

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CAROLINE MORE,

Plaintiff,

v.

WILLIAM MOORE,

Defendant.

ORDER

12-cv-905-bbc

On March 19, 2015, pro se plaintiff Caroline More filed a request to subpoena eight witnesses for trial, which is scheduled for April 6, 2015. Dkt. #114. Defendant William Moore has filed a motion pursuant to Fed. R. Civ. P. 37(c)(1), asking the court to strike plaintiff's request with respect to six of these witnesses on the ground that plaintiff has failed to comply with Fed. R. Civ. P. 26(a)(3) or the March 16, 2015 deadline for pre-trial submissions set forth in this court's pre-trial order entered on March 9, 2015. Dkt. #115.

Rule 26(a)(3) requires that a party must provide to the other parties and promptly file the name and contact information of each witness the party expects to present at trial. In the preliminary pretrial conference order entered by Magistrate Judge Stephen Crocker on June 3, 2013, plaintiff was informed that the deadline for filing final pretrial submissions, which include all Rule 26(a)(3) disclosures, motions in limine, proposed voir dire questions, proposed jury instructions and proposed verdict forms was July 25, 2014. Dkt. #20 at 8. The Magistrate Judge extended that deadline to March 6, 2015, dkt. #53, and in the March 9, 2015 trial preparation order, I further extended the deadline for naming witnesses and requesting subpoenas until March 16, 2015. Dkt. #111. At a telephonic status hearing held on March 16, 2015, I granted plaintiff's request to subpoena the following three witnesses for trial: Paul Brockert, Mary Amundsen and Ray Koch. Dkt. #113 at 1 (order summarizing rulings in hearing). In addition, defense counsel stated at the hearing that

defendant Moore would be present at trial and agreed to allow plaintiff to call him as an adverse witness. Id. Plaintiff failed to name any other witnesses by the March 16 deadline.

Now plaintiff seeks to request subpoenas for Dr. Sarah Ahrens, United States Marshal Lucas Baldwin (the correct spelling of his last name is Balde), Robert More, Archbishop Jerome Listecki, Bishop William Callahan and Christopher Ruff. Because plaintiff has not complied with Rule 26(a)(3) or the deadline set forth in this court's March 9 trial preparation order, she will not be permitted to call these six witnesses at trial and her request to subpoena these witnesses will be denied. Rule 37(a)(1) ("If a party fails to provide information or identify a witness as required by Rule 26(a) or (e), the party is not allowed to use that information or witness . . . at a trial . . ."). Plaintiff was given several extensions and ample opportunity to name her witnesses.

Subpoenas will be issued for Ray Koch and Paul Brockert because plaintiff timely named them as witnesses. However, I note that plaintiff seems to have misunderstood the process by which subpoenas are served because she indicates that she will be sending the court a check for the witnesses' fees and costs. As explained on page 21 of the trial preparation order that was sent to her on March 9, 2015, dkt. #111, "it will be the party's responsibility to complete the subpoena form and send it to the person at least 18 years of age who will be serving the subpoena . . . together with the necessary check or money order." Therefore, once plaintiff receives the subpoena forms from the clerk's office, she will need to complete the forms and send them to a process server along with the necessary funds for the witnesses' fees and costs.

ORDER

IT IS ORDERED that:

1. Defendant William Moore's motion to strike, dkt. #115, is GRANTED.
2. Plaintiff Caroline More's request to issue subpoenas, dkt. #114, is GRANTED in part and DENIED in part. Subpoenas shall be issued for Ray Koch and Paul Brockert.

Subpoenas will not be issued for Dr. Sarah Ahrens, United States Marshal Lucas Baldwin, Robert More, Archbishop Jerome ListECKi, Bishop William Callahan and Christopher Ruff, and plaintiff will not be allowed to call these individuals as witnesses at trial.

Entered this 20th day of March, 2015.

BY THE COURT:

/s/
BARBARA B. CRABB
District Judge