

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEAGUE OF WOMEN VOTERS OF
MICHIGAN, et al.,

Plaintiffs,

v.

JOCELYN BENSON, in her official capacity
as Michigan Secretary of State, et al.,

Defendants.

Case No. 2:17-CV-14148

Hon. Eric L. Clay
Hon. Denise Page Hood
Hon. Gordon J. Quist

**ORDER DENYING SECRETARY'S MOTIONS IN LIMINE TO EXCLUDE THE
EXPERT REPORT OF DR. JOWEI CHEN (ECF No. 147) AND TO EXCLUDE
TESTIMONY CONCERNING GERRYMANDERING METRICS (ECF No. 148)**

Before the Court are Defendant Secretary of State Ruth Johnson's Motion in Limine to Exclude the Expert Report of Dr. Jowei Chen (ECF No. 147) and Motion in Limine to Exclude Testimony Concerning Various Proffered Gerrymandering Metrics (ECF No. 148). The Secretary argues that Dr. Chen's methodology and the evidence concerning five social science gerrymandering metrics fail to satisfy the standards of Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 113 S. Ct. 2786 (1993).

However, both motions in limine and *Daubert* challenges are inapplicable to bench trials. A motion in limine is a tool used to prevent evidence "that clearly ought not be presented to the jury" from reaching the jury. *Jonasson v. Lutheran Child & Family Servs.*, 115 F.3d 436, 440 (7th Cir. 1997). Similarly, a *Daubert* challenge is used to "prevent the jury" from hearing unreliable scientific evidence. *Daubert*, 509 U.S. at 597, 113 S. Ct. at 2798. These two gatekeeping doctrines were "designed to protect juries and [are] largely irrelevant in the context of a bench trial." *Deal*

v. Hamilton Cnty. Bd. of Educ., 392 F.3d 840, 852 (6th Cir. 2004). “The proper course of action for this Court, therefore, is to admit the evidence and then afford it whatever weight the Court deems appropriate.” *Michigan State A. Philip Randolph Inst. v. Johnson*, No. 16-CV-11844, 2018 WL 1180886, at *2 (E.D. Mich. Mar. 7, 2018).

Therefore, Defendant Secretary of State Ruth Johnson’s Motion in Limine to Exclude the Expert Report of Dr. Jowei Chen (ECF No. 147) is **DENIED**.

Defendant Secretary of State Ruth Johnson’s Motion in Limine to Exclude Testimony Concerning Various Proffered Gerrymandering Metrics (ECF No. 148) is also **DENIED**.

IT IS SO ORDERED.

Dated: January 15, 2019

/s/ Gordon J. Quist

Signed for and on behalf of the panel:

HONORABLE GORDON J. QUIST
United States District Judge

HONORABLE ERIC L. CLAY
United States Circuit Judge

HONORABLE DENISE PAGE HOOD
United States District Judge