

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

JOHN C. DEPP, II

Plaintiff,

v.

Civil Action No.: CL-2019-0002911

AMBER LAURA HEARD

Defendant.

FILED
ADDITIONS DOCKET
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JOHN T. FREY
CLERK, CIRCUIT COURT
FAIRFAX, VA

**DEFENDANT'S MOTION TO STRIKE
PLAINTIFF'S EXPERT DISCLOSURES AND FOR BIFURCATION**

COME NOW the defendant Amber Laura Heard ("Defendant"), by counsel pursuant to Rule 4:1 of the Rules of the Supreme Court of Virginia (the "Rules") and moves this Court for an Order Striking the Designation/Identification of Expert Witnesses ("Expert Disclosures") of plaintiff John C. Depp, II ("Plaintiff") and for Bifurcation and states as follows:

1. As set forth in the attached Memorandum in Support ("Memorandum"), which is incorporated herein by reference, Plaintiff's Expert Disclosures should be stricken pursuant to Virginia Supreme Court Rule 4:1 and this Court's scheduling order.

2. Ms. Heard seeks costs and attorneys' fees for the filing of this motion.

3. Should the Court decide not to exclude Plaintiffs' experts entirely, Ms. Heard seeks relief from the Scheduling Order's deadlines for serving her expert disclosures and rebuttal expert disclosures so that she actually has 30 days from any amended disclosures to designate her experts, and 15 additional days to designate rebuttal experts.

4. The Court also should bifurcate the merits and damages phases of this trial, because whether Plaintiff suffered any alleged damages is totally irrelevant to the truth of the abuse allegations that Plaintiff claims Ms. Heard repeated in her Op-Ed.

5. Bifurcating the trial here would promote judicial efficiency, since the merits stage of trial will determine whether or not a damages phase need actually take place.

6. Moreover, Plaintiff has had seven months to produce documents to support his alleged damages, but has yet to produce a single relevant document. The problems with Plaintiff's discovery and expert disclosures make the argument for bifurcation here even stronger. Plaintiff's noncompliance with his discovery obligations has required Ms. Heard to seek the same information through a lengthy and onerous process of sending numerous third-party foreign subpoenas, which prejudices Ms. Heard's efforts to obtain the documents she needs to prepare her defense.

7. Pursuant to Rule 4:12(a) and Rule 4:15(b), the undersigned counsel certifies that they have in good faith conferred or attempted to confer with Plaintiff's counsel concerning these matters in an effort to resolve those disputes without Court intervention.

8. Defendant, pursuant to the express language of Rule 4:1 and in light of Plaintiff's failure to comply with his discovery obligations and Defendant's resulting prejudice, petitions this Court for entry of an Order (i) striking the Expert Disclosures and awarding costs and attorneys' fees (or in the alternative, modifying the Scheduling Order), and (ii) bifurcating the merits and damages phases of the trial.

WHEREFORE, Defendant Amber Laura Heard, by counsel, moves the Court for entry of an Order (i) striking the Expert Disclosures and awarding costs and attorneys' fees (or in the alternative, modifying the Scheduling Order), and (ii) bifurcating the merits and damages phases of the trial, and such further and other relief as the Court deems proper.

Dated this 8th day of November, 2019

Respectfully submitted,

Amber L. Heard

By Counsel: _____

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CERTIFICATE OF SERVICE

I certify that on this 8th day of November, 2019, a copy of the foregoing shall be served

by ~~first class mail, postage prepaid~~, and by email, upon:

hand-delivery

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