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28UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAMORTON & BASSETT, LLC,  
Plaintiff,  
v.  
ORGANIC SPICES, INC.,  
Defendant.Case No. [15-cv-01849-HSG](#)**ORDER DENYING PLAINTIFF'S  
MOTION FOR LEAVE TO FILE A  
DAUBERT MOTION**

Re: Dkt. No. 101

On May 23, 2017, Plaintiff and Counterclaim-Defendant Morton Bassett, L.P. ("Morton") filed a request for leave to file a Daubert motion to exclude the testimony and report of Michael Rappeport, the expert of Defendant and Counterclaimant Organic Spices, Inc. ("Spicely"). Dkt. No. 101. Morton also requested that the Court set June 2, 2017 as Spicely's deadline to oppose the proposed Daubert motion, and hear arguments regarding the motion at the pretrial conference on June 13, 2017 at 3:00 p.m. *Id.* at 4. Along with its request for leave to file, Morton has filed its proposed Daubert motion, Dkt. No. 101-2, a declaration by counsel, Dkt. Nos. 101-3 ("Weinberg Decl."), and exhibits thereto, Dkt. No. 101-4 ("Exs. A-C").

This Court's standing order limits motions in limine to five pages. See Civil Pretrial & Trial Standing Order ¶ 24. However, Morton's proposed Daubert motion is six pages. Morton's request to file this overlong document is denied.

At this stage of the proceedings, the Court requires a party to seek prior approval before filing a Daubert motion. See *id.* ("Motions in limine cannot be used to . . . raise Daubert challenges unless the Court has specifically granted prior approval."). The proposed Daubert motion seeks to exclude the report and expert testimony of Mr. Rappeport. However, Mr. Rappeport's report is dated May 31, 2016. Weinberg Decl., Ex. B at 6. And Morton deposed Mr. Rappeport on June 10, 2016. *Id.*, Ex. C. Neither Morton's request nor its counsel's declaration

United States District Court  
Northern District of California


1 explains why it waited nearly a year to file the proposed Daubert motion.

2 Finally, Morton's request as to the briefing schedule and hearing were unnecessary. As  
3 ordered at the further case management conference on May 23, 2017, oppositions to the motions  
4 in limine must all be filed by June 2, 2017. See Dkt. No. 107 (minute entry of proceedings). And  
5 all motions in limine will be heard at the pretrial conference on June 13, 2017 at 3:00 p.m. See  
6 Civil Pretrial & Trial Standing Order ¶ 26.

7 For the foregoing reasons, the Court **DENIES** Morton's request for leave to file the  
8 proposed Daubert motion. The Court **SETS** a filing deadline of May 25, 2017 for any renewed  
9 request to file a proposed Daubert motion relating to the testimony and report of Mr. Rappeport.  
10 The proposed Daubert motion shall not exceed five pages. And any renewed request to file a  
11 Daubert motion must explain why Morton had good cause to wait nearly a year before challenging  
12 Mr. Rappeport's report and expert testimony. If such a request is ultimately granted, the Daubert  
13 motion in question will be subject to the existing opposition deadline and hearing date for all  
14 motions in limine.

15 **IT IS SO ORDERED.**

16 Dated: 5/24/2017

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18 HAYWOOD S. GILLIAM, JR.  
United States District Judge

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