

**COURT OF COMMON PLEAS, LYCOMING COUNTY, PENNSYLVANIA**

**BRADD M. MILLER,**  
**Plaintiff,**

**vs.**

**GERALD KINLEY,**  
**Defendant.**

**: NO. 20-01214**  
**:**  
**:**  
**:**  
**: CIVIL ACTION**  
**:**  
**: Motion in Limine**

**OPINION AND ORDER**

This matter came before the Court on April 15, 2025, for oral argument on the Motion in Limine filed by Plaintiff on April 14, 2025, seeking to exclude the expert testimony of Aaron Rowles, Plaintiff's proposed expert on safe tree-falling practices. The expert report of Aaron Rowles was produced by Plaintiff on April 2, 2025, roughly one year after the deadline for expert reports.

While this Court is deeply troubled by the very tardy production of the expert report, the Court is mindful that, absent a showing of manifest prejudice, our Commonwealth Court does not appear inclined to allow trial courts to enforce deadlines set forth in scheduling orders. *See Williams v. Southeastern Pennsylvania Transportation Authority*, 741 A.2d 848, 855 (Pa. Commw. Ct. 1999) (internal citation omitted) (“[P]reclusion of such testimony is a drastic sanction that should not be applied unless the facts of the case make this measure absolutely necessary.”); *Green Construction Company v. Department of Transportation*, 643 A.2d 1129, 1139 (Pa. Commw. Ct. 1994). The Court is hopeful that, in the fullness of time, the law of this Commonwealth will evolve to the point where scheduling orders and discovery deadlines receive the respect and attention which they deserve.

In the interim, the Court will undertake to grant appropriate relief to litigants who receive untimely expert reports, on a case-by-case basis.

**ORDER**

**AND NOW**, this 15<sup>th</sup> day of April, 2025, for the reasons more fully set forth above, Plaintiff's Motion in Limine, filed April 14, 2025, is denied, in part, as follows:

1. Plaintiff's Motion seeking to exclude the testimony of Aaron Rowles on safe tree-falling practices is denied, except that the witness may only provide testimony to the matters clearly set forth in the written report served on April 2, 2025.
2. Plaintiff is granted leave of Court to serve a rebuttal report at the time of jury selection. Plaintiff may produce expert testimony at trial, consistent with any rebuttal report served at the time of jury selection.

By the Court,

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William P. Carlucci, Judge

WPC/aml

cc: Charles R. Rosamilia, Jr., Esquire  
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Joseph Musto, Esquire