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CLIENT/MATTER: Nevada Power v. Monsanto

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WITNESS TRACKING PROJECT

Goal: To identify and track fact and expert witnesses, summarize depositions, identify exhibits to be used at trial in connection with each witness, incorporate this information into the trial notebook system, and allocate responsibilities for this procedure.

Procedure and Responsibilities

I. Tracking Deposition Transcripts

- A. Holly has already begun a log of upcoming depositions and the status of the deposition transcripts. She has agreed to take on responsibility to ensure that the transcripts are arriving in our office as expected.
- B. Lynda has responsibility for ensuring that the transcripts are copied and distributed.

II. Deposition Summaries

- A. Lynda is lining up additional persons to summarize depositions. We hope to hire 10 extra temporary people beginning February 19, 1992.
- B. Each deposition summary will have a cover sheet to be filled out by the person summarizing the deposition. This information will be useful in the tracking of witnesses.
- C. Dean is already working on summarizing depositions.
- D. Liz would like to work on deposition summaries and/or other paralegal type work.
- E. Deborah will conduct a mini-seminar for the new people summarizing depositions, hopefully on Friday February 19, 1992. Paul and Ralph need to clarify their expectations regarding the summaries before then.
- F. Persons checking out depositions for summarizing should fill out an out-card and place it in the deponents' files. In addition, there is a log at the front of the deposition files to keep a running list of who has which depositions and to make sure they are all returned.
 - 1. Liz to keep track of out-going depositions and keep track of who has which depositions.
 - a. Start with the less important fact witness depositions, such as those people named by defendants. The more lengthy and expert depositions should be done later by people we know do excellent work.
 - 2. Holly and Liz to keep track of returning deposition summaries. Proofread and check for quality, especially on first depositions. They should show a sample of each person's first depositions to Debbie.
 - 3. Summaries then sent up to word processing for

transcription.

- G. Final version of summaries will be kept in Holly's directory under the HCD\Dep's\ subdirectory. The files are to be named according to the deponents' name, ie Fabbie.Dep
- H. After the summaries are transcribed, then Paul and Ralph will read through them and determine which will actually be used as fact witnesses.
- I. The testimony of Fact witnesses will then be distilled by Ralph or Paul for use in interrogatory responses (fact witnesses), 26(b)(4) responses (experts), and witness tracking system (below).

III. Witness List

A. Fact Witnesses:

- 1. All Nevada Power employees deposed
 - a. Gilbert Addis
 - b. Hamilton Avery
 - c. David Barneby
 - d. James Bates
 - e. Priscilla Bates (EPRI)
 - f. Randolph Calle
 - g. Joseph Cheung
 - h. Stephen Claeys
 - i. Michael Coleman
 - j. Daniel Crotta (former employee)
 - k. Jon Davis
 - l. Nancy Donner
 - m. Donald Fabbi
 - n. Martin Fisher
 - o. David Fjare
 - p. Fe Gascon
 - q. Charles Grant
 - r. John Hayes
 - s. Wallace Henson
 - t. Van Nelson Jenson
 - u. Edward Henry Kopf
 - v. Lawrence Kulick
 - w. Frank Loudon (former employee)
 - x. Gene Matteucci (former counsel)
 - y. John McCarthy (V.P.)
 - z. Walter Merkel
 - aa. James Payne
 - ab. Luis Pineiro
 - ac. Mark Reddaway
 - ad. Floyd Reed
 - ae. William Revell
 - af. Conrad Ryan (former employee)
 - ag. Dennis Schwehr
 - ah. Scott Sumpter

- ai. Richard Swenson
- aj. William Theisen
- ak. Jerry Webb
- al. Gene Wheeler
- am. Theodore Whisler
- an. Richard Williams
- ao. Fariborz Yadegar
- 2. Robert Dyer
- 3. Richard Mahoney
- 4. Gene Miller (Westinghouse Marketing manager)
- 5. Ed Bates
- 6. Phillip Smith
- 7. T. O. Munson
- B. Expert witnesses
 - 1. Dr. Rick Ellis
 - 2. Dr. Samuel Epstein
 - 3. Donald Fabbi (says he does not want to testify)
 - 4. Dr. Richard Peterson
 - 5. Dr. Arnold Schecter
 - 6. Dr. Wayland Swain (says he can't testify because of conflict with GE contract)
 - 7. Dr. Daniel Teitelbaum
 - 8. Dr. Dennis Schwehr
 - 9. Revelle Taylor
 - 10. Dr. Steven Anderson
 - 11. Gilbert Manning Warren III
- C. Liz has been making the initial contact with the experts and identifying their willingness to testify and their documentary needs.
- D. We need to set up times to meet with each expert and discuss their testimony and prepare them for depositions and ultimately trial.
- E. Witnesses who are unwilling to testify or who clearly will not be used in trial will be eliminated from this list.
- F. The remaining witnesses will be incorporated into the witness tracking system. The N.P. attorneys can then review the information on each witness and decide who can be eliminated from the list.

