

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MISSOURI, EASTERN DIVISION

Phyllis Schlafly Revocable Trust, et al. v. Anne Cori

Cori · No. 4:16 CV 1631 RWS · Decided April 13, 2026

SUMMARY

The United States District Court for the Eastern District of Missouri grants Defendant Anne Cori’s motion for leave to disclose a rebuttal damages expert after the applicable expert-disclosure deadline. The court finds good cause for the delay, determines that the disclosure will not unfairly surprise or prejudice Plaintiffs or disrupt the litigation, and orders Cori to produce Ryan Clark’s expert report by April 24, 2026, with his deposition completed by May 8, 2026.

CASE DETAILS

COURT	United States District Court for the Eastern District of Missouri, Eastern Division
WRITING FOR THE COURT	Rodney W. Sippel
JURISDICTION	United States District Court for the Eastern District of Missouri, Eastern Division
DECIDED	April 13, 2026
DOCKET	4:16 CV 1631 RWS
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved for leave to disclose a rebuttal damages expert after the deadline in the case management order had passed.
STANDARD OF REVIEW	Whether the untimely expert disclosure was substantially justified or harmless, considering the reason for noncompliance, surprise and prejudice, disruption to the litigation, and the importance of the testimony.
PRECEDENTIAL VALUE	Unknown; memorandum and order from a federal district court
PARTIES	Anne Cori v. Phyllis Schlafly Revocable Trust, et al.

TOPICS

- discovery dispute
- civil procedure
- sanctions
- commercial litigation

PRACTICE AREAS

civil procedure

expert discovery

commercial litigation

trademark litigation

QUESTIONS PRESENTED

1. Whether Cori established good cause or substantial justification for disclosing a rebuttal expert after the deadline in the case management order.
2. Whether permitting the late disclosure would cause unfair surprise, prejudice, or disruption to the litigation.
3. Whether the importance of the proposed rebuttal testimony warranted allowing the untimely disclosure.

HOLDINGS

1. Cori demonstrated good cause for the delay because Plaintiffs' pending request to add another damages expert created uncertainty about the scope of the damages testimony Cori would need to rebut, and the deadline expired before that request was resolved.
2. Allowing Clark's disclosure would not unfairly surprise or prejudice Plaintiffs and would not disrupt the orderly progression of the litigation because Plaintiffs knew Cori had retained a rebuttal expert and the proposed deadlines remained within the existing discovery timeline.
3. The importance of Clark's testimony outweighed Plaintiffs' concerns about the untimeliness because Clark would rebut Plaintiffs' only damages expert.

KEY QUOTATIONS

“The exclusion of evidence is generally disfavored.” (Opinion text)

“Exclusion of evidence is a harsh penalty, and should be used sparingly.” (Opinion text)

“I find that Cori’s request is distinguishable from Plaintiffs’.” (Opinion text)

FACTUAL BACKGROUND

Plaintiffs had one damages expert, Brian Buss, whose opinions concerned actual damages and unjust enrichment, and Cori had already deposed him. Plaintiffs sought to add an expert concerning a new reasonable-royalty theory, but the court denied that request because the theory would require substantial additional fact discovery. Cori sought to disclose Ryan Clark as a rebuttal expert after the scope of Plaintiffs' damages expert testimony was resolved. Clark represented that he would offer no independent expert opinions and would rebut Plaintiffs' damages evidence without requiring additional fact discovery.

PROCEDURAL HISTORY

The court's case management order required Cori to disclose expert witnesses by February 6, 2026, and complete expert depositions by March 6, 2026. Plaintiffs had moved to disclose an additional damages expert, but the court denied that motion after a March 12, 2026 hearing. Cori then moved on March 23, 2026, for leave to disclose Ryan Clark as a rebuttal expert to Plaintiffs' damages expert Brian Buss. The court granted the motion and established April 24, 2026, and May 8, 2026, deadlines for Clark's report and deposition.

DISPOSITION

other

CASES CITED

- Wegener v. Johnson, 527 F.3d 687, 692 (8th Cir. 2008)
- ELCA Enters., Inc. v. Sisco Equip. Rental & Sales, Inc., 53 F.3d 186, 190 (8th Cir. 1995)
- Sherman v. Winco Fireworks, Inc., 532 F.3d 709, 716 (8th Cir. 2008)
- Lael v. Six Flags Theme Parks Inc., No. 4:13-CV-01226-SPM, 2014 WL 1389589, at *4 (E.D. Mo. Apr. 9, 2014)
- Wood v. Valley Forge Life Ins. Co., 478 F.3d 941, 946 (8th Cir. 2007)

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