

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

BRUNSWICK INTERSTATE OASIS, INC  
d/b/a ECONOLODGE, et al.,

Plaintiffs

v.

Civil No. 97-131-P-C

DONALD E. NASON  
and  
DONNELLY FARMS, LTD.,

Defendants

GENE CARTER, District Judge

**MEMORANDUM OF DECISION AND ORDER ON  
DEFENDANT'S MOTION *IN LIMINE* TO EXCLUDE AND/OR  
LIMIT THE TESTIMONY OF PLAINTIFFS' EXPERT, G. MARK WILD**

Before the Court for action at this time is Defendants' Motion *in Limine* to Exclude and/or Limit the Testimony of Plaintiffs' Expert, G. Mark Wild (Docket No. 31). After full consideration of the written submission on said motion, and consideration of the record made for decision of said motion and of this Court's action on Docket No. 27 this date, the Court **CONCLUDES** that the testimony of Mr. Wild should be **EXCLUDED** at trial with respect to all aspects of it as it is described in the October 17, 1997, expert witness disclosure letter as to all subjects except his testimony as to the "reasonableness of the costs associated with the removal of the debris and clean-up costs of the Econolodge property and building following the May 23, 1996 accident." As to the latter testimony, the Court **RESERVES** decision as to the admissibility of such testimony to the time of its offer at trial and **ORDERS** that no reference be

made by any counsel or witness in the presence of the jury to such testimony until the Court has been afforded an opportunity to hear counsel and rule on the admissibility of such testimony.

The Court **CONCLUDES** that Mr. Wild's testimony "relative to all applicable federal, state, and local building code requirements and standards of costs associated with meeting those requirements" is rendered irrelevant in light of this Court's action on Docket No. 27 this date **EXCLUDING** from admission at trial evidence of Plaintiffs' "restoration costs." On the record made on this motion, the Court also has grave concern as to whether Mr. Wild possesses the requisite expertise, on the basis of his deposition testimony, with respect to this portion of the proposed substance of his testimony to permit him to give opinion testimony on those subjects.

The Court further **CONCLUDES** that any testimony from Mr. Wild concerning emotional distress, consternation over damage to Plaintiff' building, and Plaintiffs' frustrations in the course of building a new structure and their frustrations arising from dealings involving their financing problems or insurance carrier should also be **EXCLUDED** as not properly within the realm of expert testimony pursuant to the requirements of *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 125 L. Ed. 2d. 469 (1993). Such testimony is not within the realm of any specific professional discipline or expertise, and the Court **FINDS** any such testimony would not be helpful to the jury in resolving any relevant issue of fact.

Accordingly, the motion is **GRANTED** in the respects noted above, and decision is **RESERVED** as noted above.

So **ORDERED**.

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GENE CARTER  
District Judge

Dated at Portland, Maine this 18<sup>th</sup> day of June, 1998.