



be relevant. Chubb also doesn't dispute Couch's qualifications. As argued, and on this record, Chubb's complaints go to the eventual weight a jury might afford the testimony and are most appropriately addressed at trial via cross-examination or through introduction of competing expert testimony.<sup>1</sup>

As to the first argument, there's no dispute that Couch inspected the property on multiple occasions and relied on a plumbing report that noted multiple breaks in plumbing lines. Relying on this underlying data and his ample training and experience, Couch opined on the cause of the damage to the property. This is sufficient given the parties' arguments presented here. The second of Chubb's arguments relies on a distinction Chubb draws between "leaks" and "breaks" in plumbing, which on this record is an issue better reserved for cross examination at trial. Both side's experts relied on the same plumbing report that noted multiple plumbing issues. Even Defendant's expert appears to use the terms "break" and "leak" interchangeably in his expert report.<sup>2</sup> Moreover, Chubb didn't depose Couch, which might have provided more detail and nuance on these issues to further inform a motion to exclude. Accordingly, on this record and based on the arguments presented by Chubb, the Motion, Dkt. No. 11, is **DENIED WITHOUT PREJUDICE**. Chubb may re-urge its arguments later in the case, such as via a *motion in limine* or at trial.

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<sup>1</sup> See *United States v. 14.38 Acres of Land*, 80 F.3d 1074, 1077 (5th Cir. 1996) ("As a general rule, questions relating to the bases and sources of an expert's opinion affect the weight to be assigned that opinion rather than its admissibility and should be left for the jury's consideration") (quotations omitted); 29 Victor James Gold, Fed. Prac. & Proc. Evid. § 6263 ("[E]ven where the trial court has concluded that expert testimony will help the trier of fact and is admissible, other evidence may be admitted to show that the testimony is unreliable and will be of little or no help.").

<sup>2</sup> See Dkt. No. 13-2 at 18 ("The following breaks in the plumbing lines were discovered during the visual inspection: under the master bathroom (**Leak S1**), between bathrooms #1 and #2 (**Leak S2**), under the washer/dryer/kitchen (**Leak S3**) and below bathroom #3 (**Leak S4**) (emphasis in original).

One further matter bears mentioning. At the hearing on Chubb's Motion to Exclude, Chubb conceded that if the District Court is not inclined to revisit and reverse this Court's decision to deny the motion to exclude, then Chubb's pending motion for summary judgment should be denied because that motion necessarily relies on the Couch testimony being deemed inadmissible.

**IT IS SO ORDERED.**

SIGNED this 1st day of July, 2022.

A handwritten signature in blue ink, appearing to read 'RBF', is written over a horizontal line.

RICHARD B. FARRER  
UNITED STATES MAGISTRATE JUDGE