

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

BRANDON WILSON, et. al,

PLAINTIFFS

v.

4:10CV01184-BRW

MORRILTON, ARKANSAS, CITY OF, et. al,

DEFENDANTS

ORDER

Pending is Defendants' Motion to Dismiss Plaintiffs' Wrongful Death Claim for Failure to Comply with a Court Order Regarding Disclosure of Expert Report and for Failure to Prosecute (Doc. No. 22). Plaintiffs have responded¹ and Defendants have replied.²

Defendants filed their Motion on September 2, 2011, arguing that Plaintiffs failed to meet the August 15, 2011, deadline, to provide the "requisite case-in-chief expert disclosures."³ On September 15, 2011, Plaintiffs provided the report and *curriculum vitae* of their expert, Dr. Frank Peretti, Jr.⁴

Plaintiffs' counsel should have met the deadlines, but the problem can be cured by allowing Defendants to take the expert's deposition. There is time aplenty before the trial. Plaintiffs' counsel must forthwith furnish Defendants' counsel with any missing documents or exhibits. Counsel should "meet and confer" (by telephone will be satisfactory) to set up a mutually convenient time for the deposition -- and to establish a near time when Plaintiffs' counsel will provide the missing documents. If the parties cannot agree upon the date, time, and place for the deposition, I should

¹ Doc. No. 24.

² Doc. No. 30.

³ Doc. No. 23.

⁴ Doc. No. 28.

be notified. I immodestly assert that I am right good at setting such dates, times, and places -- but not always to the satisfaction of counsel and deponent (Saturdays and Sundays are in play).

Therefore, Defendants' Motion to Dismiss Plaintiffs' Wrongful Death Claim for Failure to Comply with a Court Order Regarding Disclosure of Expert Report and for Failure to Prosecute (Doc. No. 22) is DENIED.

IT IS SO ORDERED this 21st day of September, 2011.

/s/Billy Roy Wilson
UNITED STATES DISTRICT JUDGE