1065313498

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

DON FOSTER AND BRENDA FOSTER,

Plaintiffs,

v.

STATE FARM FIRE AND CASUALTY COMPANY, DAVID CAMP, AND RITA WALLENBERG INSURANCE AGENCY, INC.,

Defendants.

Case No.: CJ-2023-1426

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY
FILED
JUN 19 2026
In the office of the
Court Clerk MARILYN WILLIAMS

PLAINTIFFS' REPLY IN SUPPORT OF THEIR MOTION TO SHOW CAUSE AND FOR SANCTIONS

State Farm's lackluster response to Plaintiffs' Motion to Show Cause and for Sanctions ("Response" or "Rsp.") does little to atone for its noncompliance; but instead, audaciously doubles-down on its failures acting as if it should be rewarded for its contempt. To be clear: the purported cost and burden associated with complying with this Court's Order does not excuse State Farm's conduct. Rather, it is well-settled once an order is entered a party is expected to comply within compliance deadlines set by the Court. *Sun River Energy, Inc. v. Nelson*, 800 F.3d 1219, 1229 (10th Cir. 2015) (finding that "[c]ounsel has an obligation to assure that the client complies with discovery obligations and court orders" (citation and internal quotation marks omitted)). Failing to do so, warrants sanctions.

It has now been ***more than one year and a half*** (492 days to be exact)[1] since Plaintiffs served their First Set of Discovery Requests on State Farm. But now, after being ordered to produce the subject documents at issue by April 1, 2026, and after losing its eleventh-hour appeal State Farm has still yet to comply with this Court's Order – a remarkable feat given State Farm told this Court on December 16, 2025, that 150 days was a "fair[] amount of time," and what was it needed to review the purported "gargantuan" scope of documents subject to the Order. Ex. 1, Dec. 16, 2025, Tr. at 67:20–23, 70:16-21, 71:10-13. Certainly, had there been any truth in this statement then State Farm would have complied with this Court's deadline, or at the very least satisfied its discovery obligation immediately after receiving the decision from the Oklahoma Supreme Court denying its plea for extraordinary intervention. State Farm did neither.

Instead, State Farm sat on its hands and purposefully delayed taking any meaningful steps toward compliance until it lost its appeal. Remarkably, State Farm made this calculated decision all without an order from this, or any other, Court authorizing the stay and extension of time it

[1] As calculated from the date of this filing.

granted to itself. But State Farm shucks these facts off contending none of it matters because it has been entrenched in a costly, time-consuming burdensome review to "diligently" make rolling productions. This however is not the standard – the standard is whether substantial justification for disobeying a court order exists. *Payne v. Dewitt*, 1999 OK 93, ¶ 18, 995 P.2d 1088, 1096. It is well settled that the cost and time of compliance is altogether insufficient to establish "substantial justification" and in no way excuses State Farm for its malfeasant noncompliance with this Court's Order. *Palmer v. Rhodes Mach.*, 187 F.R.D. 653, 656 (N.D. Okla. 1999) (the cost or difficulty of compiling a list is insufficient for the purpose of meeting the "substantial justification").

The critical distinction behind this principle of law is timing: cost and burden arguments must be raised **before** a court order is entered, through a motion for protective order or objection to a discovery request. 12 O.S. § 3226 (C)(1). Once an order is entered, the party must comply or seek relief from the order through proper channels. Here, the Court not only overruled all of State Farm's objections but also specifically rejected its arguments about burden finding they "are just not convincing." *See* Mtn. at Ex. 3 (MTC JE) at 1. *See also* Ex. 2, Jan. 23, 2026, Order on Reconsideration, at 1-2. Despite these rulings, State Farm continues to excuse its conduct and seek safe harbor on manufactured claims of burden that this Court has repeatedly rejected.

State Farm further postulates it should not be punished for this ***year-and-a-half*** discovery delay it has imposed because it is harmless and that its failure to meet this Court's April 1, 2026, deadline is altogether inconsequential and not prejudicial to Plaintiffs' ability to prosecute this case. Again, State Farm's misleading resonance finds no support in law. Specifically, the discovery deadline in this case is **August 12, 2026**, yet State Farm is nowhere near satisfying its discovery obligations. Courts have consistently held these types of self-manufactured discovery delays and late production of court-ordered documents constitute litigation bad faith and are inherently

prejudicial to Plaintiffs. *See Tracinda Corp v. DaimlerChrysler AG*, 502 F.3d 212, 241-242 (3rd Cir. 2007) (late production of documents by the defendant's prejudiced the plaintiff's whole trial preparation strategy by its effect on its ability to develop its case, including most particularly its impact on its decision of who to depose, the order of depositions and the substance and conduct of the trial prior to the revelation of the documents); *M & G Polymers USA, LLC v. Carestream Health, Inc.*, 2010 WL 1611042, at *65 (Del. Super. Ct. Apr. 21, 2010), *aff'd sub nom. Carestream Health, Inc. v. M&G Polymers USA, LLC*, 9 A.3d 475 (Del. 2010) (wrongful withholding and late production of documents deprived plaintiff opportunity to conduct depositions with full knowledge of the facts of key witnesses).

