

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STEVE WILSON BRIGGS,

Plaintiff,

v.

NEILL BLOMKAMP, et al.,

Defendants.

No. C 13-4679 PJH

**ORDER**

Before the court is the motion of plaintiff Steve Wilson Briggs to "disqualify" the expert report of defendants' expert Jeff Rovin. The motion is presently set for hearing on July 23, 2014. Having read the parties' papers and carefully considered their arguments and the relevant legal authority, the court hereby rules as follows.

The court construes the motion as a motion to disqualify Mr. Rovin as an expert, pursuant to Federal Rule of Evidence 702 and Daubert v. Merrell Dow Pharms, Inc., 509 U.S. 579 (1993). Under that authority, a witness who has been qualified as an expert by knowledge, skill, experience, training, or education may give an opinion on scientific, technical, or otherwise specialized topics if (1) the expert's scientific, technical, or other special knowledge will help the trier of fact understand the evidence or determine a fact in issue, (2) the testimony is based upon sufficient facts or data, (3) the testimony is the product of reliable principles and methods, and (4) the witness has applied the principles and methods reliably to the facts of the case. See id.

Because the motions for summary judgment have not yet been filed, the court is unable to ascertain how defendants intend to use the Rovin report, or whether Mr. Rovin has properly applied the correct principles and methods to the facts of the case. Moreover,

1 the court notes that while plaintiff has asserted in this motion and in prior "Notices of  
2 Rebuttal" that the Rovin report has been "filed" with the court, the report was in fact not  
3 filed with the court until defendants filed their opposition to the present motion on June 26,  
4 2014. In addition, plaintiff has cited other references in his motion, but has failed to attach  
5 copies to a declaration properly authenticating the references. The result is that the court  
6 is hard-pressed to understand the basis of a number of plaintiff's objections to the Rovin  
7 report.

8 Accordingly, the court DEFERS ruling on the present motion until the motions for  
9 summary judgment have been heard. The July 23, 2014 hearing date is VACATED.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**IT IS SO ORDERED.**

Dated: July 17, 2014



---

PHYLLIS J. HAMILTON  
United States District Judge