

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

TAUNYA PERRY, et al.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 15-CV-95-CVE-FHM
)	
TERRY DURBOROW, et al.,)	
)	
Defendants.)	

OPINION AND ORDER

Defendants' Opposed Motion and Brief to Strike Witness, [Dkt. 59], is before the court for decision. Plaintiffs filed a response, [Dkt. 68], and Defendants filed a reply, [Dkt. 69]. This motion concerns Defendants' efforts to contact witnesses listed by the Plaintiffs and requires the court to determine when a party must disclose the addresses and telephone numbers of its witnesses or be precluded from calling the witnesses at trial.

Plaintiffs listed their witnesses pursuant to the Scheduling Order, [Dkt. 58], and Fed. R. Civ. P. 26(a)(1)(A)(i) and included addresses and telephone numbers. Defendants' attorney advised Plaintiffs' counsel that the addresses and telephone numbers for six of the witnesses were inaccurate or incomplete. Plaintiffs' attorney responded that he had provided the best contact information he had; that he would update the information if better information became available; and encouraged Defendants to also attempt to locate the witnesses. Apparently unable to locate the witnesses, Defendants seek to have the witnesses stricken contending that Plaintiffs had an obligation to provide accurate addresses and telephone numbers.

Although Defendants desire that Plaintiffs be required to provide accurate addresses and telephone numbers for Plaintiffs' witnesses before the discovery deadline is understandable, neither the Scheduling Order or the Federal Rules of Civil Procedure support Defendants' motion to strike the witnesses at this time.

Fed. R. Civ. P. 26(a)(1)(A)(i) requires that addresses and telephone numbers for witnesses be provided if they are known and Fed. R. Civ. P. 26(e)(1)(A) imposes a duty to timely supplement the addresses and telephone numbers. Accepting Plaintiffs' attorney's statement that he provided the best information he had, Plaintiffs have complied with Fed. R. Civ. P. 26(a)(1)(A)(i). Fed. R. Civ. P. 26(a)(3)(A)(i) on the other hand, requires a party to provide the addresses and telephone numbers of its witnesses in its Pretrial Disclosures. But the Pretrial Disclosures are not due until thirty days before trial or as ordered by the court, Fed. R. Civ. P. 26(a)(3)(B). Under the Scheduling Order the date for Pretrial Disclosures is September 12, 2016.

Thus, under the Scheduling Order and the Rules, Plaintiffs have until September 12, 2016 to provide the addresses and telephone numbers of their witnesses, with an obligation to timely supplement under Fed. R. Civ. P. 26(e)(1)(A) if the information becomes available before that date. Defendants' motion is therefore DENIED without prejudice.

SO ORDERED this 16th day of August, 2016.


FRANK H. McCARTHY
UNITED STATES MAGISTRATE JUDGE