

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

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| ADAM B. COBB, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | CIVIL NO. 12-557-GPM |
| |) | |
| G&G MOTORSPORTS, DANIEL FRYE, |) | |
| UNITED STATES AUTO CLUB INC., and |) | |
| PERFORMANCE OPEN WHEEL |) | |
| RACING, INC., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

MURPHY, District Judge:

Pending before the Court are Defendant Daniel Frye’s motions to strike Plaintiff’s experts (Docs. 134, 153) and for summary judgment (Doc. 156) and Defendants G&G Motorsports, Performance Open Wheel Racing, Inc., and United States Auto Club Inc.’s motion for the Court to certify an interlocutory appeal (Doc. 170). All these motions are **DENIED**.

The motions to strike experts are denied because the Court finds experts John Oates and Brian Wilson satisfy a *Daubert*, Rule 702 inquiry—and because their testimony will likely be helpful to the jury. For these reasons, Defendant Frye’s motion for summary judgment—made on the basis that Plaintiff cannot establish the standard of care required of a racecar driver—is also denied. Defendants may, of course, question the experts’ qualifications before the jury.

Defendants’ motion for interlocutory appeal under 28 U.S.C. § 1292(b) is also denied. Defendants ask to appeal the Court’s denial of their previous motion for summary judgment, in

which Defendants argued that a liability waiver was a complete bar to the action and that the Illinois Workers' Compensation Act provides the only relief here, as Plaintiff was an employee at the time of the accident (Doc. 106). The Court held a hearing and denied that motion on the record (Doc. 121). Largely for the reasons stated on the record, the Court finds there is not a question of law here, but outstanding questions of fact. The criteria for this Court to certify an interlocutory appeal are not satisfied.

This case will proceed to trial in November.

IT IS SO ORDERED.

DATED: September 9, 2013

s/ *G. Patrick Murphy*
G. PATRICK MURPHY
United States District Judge