

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

DOUGLAS BECKER and)	
DIANE BECKER-KNOX,)	
)	
Plaintiffs,)	Civil No. 2:08-0023
)	Judge Trauger
v.)	
)	
GERALD JUDD and)	
WAL-MART TRANSPORTATION, LLC,)	
)	
Defendants.)	

ORDER

The defendants have filed a Second Motion to Exclude Testimony of Pamela M. Auble, Ph.D. For Failure to Comply With Local Rule 39.01(c)(6)c (Docket No. 165). The motion is **GRANTED ONLY IN PART.**

First, it appears to be the case that the plaintiffs did not timely *file* the redacted expert witness statement of Dr. Auble, but the defendants concede that the redacted version was timely hand-delivered to them on August 21, 2009. (Docket No. 166 at 2) Therefore, the redacted statement will not be excluded on the basis of timeliness.

The defendants also assert that there are “**added**” handwritten changes to the deposition.” (Docket No. 166 at 4) These “changes” are immaterial and were necessitated by the redactions made by plaintiffs’ counsel. Therefore, these handwritten “changes” will not be excluded.

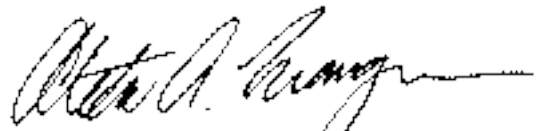
With regard to the remaining objections, it is certainly the case that this direct testimony of Dr. Auble is still too long and much of it will be of limited value to the plaintiffs in terms of explaining their damages to the jury. However, the court cannot state that the lengthy portions

discussing the various testing that was done on Mr. and Mrs. Becker is irrelevant or improper in any way, and those sections will not be excluded. However, it is hereby **ORDERED** that the following portions may not be read to the jury, as they do not relate to the core of the evaluation conducted by Dr. Auble or they are otherwise objectionable:

1. page 16, line 1 through page 19, line 13;
2. page 38, line 18 through page 41, line 5; and
3. page 43, line 14 through page 44, line 5.

It is so **ORDERED**.

Enter this 24th day of August 2009.



ALETA A. TRAUGER
U.S. District Judge