

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**FRED DEFRANCESCH, MD, LLC et al.,
Plaintiffs**

CIVIL ACTION

VERSUS

NO. 13-5583

**REPUBLIC FIRE & CASUALTY
INSURANCE COMPANY,
Defendant**

SECTION "E"

ORDER AND REASONS

Before the Court is defendant Republic Fire and Casualty Insurance Company's ("Republic") Motion in Limine to Preclude Documentary Evidence Provided by Plaintiff's Accountant, Dennis Dugas, as well as Any and All Testimony Regarding Same.¹ Plaintiff, Fred DeFrancesch, M.D., LLC ("Plaintiff"), opposes Republic's motion.²

Republic moves to exclude certain documents obtained from Plaintiff's accountant, Dennis Dugas (the "Dugas Documents"). Republic also asks the Court for an order precluding any testimony pertaining to the Dugas Documents by any witness at trial. The Dugas Documents were not listed in Plaintiff's witness and exhibit list,³ nor did Plaintiff include the Dugas Documents as exhibits intended to be used at trial in the parties' pre-trial order.⁴

Federal Rule of Civil Procedure 16(b) authorizes district courts to control and expedite the discovery process through a scheduling order. Fed. R. Civ. P. (16)(b). The district court has "broad discretion" to enforce its scheduling order. *See Geiserman v.*

¹R. Doc. 39.

²R. Doc. 42.

³R. Doc. 22.

⁴R. Doc. 36.

MacDonald, 893 F.2d 787, 790 (5th Cir. 1990). Rule 16(f) specifically authorizes the Court to sanction a party for failing to comply with its scheduling order by excluding evidence. *Rushing v. Kansas City S. Ry. Co.*, 185 F.3d 496, 509 (5th Cir. 1999).

Any attempt by Plaintiff to introduce the Dugas Documents at trial would be in violation of this Court's scheduling order. The Court's October 22, 2013 Scheduling Order set forth deadlines for Plaintiff to submit a witness and exhibit list (due May 13, 2014) and for the parties to identify exhibits to be used at trial in the pre-trial order (due June 30, 2014).⁵ Because Plaintiff failed to list the Dugas Documents in its witness and exhibit list or the pretrial order, those documents may not be introduced as exhibits at trial. Dennis Dugas was listed as a witness and he will be allowed to testify.

Accordingly, **IT IS ORDERED** that Republic's motion in limine excluding the Dugas Documents be and hereby is **GRANTED**.

New Orleans, Louisiana, this 17th day of July, 2014.



SUSIE MORGAN
UNITED STATES DISTRICT JUDGE

⁵R. Doc. 7.