



FILED IN DISTRICT COURT
OKLAHOMA COUNTY

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

OCT 23 2026

RICK WARREN
COURT CLERK

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BILLY & LACY HURSH,

Plaintiffs,

v.

STATE FARM FIRE & CASUALTY
COMPANY; MARK D. WELTY; and MARK D.
WELTY INSURANCE AGENCY, INC.

Defendants.

Case No. CJ-2025-2626

**DEFENDANT STATE FARM FIRE & CASUALTY COMPANY'S
REPLY IN SUPPORT OF MOTION TO RECONSIDER AND
STAY THE COURT'S OCTOBER 1, 2026 MINUTE ORDER**

Plaintiffs' Opposition to State Farm's Motion to Reconsider¹ only reinforces that the Court's October 1, 2026 Minute Order: (1) improperly resolves a "merits argument" over what an internal State Farm document "means" (Opp. at 7, 8); (2) conflates the distinct standards governing a motion to compel and a deposition extension (*id.* at 9); and (3) disregards the proportionality of an undefined extension of Nicole Manduca's deposition (*id.* at 10–11). Further, although Plaintiffs mischaracterize the Order's unsupported factual findings regarding State Farm's production efforts as "case management statements" (*id.* at 12), they do not contend that those findings were accurate. The fundamentally flawed Order should be vacated, and enforcement should be stayed until the Court resolves this Motion and State Farm exhausts its appellate remedies.²

I. THE ORDER IMPROPERLY DECIDES WHAT PLAINTIFFS ADMIT IS A "MERITS ARGUMENT" ABOUT WHAT A DOCUMENT "MEANS."

Plaintiffs provide no evidence supporting the Order's undefined extension of Ms. Manduca's deposition.³ To be clear, it was and remains *Plaintiffs' burden* to show "good cause": "If a party seeks a court order to extend the deposition time, the party is expected to show good cause to justify such an order." *See Garcia v. County of San Diego*, No. 15cv189-JLS (NLS), 2017 WL 3923682, at *1 (S.D. Cal. Sept. 7, 2017) (quoting Fed. R. Civ. P. 30 advisory committee's note

¹ Plaintiffs' assertion that "State Farm's own authorities" preclude reconsideration because State Farm was "heard before the Court ruled" (Opp. at 5) misapply those cases. Under established Oklahoma law, a court may reconsider an interlocutory order at any time and for any reason. *See, e.g., Snow v. TravelCenters of Am. LLC*, 2023 OK CIV APP 8, ¶ 10, 527 P.3d 741, 746.

² While Plaintiffs admit the Court should consider "potential prejudice or hardship to the parties" when determining whether to grant a stay, Plaintiffs do not identify any prejudice to them other than general "delay." (*See* Opp. at 13.) This pales in comparison to the burden placed on State Farm from having to produce Ms. Manduca for a second deposition.

³ Judge Sheperd's finding in a different deposition in a different case (*West*) that Ms. Manduca was purportedly "evasive" does not and cannot support the Minute Order's conclusions regarding her testimony here. Indeed, Plaintiffs' counsel in *West* already distinguished Ms. Manduca's answers in *West*, arguing in support of the *West* plaintiffs' request to have State Farm depositions taken in the Judge Shepard's courtroom that Nicole was much more cooperative than earlier in *West*.

(2000 Amendment)).⁴ Plaintiffs have not met this burden, because they have provided nothing other than their own attorney's unsworn contentions about what a State Farm document "means," "says," or "reflects." (See Opp. at 7); see also *Crest Infiniti II, LP v. Swinton*, 2007 OK 77, ¶ 10, 174 P.3d 996, 1002 ("[U]nsworn statements of counsel in a motion do not constitute evidence.").

At base, Plaintiffs contend that the extension of Ms. Manduca's deposition was justified because Ms. Manduca would not "answer yes or no" when asked whether a chart on Exhibit 15 "reflected what the document says it reflects." (See Opp. at 2.) But *Ms. Manduca was not asked to confirm what Exhibit 15 "says." She was asked to assume that the document means something different than what it says and then opine as to whether such assumption would reflect "quality claim handling behaviors."* (See Mot. at 11–13.) Plaintiffs dismiss this difference of opinion about what the document "says" (i.e. "means") as a "*merits argument*" (Opp. at 8 (emphasis added))—but that is exactly the point: the Order's conclusion that Ms. Manduca was "evasive" necessarily rests on Plaintiffs' counsel's unsupported representations of what Deposition Exhibit 15 "means." That is not good cause to support an extension of Ms. Manduca's deposition.

