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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

<b>Jacob Amrani,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>2:12-cv-2583 JWS</b>
	)	
<b>vs.</b>	)	<b>ORDER AND OPINION</b>
	)	
<b>United States of America,</b>	)	<b>[Re: Motion at docket 185]</b>
	)	
<b>Defendant.</b>	)	
	)	

**I. MOTION PRESENTED**

At docket 185 plaintiff Jacob Amrani (“Dr. Amrani”) asks that defendant “be precluded from asserting a defense of assumption of risk.”<sup>1</sup> Defendant United States of America (“United States”) opposes at docket 191. No reply has been filed. Oral argument would not assist the court.

**II. DISCUSSION**

Motions *in limine* are motions which seek to exclude evidence. As the United States points out in its briefing, the Supreme Court has said that motions *in limine* are motions “whether made before or during trial, to exclude anticipated prejudicial

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<sup>1</sup>Doc. 185 at p. 1.

1 evidence before the evidence is actually offered.”<sup>2</sup> The motion at docket 185 does not  
2 ask the court to exclude evidence that Dr. Amrani assumed a risk relating to the surgery  
3 performed on him by explaining why particular evidence (such as that discussed in the  
4 United States’ response at docket 191) should be excluded. Instead, the motion asks  
5 the court to rule that regardless of what evidence might be offered at trial, the defense  
6 of assumption of risk may not be asserted. In other words, the motion at docket 185 is  
7 actually a motion for partial summary judgment asking the court to rule that as a matter  
8 of law, the defense fails. However, the time for filing summary judgment motions ran on  
9 August 22, 2014.<sup>3</sup> The motion at docket 185 was not filed until October 23, 2014.  
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11  
12 The court will deny the motion at docket 185, because it is an untimely motion for  
13 summary judgment. Of course, that is not to say that the court will permit the United  
14 States to introduce any particular evidence at trial. What evidence, if any, will be  
15 admitted relating to the assumption of risk defense pled by the United States will be  
16 taken up at trial and resolved using the customary objection and offer of proof process.  
17

### 18 **III. CONCLUSION**

19 For the reasons above, the motion at docket 185 is DENIED.

20 DATED this 9<sup>th</sup> day of December 2014.

21  
22 /s/ JOHN W. SEDWICK  
23 SENIOR UNITED STATES DISTRICT JUDGE  
24

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 <sup>2</sup>Doc. 191 at pp. 1-2 (quoting *Luce v. United States*, 469 U.S. 38, 40 n.2 (1984)).

27 <sup>3</sup>Order at docket 142.