

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO. 09-CV-20160-KING

ALAN KAUFMAN, Individually and d/b/a
Center For Asthma & Allergy of Bronx and
Westchester,

Plaintiff,

v.

SWIRE PACIFIC HOLDINGS, Inc., a Delaware
Corporation,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION TO STRIKE PLAINTIFF'S EXPERTS

THIS CAUSE comes before the Court upon Defendant's Motion to Strike Plaintiff's Experts (D.E. # 36). After careful consideration, and for the reasons detailed below, the Court determines that Defendant's Motion should be **GRANTED**.

Local Rule 16.1.K for the Southern District of Florida provides:

Where expert opinion evidence is to be offered at trial, summaries of the expert's anticipated testimony or written expert reports...***shall be exchanged by the parties no later than ninety days prior to the pretrial conference***...however, that if the expert opinion evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party's expert, then the expert summary or report for such evidence shall be served no later than thirty days after the expert summary or report is served by the other party.

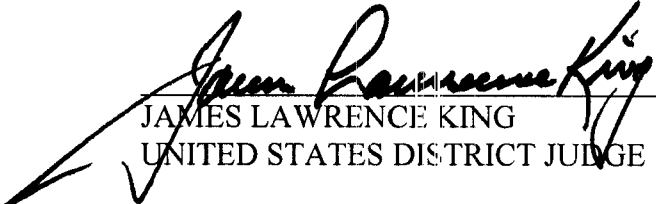
S.D. L.R. 16.1.K (emphasis added).

Plaintiff's expert witness reports were required to be furnished to the Defendant on August 17, 2009 but were not provided to Defendant until September 4, 2009, six days before the deadline

to conduct discovery. *See* (D.E. # 2). Having found Plaintiff's expert disclosure to be untimely and improper, the Court determines that Mr. Jose Perea and Mr. Ralph Puig's testimony be excluded unless timely offered for rebuttal. *See* Fed. R. Civ. P. 37(c)(1).

Accordingly, after careful consideration and the Court being otherwise fully advised, it is **ORDERED, ADJUDGED, and DECREED** that Defendant's Motion to Strike Plaintiff's Experts is **GRANTED**.

DONE AND ORDERED in Chambers, at Miami, Miami-Dade County, Florida, this 9th day of October, 2009.


JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE

cc:

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