

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ALBANY DIVISION**

MATHIS KEARSE WRIGHT, JR.	:	
	:	
Plaintiff,	:	
	:	CASE NO.: 1:14-CV-42 (WLS)
v.	:	
	:	
SUMTER COUNTY BOARD OF	:	
ELECTIONS AND	:	
REGISTRATION,	:	
	:	
Defendant.	:	
	:	

ORDER

Before the Court is Plaintiff Mathis Kears Wright, Jr.’s “Emergency Motion to Strike the Defendant’s Daubert Motion and to Stay the Time for the Plaintiff to Respond to the Defendant’s Motion.” (Doc. 98.) The Court will provide a brief recap of the procedural history of this case to put the motion in context. Defendant Sumter County Board of Elections and Registration filed an initial motion for summary judgment in this action on January 12, 2015. (Doc. 40.) By order of the Court, Defendant was required to file *Daubert* motions separate from and contemporaneously with its dispositive motion. (Doc. 21 at 4.) Defendant did so, filing a motion to exclude the testimony of Plaintiff’s expert Frederick McBride alongside the motion for summary judgment. (Doc. 42.) Both motions were fully briefed. (Docs. 43; 44; 45; 46.)

On March 13, 2015, Plaintiff filed his own motion for summary judgment. (Doc. 47.) Defendant immediately moved to strike the motion, noting—correctly—that the deadline for dispositive motions had already expired. (Doc. 48.) The Court granted the motion and struck Plaintiff’s motion as untimely. (Doc. 61.)

The Court ultimately granted summary judgment in favor of Defendant. (Doc. 62.) In doing so, the Court denied Defendant’s *Daubert* motion as moot given that (the Court

believed at the time) Defendant was entitled to summary judgment even considering McBride's expert testimony. (Doc. 62.)

The United States Court of Appeals for the Eleventh Circuit reversed judgment and remanded the case soon after. (Doc. 71.) This Court entered a supplementary scheduling order on August 18, 2016. (Doc. 78.) The Court granted a few extensions of time thereafter. (See Docs. 81; 83; 85; 87.) As relevant here, the Court's December 20, 2016 extension order set the deadline for all dispositive orders and "[a]ll motions challenging the qualifications of an expert witness raised under *Daubert* and related to a dispositive motion" for April 7, 2017. (Doc. 85.) That deadline remained unchanged. (See Docket.)

On April 7, 2017, Plaintiff filed a motion for summary judgment and a *Daubert* motion. (Docs. 88; 89.) Defendant filed its responses to those motions on April 28, 2017. (Docs. 95; 96.) Alongside the responses, Defendant filed a "Notice of Defendant's Renewed Motion to Exclude Portion of Plaintiff's Expert Report and Testimony," stating that it "renews its motion to exclude all opinion testimony offered by Dr. Frederick McBride regarding the socioeconomic conditions in Sumter County" (Doc. 94 at 1.) The Clerk's Office notified Defendant that the filing must be made in the form of a motion, which Defendant did on May 1, 2017 in a motion styled as a "Motion to Renew Motion to Exclude Portion of Plaintiff's Expert Report and Testimony." (Doc. 97.)

Plaintiff filed the instant "Emergency Motion to Strike the Defendant's *Daubert* Motion and to Stay the Time for the Plaintiff to Respond to the Defendant's Motion" thereafter. (Doc. 98.) Plaintiff complains that Defendant filed the *Daubert* motion more than three weeks after its deadline and asks that the motion be struck. (*Id.*)

Defendant is hereby **ORDERED** to respond to the emergency motion showing why its Motion to Renew Motion to Exclude Portion of Plaintiff's Expert Report and Testimony (Doc. 97) should not be struck as untimely **no later than Monday, May 22, 2017**. Plaintiff's deadline to respond to the *Daubert* motion (Doc. 97) is hereby **STAYED**. In the event the filing is permitted, the Court will set a deadline for Plaintiff's response.

In an effort to assure *Daubert* motions are briefed contemporaneously with dispositive motions, Plaintiff's deadlines to reply to Defendant's responses (Docs. 95; 96) to its own

Daubert motion (Doc. 88) and its motion for summary judgment (Doc. 89) are also **STAYED**. In the event the Court does strike Defendant's *Daubert* motion, Plaintiff will have **four days from the filing of such an order** (which is the time remaining between today and the May 12, 2017 reply deadlines) to file such replies.

Plaintiff asserted in his emergency motion that: "This case is now approximately one month from the date set for trial. Pretrial disclosures are due in a few days." (Doc. 98-1 at 3.) While not pertinent to the substance of Plaintiff's motion, the Court wishes to dispel any misconceptions about the trial schedule in this case. The Court's December 20, 2016 order set the "tentative[]" trial date as Monday, June 5, 2017. (Doc. 85 at 1.) However, the Court reminded the Parties in a footnote that "the actual trial date will be known when the Parties receive the Notice of Pretrial Conference, which might state the proposed trial date listed herein or an earlier or later trial date." (*Id.* at 1 n.1.) No such notice has been filed. (*See* Docket.) This case will not be ready for trial for the Court's June term.

SO ORDERED, this 8th day of May, 2017.

/s/ W. Louis Sands

W. LOUIS SANDS, SR. JUDGE
UNITED STATES DISTRICT COURT