

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

DEBBIE ULIBARRI, et al.,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. 07-CV-1814-ODS
	)	
CITY & COUNTY OF DENVER, et al.,	)	
	)	
Defendants.	)	

ORDER DENYING AS MOOT MOTION TO AMEND FINAL PRETRIAL ORDER

Pending is Defendants' Motion to Amend Final Pretrial Order. The motion (Doc. # 343) is consented to in part and opposed in part. However, it seeks to amend an order that was already amended, so it is denied as moot.

In October 2009, the Honorable Michael J. Watanabe, United States Magistrate Judge for this District, issued a Final Pretrial Order which, *inter alia*, listed the witnesses the parties planned to call at trial and the witnesses the parties might call at trial. Defendants seek permission to move six witnesses from the "will call" to the "may call" list, which Plaintiffs do not oppose. Defendants also seek permission to add a new witness to the "may call" list, which they report Plaintiffs oppose (although Plaintiffs have not filed a formal opposition explaining why they oppose this request). However, on October 17, 2011, the undersigned issued a Scheduling and Trial Order; paragraph 4(e) directs that five days before the pretrial conference (which is set for February 9, 2012) the parties shall file a list of witnesses who may be called at trial. The Court acknowledges this procedure may be different from that customarily used in this district, but nonetheless the Court has effectively amended the previously issued Final Pretrial Order.

The Court's ruling should not be taken to mean that parties can name witnesses that were not disclosed during the course of discovery. If such an eventuality arises, a party may raise the issue with the Court. With that caveat, however, the witnesses to

be called do not have to be “locked in” until five days before the pretrial conference, so Defendants’ request to amend the list of witnesses they intend to call is moot.

IT IS SO ORDERED.

DATE: November 23, 2011

/s/ Ortrie D. Smith  
ORTRIE D. SMITH, SENIOR JUDGE  
UNITED STATES DISTRICT COURT