

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
HOT SPRINGS DIVISION

WANDA TOYE

PLAINTIFF

v.

Case No. 6:08-CV-06096-RTD

THE KROGER CO.

DEFENDANT

**O R D E R**

Currently before the Court is Defendant's Response to Plaintiff's Motion in Limine or, in the Alternative, Motion for Reconsideration of Order Granting Plaintiff's Motion in Limine. (Doc. 28). For its response and motion, Defendant contends that the testimony of Paul Giampavalo, the president of Safe Strap, Inc., is admissible under Federal Rule 701 of Evidence. Defendant asserts that Mr. Giampavalo will testify, not as an expert, but about his company, why he conceived of the pallet guard, and the absence of other similar occurrences. To the extent that Mr. Giampavalo will so limit his testimony, the testimony is irrelevant to the issues in this case. Fed. R. Evid. 401. To the extent that Mr. Giampavalo will offer testimony that transcends these issues, his testimony is expert in nature. As the Court has held, expert testimony is neither helpful nor necessary in this case. Therefore, the Court reaffirms its Order of July 14, 2010, and Defendant's motion for reconsideration is hereby **DENIED**.

Defendant's counsel is instructed to direct all communications concerning this or any other matter to the Judge, and only to the Judge.

IT IS SO ORDERED this 15th day of July, 2010.

/s/ Robert T. Dawson  
ROBERT T. DAWSON  
UNITED STATES DISTRICT JUDGE