

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

TIMOTHY P. MERWIN and
ANGELA M. MERWIN,

Plaintiffs,

v.

TODD SEEBURGER, *et al.*,

Defendants.

ORDER

06-C-134-C

On December 27, 2006, defendants filed a motion to preclude plaintiffs from using any experts not timely disclosed and to preclude plaintiffs from raising any permanent injury claim at trial. Defendants also asked for cost-shifting on their motion pursuant to Rule 37. Although defendants seem to view their filing as a discovery motion, it is more akin to a motion *in limine* to exclude evidence at trial. If it really is a discovery motion, the court cannot consider it because it is not accompanied by a supporting brief, affidavit, or other document showing a *prima facie* entitlement to the relief requested, as required by the preliminary pretrial conference order.

At this juncture, the court will deem this submission an early *in limine* motion by defendants, to which plaintiffs may respond whenever they wish until February 22, 2007 (one week before the final pretrial conference). If defendants want to pursue this as a discovery motion, they must submit additional facts and argument establishing the propriety of dealing with their motion now instead of at the final pretrial conference.

Entered this 28th day of December, 2006.

BY THE COURT:

/s/
STEPHEN L. CROCKER
Magistrate Judge