

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Magistrate Judge Boyd N. Boland

Civil Action No. 09-cv-02601-WJM-BNB

MICHAEL E. CUMMINGS,

Plaintiff,

v.

AVON WYNFIELD LLC,

Defendant.

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**ORDER**

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In the Pretrial Order [Doc. # 110, filed 4/5/2011], I refused the plaintiff's exhibit list and required that he "submit a revised exhibit list reporting Bates numbers on or before May 2, 2011." Final Pretrial Order [Doc. # 110] at Part 7(A)(1). The plaintiff failed to file a revised exhibit list as ordered, and I entered an Order to Show Cause [Doc. # 118, filed 5/12/2011]. On May 19, 2011, the plaintiff submitted his Final List of Proposed Exhibits [Doc. # 119] (the "Exhibit List") and his Response to Order to Show Cause [Doc. # 120] which included as an exhibit a copy of the Exhibit List.

Exhibits 5, 6, 11, 12, 13, 25, 26, 27, 28, 29, 30, 31, and 32 as listed on the Exhibit List do not comply with the requirement that every page of every exhibit be Bates numbered and that the beginning and ending Bates numbers be reported on the Exhibit List. The requirement is not make-work. Instead, it serves two important purposes. First, it assures that all exhibits are

paginated or otherwise marked for easy reference at trial.<sup>1</sup> In addition, it creates a means for the district judge at trial to assure that the entirety of the exhibit offered into evidence was disclosed in connection with the Final Pretrial Order.

IT IS ORDERED that the plaintiff shall file and serve on the defendant, on or before **May 30, 2011**, a revised exhibit list reporting the beginning and ending Bates numbers of each exhibit.

Dated May 20, 2011.

BY THE COURT:

s/ Boyd N. Boland  
United States Magistrate Judge

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<sup>1</sup>The plaintiff may contend that Bates numbering photographs is unnecessary. I do not agree. Exhibit 5 is a “series” of photos. Marking the back of each photo with a distinctive Bates number will assure ready reference and also assure that each photograph has been disclosed in the pretrial process.