

December 18, 2007

Transmitted via E-Mail and Facsimile

[REDACTED]

[REDACTED]

[REDACTED]

Re: [REDACTED] v. [REDACTED] et al
U.S. District Court Case No. [REDACTED]
Our File No. [REDACTED]

Dear Counsel:

Plaintiff is in receipt of Defendant [REDACTED] report from Mr. Jerome Eck, dated December 14, 2007 and submitted on December 17, 2007.

Plaintiff was obviously surprised to receive this report, not only because Defendant [REDACTED] has been offering its policy limits since September, and not just because Defendant [REDACTED] has not complied with the discovery orders of this Court with this late report, or that this disclosure remains incomplete and does not comply with Rule 26 disclosure requirements. Plaintiff is most surprised because Defendant [REDACTED]'s has picked Mr. Eck, who has no qualifications to offer biomechanical opinion testimony in this matter. Plaintiff has reviewed this report and would respectfully suggest that even if this forensic report were timely and proper, there seems little possibility that Mr. Eck will ever be able to testify in this matter.

Plaintiff's counsel has already struck, in Federal Court, the proposed biomechanical testimony of Dr. Albert King after a Daubert hearing (Exhibit 1). Plaintiff would note that compared to Mr. Eck, Dr. King is profoundly more qualified to offer biomechanical testimony. In addition, Plaintiff has also previously struck before Judge Donofrio, now on the Michigan Court of Appeals, the proposed biomechanical testimony of Dr. John Cavanaugh, and most recently Mr. Donald Bowen. Like Mr. Eck, Mr. Bowen has no medical qualifications whatsoever to offer biomechanical testimony. A fourth biomechanical engineer, Dr. Thiebault was withdrawn by [Defendant] after the transcript was produced by the New Jersey Supreme Court that referred to Dr. Thiebault as the "King of Junk Science." Plaintiff's counsel has spoken on striking defense biomechanical engineers to the Michigan Association for Justice, formerly Michigan Trial Lawyers Association on two prior occasions.

As there seems absolutely no way that Mr. Eck will ever testify in this case, Plaintiff will not waste brother and sister counsel's time exposing just how flimsy the underlying data is that Mr. Eck is apparently relying upon to support his opinions.

Plaintiff does agree with Defendant that [REDACTED] was southbound on US-23 when she lost control and caused this accident. Plaintiff had thought that the completely unfounded speculation about the mystery, phantom vehicle being involved in this accident had

already been abandoned by Defendant as more likely to insult and inflame a jury in this matter. Plaintiff refers to the liability analysis of its first facilitation summary dated September 29, 2007.

Very truly yours,

Steven M. Gursten

SMG/evs
Enclosure