

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

**ANDREA WEST FERGUSON**

**PLAINTIFF**

**VS.**

**3:12-CV-00170-BRW**

**ROBERT L. WARNER, JR., M.D.**

**DEFENDANT**

**ORDER**

Pending is Defendant's First Motion in Limine (Doc. No. 36). Defendant requests that evidence of the following be excluded: (1) Defendant's liability insurance; (2) any prior malpractice suits against Defendant; (3) that Defendant, as a physician in a malpractice suit, is not required to be a witness against himself; and (4) any current or past malpractice suits against Defendant's expert witnesses.<sup>1</sup>

In response, Plaintiff states that she will not refer to Defendant's liability insurance, any prior malpractice suits against Defendant, or Defendant's right to not offer standard of care opinions.<sup>2</sup> Thus, based on the parties' agreements, Defendant's first three requests are GRANTED.

Regarding Defendant's fourth request, Plaintiff concedes that she will not refer to current or past malpractice suits against Defendant's expert witnesses; however, Plaintiff states that she intends to question one of Defendant's expert witnesses (Dr. Charles Mabry) about earlier testimony he gave in unrelated medical-malpractice cases.<sup>3</sup> Defendant objects to this questioning

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<sup>1</sup>Doc. No. 36.

<sup>2</sup>Doc. No. 42.

<sup>3</sup>*Id.*

and argues that it is irrelevant and would unfairly prejudice Defendant.<sup>4</sup>

To the extent of the parties' agreement, Defendant's fourth request is GRANTED. However, Plaintiff may attempt to impeach Dr. Mabry's testimony by attacking his credibility or with evidence of bias to the extent permitted by the Federal Rules of Evidence.

IT IS SO ORDERED this 4<sup>th</sup> day of April, 2013.

/s/Billy Roy Wilson  
UNITED STATES DISTRICT JUDGE

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<sup>4</sup>Doc. No. 52.