

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
SENIOR JUDGE WALKER D. MILLER

Civil Action No. 08-cv-00091-WDM-CBS

WAYNE WATSON and  
MARY WATSON,

Plaintiffs,

v.

DILLON COMPANIES, INC., d/b/a/ KING SOOPERS, also d/b/a INTER-AMERICAN  
PRODUCTS, INC., et al.,

Defendants.<sup>1</sup>

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**ORDER REGARDING COMMUNICATION WITH COURT**

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Miller, J.

This matter is before me on a letter from Plaintiffs' counsel emailed to the court, attached hereto, regarding the *Daubert* hearing set for June 14 - 15, 2011. My January 27, 2011 order, ECF No. 619, requires the presence of any expert witness whose opinion is challenged to be available for live cross-examination. It appears from Plaintiffs' correspondence that Plaintiffs seek some kind of relief from this order. If so,

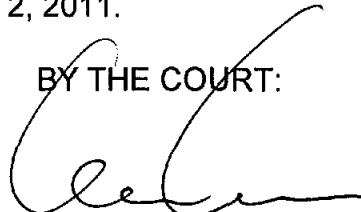
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<sup>1</sup>This case includes a number of third-party and other related litigation. However, since the motions addressed here concern only the primary parties, I have not included the related matters in the caption of this order.

they should file a motion pursuant to normal procedures.

DATED at Denver, Colorado, on June 2, 2011.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'Walker D. Miller', written in a cursive style.

s/ Walker D. Miller

United States Senior District Judge

**HUMPHREY, FARRINGTON & McCLAIN, P.C.**

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\*ADMITTED IN MISSOURI & KANSAS  
\*\*ADMITTED IN MISSOURI & NEBRASKA

June 1, 2011

**VIA EMAIL**

The Honorable Judge Walker D. Miller  
Alfred A. Arraj U.S. Courthouse  
Courtroom A-902  
901 19th Street  
Denver, CO 80294-3598  
[Miller\\_Chambers@cod.uscourts.gov](mailto:Miller_Chambers@cod.uscourts.gov)

*Re: Watson, et al. v. Dillon Companies, Inc., et al.  
Case No. 08-CV-00091-WDM-CBS*

Dear Judge Miller:

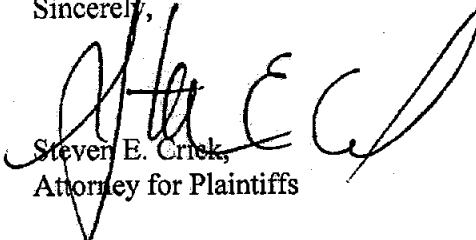
You have scheduled a Daubert hearing for June 14-15, 2011 in the above referenced case. Yesterday, Plaintiffs filed statements of three experts, treating physician Cecile Rose, M.D. and testifying experts David Egilman, M.D. and Allen Parmet, M.D.

Dr. Rose is a treating physician who was deposed in this matter on April 7, 2010. Plaintiffs have not retained Dr. Rose and she is not under our control. She was deposed, however, by plaintiffs and cross examined by defendants. Her statement filed yesterday was taken verbatim from that deposition. We had planned to present evidence concerning Dr. Rose through her videotaped deposition. We have communicated with counsel for Dr. Rose and have learned that she is out of the state on the dates of the hearing. She does plan to file a motion for protective order if we serve her with a subpoena.

Plaintiffs are certainly willing to move ahead at the scheduled date using Dr. Rose's deposition, however, we do wish to advise the court of this issue now.

Judge Walker D. Miller  
Alfred A. Arraj U.S. Courthouse  
June 1, 2011  
Page 2

Sincerely,



Steven E. Crick,  
Attorney for Plaintiffs

SEC:cir  
cc Defense Counsel:  
Jason D. Melichar  
Scott Stephenson  
Ken Barrish