

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

SAMIR SALMAN

CIVIL ACTION

VERSUS

NO. 18-10966

JOE BALDERAS, TRANSPORT
REFRIGERATION SALES &
SERVICES, INC., AND ARCH
INSURANCE COMPANY

SECTION M (4)

ORDER & REASONS

Before the Court is a motion by defendants Joe Balderas, Transport Refrigeration Sales & Service, Inc. d/b/a Carrier Transicold South, Glensouth, and Arch Insurance Company (collectively, “Defendants”) to strike plaintiff’s expert witness, Robert P. Tresp, Jr., MA, CRC, CLPC, LAC, for failure to comply with Rule 26(a)(2)(B)(iii)-(vi) of the Federal Rules of Civil Procedure.¹ Defendants argue that the Court should strike Tresp because plaintiff Samir Salman did not provide to Defendants with Tresp’s report: exhibits that will be used to summarize or support Tresp’s opinions; a list of all publications Tresp authored in the last ten years; a list of all other cases in which Tresp testified as an expert in deposition or at trial in the last four years; or a statement of the compensation paid to Tresp for his report and testimony.² Defendants also contend that neither Salman nor Tresp provided to Defendants the letter from Dr. Eric Royster upon which Tresp relies to reach his opinions.³ Defendants contend that they provided Salman with sufficient notice of the deficiencies by mentioning it in their motion to extend their expert disclosure deadline.⁴

¹ R. Doc. 32.

² R. Doc. 32-1 at 4.

³ *Id.* at 1.

⁴ *Id.* at 4-5.

Salman argues that the Court should not strike Tresp because defense counsel did not request further materials or disclosures related to Tresp before filing the instant motion.⁵ Also, on August 19, 2019, Salman's counsel provided to defense counsel Tresp's curriculum vitae, testimony list, retainer agreement and fee schedule, relevant publication, and Dr. Royster's letter that informed Tresp's report.⁶ Salman observes that Defendants have not yet deposed Tresp and otherwise have not been prejudiced by the delayed disclosures.⁷

Considering the parties' memoranda, the record, and the applicable law, the Court finds that striking Tresp is not warranted. Although the better practice is for a party to provide timely all expert disclosures in full compliance with the rule, Defendants were not prejudiced by the delayed disclosures in this case. Further, in the event that initial expert disclosures are incomplete, the better practice is for counsel to request the missing items before filing a motion to strike an expert on an easily remedied technicality.

Accordingly,

IT IS ORDERED that Defendants' motion to strike Tresp (R. Doc. 32) is DENIED.

New Orleans, Louisiana, this 29th day of August, 2019.


BARRY W. ASHE
UNITED STATES DISTRICT JUDGE

⁵ R. Doc. 39 at 2.

⁶ *Id.*

⁷ *Id.*