

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION

JIMMY G. SMITH

PLAINTIFF

v.

No. 5:16-cv-2-DPM

CURTIS PEAVY, Individually

DEFENDANT

ORDER

1. The deal's the deal. The Court's Order on the IME went too far in saying all evidence of temporary brain injury was out. (Smith's response was a little loose on this point, too.) In any event, the fair result is to enforce the deal: the parties are bound by their 16 November 2016 email exchange, *No 39-1*.

2. The Court will take judicial notice that 23 Coordinated Universal Time is 6 p.m. Central Daylight Time. But Crete must still prove to the jury that Smith was on his cell phone at the time of the accident.

\* \* \*

Motion, *No 35*, granted in part and denied in part. Motion, *No 37*, granted with a clarification.

So Ordered.

*D.P. Marshall Jr.*

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D.P. Marshall Jr.  
United States District Judge

*13 January 2017*