

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

LEE LIFENG HSU and )  
JANE YUCHEN HSU, )  
 )  
Plaintiffs, )  
 v. )  
 ) C.A. No. N24C-09-020 CLS  
STATE FARM FIRE AND )  
CASUALTY COMPANY, )  
 )  
Defendant. )  
 )  
 )

Date Submitted: October 22, 2025

Date Decided: January 20, 2026

*Upon Consideration of the Plaintiffs' Motion in Limine and Daubert Motion.*  
**DENIED.**

**ORDER**

Lee Lifeng Hsu and Jane Yuchen Hsu, *Pro Se Plaintiffs.*

Donald M. Ransom, Esquire for CASARINO CHRISTMAN SHALK RANSOM & DOSS,  
P.A., *Attorney for Defendant.*

**SCOTT, J**

Having considered Plaintiffs Lee Lifeng Hsu’s and Jane Yuchen Hsu’s (collectively, “Plaintiffs”) Motion in Limine and Daubert Motion,<sup>1</sup> Defendant State Farm Fire and Casualty Company’s (“Defendant”) Response,<sup>2</sup> and Plaintiffs’ Reply,<sup>3</sup> it appears to the Court that:

1. This case stems from a complaint filed by Plaintiffs on September 10, 2024.<sup>4</sup>

The complaint asserts various claims resulting from Defendant’s purported breach of its insurance contract with Plaintiffs for failing to provide the requisite coverage after property damages resulted from a “water intrusion event.”<sup>5</sup>

2. On August 18, 2025, Plaintiffs filed a Motion in Limine and Daubert Motion, asking the Court to find Defendant’s expert witness testimony and the deposition testimony of various witnesses inadmissible.<sup>6</sup>

3. First, Plaintiffs claim that the Defendant’s expert report and inspection materials from Michael Lupi, and the deposition testimony of various witnesses, are untimely under the Trial Scheduling Order and should be excluded under Superior Court Civil Rule 16(f).<sup>7</sup> Defendant counters that the contested evidence was submitted within the Trial Scheduling Order deadlines.<sup>8</sup>

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<sup>1</sup> See generally Pls.’ Mot. in Limine and Daubert Mot., D.I. 39.

<sup>2</sup> See generally Def.’s Resp. to Pls.’ Mot. in Limine and Daubert Mot., D.I. 46.

<sup>3</sup> See generally Pls.’ Reply to Def.’s Resp., D.I. 47.

<sup>4</sup> See generally Complaint (“Compl.”), D.I. 1.

<sup>5</sup> Compl. ¶ 7.

<sup>6</sup> Pls.’ Mot. in Limine and Daubert Mot. ¶ 1.

<sup>7</sup> Id. ¶¶ 7–9.

<sup>8</sup> Def.’s Resp. to Pls.’ Mot. in Limine and Daubert Mot. ¶¶ 2–3.

4. The Court must issue a trial scheduling order pursuant to Rule 16(b). Under Rule 16(a)(i), a party may move to amend a trial scheduling order provided that reasonable notice is given to the nonmoving party and is made consistent with Rule 7(b). If a party fails to comply with a scheduling order, the Court may issue sanctions where appropriate.<sup>9</sup>

5. On December 5, 2024, the Court issued a Trial Scheduling Order that required Defendant's expert reports to be provided by March 24, 2025, and set a discovery deadline for May 23, 2025.<sup>10</sup> Defendant's counsel then requested a new trial scheduling order in writing on December 9, 2025 because Defendant needed more time to identify its experts in response to Plaintiffs' expert reports.<sup>11</sup> Plaintiffs did not respond to Defendant's December 9<sup>th</sup> letter to the Court. On January 9, 2025, the Court issued a new trial scheduling order that extended Defendant's expert report disclosure date to July 3, 2025, and the discovery deadline to September 3, 2025.<sup>12</sup>

6. Defendant disclosed Mr. Lupi's expert report and credentials to Plaintiffs on July 1, 2025—two days before its expert reports were due according to the January 9, 2025 Trial Scheduling Order.<sup>13</sup> Further, Mr. Lupi's inspection materials were

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<sup>9</sup> Super. Ct. Civ. R. 16(b)(5), (f).

<sup>10</sup> Trial Scheduling Order, D.I. 10.

<sup>11</sup> Letter Requesting Issuance of a New Trial Scheduling Order, D.I. 11.

<sup>12</sup> January 9, 2025 Trial Scheduling Order, D.I. 13.

<sup>13</sup> Def.'s Resp. to Pls.' Mot. in Limine and Daubert Mot. ¶ 2, Exs. 1–2.

provided to Plaintiffs on July 29, 2025—over two months before the discovery deadline. Finally, all depositions were completed before September 3, 2025.

