

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MINETTA BROOKS,)	
)	
Plaintiff,)	CIVIL ACTION
)	
v.)	No. 05-1110-MLB
)	
CITY OF WICHITA, KANSAS)	
AND ITS REPRESENTATIVES,)	
)	
Defendant.)	
_____)	

MEMORANDUM AND ORDER

Plaintiff filed a cause of action against defendant, her former employer, alleging violations of The Civil Rights Act, 42 U.S.C. § 1981, Title VII and the Americans with Disabilities Act. (Doc. 1). Defendant moves to strike allegations contained in the proposed pretrial order. (Doc. 36).

The proposed pretrial order contains a list of individuals who plaintiff believes are similarly situated to her for purposes of her Title VII claim. Defendant asserts that these individuals were not named during discovery and it is therefore prejudiced since discovery has been closed. Plaintiff responds that one individual, Michael Conrady, was on plaintiff's initial witness list and that defendant is not prejudiced since plaintiff also listed that "all other past supervisors and female officers similarly situated with plaintiff" as potential witnesses. (Doc. 37 at 4). However, none of the names listed as Caucasian males similarly situated to plaintiff on the proposed pretrial order were listed in plaintiff's response to defendant's interrogatory which asked to plaintiff to "[s]tate the

name of all employees you believe were similarly situated with you, and received what you believed to be preferential treatment." (Doc. 36 at 2). Plaintiff's reason for not supplementing her interrogatories is that she only recalled the names of these individuals when drafting the pretrial order. Plaintiff, however, did not attempt to supplement her interrogatories pursuant to Fed. R. Civ. P. 26(e).

Defendant's motion to strike (Doc. 36) is granted. Accordingly, the individuals listed as Caucasian males similarly situated to plaintiff must be stricken from the pretrial order. Discovery is closed and, as a result, defendant would be prejudiced if the court allowed any evidence regarding these individuals at trial. The revised pretrial order must be submitted to the court by June 12, 2006.

IT IS SO ORDERED.

Dated this 2nd day of June 2006, at Wichita, Kansas.

s/ Monti Belot
Monti L. Belot
UNITED STATES DISTRICT JUDGE