Ms. Manduca could not answer "yes" or "no" to Plaintiffs' counsel's questions without implicitly affirming Plaintiffs' counsel's incorrect assumption about what the chart on Exhibit 15 "shows." Question 1 incorrectly assumes that the chart "shows . . . total roof decreases" and

⁴ Plaintiffs erroneously attempt to shift the burden to State Farm (see Opp. at 5–6), but that is not the law. The Oklahoma legislature specifically *limited* depositions to "not last more than six (6) hours" unless and until a court "finds that the witness or counsel has been obstructive or uncooperative or if the court finds it to be in the interest of justice." See 12 O.S. § 3230(A)(3). Courts interpreting the equivalent Federal Rule of Civil Procedure 30(d)(1) repeatedly hold that the burden to show good cause is on the party seeking the extension. See, e.g., *Medlock v. Taco Bell Corp.*, No. 1:07-cv-01314-SAB, 2014 WL 2154437, at *4 (E.D. Cal. May 22, 2014) ("The party seeking an extension of [deposition time] bears the burden of demonstrating good cause."); *Beneville v. Pileggi*, No. Civ.A. 03-474 JJF, 2004 WL 1631358, at *1 (D. Del. July 19, 2004) ("Plaintiffs, the moving party, have the burden to demonstrate that additional [deposition] time is necessary.").

Question 2 assumes that the chart “shows a reduction of total roof payments.” (See Mot. at Ex. 3, Oct. 1, 2026 N. Manduca Dep. Tr. 138:13–19; 139:2–10.) ***The chart does no such thing.*** Rather, it tracks—as it states directly above the chart—“the ratio of Total Roof (TR) Payment Reason Codes to Partial Roof Replacement (PRR) Payment Reason Codes.”⁵ (See Mot. at Ex. 2, at HUR00016534.) Rather than agreeing with Plaintiffs’ counsel’s false assumption regarding the document, Ms. Manduca properly corrected it, confirming that the language above the chart in Exhibit 15 did not refer to Plaintiffs’ false assumption about what the chart “shows,” but to State Farm’s reinspection results.⁶ (Mot. at Ex. 3, Oct. 1, 2026 N. Manduca Dep. Tr. 138:13–19; 139:2–10.) Plaintiffs cannot show good cause for a second deposition by repeatedly regurgitating their unsupported contention about what Exhibit 15 “means.”⁷

II. PLAINTIFFS’ OPPOSITION CONFIRMS THAT THE ORDER IMPROPERLY CONFLATES TWO DISTINCT LEGAL STANDARDS.

⁵ Plaintiffs’ contention that State Farm is required to provide an affidavit confirming “what Deposition Exhibit 15 means” (see Opp. at 7) improperly shifts the burden to show good cause to State Farm. (See *supra* n.2.) Nonetheless, State Farm provided the Court a copy of Exhibit 15, which ***on its face does not say what Plaintiffs’ counsel represented to Ms. Manduca that it purportedly “showed.”*** (See Mot. at Ex. 2, at HUR00016534.)

⁶ Plaintiffs also wrongly suggest that their counsel, following the hearing, re-asked the same question and only then obtained an answer. (See Opp. at 8 (arguing “[t]he directive produced the direct answer the Code is designed to secure.”).) Plaintiffs omit, however, that counsel re-worded the question to more directly track the language of Exhibit 15. (See Mot. at Ex. 3, Oct. 1, 2026 N. Manduca Dep. Tr. at 141:3–11.) That Ms. Manduca answered this ***different question*** with a “no” only reinforces why counsel’s earlier questions were inappropriate.

⁷ Nor can Plaintiffs retroactively support the Order with an argument—not presented to the Court at the October 1 hearing—that Ms. Manduca was “not properly educated” because she “did not even review her own communications related to industry standards.” (Opp. at 4.) Plaintiffs mischaracterize Ms. Manduca’s testimony: in the cherry-picked excerpt they cite, Ms. Manduca merely stated that she did not “recall” whether she had seen a document referencing “an industry standard.” But Plaintiffs’ counsel thereafter presented a document to Ms. Manduca “to refresh [her] recollection,” and Ms. Manduca proceeded to answer all of Plaintiffs’ counsel’s questions regarding that document. (See Mot. at Ex. 3, Oct. 1, 2026 N. Manduca Dep. Tr. at 118:14–129:13.) Failing to immediately recall ***one*** of hundreds of documents she reviewed to prepare for her deposition is not evidence that Ms. Manduca was not “properly educated.”

