

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 11-cv-00968-REB-KLM

KATHLEEN CHYTKA,

Plaintiff,

v.

WRIGHT TREE SERVICE, INC.,

Defendant.

ORDER RE: WITNESS AND EXHIBIT LISTS

Blackburn, J.

The matter is before the court *sua sponte* for the entry of an order regulating the witnesses and exhibits that may be presented at trial.

Concerning witnesses and exhibits, the chronology of relevant events taken from CM/ECF is as follows. On November 14, 2013, the **Final Pretrial Order** [#331] was entered. As required, the prospective witnesses of the plaintiff were identified in [#331-1], and the prospective witnesses of the defendant were identified in [#331-2].

Subsequently, on February 18, 2014, an **Order** [#367] was entered, which order provided in relevant part:

IT IS HEREBY **ORDERED** that Plaintiff may not present any witnesses other than herself at trial.

IT IS FURTHER **ORDERED** that Plaintiff may not present any exhibits at trial other than those already listed in the Final Pretrial Order.

Order [#367] at 3.

On August 21, 2014, defendant filed **Defendant's Amended Trial Witness List**

[#435], and plaintiff filed **Plaintiffs [sic] Witnesses [sic] List For General Public jury trial** [#436]. On August 25, 2014, plaintiff filed **Plaintiffs [sic] Witnesses [sic] List For General Public jury trial and I will add others as Needed Revised** [#441].

The amended witness lists filed by plaintiff [#436] and [#441] and by defendant [#435] are quintessentially spurious amendments to the **Final Pretrial Order** without antecedent judicial approval. Therefore, those lists should be stricken.

Additionally, plaintiff remains subject to the **Order** [#367] entered February 18, 2014. Thus, at trial plaintiff may call only herself as a witness.

Concerning exhibits that may be offered at trial, the **Parties' Joint Exhibit List** [#331-3] was attached as Exhibit C to the **Final Pretrial Order**. additionally, the **Final Pretrial Order** required relevantly as follows:

Copies of listed exhibits must be provided to opposing counsel and any *pro se* party no later than 30 days before trial. The objections contemplated by Fed. R. Civ. P. 26(a)(3) shall be filed with the clerk and served by hand delivery or facsimile no later than 14 days after the exhibits are provided.

Pretrial Order [#331] at 6, ¶ 7. Thus, pending stipulation of the parties approved by the court or pending further order of the court, only those exhibits listed in the **Parties' Joint Exhibit List** [#331-3] and only those objections to exhibits filed as required by the **Final Pretrial Order** will be considered by the court.¹

THEREFORE, IT IS ORDERED as follows:

1. That **Defendant's Amended Trial Witness List** [#435], **Plaintiffs [sic]**

¹ On August 8, 2014, defendant filed **Defendant's Objections to Plaintiff's Trial Exhibits** [#423]. The plaintiff has not filed objections to defendant's proposed trial exhibits.

Witnesses [sic] List For General Public jury trial [#436], and Plaintiffs [sic]

Witnesses [sic] List For General Public jury trial and I will add others as Needed

Revised [#441] are STRICKEN;

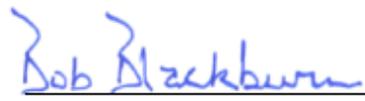
2. That pending stipulation of the parties approved by the court or pending further order of the court, only those exhibits listed in the **Parties' Joint Exhibit List** [#331-3] and only those objections to exhibits filed as required by the **Final Pretrial Order WILL BE CONSIDERED** by the court; and

3. That pursuant to the extant **Order** [#367] entered February 18, 2014, the plaintiff **MAY CALL** only herself as a witness at trial; and

4. That all relevant orders, including, but not necessarily limited to, the **Final Pretrial Order** [#331], are **AMENDED** to the limited extent necessary to facilitate and implement this Order, but are otherwise ratified and continued in full force and effect.

Dated September 2, 2014, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge