

Not Reported in F.Supp., 1996 WL 740557 (D.Kan.)
 (Cite as: 1996 WL 740557 (D.Kan.))

H Only the Westlaw citation is currently available.

United States District Court, D. Kansas.
TURNER AND BOISSEAU, CHARTERED,
 Plaintiff,
 v.
NATIONWIDE MUTUAL INSURANCE COM-
PANY, Defendant.
No. 95-1258-DES.

Dec. 9, 1996.

MEMORANDUM AND ORDER

[REID](#), United States Magistrate Judge.

*1 On October 16-17, 1996, plaintiff filed a motion for additional discovery and extension of time (Doc. 123-124). A response was filed on November 4, 1996 (Doc. 127). No reply brief was filed.

First, plaintiff seeks an order to limit the witnesses called by the defendant on the claims of fraud and punitive damages to those specifically identified in its answers to the interrogatories submitted to them. Plaintiff has failed to set forth any legal reason why such an order should be entered at this time. Any objections to specific witnesses can be dealt with by the trial judge at the appropriate time.

Second, plaintiff seeks an order compelling the parties to disclose the identities and essence of testimony of all persons the parties expect to call as a witness to testify to matters relating to new claims. The court directs the parties to file amended witness and exhibit lists by January 3, 1997. This list shall conform with the requirements of [Fed.R.Civ.P. 26\(a\)\(3\)](#). However, summaries of testimony will not be required. Discovery on the new claims permitted by the court on August 27, 1996, or on any other new claims filed after that date, will be extended to February 3, 1997.

Third, plaintiff seeks to redepose Gail Lewis in reference to defendant's new claims which the court allowed on August 27, 1996. Good cause has been shown to redepose Ms. Lewis; however, her deposi-

tion will be limited to those issues raised for the first time in defendant's amended counterclaim, which the court permitted to be filed on August 27, 1996. As an employee of the defendant, Ms. Lewis shall be deposed at her place of business or where she resides. [8A Wright and Miller, Federal Practice and Procedure § 2112 at 81 \(1994\)](#).

Fourth, the court will not enter an order limiting witnesses to those listed by the parties in their filed lists of witnesses. Generally, trial courts limit testimony to those witnesses listed by the parties under [Fed.R.Civ.P. 26\(a\)\(3\)](#). However, the court will not impose an absolute bar at this time to the use of any witnesses at trial who are not listed. As in all cases, leave of court should be sought prior to calling any witness who has not been previously identified in a timely manner by that party.

Fifth, the court would remind parties of their duty to supplement prior discovery pursuant to [Fed.R.Civ.P. 26\(e\)](#). Finally, the court will set new dates for a final pretrial conference and for dispositive motions on the new claims asserted by the defendant.

IT IS THEREFORE ORDERED that:

1. Plaintiff's motion for an order to limit witnesses on the claims of fraud and punitive damages to those identified in an interrogatory is denied.
2. Parties shall file an amended witness and exhibit list pursuant to [Fed.R.Civ.P. 26\(a\)\(3\)](#) by January 3, 1997. Summaries of testimony will not be required.
3. Discovery on the defendant's amended counterclaim (which the court permitted to be filed on August 27, 1996) and on any counterclaim filed by plaintiff in response to the amended counterclaim will be permitted until February 3, 1997.

*2 4. Plaintiff will be permitted to redepose Gail Lewis in reference to the issues raised by defendant's amended counterclaim. Her deposition will take place at or near her principal place of business or where she resides.

Not Reported in F.Supp., 1996 WL 740557 (D.Kan.)
(Cite as: **1996 WL 740557 (D.Kan.)**)

5. The parties shall supplement prior disclosures and responses as set forth in [Fed.R.Civ.P. 26\(e\)](#).

6. Dispositive motions on the amended counterclaim or plaintiff's counterclaim to the amended counterclaim shall be filed by March 10, 1997.

7. The final pretrial conference is set for March 24, 1997 at 2:00 p.m. in Room 403, U.S. Courthouse, 401 N. Market St., Wichita, Kansas.

D.Kan.,1996.
Turner and Boisseau, Chartered v. Nationwide Mut. Ins. Co.
Not Reported in F.Supp., 1996 WL 740557 (D.Kan.)

END OF DOCUMENT