Plaintiffs' Opposition also underscores that the Order improperly conflates the Court's ability to extend a deposition under Section 3230(A)(3) with the Court's ability to grant a motion to compel or award sanctions under Section 3237(A)(3). Plaintiffs once again attempt to merge Section 3237's directive that "[f]or purposes of this subsection, an evasive or incomplete answer is to be treated as a failure to answer" (12 O.S. § 3237(A)(3) (emphasis added)), with Section 3230(A)(3)'s requirement that a deposition extension must be premised on a finding that a "witness or counsel has been obstructive" (12 O.S. § 3230(A)(3)). (See Opp. at 8–9.) But Section 3237(A)(3) states, in no uncertain terms, that the *sole* remedy for an "evasive" answer is an order "compelling an answer." Plaintiffs do not cite any authority whatsoever supporting their demand that the Court circumvent the prerequisites for a motion to compel by importing a standard the Legislature *specifically cabined* to Section 3237 to an entirely different section, and ordering a remedy that is *not available* in Section 3237.⁸

Plaintiffs' only counterargument—that "the two provisions are complementary" (see Opp. at 8), is supported only by Plaintiffs' counsel's own argument, and is directly contradicted by the plain language of Section 3237. Plaintiffs provide no authority for their counter-textual interpretation, which would render Section 3237(A)(3) a nullity and violate the well-established "rule against surplusage," which "encourages courts to give meaning to every word used in a statute, on the assumption that [the Legislature] would not have included superfluous language." See *Nelson v. United States*, 40 F. 4th 1105, 1115 (10th Cir. 2022).

III. PLAINTIFFS' OPPOSITION CONCEDES THAT THE COURT DID NOT CONSIDER PROPORTIONALITY WHEN ENTERING THE ORDER.

⁸ Plaintiffs attempt to elide this distinction by contending that the Order "imposed no sanction" (Opp. at 9), but ignore that the Order was specifically premised on a finding that Ms. Manduca provided "evasive" answers. Such finding is *not* grounds for an extension of a deposition under Section 3230—only a motion to compel under Section 3237.

Plaintiffs' Opposition further confirms that the Court did not consider the proportionality of a second deposition of Ms. Manduca. Plaintiffs attempt to argue proportionality *post-hoc* (see Opp. at 10–11) but both the Order and October 1 transcript make clear (and Plaintiffs do not contest) that the Court ***did not consider*** any of the proportionality factors in entering the Order. That omission cannot be remedied by arguing about those factors *after* the Order was entered. See Mot. at Ex. 6, *Werner Enters., Inc. v. Kirkland*, No. 122, 385 (Okla. Sept. 24, 2024).⁹

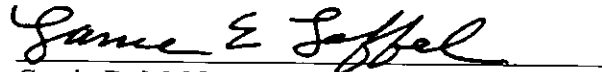
IV. THE ORDER'S UNSUPPORTED FACTUAL FINDINGS CANNOT BE JUSTIFIED BY RECHARACTERIZING THEM AS "CASE MANAGEMENT STATEMENTS."

Plaintiffs do not even attempt to defend, and thus concede, the Minute Order's unnecessary and unsupported factual findings that the Court was "presented ***with evidence*** of white box redactions, no meta data, no privilege log." (Mot. at Ex. 1 (emphasis added).) Instead, Plaintiffs assert that the Court could nonetheless enter an Order containing these unsupported (and false) ***evidentiary*** statements because it was a "case management" order. (See Opp. at 12.) But there is no exception that allows the Court to make incorrect and unsupported evidentiary findings (which are clearly labeled as such in the Order) simply because they happen to involve "case management"—nor do Plaintiffs cite any authority supporting their attempt to recharacterize the Order.¹⁰

⁹ Even now, Plaintiffs do not argue for the proportionality of what the Order requires: a second deposition with no time limit. Instead, Plaintiffs now "propose that it be limited to an additional 3–4 hours." (Opp. at 10.) But even that is entirely disproportionate to the Court's finding that Ms. Manduca gave "evasive" answers to ***two questions***.

¹⁰ Likewise, while Plaintiffs attempt to justify the Minute Order's unnecessary and improper reference to "full and flawless compliance" by arguing that the Minute Order was referencing its "production orders," the Minute Order contains no such clarification. Instead, the Order states that "the Court ordered full and lawless compliance with production," not "production orders." As numerous courts have held, such a "strict liability" standard is not proper. (Mot. at 17–20.)

Respectfully submitted,



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CERTIFICATE OF MAILING

I do hereby certify that on October 23, 2026, a true, correct and exact copy of the above and foregoing document was served by placing same in the United States mail, with proper postage thereon duly prepaid, to those parties as listed below:

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