







testimony should be precluded pursuant to Rule 37(c) of the Federal Rules of Civil Procedure because Plaintiff failed to disclose its existence in her Initial Disclosure and discovery responses.

Defendant's Motion to Preclude Portion of Kelly Stapley's Testimony (ECF No. 77) is **DENIED**. At the Final Pretrial Hearing, the court found that the weight of the four factors set forth in *Woodworker's Supply, Inc. v. Principal Mut. Life Ins. Co.*, 170 F.3d 985 (10th Cir. 1999) establishes that Plaintiff's September 9, 2016 disclosure of Ms. Stapley's purported testimony was harmless. That testimony is therefore **NOT PRECLUDED** by Rule 37(c).

DATED this 21st day of October, 2019.

BY THE COURT:

A handwritten signature in blue ink, appearing to read 'Clark Waddoups', written over a horizontal line.

Clark Waddoups  
United States District Judge