Making matters worse, State Farm has categorically ignored this Court's April 14, 2026, ruling that directed State Farm to provide formal written supplementation discovery responses that identifies the Bates number/range of the documents responsive to each particular discovery request. In fact, State Farm has even gone as far as to say that this Court ***lacked the authority*** to even give such directive at the April 14, 2026, hearing and has since refused to acknowledge any such ruling. Ex. 3, May 18 – June 16, 2026 Email Thread (discussion involving State Farm's refusal to sign journal entry from April 14, 2026 hearing). Absent formal supplementation, Plaintiffs are not only denied any opportunity to examine a corporate designee and/or verifying agent as to any supplementation made but are also forced guess what, if any, documents are responsive to the Requests. Such practices fail to comply with the specificity obligations the discovery code and this Court's discover orders. *See Low v. OMNI Life Sci., Inc.*, No. CIV-18-305-SLP, 2020 WL 12787583, at *2 (W.D. Okla. Aug. 5, 2020) (producing party must identify document on which they rely by numbers so that there can be no dispute at trial what documents to which the producing party is referring to); *Crest Res., Inc. v. Dan Blocker Petroleum*

Consultants, Inc., 2013 WL 618865, at *1 (N.D. Okla. Feb. 19, 2013) (sufficient to compel supplementation to discovery to identify by bates the documents that correspond to each of the specific document where the supplementation made had no apparent organizational structure to the production); *Lozoya v. Allphase Landscape Constr., Inc.*, 2014 WL 222068, at *2 (D. Colo. Jan. 21, 2014) (discovery produced in the format of that which was kept in the normal course of business must still reference specific documents by Bates number in responses).

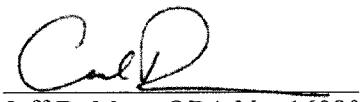
Discovery is neither a "game of gotcha," nor "a matter of gamesmanship nor conducted like a game of chess." *Gordon v. Target Corp.*, 318 F.R.D. 242, 246 (E.D.N.Y. 2016); *Phelan v. Cambell*, 2012 WL 407161, at *2 (N.D.N.Y. Jan. 19, 2012), *R & R adopted*, 2012 WL 407147 (N.D.N.Y. Feb. 8, 2012), *aff'd*, 507 Fed.Appx. 14 (2d Cir. 2013). State Farm's continued gamesmanship and active efforts to stall and delay disclosure of material facts pertinent to this case work only to frustrate this litigation and preclude Plaintiffs' counsel from being able to prepare for trial and warrant an imposition of sanctions. Specifically, misrepresentations and the decision stall and delay compliance with court-ordered discovery obligations can be a pivotal factor in determining the imposition of sanctions. For example, in *Hicks v. Cent. Okla. United Methodist Ret. Facility, Inc.*, Civil Court of Appeals upheld a sanction of default noting the defendant's continued misrepresentations and practice of delaying and obstructing the plaintiff's right to discovery was egregious, stating:

> [T]he trial court noted Plaintiff was prejudiced by having to focus more on obtaining discovery than on preparing its case for trial. The trial court also found that the trial delays and multiple discovery hearings required by Epworth Villa's conduct interfered with the judicial process. The trial court made a specific finding of Epworth Villa's culpability, stating, "[Epworth Villa's] culpability is clearly established through its conduct, which indicates [it] unmistakably engaged in a pattern of discovery abuses, to include failing to provide truthful information regarding discovery, non-production of documents, and/or production of documents only in the face of serious sanctions and/or as a result of testimony from [its] employees...."

2017 OK CIV APP 23, ¶ 7, 423 P.3d 684, 692. While *Hicks* involved the most serve sanction – default – it nonetheless instructs that sanctions are justified where a party is forced to go through a protracted, complicated process to ensure the production of the documents which should have been produced in a timely and orderly fashion. *Id.* at ¶8, 423 P.3d at 692. Willfulness is not a prerequisite to imposing sanctions – rather it is relevant only to the severity of the sanction to be imposed, not whether a sanction should be imposed. The rule does not limit the trial court's discretion in imposing less severe sanctions if warranted. *Barnett v. Simmons*, 2008 OK 100, ¶ 17, 197 P.3d 12, 19. *See also Gocolay v. New Mexico Fed. Sav. & Loan Ass'n*, 968 F.2d 1017, 1021 (10th Cir. 1992) (A "willful failure" is " 'any intentional failure as distinguished from involuntary noncompliance. No wrongful intent need be shown.')

