

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

|                   |   |                           |
|-------------------|---|---------------------------|
| JAMES E. WRIGHT,  | ) |                           |
|                   | ) |                           |
| Plaintiff,        | ) |                           |
|                   | ) |                           |
| v.                | ) | Case No. 13-CV-24-JED-FHM |
|                   | ) |                           |
| BNSF RAILWAY CO., | ) |                           |
|                   | ) |                           |
| Defendant.        | ) |                           |

**OPINION AND ORDER**

Defendant BNSF Railway Co.'s *Motion to Compel Plaintiff to Second Deposition on Newly Produced Evidence*, [Dkt. 104], is before the court for decision. The motion has been fully briefed. [Dkts. 106, 113].

In forming his expert opinions, Plaintiff's expert considered detailed factual information Plaintiff provided about Plaintiff's work activities during his thirty two years working for Defendant. The information included an extensive questionnaire filled out by Plaintiff, an interview of Plaintiff by the expert, and other material about Plaintiff's work activities.

Although the questionnaire was completed by Plaintiff before his deposition, it was not provided to the Defendant before Plaintiff's deposition. The other materials considered by Plaintiff's expert concerning Plaintiff's work activities were generated after Plaintiff's deposition.

Defendant seeks a second deposition of Plaintiff to examine the reliability and accuracy of the factual assertions Plaintiff has conveyed to his expert about his work activities over the years. Plaintiff responds that Defendant had the ability to question Plaintiff about his work activities at Plaintiff's first deposition.

The court finds that Defendant has established good cause for a second deposition of Plaintiff. At Plaintiff's first deposition, Plaintiff had not provided Defendant with the extensive questionnaire of Plaintiff's work activities and it was not clear that Plaintiff's expert would be relying on Plaintiff's detailed account of his work activities over many years as the basis for Plaintiff's expert's opinion. In fairness, Defendant should have the opportunity to test the reliability and accuracy of Plaintiff's factual assertions.

Defendant BNSF Railway Co.'s *Motion to Compel Plaintiff to Second Deposition on Newly Produced Evidence*, [Dkt. 104], is GRANTED.

SO ORDERED this 19th day of October, 2015.

  
FRANK H. McCARTHY  
UNITED STATES MAGISTRATE JUDGE