IV. Witness Tracking

- A. Deborah is developing a computer organization system using Wordperfect 5.1 merge/sort functions.
 - 1. Primary file lists the relevant fields (see attached)
 - 2. Secondary file is for data input for each witness
 - 3. Primary and secondary files are merged.
 - 4. The fields so far are:
 - a. Name
 - b. Witness Type (expert or lay)
 - c. Employer
 - d. Position/expertise

- e. Address
- f. Phone
- g. Summary of expected testimony
- h. Depositions taken to date
- i. Trial Exhibits to use with witness
- j. Trial Notebook Section (yes or no)
- k. Contacts made with witness * is there a problem with recording info. from phone conversations and letters? Should be protected as attorney work product I believe.
- l. Willing to testify (yes or no and date)
- m. Follow up required (list what info. is still needed and who is working on it).
- 5. The advantage of this system is that the records can be sorted by any field.
- 6. The resulting merged file can be incorporated into Isys. A standard name such as witness.mrg will be used. Deborah will keep the old versions diskette in case there are problems with the most recent merge or sort.
- B. Once the skeleton is set up, Liz will input the data. Depending on her time available, an alternative is to hire someone part-time who really knows merge/sort and can input the information. We will need to make a computer available.
 - 1. Since there is an immediate need to develop the fact witness list, and Liz is not fluent in wordperfect yet, it might in fact be a good idea to hire someone who can get us rolling on the data input.
- C. As more information comes in for the computer file, it will be directed to Liz or the part time person to add to the file.
- D. Still to be decided is a method of periodically making sure that all of the information is compiled in for each witness. The follow-up field would be a method of identifying when each witness must be called, etc...
 - 1. Holly is a likely candidate since she is already tracking deposition schedules and is familiar with the names. In addition she has expressed interest in learning the merge/sort functions and could take over from Debbie once the system is up and running.

V. Calendar

- A. A draft Witness Development Calendar is attached which lists each item that needs to be done in chronological order with a due date if known and the person(s) responsible.
- B. A copy will be provided to Lynda to fill out calendar slips to incorporate into the overall calendaring system. As changes are made, Lynda will be notified.

- C. Still to be developed is a timeline for contacting each witness who is not going to be deposed in the near future.

VI. Trial Notebook

- A. Deborah will supervise document incorporation for trial notebook.
- B. Items to be included in Trial Notebook include:
 - 1. One page witness summary as described in III above
 - 2. Deposition Summaries
 - 3. Curricula Vita for Experts
 - 4. Results of Isys Searches
 - 5. List of Trial exhibits to be used with each witness.
 - a. Paul and Ralph will dictate memo to
 - 6. Additional Documents gathered during Depositions
 - 7. Any other relevant info.
- C. When attorneys gather documents from depositions they will be added to the trial notebook. Procedure:
 - 1. Deposing Attorney dictate a short memo (1 paragraph) describing what party introduced the document and its significance.
 - 2. Attorney give documents to Holly. She will make sure they get bates numbered and plaintiff-exhibit stamped and put into trial notebook and plaintiff exhibit list
 - 3. Audra will make the copies and trial notebook tabs as needed and add material to trial notebook as directed by Holly or Deborah.

VII. Future Employee Needs

- A. Part time secretary who is very knowledgeable of word perfect to help out Holly, Lynda, and Liz and attorneys. In soccer terms, we need a "sweeper."

WITNESS DEVELOPMENT CALANDAR

<u>Activity</u>	<u>Due Date</u>	<u>Person Responsible</u>
Develop Witness List	February 24,	RAB, PEM, DNM
Create Trial NB Tabs for Each Witness	February 24	DNM, AC
Depositions Summarized	February 26	DNM, LSG
Distill depos	March 1	DNM, PEM, RAB
Track Depositions Taken, signed, etc..	ongoing	HD
Track Progress on Depo Summaries	ongoing	HD
Input Info. on W witnesses into Computer tracking system	ongoing	HD, EVG
Submit Fact Witness List to Defendants	March 5	RAB, PEM, DNM
Compile Exhibits for Each Witness	ongoing	DNM, RAB, PEM
Compile Expert Witness List	?	PEM, RAB, DNM
Provide Expert List to Defendants	April 12	
Defendants depose Plaintiff Experts	April 19-May 4	PEM, DNM, HD
Plaintiff Depose Defense Experts	May 17 - June 4	RAB, PEM
Contact Witnesses and get summary of testimony	?	EVG, DNM
Submit Expert List to Defendants	?	PEM, RAB, DNM
Fill in TNB with Info. for each witness	ongoing	DNM

DEPOSITION SUMMARY CHECKLIST

(Fill in to extent information available in transcript)

Deposition date:

Deponent name (last, first, M.I.):

Deponent address:

Deponent telephone:

Deponent represented at deposition by (firm name):

Address

Phone

Deponent presently employed by:

Plaintiff Nevada Power : ☐ Yes ☐ No

Defendant: ☐ MON ☐ WEC ☐ GE

Deponent Formerly employed by:

Plaintiff Nevada Power : ☐ Yes ☐ No

Defendant: ☐ MON ☐ WEC ☐ GE

Notes:

Office use only

Exhibits used other than Trial Exhibits: ☐ Yes ☐ No

Deposition summarized by:

Date:

Deposition summary typed by:

Date:

Deposition proofread by:

Date:

Deposition proofread by:

Date:

Summary okayed by:

Date:

Final deposition summary stored at (full computer pathname):

Non-trial exhibits routed for Trial Exhibit assignment: ☐ Y ☐ N

By _____ Date _____

dnn\avpower\depocheclst