

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

PATRICIA JEAN DISNEY,)
)
 Plaintiff,)
)
 vs.) No. 02-2210 BV
)
 STATE FARM FIRE)
 AND CASUALTY COMPANY,)
)
 Defendant.)

AMENDED ORDER GRANTING PLAINTIFF'S FIRST MOTION TO COMPEL

Before the court in this civil diversity case is a motion filed December 3, 2002, by the plaintiff, Patricia Jean Disney, to compel the defendant, State Farm Fire and Casualty Company, to respond to interrogatories that inquire into State Farm's expert witness information. State Farm timely responded to the motion on December 16, 2002, arguing that it is not required to produce the requested information until the deadline established in the scheduling order for disclosure of expert witness information. The motion was referred to the United States Magistrate Judge for determination.

On or about March 13, 2002, Disney served interrogatories on State Farm, requesting, among other things, expert witness information.¹ State Farm responded by stating that it had not, at

¹ Disney's Interrogatory No. 11 states as follows:
Interrogatory No. 11: With respect to all persons
who you will can [sic] and/or may call and/or expert

[sic] to call as an expert witness at the ultimate trial of this case please state the following:

A. The full names, present home addresses, present home telephone numbers, present working employment addresses and employment telephone numbers of each such person.

B. Please state the field in which each such person is to be offered as an expert witness and summarize each said person's expert qualifications within that anticipated field of testimony.

C. Please state the subject matter upon which each expert is expected to testify.

D. Please state substance [sic] of the facts and opinions to which each expert is expected to testify.

E. Please provide a summary of the grounds for each such expert witness opinion.

F. Please describe all documents and/or tangible items of any kind or type that the said expert witness person has used or relied upon and/or will likely use or rely upon hereafter in connection with the formulation of and/or with the preparation of his opinion in this case and/or in connection with his testimony to be given in this cause and also state a description by date, author, location and custodian's name any such relied upon document and/or other tangible item.

G. If the expert witness has previously relied upon any analysis or study or tests of any kind or type in the formulation of his opinion or opinions which would pertain to any of the matters in issue in this case and/or if he intends to rely upon any such analysis or study or test at anytime [sic] hereafter in preparation or his trial testimony to be provided in this cause please provide the author, date, page and a detailed description of each such item of an analysis or study and/or test nature.

H. With respect to all other opinions that each such expert witness has provided in any other fire

that time, determine who would be called as an expert witness, but acknowledged its obligation to supplement its responses when such witnesses were designated. (*Id.* at 1.) Disney asserts that State Farm now is obliged to supplement, because State Farm has now designated at least two witnesses to serve as experts at trial. (Pl.'s First Mot. at 1.)

The scheduling order in this case requires State Farm to disclose expert information by July 16, 2003. Amended R. 16(b) Sched. Ord., *Disney v. State Farm Fire and Cas. Co.*, Civil Case No. 02-2210 (W.D. Tenn. Mar. 31, 2003). State Farm now argues that Federal Rule of Civil Procedure 26(a)(2), governing mandatory disclosure of expert witness information, does not require such disclosure prior to the deadline set by a scheduling order.

State Farm, however, adduces no case law supporting its position that Rule 26(a)2) exempts it from timely supplementing its responses to interrogatories which seek expert witness information. The advisory committee notes to the 1993 amendments to Rule

related claim matter regardless of whether it was in litigation or not please give a description as to what each such other opinion was all about including the subject matter pertinent thereto and please provide the full names, present addresses and present telephone numbers and present docket numbers that would apply to all persons for whom the said expert witness previously provided any such other opinions including attorneys and case styles and locations that may have been involved therewith.

(Mem. in Supp. of Def.'s Resp. in Opp. to Pl.'s Mot. to Compel at 2-3.)

26(a)(2) indicate that the rule is designed to advance the swift exchange of information, not to facilitate a party's delay in providing such information. See FED. R. CIV. P. 26(a)(2) Adv. Comm. Note to 1993 Amends. ("[T]his subdivision imposes on parties a duty to disclose without *awaiting* formal discovery requests [emphasis added] . . . A major purpose of the revision is to accelerate the exchange of basic information about the case"). In addition, the mandatory disclosure requirements specifically do not preclude parties "from using traditional discovery methods." *Id.* Thus, merely because the court establishes a deadline by which time expert disclosures must be made does not relieve a party from its duties under the rules to timely respond to, and supplement responses to, traditional forms of discovery, including interrogatories, if the opposing party chooses to engage in traditional discovery.

State Farm has not otherwise objected to Interrogatory No. 11, Accordingly, State Farm is instructed to respond to the Plaintiff's Interrogatory No. 11 within fifteen (15) days from the date of this order. Each side shall bear its own costs.

IT IS SO ORDERED this 15th day of May, 2003.

DIANE K. VESCOVO
UNITED STATES MAGISTRATE JUDGE