

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

NORWOOD-REDFIELD)	
APARTMENTS LIMITED)	
PARTNERSHIP,)	
)	
Plaintiff,)	
)	
v.)	4:16-cv-00639-AGF
)	
AMERICAN FAMILY MUTUAL)	
INSURANCE COMPANY,)	
)	
Defendant.)	


MEMORANDUM AND ORDER

Upon review of the record and following the final pretrial conference in this case held on the record on June 13, 2018, and for the reasons stated more fully on the open record, the Court sets forth its rulings on the parties' motions in limine, as follows:

1. **Defendant's Motion in Limine to Exclude Expert Testimony Offered by Plaintiff (ECF 70): GRANTED in part**, to the extent that Plaintiff will be precluded from offering opinion testimony by Joseph Caulfield based on Plaintiff's failure to properly and timely disclose such opinions, and for the further reasons stated on the record; and **DENIED as moot in part** as to Herbert Baumann, based on Plaintiff's representation on the record that it does not intend to offer opinion testimony by Mr. Baumann.
2. **Defendant's Motion in Limine to Exclude Evidence Related to Construction Management Fee (ECF 71): DENIED**, for the reasons discussed on the record, including that the testimony at issue does not constitute hearsay.
3. **Defendant's Motion in Limine to Bar Attorneys' Fees Testimony Offered by Plaintiff (ECF 72): RULING RESERVED**, pending the parties' filing, by no later than **Friday, June 15, 2018**, of any additional legal research and argument regarding the sufficiency of evidence required to submit to the jury a claim of attorneys' fees in connection with a vexatious refusal to pay claim under Missouri law; but the Court rejects Plaintiff's argument that the claim for attorneys' fees is to be decided by the

Court post-trial, and the Court holds that the claim for attorneys' fees must be decided by the jury in this jury trial.

4. **Defendant's Motion in Limine to Exclude Evidence Related to Loss of Business Income (ECF 73): GRANTED**, based on Plaintiff's failure to adequately and timely disclose this element of damages, its computation, and the evidentiary material on which the computation is based, and for the further reasons stated on the record.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 13th day of June, 2018.