

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

**THADDYEUS AARON DIXON SR., CIVIL DOCKET NO. 1:18-CV-00133
ET AL**

VERSUS

JUDGE DAVID C. JOSEPH

KEATON A. SPURLIN, ET AL

**MAGISTRATE JUDGE JOSEPH H.L.
PEREZ-MONTES**

MEMORANDUM RULING

Pending before the Court is PLAINTIFFS' MOTION IN LIMINE AND TO STRIKE SECOND SUPPLEMENTAL REPORT OF DR. DAVID VIANO ("Motion"). [Doc. 273]. For the reasons which follow, Plaintiffs' Motion is GRANTED.

FACTUAL AND PROCEDURAL HISTORY

On February 12, 2021, pursuant to the Court's Scheduling Order, Defendant FCA US LLC ("FCA") timely produced Dr. David Viano's ("Dr. Viano") original expert report. [See Doc. 176]. Subsequently, on March 3, 2021, FCA produced a supplemental report ("First Supplemental Report") by Dr. Viano. [Docs. 273-1, 285]. At a motion hearing on April 20, 2021, the Court denied Plaintiffs' motion to exclude the First Supplemental Report, but instructed FCA to make Dr. Viano available for a supplemental deposition, not to exceed two hours, for the purpose of allowing Plaintiffs to question Dr. Viano regarding the First Supplemental Report. [Doc. 273-1]. Then, on May 9, 2021, prior to Dr. Viano's supplemental deposition, FCA produced yet another supplemental report ("Second Supplemental Report") by Dr. Viano. [*Id.*].

Plaintiffs filed the instant motion on May 17, 2021, seeking to exclude from trial all references to the testing, photographs, and opinions contained in Dr. Viano's

Second Supplemental Report. FCA opposes the Motion [Doc. 285], and Defendant Dorel Juvenile Group, Inc. opposes in part. [Doc. 281]. As this Motion deals with an untimely disclosure produced after the deadlines provided by this Court, it is within the Court's discretion to exclude the opinions contained in the Second Supplemental Report. *See* Fed. R. Civ. P. 16(f)(1)(C). The Court exercises its discretion in this regard and grants Plaintiffs' Motion.

CONCLUSION

For the foregoing reasons, IT IS HEREBY ORDERED that PLAINTIFFS' MOTION IN LIMINE AND TO STRIKE SECOND SUPPLEMENTAL REPORT OF DR. DAVID VIANO [Doc. 273] is GRANTED.

THUS DONE AND SIGNED in Chambers on this 28th day of May, 2021.



DAVID C. JOSEPH
UNITED STATES DISTRICT JUDGE