

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

**IN RE SIMPLY ORANGE ORANGE JUICE
MARKETING AND SALES
PRACTICES LITIGATION**

This Document Relates To: ALL CASES

MDL No. 2361

Master Case No. 4:12-md-02361-FJG

ORDER

Pending before the Court is Plaintiffs' Motion to Strike the Supplemental Expert Declaration of David A. Stewart, Ph.D. in Support of the Coca-Cola Company's Opposition to the Motion to Strike His Testimony and Reports (Doc. No. 301).

Upon consideration of the motion and the parties' briefing related to same (Doc. Nos. 301, 302, 305, and 306) as well as the declaration of David A. Stewart (Doc. No. 287, Ex. 1) and the original expert report of David A. Stewart (Doc. No. 236), the Court finds that plaintiffs' motion to strike (Doc. No. 301) should be **DENIED**. Specifically, the Court finds that Dr. Stewart's declaration attached to Doc. No. 287 constitutes a permissible clarification of the original report, rather than an impermissible material alteration of the original report. See Williams v. TESCO Servs., Inc., 719 F.3d 968, 976 (8th Cir. 2013). Additionally, although plaintiffs complain that allowing Dr. Stewart's declaration to stand would somehow require the Court to alter the scheduling order, the

Court does not agree. Reply suggestions to the various motions to strike expert testimony remain due December 16, 2016.

IT IS SO ORDERED.

Date: December 13, 2016
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge