IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO


Civil Action No.   09-cv-00504-MJW-KLM

DATAWORKS, LLC,

Plaintiff(s),

v.

PLANIT PLANNERS, INC.,

Defendant(s).
_____
                                    MINUTE ORDER
_____
Entered by Magistrate Judge Michael J. Watanabe


        It is hereby ORDERED that Plaintiff's Motion *In Limine* to Strike Defendant's Trial
Witnesses (docket no. 67) is DENIED.

        On December 14, 2010, this court held a Final Pretrial Conference and entered a
Final Pretrial Order.  See docket nos. 61 and 62.  Moreover, that Defendant did timely
disclose the names of its witnesses who may have knowledge of this case in its Rule
26(a)(1) disclosures. See docket nos. 75-1 and 75-2.   Plaintiff has deposed Ryan
Barker and Roni Bell.  Under the <u>Woodworker's Supply, Inc. V. Principal Mut. Life Ins.
Co.</u>, 170 F.3d 985, 993 (10$^{th}$ Cir. 1999), I find no surprise or prejudice to Plaintiff.  The
Plaintiff could have cured this problem by deposing such witnesses listed in the
Defendant's Rule 26(a)(1) disclosures during the discovery period and could have
sought an enlargement of the number of permitted depositions.  In the event the
parties believe that additional discovery is warranted in light of this ruling, they may
move to reopen discovery for a reasonable period and to alter any other deadlines
noting that this case is not set for trial until April 25, 2011, at 8:30 a.m. Thus, any
prejudice that might arise from this ruling is capable of being cured.  Although, the
actual written list of witnesses by Defendant attached to the Final Pretrial is not
completed in detail, it can be cured.  I do not find bad faith on behalf of Defendant.

        It is FURTHER ORDERED that Defendant shall provide Plaintiff with an updated
written trial witness list **on or before March 28, 2011**, that shall include a short
statement as to the nature and purpose of the witness' testimony.  This list should also
contain the addresses and phone numbers for such witnesses and whether such
witnesses will be testifying in person or by deposition.

Date:  March 21, 2011