

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 13-CV-1300-MSK-MJW

COLORADO OUTFITTERS ASSOCIATION, *et al.*,

Plaintiffs

v.

JOHN W. HICKENLOOPER, Governor of the State of Colorado,

Defendant.

**PLAINTIFFS' AMENDED MOTION *IN LIMINE* TO EXCLUDE
CERTAIN TRIAL EXHIBITS**

Plaintiffs, by and through their respective counsel, respectfully submit this Motion *in Limine* to exclude certain trial exhibits Defendant's counsel evidently intends to use in connection with two of his designated experts. In support thereof, Plaintiffs state as follows:

1. Plaintiffs' counsel conferred with Defendant's counsel regarding this Motion, pursuant to D.C.COLO.LCivR. 7.1(a). Defendant's counsel stated that Defendant opposes the Motion.

2. Defendant has listed several exhibits (51-58 and 67-82) that are intended to be used during the testimony of Daniel Webster and Jeffrey Zax. Exhibits 51-58 were listed in connection with Webster, and exhibits 67-82 were listed in connection with Zax.

3. The Webster exhibits were provided to counsel for the Plaintiffs on March 24, 2014, and the Zax exhibits on March 25, 2014.

4. Fed. R. Civ. P. 26(a)(1)(B)(iii) requires that the exhibits be in the expert report:

(B) *Witnesses Who Must Provide a Written Report.* Unless otherwise stipulated or ordered by the court, this disclosure must be accompanied by a written report—prepared and signed by the witness—if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. ***The report must contain:***

(iii) ***any exhibits that will be used to summarize or support them***

5. None of the exhibits identified in connection with Webster and Zax were included in their respective expert reports, as required by Fed. R. Civ. P. 26(a)(1)(B)(iii).

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request this Court to exclude from evidence exhibits 51-58 and 67-82.

Dated this 6th day of April, 2014.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 6, 2014, I have served the foregoing pleading via the CM/ECF system for the United States District Court for the District of Colorado:

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