The underlying aim of the Oklahoma Discovery Code is "to make a trial less a game of blind man's bluff and more a fair contest with the basic issues and facts disclosed to the fullest practicable extent." *State ex rel. Protective Health Services v. Billings Fairchild Center, Inc.*, 2007 OK CIV APP 24, ¶ 17, 158 P.3d 484, 489. State Farm's calculated decision to grant its own relief and withhold production and delay its compliance with this Court's Order offends this established tenet and more than satisfies the requisite threshold for imposing sanctions. This Court cannot allow State Farm or its counsel to continue to ignore its binding Orders in an overt effort to thwart judicial authority. Sanctions are warranted. And frankly, based on State Farm's hallow excuses, sanctions are necessary. Accordingly, Plaintiffs respectfully request the Court grant their Motion to Show Cause and for Sanctions for its ongoing discovery abuses consistent with the relief requested therein and for any such other and further relief which this Court in its discretion may deem equitable, just and proper.

Respectfully submitted,



Jeff D. Marr, OBA No. 16080
Carole Dulisse, OBA No. 18047
Nick Marr, OBA No. 34284
Ashton Poarch OBA No. 34308
MARR LAW FIRM
3100 Northwest 149th Street
Oklahoma City, Oklahoma 73134
Telephone: (405) 236-8000
Facsimile: (405) 236-8025
Email: jeffdmarr@marrlawfirm.com
cdulisse@marrlawfirm.com
nmarr@marrlawfirm.com
apoarch@marrlawfirm.com

-and-

Chad E. Ihrig, OBA No. 19491
Mansell & Engel
204 North Robinson, 21st Floor
Oklahoma City, OK 73102-7201
Tel: 405.232.4100
Fax: 405.232.4140
E-mail:cihrig@meclaw.net

-and-

J. Revell Parrish, OBA No. 30205
Glass & Tabor, LLP
1601 NW 36th Ave.,
Norman, OK 73072
Telephone: (405) 360-9700
Facsimile: (405) 360-7902
revell@glasstaborlaw.com
Attorneys for Plaintffs

CERTIFICATE OF MAILING

This is to certify that on this 18th day of June, 2026, a true and correct copy of the above and foregoing pleading was mailed, via U.S.P.S., postage pre-paid to:

Andrew J. Morris, OBA #31658
Garrett J. Reed, OBA 35205
McAfee & Taft
211 N. Robinson Ave., Suite 800
Oklahoma City, OK 73102
T: (405) 235-9621 ** F: (405) 235-0439
Email: andrew.morris@mcafeetaft.com
garrett.reed@mcafeetaft.com

Carole Dulisse

IN THE DISTRICT COURT OF CLEVELAND COUNTY

STATE OF OKLAHOMA

DON FOSTER AND BRENDA FOSTER, Plaintiffs,	)	
vs.	)	Case No. CJ-2023-1426
STATE FARM FIRE AND CASUALTY COMPANY, DAVID CAMP, NOAH BASIC, AND RITA WALLENBERG INSURANCE AGENCY, INC., Defendant.	)	

* *

TWENTY-FIRST JUDICIAL DISTRICT OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS

HAD ON THE

16TH DAY OF DECEMBER, 2025

BEFORE THE HONORABLE THAD BALKMAN

DISTRICT JUDGE

* *

REPORTED BY:

Pamela J. Goold, CSR, RPR, RMR
Official Court Reporter
Cleveland County Courthouse
Norman, Oklahoma 73069
(405) 366-0298

EXHIBIT 1

APPEARANCES

FOR THE PLAINTIFFS:

MR. JEFF MARR
THE MARR LAW FIRM
4301 Southwest Third Street
Oklahoma City, Oklahoma 73108

MS. CAROLE DULISSE
THE MARR LAW FIRM
4301 Southwest Third Street
Oklahoma City, Oklahoma 73108

FOR THE DEFENDANTS:

MR. MICHAEL LAUDERDALE
MCAFEE & TAFT
211 North Robinson Avenue
Suite 800
Oklahoma City, Oklahoma 73102

MR. ANDREW MORRIS
MCAFEE & TAFT
211 North Robinson Avenue
Suite 800
Oklahoma City, Oklahoma 73102

MR. PEYTON HOWELL
MCAFEE & TAFT
211 North Robinson Avenue
Suite 800
Oklahoma City, Oklahoma 73102

EXHIBIT 1

THE COURT: Okay. All right. Mr. Morris.

MR. MORRIS: So the scope of the discovery that's been ordered is the broadest that I'm aware of in any case involving State Farm. The idea that it will be ready in 30 days is not based in reality on our side. We're looking at millions of responses, of hits of documents that have to be reviewed and we're happy to provide that information to the Court regarding that.

What I'd ask for and think would be reasonable as plaintiffs' counsel said earlier 30 -- and I wrote it down to make sure I got it right. 30 days in practice is not very much time. Well, on this -- on that point and this circumstance as far as producing the scale and scope of discovery that's been ordered, I agree.

150 days is what we would ask for from today. We believe there is some additional issues that need to be addressed with that discovery and we'll bring those to the Court, if needed. But 30 days from now especially with the holidays I don't see how it's humanly feasible.

