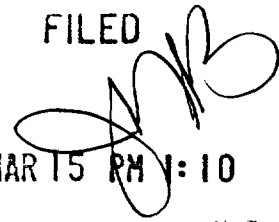


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U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**

Plaintiff,

v.

Case No.: 8:00-CV-2012-T-24EAJ

ENTERPRISE LEASING COMPANY,

Defendant.

_____ /

ORDER

Before the court are Plaintiff, Equal Employment Opportunity Commission's ("EEOC") **Motion to Strike and for Protective Order In Response to Defendant's Expert Witness Disclosure** (Dkt.97), which was filed on January 30, 2002, and Defendant, Enterprise Leasing Company's ("Enterprise") **Memorandum of Law in Opposition To EEOC's Motion to Strike Defendant's Expert Disclosure** (Dkt. 110).

The EEOC requests that the court strike Enterprise's expert designations and issue an order protecting Antonio Anglin from a Rule 35 mental examination. On December 14, 2001, Defendant apparently served the EEOC with an expert disclosure naming three experts, Dr. Stein, a psychiatrist, Dr. Otto, a forensic psychiatrist and Dr. Piette, an economist.¹

¹The EEOC has not attached a copy of Defendant's expert disclosures. Additionally, the EEOC's motion appears to be aimed toward striking the designated psychiatrist and psychologist. The EEOC has not provided any basis to strike the designation of the



The EEOC argues that Enterprise's expert disclosures do not comply with Rule 26 because they fail to include expert reports authored and signed by the proposed experts. The EEOC also argues that Defendant's experts (presumably the psychiatrist and psychologist) will likely not be allowed to testify because they will not have sufficient foundation for their expert opinions. The EEOC argues that Defendant's experts would necessarily need to examine Mr. Anglin under Rule 35 and that the Defendant will likely not establish that it is entitled to a Rule 35 physical and/or mental examination.

The EEOC also seeks to protect Antonio Anglin from being forced to submit to a physical and/or mental examination pursuant to Rule 35. This motion is premature in that Defendant has not sought a mental and/or physical examination of Mr. Anglin.

In response to the EEOC's motion, Defendant asserts Mr. Anglin, by orders dated October 1, 2001 and January 23, 2002 has been granted leave to file an Intervenor Complaint and that Anglin's Intervenor Complaint "is likely to broaden the substantive scope and potential damages" of the lawsuit. Enterprise asserts that if Mr. Anglin is given leave to seek claims under 42 U.S.C. §1981 or the Florida Civil Rights Act, Enterprise will likely seek a mental examination of Mr. Anglin pursuant to Rule 35. Enterprise

economist, Dr. Piette, other than the conclusory allegation that Defendant's expert disclosures do not comply with Rule 26.

also asserts that since the court has not yet set deadlines for expert witness disclosures related to Mr. Anglin's Intervenor Complaint, Enterprise, "in an abundance of caution, disclosed the experts it intends to use in this case if Anglin is permitted to assert claims under the Florida Civil Rights Act and/or 42 U.S.C. §1981."

With respect to the EEOC's allegation that Defendant's expert disclosures are deficient in that they do not attach expert reports, authored and signed by the experts, Enterprise asserts that it complied with Rule 26 "to the extent possible, since no mental examination under Rule 35 had been undertaken, and therefore, no reports had been rendered."

Based upon the pleadings before this court, the EEOC's designation of Dr. Stein and Dr. Otto is deficient and does not comply with Rule 26. Further, the expert testimony of Dr. Stein and Dr. Otto does not appear relevant to the claim asserted by the EEOC against Enterprise.² Should Mr. Anglin assert additional claims against Enterprise, Enterprise at that time should seek leave of court to supplement its expert disclosures.

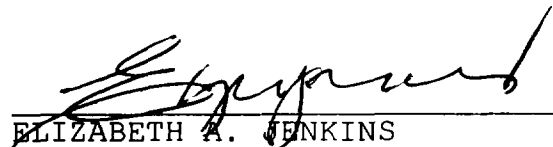
Accordingly, and upon consideration, it is **ORDERED and ADJUDGED:**

²Enterprise concedes in its opposition to the EEOC's motion to strike that if the only issue in the case is the EEOC claim, ". . . Enterprise would not have requested that Anglin submit to a Rule 35 mental examinaiont."

(1) Plaintiff's motion to strike Defendant's expert disclosures (Dkt. 97) is **GRANTED** to the extent that Defendant's expert designations of Dr. Stein and Dr. Otto are **STRICKEN**.

(2) Plaintiff's motion for protective order (Dkt. 97) is **DENIED** as premature.

DONE AND ORDERED in Tampa, Florida on this 15th day of March, 2002.


ELIZABETH A. JENKINS
United States Magistrate Judge

Copies to:

Counsel of Record

Date Printed: 03/18/2002

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