

IN THE DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION

CONSOLIDATED  
CASE NO. 9:10-CV-2152-SB-WOB

EDWARD I. SMITH PLAINTIFF

VS.

TELEDYNE CONTINENTAL MOTORS,  
INC. DEFENDANT

AND

CASE NO. 9:10-CV-2546-SB-WOB

JENNIFER DAWN JONES, Individually  
and as Administrator of the Estate  
of Robert Gary Jones PLAINTIFF

VS.

TELEDYNE CONTINENTAL MOTORS, INC.,  
ET AL. DEFENDANTS

ORDER

This matter is before the Court on the motion of defendant RPM Technik's motions for summary judgment as to plaintiff Smith's sixth cause of action. See Doc. 294 (filed in 9:10cv2152); Doc. 329 (filed in 9:10cv2546). The Court finds that oral argument is unnecessary to the resolution of this motion.

RPM Technik's narrow ground for summary judgment is that Smith's designated Stephen Cupschalk as his expert, but withdrew him, and did not thereafter timely name a substitute expert. RPM Technik maintains that, consequently, Smith has no evidence

to support his claim of negligence. RPM Technik recognizes that Smith assigned his claims to Plaintiff Jones pursuant to their settlement, but contends Jones takes the claim as it stood at the time of assignment, along with its lack of timely designated expert. See Doc. 294 at 2-3 (filed in 9:10cv2152); Doc. Doc. 329 (filed in 9:10cv2546); Doc. 348 at 2 (filed in 9:10cv2546).

RPM Technik cites no authority for the proposition that plaintiff Jones may not use her own experts at trial in support of her assigned negligence claim. The Court agrees with Smith's response on this subject, and need not discuss Smith's arguments about the strength of Jones' evidence to dispose of the motion. See Doc. 308 at 2-9 (filed in 9:10cv2152); Doc. 344 at 2-9 (filed in 9:10cv2546).

Therefore, having reviewed this matter, and the Court being otherwise sufficiently advised,

**IT IS ORDERED** that RPM Technik's motions for summary judgment as to plaintiff Smith's sixth cause of action, now assigned to Jones (Doc. 294 in Case 9:10cv2152; Doc. 329 in 9:10cv2546) be, and are hereby, **DENIED**.

This 30th day of January, 2013.



**Signed By:**

**William O. Bertelsman** *WOB*

**United States District Judge**