTRODUCTION

The Court has before it DuPont’s motion to strike improper rebuttal reports. That motion seeks to exclude the testimony of, among others, plaintiffs’ rebuttal witnesses Dr. Gary Franc and Dr. Gale Kleinkopf. For the reasons expressed below, the Court will deny the motion.

ANALYSIS

DuPont seeks to exclude the rebuttal testimony of Drs. Franc and Kleinkopf on the ground that they are offering new opinions in the guise of rebuttal opinions. The Court disagrees. The rebuttal reports of both experts actually rebut opinions of the defense experts. DuPont had an opportunity to depose both rebuttal experts

concerning their rebuttal reports. While DuPont complains that the half-day depositions did not provide enough time to explore the opinions, DuPont has not provided any specific prejudice it suffered. DuPont had already had a full opportunity to depose these experts prior to the rebuttal opinions, so the round of depositions concerning the rebuttal opinions was the second round of opportunity to depose them. That was sufficient.

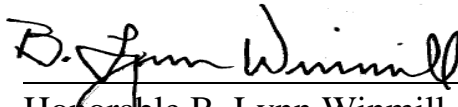
ORDER

In accordance with the Memorandum Decision filed above,

NOW THEREFORE IT IS HEREBY ORDERED, that DuPont's motion to strike plaintiffs' improper rebuttal experts (Docket No. 758) is DENIED.



DATED: **August 11, 2009**


Honorable B. Lynn Winmill
Chief U. S. District Judge