

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

JONATHAN LOVE; SHERI McWILLIAMS;
TRACY KEEN; and ROBIN LOVE

PLAINTIFFS

v.

No. 5:13-cv-292-DPM

MICHAEL L. RETZER, Individually, and in his
Capacity as an Owner, Officer and Manager of Retzer
Resources, Inc. and the Retzer Group, Inc.; and
RETZER LLC

DEFENDANTS

ORDER

1. Expedited response appreciated. The motion, *No 180*, and cross motion, *No 183*, are denied.

2. Plaintiffs listed Burrow as a witness in their pretrial disclosures, *No 167-1 at 1*, and she's been deposed. Plaintiffs' failure to supplement discovery responses is harmless. There's no prejudice.

3. Schutze presents a closer question. This involved manager was apparently discussed in passing during Keen's June 2014 deposition. There was apparently no outstanding interrogatory from plaintiffs asking for a list of witnesses before pretrial disclosures. Retzer listed this person four weeks ago as an expected trial witness. *No 166 at 4*. Considering all these

circumstances, the Court declines to strike Schutze—with mandatory conditions.

The conditions. First, if Schutze is still a Retzer employee, then Retzer must present Schutze for an interview (or deposition, at plaintiffs' choice) on February 6th or 7th at the office of Retzer's lawyers in Pine Bluff. Retzer chooses the date and time to best accommodate Schutze. Second, if Schutze is no longer employed by Retzer, then Retzer must provide Schutze's contact information (address, home telephone number, cell telephone number, and email—whatever Retzer has) to plaintiffs' lawyers by the close of business today. In that circumstance, plaintiffs' counsel may also interview Schutze (in the presence of Retzer's counsel) at the courthouse before Schutze testifies. This interview should occur several hours before the testimony.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

5 February 2016