

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

Civil Case No. 10-cv-00362-PAB-KLM

BIG O TIRES, LLC, a Nevada limited  
liability company f/k/a BIG O TIRES, INC.,  
a Colorado corporation,

Plaintiff,

v.

FELIX BROS., INC., a California corporation, et al.,

Defendants.

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**ORDER**

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This matter is before the Court on the plaintiff's motion to exclude the testimony of Mr. Tad Kyle, defendants' proffered expert witness [Docket No. 129]. Defendants no longer intend to call Mr. Kyle as an expert during the trial scheduled to commence on January 9, 2012. See Docket No. 149; see *a/so* Docket No. 151 (Defendants' Amended Witness List). Therefore, it is

**ORDERED** that plaintiff's motion to exclude expert testimony [Docket No. 129] is denied without prejudice as moot.

DATED December 22, 2011.

BY THE COURT:

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