7. Plaintiffs contend, however, that the January 9, 2025 Trial Scheduling Order violates their due process rights because they did not have reasonable notice or an opportunity to be heard before the Court’s revision of the initial Trial Scheduling Order.<sup>14</sup> The Court disagrees. Defendant’s letter to the Court requesting a new trial scheduling order complies with Rule 7(b) and provided notice to Plaintiffs as Mr. Hsu’s email was copied on the letter. Moreover, Plaintiffs had 30 days to object to Defendant’s request and did not do so. Consequently, the Court will not exclude Defendant’s expert report, related inspection materials, or witness deposition testimony as “belated” evidence.<sup>15</sup>

8. Next, Plaintiffs posit that Mr. Lupi’s report fails to meet the standards articulated under D.R.E. 702 and *Daubert v. Merrell Dow Pharmaceuticals*<sup>16</sup> because Defendant never disclosed Mr. Lupi’s expert materials<sup>17</sup> nor provided support for his opinion, and Mr. Lupi’s reliance on documents and photos is not “scientifically verifiable.”<sup>18</sup> Defendant argues that Plaintiffs’ argument lacks merit

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<sup>14</sup> Pls.’ Reply to Def.’s Resp. ¶ 5.

<sup>15</sup> Pls.’ Mot. in Limine and Daubert Mot. ¶ 1.

<sup>16</sup> 509 U.S. 579 (1993).

<sup>17</sup> Pls.’ Mot. in Limine and Daubert Mot. ¶ 10.

<sup>18</sup> Pls.’ Reply to Def.’s Resp. ¶ 12.

and any “weight to be given to Mr. Lupi’s testimony or evidence . . . [is] for a jury to decide.”<sup>19</sup>

9. As mentioned above, Defendant provided Plaintiffs with Mr. Lupi’s credentials and the expert report containing “the specific materials supporting [Mr. Lupi’s] opinions.”<sup>20</sup> Therefore, the Court will not find Mr. Lupi’s testimony inadmissible on this ground.

10. In addition, Plaintiffs misconstrue the standard governing the admissibility of expert opinions under Delaware law. Under D.R.E. 703,

[a]n expert may base an opinion on facts or data in the case that the expert has been made aware of or personally observed. If experts in the particular field would reasonably rely on those kinds of facts or data in forming an opinion on the subject they need not be admissible for the opinion to be admitted.

11. Accordingly, Plaintiffs’ argument that Mr. Lupi may not rely on documents and photos to form an opinion on property damage. Mr. Lupi may base his opinions on photos or documents if experts in his field would rely on those kinds of materials in forming an opinion; nothing in Plaintiffs’ argument directs the Court to find that it would not be reasonable for Mr. Lupi to rely on photos and documents to form an opinion about property damage. Thus, the Court rejects Plaintiffs’ motion to exclude Mr. Lupi’s expert testimony.

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<sup>19</sup> Def.’s Resp. to Pls.’ Mot. in Limine and Daubert Mot. ¶ 4.

<sup>20</sup> Pls.’ Reply to Def.’s Resp. ¶ 13; *see* Def.’s Resp. to Pls.’ Mot. in Limine and Daubert Mot., Exs. 1–2.

12. Lastly, Plaintiffs argue that the deposition testimony of various witnesses is inadmissible under D.R.E. 403 because the depositions were taken “more than one year after the loss event and well outside any reasonable timeframe for collecting reliable fact testimony[.]”<sup>21</sup> Defendant contends that the credibility of the witnesses’ memories “is within the province of the jury to decide.”<sup>22</sup>

13. The Court agrees with Defendant. The Delaware Supreme Court has made clear that it is the jury’s role to assess the credibility of witness testimony, including potential memory issues.<sup>23</sup> Hence, it is not the Court’s role to determine whether the witness’ testimony is credible. The Court may only determine questions of admissibility, and Plaintiffs do not otherwise show that the witnesses’ deposition testimony is not based on personal knowledge, irrelevant, prejudicial, confusing, misleading, or cumulative.<sup>24</sup>

14. For the foregoing reasons, Plaintiffs’ Motion in Limine and Daubert Motion is **DENIED**.

**IT IS SO ORDERED.**

/s/ *Calvin Scott*  
Judge Calvin L. Scott, Jr.

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<sup>21</sup> Pls.’ Mot. in Limine and Daubert Mot. ¶ 3.

<sup>22</sup> Def.’s Resp. to Pls.’ Mot. in Limine and Daubert Mot. ¶ 6.

<sup>23</sup> *Young v. Frase*, 702 A.2d 1234, 1237 (Del. 1997) (internal citations omitted); *see e.g.*, *Pettiford v. State*, 991 A.2d 18, 2010 WL 891910, at \*3 (Del. Mar. 12, 2010).

<sup>24</sup> D.R.E. 401, 402, 403, 602.