

School, Inc. v. Lembach, 64 V.I. 400 (V.I. 2016) and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). As such, Plaintiff asserts that the report must be stricken.² Defendants respond that the Motions are premature in that the reports were submitted to the Master only as part of Defendants' proposed accounting and distribution plan, and are not a part of the record. Further, Defendants state that the BDO report represents only a preliminary accounting based on information available at the time, and will be supplemented upon completion of additional discovery. Both parties agree that more discovery is required to adequately present their respective claims.

While Plaintiff took the opportunity at the recent hearing to present evidence in the nature of a pretrial motion in limine, a determination of trial admissibility of the testimony of the author(s) of the reports in issue, and of the reports themselves, is premature. The primary purpose of conducting a *Daubert* hearing pursuant to V.I. R. Evid. 104 is to permit the trial court to act as gatekeeper to prevent a jury from hearing inadmissible testimony. Because the Court, by Memorandum Opinion and Order entered contemporaneously herewith, strikes both Plaintiff's and Defendants' demands for trial by jury, that concern is not present. Further, the ability of the Master and the Court to evaluate the reports and ascribe to them only such weight as they deserve, militates against striking the reports at this stage of the litigation.³ Accordingly, it is hereby

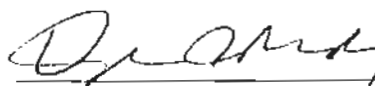
ORDERED that Hamed's Motion to Strike Accounting Expert (BDO) is DENIED without prejudice. It is further

ORDERED that Hamed's Plaintiff's Motion to Strike Business Valuation Expert (Integra) is DENIED without prejudice.

DATED: July 21, 2017.

ATTEST: ESTRELLA GEORGE
Clerk of the Court

By: _____
Court Clerk Supervisor


DOUGLAS A. BRADY
Judge of the Superior Court

CERTIFIED A TRUE COPY

DATE: July 24, 2017

ESTRELLA H. GEORGE
ACTING CLERK OF THE COURT

BY: _____
COURT CLERK

² No evidence was presented at the hearing regarding the Integra report, which Plaintiff challenges as failing the last two of the three-prong test for admissibility: qualifications, reliability and fit. Because the same issues are involved, both Motions are treated together for purposes of this Order.

³ See, e.g., "The Court also deferred ruling on some of the motions involving expert testimony, as the judge need not serve as gatekeeper for himself." *Eames v. Bedor*, 2012 N.H. Super. LEXIS 15, *7 (N.H. Super. Ct. 2012) (citing *Traxys N. Am., LLC v. Concept Mining, Inc.*, 808 F. Supp. 2d 851, 853 (W.D. Va. 2011)).