

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

BERLENA SHEFFIELD,

Plaintiff,

v.

Case No: 6:17-cv-273-Orl-37KRS

**RODRIGUEZ GREENE, KAREN
RAINFORD AKINPELU, VICKIE
DYANNE ALVES and CHRISTINA
DALY,**

Defendants.

ORDER

This cause came on for consideration without oral argument on the following motion filed herein:

**MOTION: DEFENDANTS' MOTION TO COMPEL DEPOSITIONS
OR, IN THE ALTERNATIVE, MOTION TO STRIKE
EXPERT WITNESSES (Doc. No. 124)**

FILED: January 10, 2018

**THEREON it is ORDERED that the motion is GRANTED in part and
DENIED in part.**

Pursuant to the information provided by counsel (Doc. No. 123), it is **ORDERED** as follows:

(1) the deposition of Dr. Raymond Pitetti shall be conducted on January 22, 2018 in Pennsylvania, at a time and place designated by counsel that is agreeable with Dr. Pitetti; (2) the deposition of Dr. Lisa Nigrovic shall be conducted the morning of January 17, 2018 in Massachusetts at a time and place agreeable to Dr. Nigrovic; and (3) the deposition of Dr. Wendy Chabot shall be conducted in Massachusetts on January 30, 2018 at a time and place agreeable to Dr. Chabot. As Attorney

Bonderud is unavailable to attend Dr. Chabot's deposition on January 30, one of his co-counsel shall attend in his place.

As to Plaintiff's objection to Defendants' inclusion of a *duces tecum* for the depositions of her expert witnesses, Plaintiff is correct that it is improper to notice expert witnesses for deposition, as experts are nonparties who require subpoenas. *See Karakis v. Foreva Jens Inc.*, No. 08-61470-CIV, 2009 WL 113456, at *2 (S.D. Fla. Jan. 19, 2009). Accordingly, because the expert witnesses have agreed to the dates for their respective depositions, the 14-day notice requirement under Local Rule 3.02 is waived; however counsel for Defendants may not require Drs. Nigrovic or Chabot to produce any documents other than the documents containing the "facts and data considered by the witness in forming [her opinions]," as required by Rule 26(a)(2)(B)(ii) (which does not include trial preparation material described in Rule 26(b)(4)). It is **ORDERED** that Dr. Nigrovic and Dr. Chabot shall produce documents containing the "facts and data considered by the witness in forming [her opinions]," as required by Rule 26(a)(2)(B)(ii) (which does not include trial preparation material described in Rule 26(b)(4)) at the beginning of her deposition.

Counsel for the party taking the deposition shall provide a copy of this Order to the experts being deposed along with a written notice of the agreed place and time of each deposition.

The alternative request to strike the expert witnesses because they are not available to be deposed is moot.

DONE and **ORDERED** in Orlando, Florida on January 12, 2018.

Karla R. Spaulding

KARLA R. SPAULDING
UNITED STATES MAGISTRATE JUDGE