

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

**BRIAN MOORE, as Personal
Representative on behalf of the Estate
of Bernard P. Rice, deceased,**

Plaintiff,

vs.

CASE NO. 5:08cv343/RS/MD

NORTH AMERICA SPORTS, INC., et al.,

Defendants.

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Order

Before me is Defendants' Motion to Strike or Limit Evidence from Plaintiff's Proposed Expert Gerald M. Dworkin (Doc. 123).

Defendants move for an order excluding or limiting testimony of Gerald M. Dworkin because (a) he lacks qualifications to render certain opinions in this case; (b) his opinions are not based on sufficient facts and what information he has relied on is unreliable; (c) the methodology employed in developing his opinions is flawed; and (d) his testimony will not assist the trier of fact with the application of scientific expertise to better understand the evidence.

After review of Dworkin's curriculum vitae and report, I find that he may testify as an expert in aquatic safety as outlined in his report, subject to the same limitations of Dr. Smith. *See* Doc. 155. As an expert, Dworkin may rely on the opinions of other experts, but may not testify as to his opinion of the physiological cause of decedent's death or the medical cause of his initial distress. If further guidance is needed as to Dworkin's testimony, it can be discussed at the pretrial conference.

Defendants' Motion to Strike or Limit Evidence from Plaintiff's Proposed Expert Gerald M. Dworkin (Doc. 123) is **granted in part, denied in part.**

ORDERED on June 26, 2009.

/S/ Richard Smoak
RICHARD SMOAK
UNITED STATES DISTRICT JUDGE