

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

KECHI TOWNSHIP, et al.,	)	
	)	
Plaintiffs,	)	<b>CIVIL ACTION</b>
	)	
v.	)	No. 10-1051
	)	
FREIGHTLINER, LLC n/k/a DAIMLER	)	
TRUCKS NORTH AMERICA LLC,	)	
	)	
Defendant.	)	
_____	)	

**MEMORANDUM AND ORDER**

This case comes before the court on defendant Freightliner, LLC n/k/a Daimler Trucks North America LLC's ("Daimler") motion to limit or exclude the testimony and opinions of plaintiffs' expert Don Birmingham (Doc. 119) and memorandum in support (Doc. 120). Plaintiffs Kechi Township and Employers Mutual Casualty Company ("Kechi") have responded (Doc. 128) and the matter is ripe for decision.

On January 4, 2012, the court held a Daubert hearing and heard Birmingham's testimony related to his opinions regarding combustibility of insulation.<sup>1</sup>

For the reasons stated in open court, the court finds that Birmingham's opinions on this issue are not reliable under the Daubert/Kuhmo Tire standards and will not be allowed. Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579, 589, 113 S. Ct. 2786, 125 L. Ed. 2d 469; Kumho Tire Co. v. Carmichael, 526 U.S. 137, 152,

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<sup>1</sup> The court held in its order dated December 30, 2011, that Birmingham may testify about his opinions related to the origin of the fire. (Doc. 148).

119 S. Ct. 1167, 143 L. Ed. 2d 238 (1999).

IT IS SO ORDERED.

Dated this 4th day of January 2012, at Wichita, Kansas.

s/ Monti Belot  
Monti L. Belot  
UNITED STATES DISTRICT JUDGE