

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**KRISTOPHER  
BRENESTUHL et al.,**

**Plaintiffs,**

**1:10-cv-1365  
(GLS/CFH)**

**v.**

**AMICA MUTUAL INSURANCE  
COMPANY,**

**Defendant.**

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**ORDER**

Pending before the court is defendant Amica Mutual Insurance Company's motion to preclude plaintiffs Kristopher and Sarah Brenenstuhl's expert witnesses—Patrick Dugan and John Mulcahy—pursuant to Federal Rules of Evidence 702 and 403. (See Dkt. No. 28.) Amica contends that the opinions of Dugan and Mulcahy will not assist the trier of fact and are not based on sufficient facts or data, (see Dkt. 28, Attach. 6 at 3-6), and that Mulcahy fails to qualify as an expert by knowledge, skill, experience, training, or education, (see *id.* at 10-11). At this juncture, the court denies the motion, but notes that Amica is not foreclosed from renewing their challenge at an appropriate time. Because the dispositive motion and discovery deadlines have expired, the court

deems this case trial ready and will issue a trial scheduling order in due course.

**ACCORDINGLY**, it is hereby

**ORDERED** that Amica's motion to preclude (Dkt. No. 28) is **DENIED**; and it is further

**ORDERED** that this case is deemed trial ready, and the court, in due course, shall issue a trial scheduling order; and it is further

**ORDERED** that the Clerk provide a copy of this Order to the parties.

**IT IS SO ORDERED.**

September 18, 2012  
Albany, New York

  
Gary L. Sharpe  
Chief Judge  
U.S. District Court