

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

**CARL PRATT,
KEITH WALLACE,
TIM PARKER,
JACKIE MANESS, and
PATRICK LINDSEY,**

PLAINTIFFS,

v.

**THE CITY OF LEXINGTON,
TENNESSEE,**

DEFENDANT.

Civil Action No. 1:07-cv-01219

**ORDER ON DEFENDANT’S OBJECTIONS TO PLAINTIFFS’
RULE 26(a)(3) PRE-TRIAL DISCLOSURES**

Before the Court is Defendant’s Objections to Plaintiffs’ Rule 26(a)(3) Pre-Trial Disclosures (D.E. 45). Plaintiffs have responded (D.E. 48). The Objections were referred to the Magistrate for determination (D.E. 47).

Objection Nos. 1-3

Defendant objects to witnesses Richard Dyer, John Maness, and David McCrury, as they were not disclosed in Plaintiffs’ Rule 26(a)(1) Disclosures. In response, Plaintiffs state that these witnesses will not be called in Plaintiffs’ case in chief, but only for impeachment. Under Rule 26(a)(1)(A) of the Federal Rules of Civil Procedure, if the witnesses will be used solely for impeachment they need not be disclosed in Plaintiffs’ initial disclosures. Accordingly, this

objection is overruled. If Plaintiffs attempt to use these witnesses for purposes other than impeachment at trial, Defendant may renew its objection.

Objection Nos. 4 and 5

Defendant's objections to the Peggy Gilbert email and written statement of Roy Woods are overruled. As Plaintiffs note, these documents can be authenticated at trial, and are party opponent admissions under Rule 801(d)(2) of the Federal Rules of Evidence and thus not hearsay. Finally, Plaintiffs disclosed these documents upon receipt in accordance with Rule 26(e), and with regard to the Peggy Gilbert email, it does appear that this is a document Plaintiffs requested which Defendant should have produced.

Objection No. 6

Defendant's objection to affidavit of Max Ray Hayes is overruled. Plaintiffs have stated they will use the affidavit for impeachment purposes only. In the event that Plaintiffs attempt to use the affidavit for another purpose at trial, Defendant may renew its objection.

Objection Nos. 7-9

Defendant's objections are overruled, as Plaintiffs have stated they will use the articles, in which Defendant's representatives were quoted, for impeachment purposes only. In the event that Plaintiffs attempt to use the articles for other purposes at trial, Defendant may renew its objections. Further, the quotes are not hearsay, as they fall within Rule 801(d)(2) of the Federal Rules of Evidence.

s/ Edward G. Bryant
EDWARD G. BRYANT
United States Magistrate Judge

September 24, 2009
Date