

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

VANESSA GRIFFIN, ET AL

PLAINTIFFS

v.

Civil No. 4:14-cv-04065

TONY ALAMO a/k/a BERNIE L. HOFFMAN, ET AL.

DEFENDANTS

ORDER

BEFORE the Court is Defendants' Joint Motion to Strike Plaintiffs' Expert Witness. ECF No. 255. With this Motion, Defendants seek to strike Plaintiffs' expert witness, Dr. Steve Eichel, based on their untimely expert disclosure report. The Plaintiffs responded to this Motion on August 10, 2016. ECF No. 266. A hearing was held on this Motion on September 15, 2016. Pursuant to the provisions of 28 U.S.C. § 636(b)(1) and (3) (2005), United States District Judge Susan O. Hickey referred this Motion to the undersigned for decision. The Court having reviewed the pleadings and arguments of counsel finds Defendants' Joint Motion to Strike Plaintiffs' Expert Witness (ECF No. 255), should be **DENIED**.

With this Motion, Defendants seek to strike Plaintiffs' expert witness because his Rule 26 expert disclosure was late. According to Defendants, the deadline to disclose expert witnesses and to produce expert reports was March 17, 2016. The parties agreed via email to extend the deadline to May 1, 2016 and then to May 16, 2016. On May 16, 2016, Plaintiffs only produced a curriculum vitae for Dr. Steve Eichel. On June 7, 2016, Plaintiffs produced a Supplemental Disclosure of Expert Testimony. ECF 255-9. On August 5, 2016, Plaintiffs produced an expert report from Dr. Eichel. ECF No. 282-1.

Defendants argue they have been harmed from Plaintiffs' failure to properly disclose their

expert's report. Defendants claim they were delayed in preparing for Plaintiffs' expert's deposition and Plaintiffs had the advantage of preparing their expert report after having received the disclosure pleading and reports from defense experts.

Although it may be true Defendants have suffered some harm by Plaintiffs' untimely expert disclosure, any such harm can be rectified with the taking of Dr. Eichel's deposition which has been agreed by the parties to take place October 28, 2016. Accordingly, there is no prejudice to the Defendants.

Accordingly, Defendants' Joint Motion to Strike Plaintiffs' Expert Witness (ECF No. 255) is **DENIED**. Further, no later than September 29, 2016, Plaintiffs shall provide Defendants (1) a copy (either paper or electronic) of each of the exhibits used by Dr. Eichel in support of his opinions, (2) a list of all cases, during the last 4 years, Dr. Eichel has testified at trial or by deposition, and (3) a statement of compensation to be paid Dr. Eichel.

IT IS SO ORDERED this **16th day of September 2016**.

/s/ Barry A. Bryant
HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE