

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

NO JS-6

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JERMAINE TOOMER, an individual,	)	CASE NO. CV 14-2780-R
	)	
Plaintiff,	)	ORDER GRANTING PLAINTIFF’S EX
	)	PARTE APPLICATION RE MOTION TO
v.	)	STRIKE DEFENDANTS’ UNSIGNED
	)	AND INSUFFICIENT EXPERT
COUNTY OF LOS ANGELES a public	)	DESIGNATION
entity; LEROY BACA, Individually and in	)	
his Official Capacity as Sheriff of the Los	)	
Angeles County Sheriff’s Department;	)	
LAWRENCE SWANSON, an Individual;	)	
JONATHON BRANHAM, an Individual; and	)	
DOES 1-25, inclusive,	)	
	)	
Defendants.	)	
	)	

Before the Court is Plaintiff’s Ex Parte Application Re Motion To Defendants’ Unsigned And Insufficient Expert Designation, which was filed on October 22, 2014.

Federal Rule of Civil Procedure 26(a)(2)(A) requires a party to disclose to the other parties the identity of any witness it may use at trial to present evidence under Federal Rule of Evidence 702, 703, or 705. Pursuant to Federal Rule of Civil Procedure 26(a)(2)(B), the disclosure must be accompanied by a written report – prepared and signed by the witness - if the witness is one

1 retained or specially employed to provide expert testimony in the case or one whose duties as the  
2 party's employee regularly involve giving expert testimony. The report must contain:

- 3 (i) a complete statement of all opinions the witness will express and the basis and  
4 reasons for them;
- 5 (ii) the facts or data considered by the witness in forming them;
- 6 (iii) any exhibits that will be used to summarize or support them;
- 7 (iv) the witness's qualifications, including a list of all publications authored in the  
8 previous 10 years;
- 9 (v) a list of all other cases in which, during the previous 4 years, the witness testified as  
10 an expert at trial or by deposition; and
- 11 (vi) a statement of the compensation to be paid for the study and testimony in the case.

12 Federal Rule of Civil Procedure 37(c)(1) provides that any party who fails to provide information  
13 or identify a witness as required by Rule 26(a), is not allowed to use that information or witness to  
14 supply evidence on a motion, at a hearing, or at a trial.

15 Here, expert reports were due to be mutually exchanged on September 17, 2014. On that  
16 day, Defendants served their expert witness designation on Plaintiff, designating Johnny "Gil"  
17 Jurado as a retained expert. However, at the time of service, Defendants failed to produce a  
18 written expert report for Mr. Jurado as required by Federal Rule of Civil Procedure 26(a)(2)(B).  
19 As such, Defendants' expert designation is insufficient, and Johnny "Gil" Jurado shall be  
20 precluded from supplying evidence at trial pursuant to Federal Rule of Civil Procedure 37(c)(1).

21 **IT IS HEREBY ORDERED** that the Motion to Strike Defendants' Unsigned and  
22 Insufficient Expert Designation is GRANTED.

23 Dated: October 28, 2014.



---

26 MANUEL L. REAL  
27 UNITED STATES DISTRICT JUDGE  
28