

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Judge Philip A. Brimmer**

Civil Action No. 07-cv-00401-PAB-KLM

KATHERINE GILES and  
ZURICH AMERICAN INSURANCE COMPANY,

Plaintiffs,

v.

THE INFLATABLE STORE, INC.,

Defendant.

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**ORDER REGARDING PLAINTIFFS' OBJECTIONS TO  
DEFENDANT'S DESIGNATIONS OF DEPOSITION TESTIMONY**

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This matter comes before the court on plaintiffs' Objections to Defendant's Designation of Deposition Testimony [Docket No. 108].

The Court rules as follows:

<b>Item #</b>	<b>Testimony</b>	<b>Objection</b>	<b>Ruling</b>
1	French, Douglas – 17:8-19	Irrelevant, F.R.E. 401-402	Overruled. Plaintiffs have failed to attach sufficient context for the Court to sustain the objection.
2	French, Douglas – 44:22-45:13	Hearsay, F.R.E. 801	Sustained.
3	French, Douglas – 46:17-24	Hearsay, statement of counsel, not question, F.R.E. 801	Sustained.

<b>Item #</b>	<b>Testimony</b>	<b>Objection</b>	<b>Ruling</b>
4	French, Douglas – 46:25-48:5	Inadmissible opinion as French not disclosed as expert, no foundation to permit expert testimony concerning statistical probability under F.R.E. 701-703 and not admissible lay opinion under F.R.E. 701	Sustained.
5	French, Douglas – 48:14-17	Hearsay, F.R.E. 801	Sustained.
6	French, Douglas – 54:14-56:3	Hearsay, F.R.E. 801	Sustained to the extent it is admitted for the truth of the matter asserted.
7	French, Douglas – 64:3-65:13	Opinion from witness not disclosed as expert, not admissible expert opinion, F.R.E. 702-703; not admissible lay opinion under F.R.E. 701	Overruled pursuant to Fed. R. Evid. 701.
8	Lash, Steven D. – 68:19-23	Lack of personal knowledge, F.R.E. 602	Sustained as to lines 22-23. Otherwise, overruled.
9	Lash, Steven D. – 73:24-77:21	Irrelevant, F.R.E. 401-402; lack of personal knowledge, F.R.E. 602; hearsay, F.R.E. 801; inadmissible lay opinion, F.R.E. 701; prejudicial effect outweighs any probative value, F.R.E. 403	Sustained as speculation as to p. 77 lines 6-21. Otherwise, overruled.
10	Lash, Steven D. – 78:17-79:16	Lack of personal knowledge, F.R.E. 602; irrelevant, F.R.E. 401-402	Sustained under Fed. R. Evid. 602.
11	Lash, Steven D. – 92:20-93:15	Hearsay, F.R.E. 801; lack of personal knowledge, F.R.E. 602; inadmissible lay opinion, F.R.E. 701; irrelevant, F.R.E. 401-402	Sustained under Fed. R. Evid. 801 and 602.

Item #	Testimony	Objection	Ruling
12	Lash, Steven D. – 93:19-94:5	Hearsay, F.R.E. 801; lack of personal knowledge, F.R.E. 602; irrelevant, F.R.E. 401-402	Sustained under Fed. R. Evid. 402 and 602.
13	Lash, Steven D. – 94:6-95:2	Lack of personal knowledge, F.R.E. 602; hearsay, F.R.E. 801	Sustained.
14	Lash, Steven D. – 95:3-10	Inadmissible lay opinion, F.R.E. 701; hearsay, F.R.E. 801; lack of personal knowledge, F.R.E. 602; predicated on hearsay not shown to be admissible under F.R.E. 702, et seq. per <i>Daubert, et al.</i> ; irrelevant, F.R.E. 401-402	Sustained under Fed. R. Evid. 402.
15	Keller, Samuel J. – 39:18-24	Irrelevant, F.R.E. 401-402; lack of personal knowledge, F.R.E. 602; inadmissible lay opinion, F.R.E. 701	Overruled.
16	Keller, Samuel J. – 74:21-75:7	Hearsay, F.R.E. 801; no personal knowledge, F.R.E. 602; hearsay re scientific opinion not qualified as admissible under <i>Daubert, et al.</i> , F.R.E. 702	Sustained under Fed. R. Evid. 602 and 801.
17	Keller, Samuel J. – 77:10-78:14	Lacks personal knowledge, F.R.E. 602; irrelevant, F.R.E. 401-402	Overruled.
18	Keller, Samuel J. – 88:10-23	Lacks personal knowledge, F.R.E. 602	Sustained.

DATED April 15, 2009.

BY THE COURT:

s/Philip A. Brimmer \_\_\_\_\_  
PHILIP A. BRIMMER  
United States District Judge