

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

TED CROSWELL, ET AL

CIVIL ACTION

VERSUS

NUMBER 07-640-FJP-SCR

MOTEL SIX OPERATING L.P.,
ET AL

RULING

After reviewing the motion for summary judgment and memoranda submitted by the parties, the Court finds there are material issues of fact as to the defendants' negligence and the plaintiffs' comparative negligence. There are other issues such as the amount of lighting, the size and color of the speed bump, whether the plaintiffs should and could have used the paved walkway, and plaintiffs' negligence, if any, of walking on the side of the car and failure to watch where she was walking, and whether there was sufficient warning regarding the speed bump and whether such a warning was required.¹ Recent jurisprudence also may affect the applicability of the ADA to this case.²

Because of numerous factual issues, the Court did not determine the expertise of any expert; thus, defendants' Motion to Exclude the report and testimony of George M. Hammitt, Ph.D., P.E. is denied as moot.³ The

¹The Court has considered all of the contentions of the parties whether specifically discussed herein or not. The list of issues of fact does not contain all of the issues in dispute.

²See *Frame v. City of Arlington*, ___ F.3d ___ 2009 WL 1930045 (5th Cir. July 7, 2009).

³Rec. Doc. No. 23.

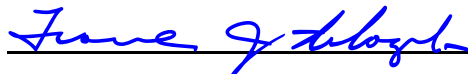
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Court will permit either party to file a motion for a *Daubert* hearing which shall be filed and heard prior to the trial of this case to determine whether any offered expert may testify as an expert in this case.

Therefore;

Defendants' motion for summary judgment⁴ and motion to exclude⁵ are denied.

Baton Rouge, Louisiana, July 22, 2009.



FRANK J. POLOZOLA
MIDDLE DISTRICT OF LOUISIANA

⁴Rec. Doc. No. 22.

⁵Rec. Doc. No. 23.