The amount of hours of review time for what's been ordered is gargantuan and so 150 days is a much better and fairer amount of time for what -- where we're at in this particular litigation.

MR. MARR: Judge, why don't we get a State Farm records custodian up here, put him on the stand and let

EXHIBIT 1

corporate designee to see how quickly State Farm can truly comply with what the Court has ordered.

MR. MORRIS: There is not some magic repository of documents that they can just be pulled out of. It doesn't exist.

MR. MARR: I have testimony there is.

THE COURT: Hold on. Let him speak.

MR. MORRIS: Also, the scope in this case is not the same as in other cases. And so there does have to be work done in order to then produce the documents. The allegation that production or gathering should have started 30 days or -- excuse me. I think he said 90 days ago when sometime when discovery was answered is completely obviating the entire point of objections and why they're allowed in the statute to discovery.

Once a motion to compel is granted that's when the party is on a duty to go collect and produce the discovery. And we're happy to do a rolling production. I don't want to hold it all for 150 days. That which we can produce once the protective order is entered, then we'll go ahead and produce. But some of it is going to take longer because there are man hours associated with the review, with looking through and determining what is or isn't responsive and doing it then.

I'm -- I guess the objection is to how long the

EXHIBIT 1

legal process has taken. But the idea that once a discovery request is received, then that party is under a duty when they've objected to then go ahead and gather the documents would completely undercut the idea of an overly broad or disproportionate discovery request in the first place because they would incur all of the costs to respond to it without actually producing without a court ruling.

And so from the size of the production that's at issue with the amount of manpower, the amount of hours it's going to take to get to the point that all of it can be produced in 150 days is absolutely reasonable with a rolling production. If the concern is supplemental interrogatories I'm happy to agree to have those to Mr. Marr within 30 days, and we'll get those out.

But to set some sort of deadline for the entire production as a whole is just not something that's feasible for what's being requested in this case.

MR. MARR: It's already been 30 days, over 30 days since you ordered it. And my point was there has been no attempt by State Farm to supplement a single interrogatory. Moreover, I've never seen it done this way. Usually you ask for the protective order first, but if you want to cause delay, how do you do it, you make someone get an order compelling production, and then you

EXHIBIT 1

STATE OF OKLAHOMA } S.S.
CLEVELAND COUNTY

IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

FILED
MAY 27 2026
In the office of the
Court Clerk MARILYN WILLIAMS

DON FOSTER and BRENDA FOSTER, Plaintiffs, v. STATE FARM FIRE AND CASUALTY COMPANY, DAVID CAMP, and RITA WALLENBERG INSURANCE AGENCY, INC., Defendants.	Case No: CJ-2023-1426 *Judge: Thad Balkman*

ORDER DENYING STATE FARM'S MOTION TO RECONSIDER, CLARIFY, AND STAY THE COURT'S NOVEMBER 13, 2025 ORDER ON PLAINTIFFS' MOTION TO COMPEL

On the 23rd day of January, 2026, *State Farm's Motion to Reconsider, Clarify, and Stay the Court's November 13, 2025 Order on Plaintiffs' Motion to Compel* came on for hearing before the undersigned Judge of the District Court of Cleveland County, Oklahoma. Counsel of record for Don and Brenda Foster ("Plaintiffs") and for Defendant State Farm Fire and Casualty Company ("State Farm") were present and provided argument to the Court.

The Court, having reviewed the filed pleadings, and considered all arguments presented by counsel, and presentation offered by Plaintiffs and entered into evidence during the hearing, and being fully advised in the premises, finds as follows:

The Court has listened carefully to the parties' arguments regarding whether the discovery the Court previously compelled (as memorialized in this Court's January 28, 2026 Order) is relevant, proportional, and not too costly to produce. The Court has considered the written briefs, as well as the attachments, and the Court has listened to Plaintiffs' presentation. The Court finds

EXHIBIT 2

Plaintiffs have demonstrated that the discovery they seek is indeed relevant. It concerns matters that are tied to the allegations in Plaintiffs' Petition that will possibly lead to the discovery of information critical to Plaintiffs' case. Defendants' arguments concerning burden are not convincing. Part of the reason for this determination is because the Court is informed by Plaintiffs that much of the discovery previously ordered by the Court to be produced has previously been produced by State Farm in other cases and the Court is not convinced there is an undue burden for State Farm, or that the production of the discovery is out of proportion to the needs of the Plaintiffs to demonstrate their case.

Additionally, as it concerns the issue of whether the production of documents by State Farm in response to Request for Production No. 27 shall be in native format, PDF or some other format, the Court is convinced that cost is not a factor. It is not just data to be produced, but the format of the discovery compelled by this Court can be very important. Therefore, for those reasons, the Court falls on the side of compelling production in response to Request for Production No. 27 in native format.

Lastly, Defendants have announced that they may ask for a writ; however, the Court is not inclined at this time to grant any type of a stay.

