

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

PEARLY STEPPS

PLAINTIFF

v.

CASE NO. 5:09cv00125 BSM

DOLLARWAY SCHOOL DISTRICT, et al.

DEFENDANTS

ORDER

Plaintiff, Pearly Stepps (“Stepps”) moves: (1) to preclude defendants Dollarway School District (“Dollarway”) and Thomas Gathen (“Gathen”) from offering any witness testimony other than Gathen’s and from offering evidence of any kind; and (2) to strike defendants’ affirmative defenses. [Doc. No. 16]. Dollarway and Gathen oppose the motion. [Doc. No. 18]. For the reasons set forth below, the motion is denied.

Stepps asserts that Dollarway and Gathen have failed to make their initial disclosures and respond to written discovery. On June 30, 2010, an order compelling Dollarway and Gathen to respond to specific interrogatories and requests for production was entered. Dollarway and Gathen did not respond by the deadline established in the order. Further, Stepps maintains that Dollarway and Gathen have not filed their pre-trial information sheet as required by the pre-trial scheduling order. Stepps states that due to this, she has been deprived the ability to effectively predict, prepare for, and cross-examine witnesses Dollarway and Gathen might produce.

Defendants respond that their failure to timely respond to the interrogatories was an oversight. They also point out that Stepps has deposed all but one of the witnesses they

intend to call.

It is difficult to determine whether defendants' discovery abuses were malicious or whether they were caused by mere oversight. Also, it seems that there is little prejudice to Stepps because she has already deposed all but one of the witnesses whom defendants will call to testify. For these reasons, the motion in limine is denied.

IT IS SO ORDERED this 21st day of October, 2010.


UNITED STATES DISTRICT JUDGE