

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

MARGARET LONG,)	
)	
Plaintiff,)	
)	
v.)	Docket no. 1:09-cv-592-GZS
)	
FAIRBANK FARMS RECONSTRUCTION CORP.,)	
)	
Defendant & Third-Party Plaintiff,)	
)	
v.)	
)	
GREATER OMAHA PACKING COMPANY, INC.,)	
)	
Third-Party Defendant.)	
)	

ORDER ON MOTIONS IN LIMINE

Before the Court are three fully briefed motions in limine from Third Party Defendant Greater Omaha Packing Company, Inc. (“GOPAC”). As indicated at the October 4, 2011 Conference of Counsel, the Court rules on these motions as follows:

(1) Motion in Limine to Exclude Personal Emails & Photos Mined from Search of Hard Drives (Docket # 235 & SEALED Docket # 236)

DENIED WITHOUT PREJUDICE. Third-Party Plaintiff Fairbank Farms Reconstruction Corp. (“Fairbank”) shall not attempt to offer or publish to the jury any personal emails or personal photos of Mr. Fili or Ms. Besta without first making a proffer outside the hearing of the jury. All parties are advised that if any such exhibits are admitted at trial they will not be sealed.

(2) Motion for Protective Order (Docket # 238 & SEALED Docket # 239)

DENIED. To the extent that this Motion seeks to have this Court re-examine issues decided in the November 29, 2010 Order of the Magistrate Judge, the Motion is DENIED as untimely

and because the November 29, 2010 ruling was neither clearly erroneous or contrary to law. To the extent this Motion seeks to have Fairbank designate exhibits for trial, the Motion is DENIED as MOOT. The joint exhibit list has been filed¹ and the Court expects that this exhibit list includes any and all exhibits that Fairbank Farms Reconstruction has designated as possible trial exhibits. The Court will rule on any proper, preserved objection to an exhibit when and if it is offered at trial.

(3) Motion to Substitute Party or Join Zurich Insurance Company as Third-Party Plaintiff (Docket # 259)

DENIED. The Motion is untimely. The Court concludes that GOPAC did not request joinder of the insurer with reasonable promptness and thereby waived its interest in joining the insurer as a named party. Additionally, the Court believes that Fairbank's offer of ratification will adequately protect GOPAC from any inconsistent obligations. To that end, the Court ORDERS that Zurich shall provide GOPAC with a written ratification containing the three elements described in Third-Party Plaintiff Fairbank's Response (Docket # 263) before the commencement of trial on October 31, 2011.

The September 30, 2011 Motions

On September 30, 2010, GOPAC filed an additional five motions in limine (Docket #s 268, 270, 274, 275 & 281). The deadline for Fairbank to respond to each of these motions is hereby set for October 11, 2011. No replies will be permitted.

¹ At the October 4, 2011 Conference of Counsel, the Court did approve the filing of an amended joint exhibit list by noon on October 12, 2011.

On September 30, 2011, Fairbank filed one motion in limine titled, "Motion Concerning GOPAC's Deposition Designations" (Docket # 282). For reasons stated on the record at the conference of counsel, the Court hereby DENIES this Motion WITHOUT PREJUDICE to Fairbank filing a renewed motion in limine that attaches specific deposition designations for the Court's review.

Any renewed or additional motions in limine must be filed no later than NOON on October 11, 2011. Any response to a motion in limine filed by this deadline shall be received no later than NOON on October 17, 2011. No replies will be permitted.

To the extent that any motion in limine seeks to have the Court to review and consider specific portions of a deposition designation to be read or shown at trial, the parties shall provide the entire deposition designation, with the objection noted on the designation. In addition to any electronic filing, courtesy papers copies of all such deposition designations shall be provided by no later than October 12, 2011.

SO ORDERED.

/s/ George Z. Singal
United States District Judge

Dated this 4th day of October, 2011.

Plaintiff

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TERMINATED: 03/11/2011

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V.

Defendant

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Defendant

**FAIRBANK RECONSTRUCTION
CORP**
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doing business as
FAIRBANK FARMS
TERMINATED: 03/11/2011

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Defendant

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ThirdParty Plaintiff

FAIRBANK FARMS INC
TERMINATED: 08/15/2011

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