

LORRAINE ASSOCIATES, LLC,
Plaintiff,
vs.
GOVERNMENT OF THE VIRGIN ISLANDS, and
IRA MILLS, in his official capacity as Tax Assessor,
Defendants.

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) **CASE NO. ST-15-CV-438**
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Pending before the Court is Defendants' motion to exclude the report of Plaintiff's expert Steven Jamron.¹ For the following reasons, Defendants' motion will be denied.

Defendants move to exclude the Jamron report, arguing that Part II of the report contains irrelevant analysis of the Virgin Islands property market, that Part III of the report contains legal conclusions, and that, throughout the report, Jamron confuses the issues in this case by attempting to put the Government on trial for its failure to comply with national standards when assessing real property.

In *Daubert v. Merrell Dow, Pharms., Inc.*, 509 U.S. 579, 589 (1995), the United States Supreme Court determined that Federal Rule of Evidence 702 obliges a trial judge to function as a “gatekeeper” and screen evidence to “ensure that any and all scientific

¹ Defendants filed their motion on June 28, 2016.

testimony . . . is not only relevant, but reliable.”² Having been replaced by V.I. Rule of Evidence 702,³ Federal Rule of Evidence 702⁴ no longer governs in cases before this Court. Considering that the two rules are identical, however, the Court still performs the role of “gatekeeper” under V.I. Rule of Evidence 702. Regardless, while “*Daubert’s* standards must still be met, the usual concerns regarding unreliable expert testimony reaching a jury obviously do not arise when a . . . court is conducting a bench trial.”⁵ “The ‘gatekeeper’ doctrine was designed to protect juries and is largely irrelevant in the context of a bench trial.”⁶ There is no need “for the gatekeeper to keep the gate when the gatekeeper is keeping the gate only for himself.”⁷ Instead, the trial court “conducting a bench trial may admit evidence during the trial, subject to the understanding that the court may later exclude it or disregard it if it turns out not to meet the standards for reliability and relevancy established by Rule 702.”⁸

² *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 147 (1999).

³ V.I. Rule of Evidence 702 provides “[a] witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if: (a) the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; (b) the testimony is based on sufficient facts or data; (c) the testimony is the product of reliable principles and methods; and (d) the expert has reliably applied the principles and methods to the facts of the case.”

⁴ Fed. R. of Evidence 702 states “[a] witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise if: (a) the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue; (b) the testimony is based on sufficient facts or data; (c) the testimony is the product of reliable principles and methods; and (d) the expert has reliably applied the principles and methods to the facts of the case.

⁵ *Att’y Gen. v. Tyson Foods, Inc.*, 565 F.3d 769, 779 (10th Cir. 2009).

⁶ *Deal v. Hamilton Cnty. Bd. of Educ.*, 392 F.3d 840, 852 (6th Cir. 2000).

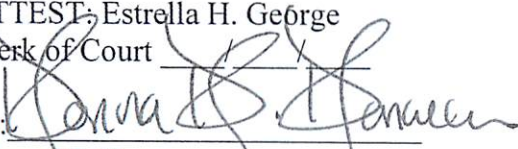
⁷ *United States v. Brown*, 415 F.3d 1257, 1269 (11th Cir. 2005).

⁸ *Warner Chilcott Labs. Ir., Ltd. v. Impax Labs., Inc.*, 2012 U.S. Dist. LEXIS 60386, *68-69, 2012 WL 1551709 (D.N.J. Apr. 30, 2012).

Considering that this case will not be tried before a jury, the concerns raised in Defendants' motion to exclude are without merit. During the bench trial, the Court will disregard any evidence that does not meet the standards for reliability and relevancy established by V.I. Rule of Evidence 702. Accordingly, Defendants' motion to exclude will be denied. An Order consistent with this Opinion shall follow.

Dated: October 3, 2017

ATTEST: Estrella H. George
Clerk of Court

by: 

Donna D. Donovan

Court Clerk Supervisor 10/11/2017


HON. MICHAEL C. DUNSTON
JUDGE OF THE SUPERIOR COURT
OF THE VIRGIN ISLANDS

A CERTIFIED TRUE COPY
DATE 10/12/2017
ESTRELLA H. GEORGE
CLERK OF THE COURT
BY 
COURT CLERK II