

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 23-61652-CIV-SINGHAL

ACCELERANT SPECIALTY INSURANCE
COMPANY,

Plaintiff/Counter-Defendant,

vs.

JASON BALLARD,

Defendant/Counter-Plaintiff.

ORDER

THIS CAUSE is before the Court on Plaintiff's Motion for Leave to File Reply in Support of Motion to Strike F. David Famulari as an expert witness. (DE [108]). Defendant opposes the present motion. For the reasons discussed below, the motion is denied.

The parties have both filed *Daubert* motions seeking to exclude the testimony of their opposition's expert witness. See (DE [82]) and (DE [98]). The Court's pretrial order limits the briefing on *Daubert* motions and expressly prohibits the filing of reply memoranda unless leave is granted by the Court. See (DE [24]).

Notwithstanding that prohibition, Defendant sought (and received) an extension of time to file a reply memorandum in support of his *Daubert* motion. See (DE [102] and [103]). Defendant did not previously seek, and the Court had not granted, leave to file a reply memorandum. The extension of time was, therefore, erroneously granted.

The Court has reviewed the parties' respective *Daubert* motions and concludes that reply memoranda are not necessary. This is especially true because this case is being tried to the Court, not to a jury. In a bench trial, barriers to opinion testimony are more relaxed than in a jury trial. *United States v. Brown*, 415 F.3d 1257, 1268 (11th Cir.

2005). “There is less need for the gatekeeper to keep the gate when the gatekeeper is keeping the gate only for himself.” *Id.* at 1269. Accordingly, it is hereby

ORDERED AND ADJUDGED that Plaintiff’s Motion for Leave to File Reply in Support of Motion to Strike F. David Famulari as an expert witness (DE [108]) is **DENIED**. It is further **ORDERED AND ADJUDGED** that the portion of the paperless order at (DE [103]) granting Defendant an extension of time to file a reply memorandum to Plaintiff’s Response to Defendant’s Corrected Motion to Strike Plaintiff’s Expert (DE [99]) is **VACATED**. Defendant shall not file a reply memorandum.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 7th day of March 2025.



RAAG SINGHAL
UNITED STATES DISTRICT JUDGE

Copies furnished counsel via CM/ECF