

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MISSOURI

Kossmeyer v. State Farm Fire and Casualty Co., et al.

Kossmeyer · No. 4:23CV1397 · Decided April 30, 2026

SUMMARY

The court granted State Farm’s motion to exclude the proposed expert testimony of Pete Hennessey under Federal Rule of Civil Procedure 26(a)(2)(B). It held that Hennessey’s report did not adequately disclose the bases, reasons, data, and other information underlying his opinions, and that the disclosure failure was neither substantially justified nor harmless. The plaintiffs were given seven days to submit a compliant expert report if they wished to offer Hennessey as an expert witness.

CASE DETAILS

COURT	United States District Court for the Eastern District of Missouri
WRITING FOR THE COURT	Henry Edward Autrey
JURISDICTION	United States District Court for the Eastern District of Missouri
DECIDED	April 30, 2026
DOCKET	4:23CV1397
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved to exclude or strike the testimony and expert disclosure of plaintiffs' expert, Pete Hennessey, under Federal Rule of Civil Procedure 26(a)(2)(B). The court granted the motion but allowed plaintiffs seven days to submit a compliant expert report if they wished to use Hennessey as an expert witness.
STANDARD OF REVIEW	The district court has wide discretion to fashion an appropriate remedy or sanction for noncompliance with Rule 26(a), including exclusion of testimony under Rule 37(c)(1), subject to whether the failure was substantially justified or harmless.
PRECEDENTIAL VALUE	Unknown
PARTIES	Carl Kossmeyer, Maria Kossmeyer v. State Farm Fire and Casualty Co., John Schmidt, et al.

TOPICS

expert testimony

discovery dispute

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Pete Hennessey's expert report satisfied the disclosure requirements of Federal Rule of Civil Procedure 26(a)(2)(B).
2. Whether exclusion of Hennessey's expert testimony was warranted under Federal Rule of Civil Procedure 37(c)(1) because the deficient disclosure was neither substantially justified nor harmless.
3. Whether plaintiffs should be permitted to submit a corrected expert report within a specified period.

HOLDINGS

1. An expert report does not satisfy Rule 26(a)(2)(B) when it fails to provide the basis and reasons for the expert's opinions and the data or other information considered in forming them. Hennessey's report was entirely inadequate because it did not disclose the reasoning, calculation methodology, or supporting information necessary to explain his conclusions.
2. Exclusion of Hennessey's expert testimony was warranted because plaintiffs failed to comply with Rule 26(a)(2)(B), offered no substantial justification for the failure, and caused significant, uncured surprise and prejudice to defendant.
3. Although the motion to exclude was granted, plaintiffs were given seven days from the date of the order to submit a new expert report prepared and signed by Hennessey that complies with Rule 26(a)(2)(B), if they wished to offer him as an expert.

KEY QUOTATIONS

"The most critical requirements of the Rule--the basis and reasons for the expert's opinions and the data or other information considered--are totally lacking."

"The mere submission of a subcontractor estimates tells Defendant nothing about the substance of Hennessey's calculation of the damages and estimate to repair and leaves it open to unfair surprise."

"Plaintiffs' position that Defendant can ask Hennessey about all of the information omitted from his report during a deposition unfairly shifts the burden to Defendant to first establish how his conclusions were reached before it can begin to cross-examine him on his conclusions."

FACTUAL BACKGROUND

A fire damaged plaintiffs' home on June 21, 2021. Plaintiffs had a State Farm insurance policy that allegedly gave them the option of having the damage repaired or receiving payment, but plaintiffs alleged State Farm made payments to them and the mortgage holder without their consent. Plaintiffs designated Pete Hennessey as an expert regarding rebuilding and repair costs, but his report did not adequately explain the basis, reasoning, or data underlying his opinions.

PROCEDURAL HISTORY

Plaintiffs brought an insurance-related action arising from fire damage to their home and alleged breach of policy obligations and negligent misrepresentation. During discovery, plaintiffs disclosed Pete Hennessey as an expert and provided a report. Defendant moved to exclude the testimony on the ground that the report failed to satisfy Rule 26(a)(2)(B). The court found the report inadequate, granted the motion, and allowed plaintiffs seven days to file a compliant report.

DISPOSITION

other

REMAND INSTRUCTIONS

No remand was ordered. Plaintiffs were granted seven days from April 30, 2026, to file a new expert report prepared and signed by Pete Hennessey that complies with Federal Rule of Civil Procedure 26(a)(2)(B), if they wished to offer him as an expert witness.

CASES CITED

- Trost v. Trek Bicycle Corp., 162 F.3d 1004, 1008 (8th Cir. 1998)
- Sylla Sawdon v. Uniroyal Goodrich Tire Co., 47 F.3d 277, 284 (8th Cir. 1995)
- Bonin v. Chadron Comm. Hosp., 163 F.R.D. 565 (D. Neb. 1995)
- Clayton Int'l, Inc. v. Nebraska Armes Aviation, LLC, No. 8:21CV309, 2025 WL 1937621, at *3–4 (D. Neb. July 15, 2025)
- Salgado by Salgado v. Gen. Motors Corp., 150 F.3d 735, 742 n.6 (7th Cir. 1998)
- Barfield v. Sho-Me Power Elec. Coop., No. 11-CV-04321-NKL, 2013 WL 12506860, at *1–2 (W.D. Mo. June 13, 2013)
- Geyhound Lines, Inc. v. Miller, 402 F.2d 134, 143 (8th Cir. 1968)
- Travelers Indem. Co. of Am. v. Holtman Properties, L.L.C., 2009 WL 995464, at *3 (E.D. Mo. Apr. 14, 2009)
- United States v. GC Quality Lubricants, Inc., 2002 WL 34376587, at *2 (M.D. Ga. Sept. 27, 2002)
- Finwall v. City of Chicago, 239 F.R.D. 494, 501 (N.D. Ill. 2006)
- Ohime v. Foresman, 186 F.R.D. 507, 508 (N.D. Ind. 1999)
- Upsher-Smith Labs., Inc. v. Mylan Labs., Inc., 944 F. Supp. 1411, 1440 (D. Minn. 1996)
- Wegener v. Johnson, 527 F.3d 687, 692 (8th Cir. 2008)
- Sellers v. Mineta, 350 F.3d 706, 711-12 (8th Cir. 2003)
- Marti v. City of Maplewood, Mo., 57 F.3d 680, 683 (8th Cir. 1995)

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