

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

Latasha Holloway, et al.,

Plaintiffs,

v.

City of Virginia Beach, et al.,

Defendants.

Civil Action No. 2:18-cv-0069

ORDER

THIS MATTER is before the Court on Plaintiffs' Motion to Exclude 20 Witnesses Defendants Failed to Disclose Until After the Close of Discovery (ECF No. 153) and Defendants' Motion to Exclude Plaintiffs' Supplemental Expert Reports (ECF No. 160). Upon a Joint Notice of the parties that they have resolved the pending motions by agreement, it is hereby ORDERED that:

In resolution of Plaintiffs' Motion to Exclude 20 Witnesses (ECF 153), and consistent with the agreement of the parties, Defendants are GRANTED LEAVE to designate three (3) fact witnesses from among those listed in Defendants' Third Supplement to their Initial Disclosures, with such designation to occur on or before 5:00 p.m. on August 21, 2020, which three (3) fact witnesses the parties agree are permitted to testify at trial notwithstanding the date of their disclosure to Plaintiffs. Plaintiffs are GRANTED LEAVE to conduct up to three (3) depositions of these three (3) fact witnesses on or before September 9, 2020.

Further, Plaintiffs are GRANTED LEAVE to counter-designate up to three (3) newly disclosed fact witnesses to testify at trial notwithstanding the date of their disclosure, with such designation to occur on or before 5:00 p.m. on September 11, 2020, which three (3) counter-

designated fact witnesses the parties agree are permitted to testify at trial notwithstanding the date of their disclosure to Defendants. Defendants are GRANTED LEAVE to conduct up to three (3) depositions of these three (3) counter-designated fact witnesses on or before September 25, 2020. Nothing herein shall be construed to waive or otherwise deprive Plaintiffs or Defendants of their right or ability to call any witness at trial solely for impeachment. Such resolution fully resolves and moots Plaintiff's Motion (ECF 153).

In resolution of Defendants' motion to exclude Plaintiffs' Supplemental Expert Reports (ECF 160), and consistent with the agreement of the parties, Defendants are GRANTED LEAVE to disclose expert reports from one or more of their previously disclosed experts (which includes Quentin Kidd, Peter Morrison and/or Kimball Brace) pursuant to Fed. R. Civ. P. 26(a)(2), solely in response to the expert opinions in Plaintiffs' Supplemental Expert Reports, on or before August 28, 2020. Plaintiffs are GRANTED LEAVE to conduct a deposition of any of Defendants' experts who provide such expert reports, solely within the scope of those reports, on or before September 15, 2020. Such resolution fully resolves and moots Defendants' Motion (ECF 160).

In consideration of the foregoing, Plaintiffs' Motion to Exclude 20 Witnesses Defendants Failed to Disclose Until After the Close of Discovery (ECF No. 153) is DENIED as MOOT.

In consideration of the foregoing, Defendants' Motion to Exclude Supplemental Expert Reports (ECF No. 160) is DENIED as MOOT.

Nothing in this Order shall be construed to change the existing deadlines set forth in this Court's Amended Rule 16(b) Scheduling Order dated May 15, 2020 (ECF No. 142).

IT IS SO ORDERED

DATED: 8/21/2020

/s/ [Signature]
Douglas E. Miller
United States Magistrate Judge

Douglas E. Miller, Magistrate Judge

SEEN AND AGREED:

/s/ J. Gerald Hebert

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