IT IS HEREBY ORDERED that State Farm's Motion to Reconsider, Clarify, and Stay the Court's November 13, 2025 Order on Plaintiffs' Motion to Compel is **DENIED**. State Farm's request for a stay of the discovery ordered to be produced in the Court's January 28, 2026 Order is also **DENIED**, without prejudice.

IT IS FURTHER ORDERED that State Farm is to produce all documents responsive to Request for Production No. 27 in their Native format. Such production shall occur on or before April 1, 2026.

EXHIBIT 2

IT IS SO ORDERED.

Dated this 27 day of May, 2026.

THAD BALKMAN
Judge of the District Court

APPROVED AS TO FORM:

Andrew J. Morris, OBA #31658
MCAFEE & TAFT
8th Floor, Two Leadership Square
211 N. Robinson Ave., Suite 800
Oklahoma City, OK 73102
Tel.: 405.235.9621
Fax: 405.235.0439
Email: andrew.morris@mcafeetaft.com

ATTORNEYS FOR DEFENDANTS

Chad E. Ihrig, OBA #19491
MANSELL & ENGEL
204 North Robinson Avenue, 21st Floor
Oklahoma City, Oklahoma 73102
Tel.: 405.232.4100
Fax: 405.232.4140
Email: cihrig@meclaw.net

-and-

Jeff D. Marr, OBA NO. 16080
Carole Dulisse, OBA NO. 18047
MARR LAW FIRM
3100 NW 149th Street
Oklahoma City, Oklahoma 73134
Tel: 405.236.8000
Fax: 405.236.8025
Email: jeffdmarr@marrlawfirm.com
cdulisse@marrlawfirm.com

ATTORNEYS FOR PLAINTIFF

EXHIBIT 2

From:	Carole Dulisse
To:	Andrew Morris; Chad E. Ihrig; Nick Marr
Cc:	Trisha Parent; Ashton Poarch; Jeff Marr; Bella Popowsky; Peyton Howell; Amy Fischer; Peyton McMillin; Fuchs, Douglas; Justin Hiersche
Subject:	RE: Foster 4/14 JE
Date:	Tuesday, June 16, 2026 12:46:00 PM
Attachments:	image001.png image002.png image003.png image004.png image005.png image006.png image007.png

Andrew

The Court made a ruling. Whatever the reason you seem to be believe your client does not have to comply. As such, we are not agreeable to a "joint notice" because the issue of your client's ongoing noncompliance is already the subject of Plaintiffs' Motin for Sanctions and is before the Court. Rest assured it will be addressed.

CAROLE DULISSE
Attorney

MARR LAW FIRM
CLAIM VICTORY

3100 NW 149th St., Oklahoma City, OK 73134
405.236.8000 • marrlawfirm.com

From: Andrew Morris <andrew.morris@mcafeetaft.com>
Sent: Tuesday, June 16, 2026 12:40 PM
To: Chad E. Ihrig <cihrig@meclaw.net>; Nick Marr <nmarr@marrlawfirm.com>
Cc: Trisha Parent <tparent@marrlawfirm.com>; Carole Dulisse <cdulisse@marrlawfirm.com>; Ashton Poarch <apoarch@marrlawfirm.com>; Jeff Marr <jeffdmarr@marrlawfirm.com>; Bella Popowsky <bella.popowsky@mcafeetaft.com>; Peyton Howell <peyton.howell@mcafeetaft.com>; Amy Fischer <amyfischer@oklahomacounsel.com>; Peyton McMillin <peytonmcmillin@oklahomacounsel.com>; Fuchs, Douglas <dfuchs@gibsondunn.com>; Justin Hiersche <justin.hiersche@mcafeetaft.com>
Subject: RE: Foster 4/14 JE

To make sure I'm clear, you're not agreeable to filing the joint notice as a way to provide to

EXHIBIT 3

the Court the respective proposed orders from Plaintiffs and Defendants in advance of next Tuesday's hearing? I agree that no additional briefing is needed. (I don't consider the proposed notice that just attaches each proposed order to be "briefing;" maybe that's where I'm uncertain on your position.) I agree that this issue should be raised with the Court on 6/23; just trying to figure out if any filing is also needed in advance of the hearing.

Thanks,

Andrew J. Morris
Attorney
(405) 552-2315 phone
andrew.morris@mcafeetaft.com
BIO | vCard | www.mcafeetaft.com

This email is sent by McAfee & Taft, a law firm, and may contain information that is privileged or confidential. If you received this email in error, please notify the sender by reply email and delete the email and any attachments. If you are a client of McAfee & Taft, you should not share this email with others. Sharing this email may result in a loss of the attorney-client privilege.

