

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

SHANNON CORBETT

Plaintiff,

v.

TEXAS TECH UNIVERSITY HEALTH
SCIENCES CENTER,

Defendant.

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CASE No. 5:21-CV-00281-H

PLAINTIFFS' BRIEF IN SUPPORT OF HER RESPONSE DEFENDANT'S OPPOSED
MOTION TO STRIKE PLAINTIFF'S EXPERT

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November 28, 2022

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OPPOSED MOTION TO STRIKE PLAINTIFF'S EXPERT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Shannon Corbett, hereinafter called **Plaintiff**, who files this, her Brief in Support of her Response to Defendant's Opposed Motion to Strike Plaintiff's Expert, and as grounds thereof would respectfully show unto the Court as follows:

I. SUMMARY OF THE ISSUES

1. Texas Tech University Health Sciences Center ("TTUHSC") failed to comply with Local Civil Rule 7.1(d).

2. TTUHSC failed to make a good faith effort pursuant to Fed. R. Civ. P. 37(a)(1) to obtain the purportedly deficient Fed. R. Civ. P. 26(a)(2)(C) disclosure.

II. BACKGROUND

3. On May 5, 2022, **Plaintiff** designated Yvette Rodriguez as an expert witness in this matter. (Dkt. 7).

4. On November 4, 2022, TTUHSC filed *Defendant's Opposed Motion to Strike Plaintiff's*

Expert. (the “Motion” herein) (Dkt. 15). **TTUHSC** moved the Court to strike Ms. Rodriguez's testimony because her designation was allegedly vague and purportedly did not comply with Fed. R. Civ. P. 26(a)(2)(C).

5. Throughout this case, pursuant to Fed. R. Civ. P. 37(a)(1), **Plaintiff** has provided **TTUHSC** every courtesy to remedy its deficient discovery responses before filing a motion with the Court. See **Tab 1**, **Tab 2**, and Dkt. 11.

III. OBJECTION TO THE *MOTION* AND MOTION TO DENY

6. Pursuant to Local Civil Rule 7.1(d) an opposed motion must be accompanied by a brief that sets forth the moving party's contentions of fact and/or law, and argument and authorities.

7. **TTUHSC**'s contentions of fact and/or law as well as its argument and authorities are wholly within its Motion, and **TTUHSC** failed to accompany the Motion with a brief.

8. Therefore, **Plaintiff** objects to the Motion, requests the Court sustain her objection, and DENY the Motion.

IV. RESPONSE TO THE MOTION

9. The Federal Rules of Civil Procedure require that parties meet and confer in an attempt to **resolve discovery disputes** before filing discovery motions. See Fed. R. Civ. P. 26(c)(1). A certification must be part of any discovery motion and the certification must show that a good-faith effort was made to **resolve disputes** before filing the motion. See Fed. R. Civ. P. 26(c)(1).

10. In the nearly six months after Yvette Rodriguez was designated, **TTUHSC** never indicated to **Plaintiff** that there may be any deficiencies in the designation or that it desired to resolve the discovery dispute without a court proceeding.

11. **TTUHSC** lacked the intent to resolve a discovery dispute as required by the Federal Rules of Civil Procedure before filing the Motion. **TTUHSC** only intended to utilize this Court to strike Plaintiff's expert witness. The Motion states that Counsel for **TTUHSC** attempted to confer with

Counsel for **Plaintiff** by email and telephone on November 4, 2022, regarding the substance of the Motion. The email shows Counsel for **TTUHSC** merely informed Counsel for **Plaintiff** that she intended to file the Motion and wanted to ascertain whether **Plaintiff** was opposed or unopposed to the Motion. **Tab 3.**

12. Plaintiff emailed **TTUHSC** in an effort to resolve this discovery dispute and offered to provide an amended expert disclosure that would address the alleged deficiencies noted in the Motion. See **Tab 4.** **TTUHSC** declined **Plaintiff's** attempt to resolve the discovery dispute. **Tab 4.**

13. Therefore, *Defendant's Opposed Motion to Strike Plaintiff's Expert* should be DENIED.

WHEREFORE, PREMISES CONSIDERED, Shannon Corbett prays that *Defendant's Opposed Motion to Strike Plaintiff's Expert* be DENIED in its entirety and for such other and further relief to which **Plaintiff** may be entitled and for which **Plaintiff** will pray.

Respectfully submitted,

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Certificate of Service

I certify that a true copy of the above was served on each attorney of record or party in accordance with the Federal Rules of Civil Procedure on November 28, 2022, in the manner indicated below.



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