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IN THE DISTRICT COURT IN AND FOR TULSA COUNTY  
STATE OF OKLAHOMA

UTICA SQUARE SHOPPING CENTER, )  
INC., an Oklahoma corporation, )  
Plaintiff, )  
vs. )  
REMBERG'S, INC., )  
an Oklahoma corporation, )  
Defendant. )

Case No. CJ 97-2450

PARTIAL TRANSCRIPT OF JURY TRIAL  
(Testimony of Erich Speckin)

HELD JULY 8, 1998

BEFORE THE HONORABLE JANE P. WISEMAN,  
DISTRICT JUDGE

IN TULSA, TULSA COUNTY, OKLAHOMA

**COPY**

APPEARANCES:

FOR THE PLAINTIFF:

MR. R. CASEY COOPER  
Boesche, McDermott & Eskridge  
100 West Fifth Street, Suite 800  
Tulsa, Oklahoma 74103-4216

MR. STEVEN R. MACKEY  
1579 East 21st Street  
Tulsa, Oklahoma 74114

FOR THE DEFENDANT:

MR. CLARK O. BREWSTER  
MR. RICHARD A. SHALLCROSS  
Brewster, Shallcross & DeAngelis  
2021 S. Lewis, Suite 675  
Tulsa, Oklahoma 74104

MS. RENEE WILLIAMS  
2021 S. Lewis  
Tulsa, Oklahoma 74104

REPORTED BY: JANA HARRINGTON, CSR  
Tulsa County Courthouse  
Tulsa, Oklahoma 74103

1           MR. COOPER: He has stated his qualifications very  
2 specifically. He has met --

3           THE COURT: If you can, can you whisper?

4           MR. COOPER: He has stated his qualifications very  
5 specifically. He has been admitted as an expert witness in  
6 numerous cases. He has examined over a hundred thousand  
7 documents, is trained by the inventor of the science, and has  
8 testified that the technique is accepted, and has been  
9 subjected to his own articles and peer review. He's testified  
10 that Mr. Brunelle, his teacher, has presented over 45 papers  
11 concerning the science, subject of peer review.

12           With regard to the comment about the dating of the  
13 document he examined, we went through this yesterday.  
14 Mr. Renberg testified in his deposition that Plaintiff's --  
15 Defendant's Exhibit 2 was signed, the letter signed by him, he  
16 signed on June the 8th of 1993. And that's the date that  
17 shows on the document. That is the signature he tested. So  
18 his testimony goes both to the credibility of Bob Renberg and  
19 to the timing of the execution of that document. And that's  
20 the only document we have Bob Renberg's signature.

21           MR. BREWSTER: Your Honor, it's with regard to  
22 impeaching Mr. Renberg because he also testified in his  
23 deposition when asked whether he signed on the date it was  
24 dated, he said I believe I did. He has never unequivocally  
25 stated when he signed that later and it's immaterial. That

1 letter is not the operative instrument.

2 What I'm concerned about is you allowing this guy, this  
3 witness, who even if this was a recognized science, which it  
4 isn't, even if it were, this young man, he is fresh out of  
5 college. I mean he hasn't identified the ink. By his own  
6 admission he admits that identifying the ink is important to  
7 determining the drying time.

8 We've got a whole plethora of problems with his  
9 testimony, and it's really not appropriate to any issue in  
10 this case, and at best it's impeachment evidence and can be  
11 used maybe for rebuttal. But at this point in time there's no  
12 foundation for it. He hasn't met the criteria of Daubert by  
13 any stretch of the imagination, and it's not the duty of  
14 us to show that. It's the duty of him to make it under  
15 Daubert.

16 For example, we don't know where his articles were  
17 published. They might have been published in an Okemos,  
18 Michigan newspaper. Peer review is very, very sketchy in this  
19 subject matter. I have got a number of articles that say that  
20 this is a very uncertain science, and, Your Honor, pursuant to  
21 the Daubert case, I would say he should not be allowed, and  
22 just on pure relevancy it should not be permitted.

23 THE COURT: Anything further?

24 MR. COOPER: I would just suggest if he has got  
25 articles to question this man's expertise and his science, he

1 might want to examine him about it. Other than that, he  
2 testified to qualifications and qualifications of the science.

3 THE COURT: Noting your objection for the record,  
4 Mr. Brewster, he will be qualified as an expert to testify at  
5 this hearing over your objection.

6 MR. BREWSTER: Well, then, I would ask for a  
7 charging instruction to the jury with regard to the expert  
8 witnesses and with regard to -- you know, you're going to  
9 allow it in but as to the weight, the jury is to weigh the  
10 credibility. I would ask that you give a charging instruction  
11 that is used in cases particularly when the judge as the  
12 gatekeeper under Daubert has determined to allow a witness in  
13 a close call situation.

14 THE COURT: The request will be denied at this  
15 time. They will be given an instruction at the end of the  
16 case in regard to expert witnesses.

17 MR. BREWSTER: I would ask at a minimum that you  
18 instruct the jury they should view the testimony in light of  
19 the instruction given at the end.

20 THE COURT: I'm not clear on what you are  
21 requesting.

22 MR. BREWSTER: Somehow the jury is going to think  
23 the Court is endorsing this witness and I frankly think you  
24 need to instruct them there will be an instruction  
25 specifically designed for expert witnesses at the close of the