

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:07-cv-00347-D

LULU ENTERPRISES, INC.,

Plaintiff,

vs.

HULU, LLC, *et al.*,

Defendants.

**DEFENDANT HULU, LLC'S MOTION
TO EXCLUDE PLAINTIFF'S
SURVEYS AND EXPERT TESTIMONY
UNDER *DAUBERT***

Defendant, Hulu, LLC (“Hulu”) hereby moves the Court, pursuant to Rule 7 of the Federal Rules of Civil Procedure, Local Civil Rule 7.1, EDNC, and Rule 702 of the Federal Rules of Evidence, for an order excluding the surveys and reports of Plaintiff’s purported expert witnesses: (1) Hal Poret and Robert Reitter (of Guideline Research) and (2) Ken Van Liere (of NERA Economic Consulting) (collectively, “Plaintiff’s Expert Reports”), for failing to satisfy the requirements for admissible expert testimony set forth by the U.S. Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 579-80 (1993). In support of this motion, Hulu relies upon its Memorandum of Law and the Supplemental Declaration of Dr. Gerald L. Ford, filed contemporaneously with this Motion.

WHEREFORE, Defendant Hulu, LLC respectfully moves the Court for an order excluding Plaintiff’s Expert Reports from the Court’s consideration related to Plaintiff’s Motion for Preliminary Injunction.

This the 15th day of October, 2007.

/s/ Hayden J. Silver, III

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CERTIFICATE OF SERVICE

This is to certify that on this date the foregoing was electronically filed with the Clerk of the Court using the CM/ECF System which will send notice to the following CM/ECF participants:

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This the 15th day of October, 2007.

/s/ Hayden J. Silver, III

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