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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,

Plaintiff,

ROBERT SANDERS,

Plaintiff-Intervenor,

v.

BIG 5 CORP.,

Defendant.

Case No. 2:17-cv-01098-RSM

ORDER DENYING PLAINTIFF-
INTERVENOR ROBERT SANDERS'
MOTION TO PRECLUDE EXPERT
TESTIMONY

THIS MATTER comes before the Court on Plaintiff-Intervenor Robert Sanders' Motion to Preclude Expert Testimony. Dkt. #48. The Court considered the following:

1. Plaintiff-Intervenor Robert Sanders' Motion to Preclude Expert Testimony;
2. Defendant Big 5 Corp.'s Opposition to Plaintiff-Intervenor Robert Sanders' Motion to Preclude Expert Testimony;
3. Declaration of Francis L. Van Dusen in Support of Big 5 Corp.'s Opposition to Plaintiff-Intervenor Robert Sanders' Motion to Preclude Expert Testimony and the exhibits attached thereto;

1 4. Declaration of Eric Olson in Support of Big 5 Corp.'s Opposition to
2 Plaintiff-Intervenor Robert Sanders' Motion to Preclude Expert Testimony and the exhibits
3 attached thereto; and

4 5. Plaintiff-Intervenor Robert Sanders' Reply in Support of Motion to
5 Preclude Expert Testimony.

6 Having fully considered the matter and the files and records herein, the Court
7 hereby finds and ORDERS:

8 Plaintiff-Intervenor Robert Sanders' Motion to Preclude Expert Testimony (Dkt.
9 #48) is DENIED without prejudice. The Court disagrees with Defendant that a meet and confer
10 was required prior to Plaintiff filing the instant motion. Local Civil Rule 37(a)(1) requires a meet
11 and confer prior to a motion to compel discovery or for a protective order. The instant motion was
12 neither of those. However, for the reasons discussed by Defendant in its opposition, the Court
13 finds that Defendant's untimely disclosure was justified under the circumstances of this case, and
14 is harmless given that Plaintiff Sanders has had access to his own electronic devices throughout
15 this matter, has significantly delayed in providing those devices to Defendant for examination,
16 appears to have intentionally damaged those devices prior to providing them to Defendant's expert,
17 and may depose the proposed expert once any opinions are offered. Moreover, at this time, it is
18 not clear that the proposed expert will even be offered at trial in this matter.

19 DATED this 30th day of July, 2018.

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22 RICARDO S. MARTINEZ
23 CHIEF UNITED STATES DISTRICT JUDGE
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