

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2021-053042

08/23/2022

HONORABLE MELISSA IYER JULIAN

CLERK OF THE COURT  
A. Delgado  
Deputy

ROBERT L HAMPLE

ZACHARY EVAN MUSHKATEL

v.

VENTANA LAKES PROPERTY OWNERS  
ASSOCIATION

JOHN T SHOAF

JUDGE JULIAN

**UNDER ADVISEMENT RULING**

**RE: Motion to Preclude Untimely Expert Opinions**

Pending before this Court is Defendant's Motion to Preclude Untimely Expert Opinions Pursuant to Rule 37, filed July 5, 2022. Plaintiff responded to the motion on July 29, 2022 and Defendant filed its reply brief on August 10, 2022. This court does not find that oral argument would assist the court in a resolution of the issues which are well documented in the parties' respective briefing.

The parties previously stipulated to extend their expert disclosure deadlines on a staggered basis with Plaintiff's expert report being due on May 13, 2022. Defendant's expert report was due June 3, 2022 and the rebuttal deadline was set for June 22, 2022. Plaintiff did not submit his expert report within the May 13, 2022 deadline. Rather, Plaintiff waited until after Defendant's expert report was timely issued and disclosed his own expert report from Todd Springer on June 21, 2022, only on day before the rebuttal deadline and too late for defendant to prepare a rebuttal opinion. Accordingly, defendant's motion seeks to exclude Mr. Springer's opinions under Rule 37(c)(1).

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While the Court agrees that Plaintiff's late disclosure violates the extended scheduling deadline, there is no prejudice to the defense in permitting the late disclosure so long as the defendant's rebuttal deadline is extended. Given that a trial has not been set in this matter, the court finds that it can extend defendant's rebuttal deadline without prejudice to the resolution of this case.

**IT IS THEREFORE ORDERED** denying Defendant's Motion to Preclude Untimely Expert Opinions Pursuant to Rule 37, filed July 5, 2022.

**IT IS FURTHER ORDERED** extending the deadline for Defendant to provide any rebuttal expert opinions to Mr. Springer's June 21, 2022 report from June 22, 2022 to **September 23, 2022**.