

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

LOIS DRIVER, et al

PLAINTIFFS

VS.

CASE NO. 4:13-cv-4074

D. MOSLEY TRUCKING, INC.,
et al

DEFENDANTS

ORDER

Before the Court is a Motion to Strike Expert Witnesses filed on behalf of Plaintiffs Lois Driver and Robert Driver. (ECF No. 139). Plaintiffs request that the Court strike Defendant New Millennium Building Systems, L.L.C.'s experts, John Lindenschmidt and Steven Jackson. New Millennium has filed a response to the motion. (ECF No. 140). On October 27, 2014 a hearing on the motion was held. The Court finds this matter ripe for consideration.

As to John Lindenschmidt, Plaintiffs argue that New Millennium failed to disclose Mr. Lindenschmidt as an expert within the time allowed for expert disclosures. New Millennium states that they no longer intend to call Lindenschmidt as an expert in the trial of this matter. Accordingly, Plaintiffs' motion as to Mr. Lindenschmidt is **DENIED AS MOOT**.

As to Steven Jackson, Plaintiffs argue that New Millennium failed to provide all exhibits relevant to Mr. Jackson's expert report within the time allowed for rebuttal expert disclosures. The Court disagrees. The deadline for rebuttal expert disclosures was September 1, 2014, a federal holiday. Accordingly, pursuant to Federal Rule of Civil Procedure 6(a)(1)(C), New Millennium's disclosures were not due until the following day, September 2, 2014. The materials referenced in Plaintiffs' motion were provided by New Millennium on September 2,

2014. Accordingly, New Millennium's disclosures were timely, and Plaintiffs' motion as to Mr. Jackson should be and hereby is **DENIED**. As discussed in the hearing that took place on October 27, if there are any other materials that Mr. Jackson intends to use at trial that have not been turned over to Plaintiffs, New Millennium must provide these materials to Plaintiffs on or before November 7, 2014.

IT IS SO ORDERED, this 29th day of October, 2014.

/s/ Susan O. Hickey
Susan O. Hickey
United States District Judge