From: Chad E. Ihrig <cihrig@meclaw.net>
Sent: Tuesday, June 16, 2026 10:45 AM
To: Andrew Morris <andrew.morris@mcafeetaft.com>; Nick Marr <nmarr@marrlawfirm.com>
Cc: Trisha Parent <tparent@marrlawfirm.com>; Carole Dulisse <cdulisse@marrlawfirm.com>; Ashton Poarch <apoarch@marrlawfirm.com>; Jeff Marr <jeffdmarr@marrlawfirm.com>; Bella Popowsky <bella.popowsky@mcafeetaft.com>; Peyton Howell <peyton.howell@mcafeetaft.com>; Amy Fischer <amyfischer@oklahomacounsel.com>; Peyton McMillin <peytonmcmillin@oklahomacounsel.com>; Fuchs, Douglas <dfuchs@gibsondunn.com>; Justin Hiersche <justin.hiersche@mcafeetaft.com>
Subject: Re: Foster 4/14 JE

Andrew, the Court has inherent authority to issue whatever ruling may be required to control its docket. We raised this issue with the Court at the last hearing and Judge Balkman specifically ordered Defendant to provide formal supplemental discovery responses that identify the documents being produced by Defendant that are responsive to the respective discovery requests. We agree no additional briefing is required and intend to raise the issue with the Court next Tuesday.

Chad E. Ihrig

MANSELL & ENGEL
405.232.4100—Tel.

EXHIBIT 3

Mansell & Engel
The Insurance Attorneys

From: Andrew Morris <andrew.morris@mcafeetaft.com>
Date: Friday, June 12, 2026 at 3:42 PM
To: Nick Marr <nmarr@marrlawfirm.com>, "Chad E. Ihrig" <cihrig@meclaw.net>
Cc: Trisha Parent <tparent@marrlawfirm.com>, Carole Dulisse <cdulisse@marrlawfirm.com>, Ashton Poarch <apoarch@marrlawfirm.com>, Jeff Marr <jeffdmarr@marrlawfirm.com>, Bella Popowsky <bella.popowsky@mcafeetaft.com>, Peyton Howell <peyton.howell@mcafeetaft.com>, Amy Fischer <amyfischer@oklahomacounsel.com>, Peyton McMillin <peytonmcmillin@oklahomacounsel.com>, "Fuchs, Douglas" <dfuchs@gibsondunn.com>, Justin Hiersche <justin.hiersche@mcafeetaft.com>
Subject: RE: Foster 4/14 JE

Nick/Chad – I don't think the Court can issue a ruling on something that wasn't before it on a motion of some kind. Here's what I propose us jointly filing early next week, to let Judge Balkman know where the remaining dispute on the prior hearing's order stands. Please let me know if this works for you, then we can express our respective positions on 6/23. I don't think this issue requires us to each submit briefs.

Andrew

McAfee&Taft

Andrew J. Morris
Attorney
(405) 552-2315 phone
andrew.morris@mcafeetaft.com
BIO | vCard | www.mcafeetaft.com

This email is sent by McAfee & Taft, a law firm, and may contain information that is privileged or confidential. If you received this email in error, please notify the sender by reply email and delete the email and any attachments. If you are a client of McAfee & Taft, you should not share this email with others. Sharing this email may result in a loss of the attorney-client privilege.

From: Nick Marr <nmarr@marrlawfirm.com>
Sent: Thursday, June 11, 2026 1:38 PM
To: Chad E. Ihrig <cihrig@meclaw.net>; Andrew Morris <andrew.morris@mcafeetaft.com>
Cc: Trisha Parent <tparent@marrlawfirm.com>; Carole Dulisse <cdulisse@marrlawfirm.com>; Ashton Poarch <apoarch@marrlawfirm.com>; Jeff Marr <jeffdmarr@marrlawfirm.com>; Bella Popowsky <bella.popowsky@mcafeetaft.com>; Peyton Howell <peyton.howell@mcafeetaft.com>; Amy Fischer <amyfischer@oklahomacounsel.com>; Peyton McMillin <peytonmcmillin@oklahomacounsel.com>; Fuchs, Douglas <dfuchs@gibsondunn.com>
Subject: Re: Foster 4/14 JE

Andrew,

EXHIBIT 3

Any movement on this? Are you all still taking the position the Court did not make a ruling requiring formal supplementation of discovery responses? Or can we agree to the terms of the order and get it entered?

NICK MARR
Attorney

3100 NW 149th St., Oklahoma City, OK 73134
405.236.8000 • marrlawfirm.com

This e-mail is sent by a law firm and may contain information that may be privileged or confidential. If you are not the intended recipient, do not read, distribute, or reproduce this message. If you have received this e-mail in error, please notify us immediately of the error by return email and please delete the message from your system.

