

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE  
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

MARIJO STALLINGS, )  
individually and as legal )  
guardian of Anthony N. )  
Stallings, an incompetent, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
DILLON MELVIN, )  
 )  
Defendant. )

CIVIL ACTION NO.  
2:20cv780-MHT  
(WO)

ORDER

The court held a hearing on plaintiff's motion to strike the defendant's witness list and exhibit list. During the hearing it became evident that the defendant's exhibit and witness lists substantially failed to comply with the court's Uniform Scheduling Order. However, the court decided the appropriate recourse was to allow the defendant the opportunity to refile compliant lists and, in return for that belated opportunity, to apply an appropriate sanction, rather than for the court to exclude the defendant's witnesses

and exhibits. An appropriate sanction would include allowing the plaintiff to recover reasonable attorney's fees and expenses for litigating the strike motion as well as those incurred as a result of the defendant's tardiness in exchanging compliant lists of exhibits and witnesses.

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Accordingly, it is ORDERED that the plaintiff's motion to strike (Doc. 62) is granted to the following extent:

(1) The defendant has the option to refile, by 5:00 p.m. on November 19, 2021, both exhibit and witness lists that comply with the Uniform Scheduling Order (Doc. 36).

(2) If the defendant chooses not to refile compliant lists, then the defendant will be precluded from presenting exhibits and calling witnesses.

(3) If the defendant chooses to refile compliant lists, the plaintiff is allowed 14 days following entry of final judgment in this case to file a motion for

reasonable attorney fees and expenses as described in this order. The court retains jurisdiction for this purpose.

DONE, this the 18th day of November, 2021.

/s/ Myron H. Thompson  
UNITED STATES DISTRICT JUDGE