

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

DAVID EARL MCCORVEY, JR.,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION 13-0118-WS-N
)	
ALABAMA RIVER CELLULOSE, LLC,)	
et al.,)	
)	
Defendants.)	

ORDER

This matter is before the Court on the plaintiff’s motion in limine to exclude certain evidence from certain administrative agencies. (Doc. 154). The defendant has responded, (Doc. 173), and the motion is ripe for resolution.

I. Social Security Administration.

The defendant states it does not intend to present evidence or comment about the plaintiff’s claim for disability benefits or the agency’s ruling thereon, unless the plaintiff opens the door at trial. (Doc. 173 at 1-2). Accordingly, this portion of the plaintiff’s motion in limine is **denied as moot**.

II. Alabama Department of Rehabilitation Services.

The plaintiff suggests that the Department made a “negative determination” concerning him, (Doc. 154 at 2), but elsewhere he states his assumption that the reason the defendant is interested in the Department’s records is “the statements made by various people in the Department ... that [he] does not want to work.” (*Id.* at 4). The defendant acknowledges its intent to use such statements, but it does not state whether there is a “negative determination” it seeks to use. Without a clear indication that there is an issue in this regard, the Court declines to address

it, and the plaintiff's motion in limine is **denied without prejudice** as to any "negative determination" by the Department.

As to statements by the plaintiff to Department employees that he does not want to work, the plaintiff argues they constitute double hearsay. (Doc. 154 at 4).¹ The defendant invokes the "business records" exception to the hearsay rule, (Doc. 173 at 3-4), but it fails to offer sufficient (or any) evidence to establish that the exception applies to the business and the records at issue. The plaintiff for his part has offered nothing indicating that the exception does not apply. Having been provided no basis for a ruling, the Court concludes that the plaintiff's motion must be **denied without prejudice** as to any statements made to Department employees.

DONE and ORDERED this 3rd day of November, 2014.

s/ WILLIAM H. STEELE
CHIEF UNITED STATES DISTRICT JUDGE

¹ The "sample" attached to the plaintiff's brief appears to be triple hearsay. (Doc. 154-1).