From: Chad E. Ihrig <cihrig@meclaw.net>
Date: Friday, May 29, 2026 at 8:43 AM
To: Andrew Morris <andrew.morris@mcafeetaft.com>, Nick Marr <nmarr@marrlawfirm.com>
Cc: Trisha Parent <tparent@marrlawfirm.com>, Carole Dulisse <cdulisse@marrlawfirm.com>, Ashton Poarch <apoarch@marrlawfirm.com>, Jeff Marr <jeffdmarr@marrlawfirm.com>, Bella Popowsky <bella.popowsky@mcafeetaft.com>, Peyton Howell <peyton.howell@mcafeetaft.com>, Amy Fischer <amyfischer@oklahomacounsel.com>, Peyton McMillin <peytonmcmillin@oklahomacounsel.com>, Fuchs, Douglas <dfuchs@gibsondunn.com>
Subject: RE: Foster 4/14 JE

Andrew, I think we can agree to all of your changes with the exception of your deletion of the last paragraph of the order. Judge Balkman explicitly entered a ruling ordering State Farm to provide formal supplementation of discovery responses that identifies which documents being produced by State Farm are responsive to each particular discovery request. Your position that he only made comments on the topic and did not make a ruling on the topic are completely false. If we have to move to settle this journal entry as to this issue, we will be seeking fees and costs. Please let us know by end of day today whether State Farm will be removing its deletion of the last paragraph of the order.

Chad E. Ihrig

EXHIBIT 3

Mansell & Engel
204 N. Robinson Avenue, 21st Floor
Oklahoma City, Oklahoma 73102
405.232.4100 - Tel.
405.232.4140 - Fax

Mansell & Engel
The Insurance Attorneys

From: Andrew Morris <andrew.morris@mcafeetaft.com>
Sent: Friday, May 29, 2026 8:28 AM
To: Nick Marr <nmarr@marrlawfirm.com>
Cc: Trisha Parent <tparent@marrlawfirm.com>; Carole Dulisse <cdulisse@marrlawfirm.com>; Ashton Poarch <apoarch@marrlawfirm.com>; Jeff Marr <jeffdmarr@marrlawfirm.com>; Chad E. Ihrig <cihrig@meclaw.net>; Bella Popowsky <bella.popowsky@mcafeetaft.com>; Peyton Howell <peyton.howell@mcafeetaft.com>; Amy Fischer <amyfischer@oklahomacounsel.com>; Peyton McMillin <peytonmcmillin@oklahomacounsel.com>; Fuchs, Douglas <dfuchs@gibsondunn.com>
Subject: RE: Foster 4/14 JE

Nick – Thanks for the patience. I'm still catching up from the long weekend. Attached are revisions to the proposed journal entry. If we need to discuss, I should be available to do so for most of the day on Monday or Tuesday; just let me know a time that works for you and we can get something on the calendar.

AJM

McAfee&Taft

Andrew J. Morris
Attorney
(405) 552-2315 phone
andrew.morris@mcafeetaft.com
BIO | vCard | www.mcafeetaft.com

This email is sent by McAfee & Taft, a law firm, and may contain information that is privileged or confidential. If you received this email in error, please notify the sender by reply email and delete the email and any attachments. If you are a client of McAfee & Taft, you should not share this email with others. Sharing this email may result in a loss of the attorney-client privilege.

From: Nick Marr <nmarr@marrlawfirm.com>
Sent: Wednesday, May 27, 2026 12:10 PM
To: Andrew Morris <andrew.morris@mcafeetaft.com>
Cc: Trisha Parent <tparent@marrlawfirm.com>; Carole Dulisse <cdulisse@marrlawfirm.com>; Ashton Poarch <apoarch@marrlawfirm.com>; Jeff Marr <jeffdmarr@marrlawfirm.com>; Chad E. Ihrig

EXHIBIT 3

<cihrig@meclaw.net>; Bella Popowsky <bella.popowsky@mcafeetaft.com>; Peyton Howell <peyton.howell@mcafeetaft.com>; Amy Fischer <amyfischer@oklahomacounsel.com>; Peyton McMillin <peytonmcmillin@oklahomacounsel.com>; Fuchs, Douglas <dfuchs@gibsondunn.com>
Subject: Re: Foster 4/14 JE

Following up. Thanks

NICK MARR
Attorney



3100 NW 149th St., Oklahoma City, OK 73134
405.236.8000 • marrlawfirm.com

This e-mail is sent by a law firm and may contain information that may be privileged or confidential. If you are not the intended recipient, do not read, distribute, or reproduce this message. If you have received this e-mail in error, please notify us immediately of the error by return email and please delete the message from your system.

From: Nick Marr <nmarr@marrlawfirm.com>
Date: Friday, May 22, 2026 at 10:49 AM
To: Andrew Morris <andrew.morris@mcafeetaft.com>
Cc: Trisha Parent <tparent@marrlawfirm.com>, Carole Dulisse <cdulisse@marrlawfirm.com>, Ashton Poarch <apoarch@marrlawfirm.com>, Jeff Marr <jeffdmarr@marrlawfirm.com>, Chad E. Ihrig <cihrig@meclaw.net>, Bella Popowsky <bella.popowsky@mcafeetaft.com>, Peyton Howell <peyton.howell@mcafeetaft.com>, Amy Fischer <amyfischer@oklahomacounsel.com>, Peyton McMillin <peytonmcmillin@oklahomacounsel.com>, Fuchs, Douglas <dfuchs@gibsondunn.com>
Subject: Re: Foster 4/14 JE

Thanks, Andrew. I don't think I understand what input the client can have regarding the accuracy of the journal entry, but I suppose I'll find out when I get the edits.

NICK MARR
Attorney



3100 NW 149th St., Oklahoma City, OK 73134

EXHIBIT 3

405.236.8000 • marrlawfirm.com

This e-mail is sent by a law firm and may contain information that may be privileged or confidential. If you are not the intended recipient, do not read, distribute, or reproduce this message. If you have received this e-mail in error, please notify us immediately of the error by return email and please delete the message from your system.

From: Andrew Morris <andrew.morris@mcafeetaft.com>
Date: Friday, May 22, 2026 at 10:41 AM
To: Nick Marr <nmarr@marrlawfirm.com>
Cc: Trisha Parent <tparent@marrlawfirm.com>, Carole Dulisse <cdulisse@marrlawfirm.com>, Ashton Poarch <apoarch@marrlawfirm.com>, Jeff Marr <jeffdmarr@marrlawfirm.com>, Chad E. Ihrig <cihrig@meclaw.net>, Bella Popowsky <bella.popowsky@mcafeetaft.com>, Peyton Howell <peyton.howell@mcafeetaft.com>, Amy Fischer <amyfischer@oklahomacounsel.com>, Peyton McMillin <peytonmcmillin@oklahomacounsel.com>, Fuchs, Douglas <dfuchs@gibsondunn.com>
Subject: RE: Foster 4/14 JE

I've made some edits to the order and send it to our clients for review. With the holiday, I anticipate getting it back to you early next week.

AJM

McAfee&Taft

Andrew J. Morris
Attorney
(405) 552-2315 phone
andrew.morris@mcafeetaft.com
BIO | vCard | www.mcafeetaft.com

This email is sent by McAfee & Taft, a law firm, and may contain information that is privileged or confidential. If you received this email in error, please notify the sender by reply email and delete the email and any attachments. If you are a client of McAfee & Taft, you should not share this email with others. Sharing this email may result in a loss of the attorney-client privilege.

From: Nick Marr <nmarr@marrlawfirm.com>
Sent: Thursday, May 21, 2026 8:35 AM
To: Andrew Morris <andrew.morris@mcafeetaft.com>; Bella Popowsky <bella.popowsky@mcafeetaft.com>; Peyton Howell <peyton.howell@mcafeetaft.com>; Amy Fischer <amyfischer@oklahomacounsel.com>; Peyton McMillin <peytonmcmillin@oklahomacounsel.com>; Fuchs, Douglas <dfuchs@gibsondunn.com>
Cc: Trisha Parent <tparent@marrlawfirm.com>; Carole Dulisse <cdulisse@marrlawfirm.com>; Ashton Poarch <apoarch@marrlawfirm.com>; Jeff Marr <jeffdmarr@marrlawfirm.com>; Chad E. Ihrig <cihrig@meclaw.net>
Subject: Re: Foster 4/14 JE

EXHIBIT 3

Following up on this. Thanks.

NICK MARR
Attorney

3100 NW 149th St., Oklahoma City, OK 73134
405.236.8000 • marrlawfirm.com

This e-mail is sent by a law firm and may contain information that may be privileged or confidential. If you are not the intended recipient, do not read, distribute, or reproduce this message. If you have received this e-mail in error, please notify us immediately of the error by return email and please delete the message from your system.

From: Nick Marr <nmarr@marrlawfirm.com>
Date: Monday, May 18, 2026 at 9:05 AM
To: Andrew Morris <andrew.morris@mcafeetaft.com>, Bella Popowsky <bella.popowsky@mcafeetaft.com>, Peyton Howell <peyton.howell@mcafeetaft.com>, Amy Fischer <amyfischer@oklahomacounsel.com>, Peyton McMillin <peytonmcmillin@oklahomacounsel.com>, Fuchs, Douglas <dfuchs@gibsondunn.com>
Cc: Trisha Parent <tparent@marrlawfirm.com>, Carole Dulisse <cdulisse@marrlawfirm.com>, Ashton Poarch <apoarch@marrlawfirm.com>, Jeff Marr <jeffdmarr@marrlawfirm.com>, Chad E. Ihrig <cihrig@meclaw.net>
Subject: Foster 4/14 JE
Good morning,

Attached is Plaintiffs' draft journal entry for last week's hearing in the Foster case. If anyone has edits, please redline them and send it back my way for review. If not, let me know and I will circulate a PDF for signatures. Thanks.

NICK MARR
Attorney

3100 NW 149th St., Oklahoma City, OK 73134
405.236.8000 • marrlawfirm.com

EXHIBIT 3