

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-356**

BETH MONTGOMERY,)	
)	
Plaintiff,)	
)	
v.)	ORDER
)	
SAM’S WEST, INC. d/b/a SAM’S CLUB,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court on the Motions in Limine, Daubert Motion, and deposition designations filed by the parties in this case. The Court held a pre-trial hearing on Friday June 15, 2018, in which the Court announced its rulings on the motions.

For the reasons stated in open court, it is **THEREFORE ORDERED** that:

1. Plaintiff’s Motion in Limine (Doc. No. 36) is **GRANTED IN PART, DENIED IN PART**. Plaintiff’s Motion is denied with respect to (1) the “exemplar” lid, and (2) the video produced by Defendant’s expert that is an authentic replication of the full length Sam’s Club video but is only shortened and reversed. It is granted in all other respects.
2. Defendant’s Motion in Limine (Doc. No. 38) is **DENIED**;
3. Defendant’s Daubert Motion (Doc. No. 39) is **DENIED**; and
4. The following deposition testimony is **STRICKEN**:
 - a. Rhonda McGaha, p. 28, lines 16–18;
 - b. De Bene Esse Deposition of C. Thomas Gualtieri, M.D., p. 66, lines 16–24;
 - c. De Bene Esse Deposition of C. Thomas Gualtieri, M.D., p. 70, lines 18–25;
 - d. De Bene Esse Deposition of C. Thomas Gualtieri, M.D., p. 71, lines 1–8;

- e. De Bene Esse Deposition of Aaron Hervey, PhD., p. 127, lines 9–15;
 - f. De Bene Esse Deposition of Aaron Hervey, PhD., p. 147, lines 16–23;
 - g. De Bene Esse Deposition of Aaron Hervey, PhD., p. 162, lines 9–15;
 - h. De Bene Esse Deposition of Aaron Hervey, PhD., p. 182, line 25;
 - i. De Bene Esse Deposition of Aaron Hervey, PhD., p. 183, lines 1–5;
 - j. De Bene Esse Deposition of John H. Sampson, M.D., PhD., p. 62, lines 11–25;
 - k. De Bene Esse Deposition of John H. Sampson, M.D., PhD., p. 63, lines 1–25; and
 - l. De Bene Esse Deposition of John H. Sampson, M.D., PhD., p. 64, lines 1–11;
5. All other objections to the deposition testimony are **OVERRULED**.

It is **FURTHER ORDERED** that:

- 1. The trial in this matter is re-set for July 30, 2018;¹ and
- 2. The parties shall appear before the Honorable Graham C. Mullen on Tuesday, June 19, 2018, in Courtroom 2-2 at 10:00am for a judicial settlement conference.

SO ORDERED.

Signed: June 15, 2018



Graham C. Mullen
United States District Judge



¹ In order to accommodate travel schedules, the Court will permit witnesses to testify out of order, as necessary.