

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

STEVE WHITLOW, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 04-3211
)	
TIMOTHY MARTIN, et al.,)	
)	
Defendants.)	

OPINION

JEANNE E. SCOTT, U.S. District Judge:

This matter comes before the Court on the Corrected Objections to Magistrate’s Denial of Defendants’ Motion to Strike Plaintiffs’ Supplemental Disclosure Pursuant to F.R.C.P. 26 and Grant of Certain Provisions in the November 19, 2008 Order (d/e 215) (Defendants’ Objections) and the Non-Party Office of the Governor’s Objections to the November 19 Order (d/e 218) (Office of Governor’s Objections) (Collectively Objections). For the reasons set forth below, the Objections are OVERRULED and the Opinions of United States Magistrate Judge Byron G. Cudmore are AFFIRMED.

The Objections concern the Opinion and Order of Judge Cudmore

entered October 28, 2008 (d/e 201) (October 28 Opinion) and November 19, 2008 (d/e 208) (November 19 Order). In the October 28 Opinion, Judge Cudmore denied the Defendants' request to strike the Plaintiffs' supplemental Rule 26 disclosures of nine additional individuals. Judge Cudmore denied the request to strike because the nine individuals had been previously disclosed in discovery. October 28 Opinion, at 4. Judge Cudmore also allowed an extension of the time to conduct discovery. In the November 19 Order, Judge Cudmore ordered the Office of the Governor to comply with a previous Opinion entered June 12, 2008 (d/e 175) (June 12 Opinion). November 19 Order, at 8.

This Court reviews the Opinion and Order to determine whether the decisions were clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a). Neither Opinion nor Order is clearly erroneous or contrary to law. In the October 28 Opinion, Judge Cudmore determined that the nine individuals were otherwise disclosed in discovery. The Plaintiffs do not dispute this. A party is obligated to supplement Rule 26 disclosures only if “the additional or corrective information has not otherwise been made known to the other parties during the discovery process” Fed. R. Civ. P. 26(e)(1)(A). This Court cannot say that Judge

Cudmore's decision was clearly erroneous given that the identity of these individuals had been previously disclosed.

In the November 19 Order, Judge Cudmore ordered the Office of the Governor to comply with the June 12 Opinion requiring the production of documents pursuant to subpoena. The Objections essentially argue that Judge Cudmore ordered the production of additional documents not covered by the June 12 Opinion. The Court has reviewed both the Opinion and Order and concludes that Judge Cudmore correctly interpreted his own June 12 Opinion. The November 19 Order, therefore, is not clearly erroneous; Judge Cudmore only ordered compliance with the June 12 Opinion.

The extension of discovery in the October 28 Opinion also was not clearly erroneous or an abuse of discretion. The Office of the Governor still has not complied with the subpoenas issued in this case. Given that fact, it is not an abuse of discretion to extend discovery.

THEREFORE, the Corrected Objections to Magistrate's Denial of Defendants' Motion to Strike Plaintiffs' Supplemental Disclosure Pursuant to F.R.C.P. 26 and Grant of Certain Provisions in the November 19, 2008 Order (d/e 215) and the Non-Party Office of the Governor's Objections to the November 19 Order (d/e 218) are OVERRULED, and the Opinion

entered October 28, 2008 (d/e 201) and Order entered November 19, 2008 (d/e 208) are AFFIRMED. The stay entered by Text Order entered November 25, 2008, is lifted. This matter is referred to United States Magistrate Judge Byron G. Cudmore to revise the schedule in this matter and to set dates for compliance by the Office of the Governor with the November 19, 2008, Order (d/e 208).

IT IS THEREFORE SO ORDERED.

ENTER: January 16, 2009

FOR THE COURT:

s/ Jeanne E. Scott
JEANNE E. SCOTT
UNITED STATES DISTRICT JUDGE