

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

GWENDOLYN L. BOHANNON

PLAINTIFF

VS.

CASE NO. 5:07CV00123 JMM

**JOHNSON FOOD EQUIPMENT, INC.,
D/B/A BAADER-JOHNSON, ET AL.**

DEFENDANT

TYSON POULTRY, INC., AND TYNET CORP.

INTERVENORS

ORDER

Pending before the Court is plaintiff's Motion to Strike Expert Report of Denis Estep to which defendant has responded. For the reasons stated below, the motion is denied (#251).

Plaintiff was informed on February 18, 2010, that defendant intended to use an updated expert report from Denise Estep. Plaintiff filed this motion contending that the report was not just updated, rather the report was expanded in violation of the Court's September 11, 2009 Order denying Motion to Allow Additional Discovery and to Establish Discovery Deadlines and the Court's January 14, 2010 Order which granted plaintiff's Motion to Strike Supplemental Initial Disclosures of Defendant. Plaintiff argues that she is prejudiced by this untimely disclosure as the deadlines for expert discovery and pre-trial disclosure have passed and the trial is scheduled to begin next week.

Defendant responds that they provided plaintiff with the updated report based upon their duty to supplement and that Estep has not changed her opinion, but rather has reviewed 2010 data regarding 2010 adjusted numbers regarding job availability, plaintiff's psychological

treatment which was addressed at the first trial, and plaintiff's decision to be fitted with a cosmetically-oriented prosthetic hand as opposed to a more functional prosthesis which is clearly delineated in plaintiff's actual medical records.

The Court agrees with defendant and will deny the motion. However, the Court will allow plaintiff to conduct an one-hour deposition of Estep at a time convenient to the parties.

IT IS SO ORDERED THIS 24 day of February, 2010.

A handwritten signature in cursive script, appearing to read "James M. Moody", is written above a horizontal line.

James M. Moody
United States District Judge