

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

FIRST CLUB MARKETING LLC;)	
)	
Plaintiff/Counterclaim Defendant;)	
)	
v.)	Case No. 1916-CV32558
)	
KANSAS CITY BARBEQUE SOCIETY)	Division: 11
)	
Defendant/Counterclaim Plaintiff/ Third Party Plaintiff/Counterclaim Defendant;)	
)	
v.)	
)	
RANDALL BOWMAN)	
)	
Third Party Defendant/Counterclaim Plaintiff)	

**MOTION TO STRIKE AND
SUGGESTIONS IN SUPPORT**

The Kansas City Barbeque Society (“KCBS”) moves to strike Randall Bowman and First Club Marketing LLC’s (collectively, “Bowman”) expert witness designation, served on February 10, 2021, and submits the following suggestions in support.¹

Bowman’s designation only hints at the substance of his expert’s “rebuttal testimony,” stating generally that this testimony will cover “the topics of nonprofit board governance, nonprofit operations, and nonprofit contracting.” Accordingly, KCBS does not really know what testimony Bowman intends to present with this witness.

¹ As per Local Rule 33.5.4, the undersigned’s written correspondence with Bowman’s counsel on this issue is attached as Exhibit A.

But more importantly, the designation was served over three months after Bowman’s deadline to designate expert witnesses; over two months after KCBS’s deadline to designate expert witnesses; nearly two months after discovery closed; and nearly three weeks after Bowman filed his still-pending motion for summary judgment. See generally First Amended Scheduling Order Dated September 9, 2020.

A Scheduling Order “‘is not a frivolous piece of paper, idly entered, which can be cavalierly disregarded.” Rodrick v. Wal-Mart East, L.P., 2009 WL 1542718, at *2 (W.D. Mo. June 1, 2009). The Scheduling Order does not provide for the designation of rebuttal experts at all, let alone provide that such a designation can be made after discovery has closed and summary judgment proceedings have commenced.

Bowman was able to designate a different expert witness on November 2, 2020—the date he was required to do so—so he was aware of his deadline to designate expert witnesses. There is thus no basis for Bowman’s belated designation, and this Court should strike it and rule that Bowman may not use testimony from any expert witness not timely designated.

Respectfully submitted February 25, 2021.

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ATTORNEY FOR THE KANSAS CITY BARBEQUE
 SOCIETY

CERTIFICATE OF SERVICE

On February 25, 2021, I electronically filed the foregoing with the clerk of the court using the electronic filing system, which will send notice of filing to all counsel of record.

/s/ Logan M. Rutherford
Attorney for The Kansas City Barbeque
Society