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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JESUS CORTES DIAZ, et al.,
Plaintiffs,
v.
DAWS MANUFACTURING COMPANY
INC, et al.,
Defendants.

Case No. [5:12-cv-05325-EJD](#)

**FIRST ORDER RE: MOTIONS IN
LIMINE**

The Court rules on the parties’ motions in limine as follows:

1. Plaintiffs’ fourth motion to exclude evidence of James Francis Lee’s intoxication (Dkt. No. 124) is GRANTED. Under Federal Rule of Evidence 401, evidence is relevant if: “(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.” Under Federal Rule of Evidence 403, relevant evidence can be excluded “if its probative value is substantially outweighed by a danger of . . . unfair prejudice,” or “confusing the issues,” or if it misleads the jury, causes undue delay, or wastes time. The Court finds that the prejudicial effect of evidence of Lee’s intoxication outweighs its probative value.

2. Plaintiffs’ sixth motion to exclude evidence or argument that there can only be one cause of an accident (Dkt. No.126) is DENIED. It would be highly prejudicial to prevent Defendants from arguing that Lee was the sole cause of the injuries at issue, and there is little risk that the jury will believe that an accident can only have a single cause (particularly in light of Defendants’ jury instructions indicating that an accident can have more than one cause).

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3. Defendant Daws Manufacturing Company Inc.’s second motion to exclude arguments in favor of punitive damages (Dkt. No. 128) is DENIED.

4. Defendant Daws’s sixth motion to exclude graphic photographs (Dkt. No. 132) is GRANTED. Before a party may introduce photographic evidence, that party must present the evidence to the Court for review and approval.

5. The following unopposed motions are GRANTED:

- a. Plaintiffs’ first (Dkt. No. 121), second (Dkt. No. 122), third (Dkt. No. 123), and fifth (Dkt. No. 125) motions;
- b. Defendant Daws’s third (Dkt. No. 129), fourth (Dkt. No. 130), fifth (Dkt. No. 131), eighth (Dkt. No. 134), ninth (Dkt. No. 135), tenth (Dkt. No. 136), and eleventh (Dkt. No. 138) motions; and
- c. Defendants’ joint first (Dkt. No. 143) and second (Dkt. no. 144) motions.

6. The Court does not presently decide Defendant Daws’s first (Dkt. No. 127) and seventh (Dkt. No. 133) motions.

IT IS SO ORDERED.

Dated: September 13, 2017



EDWARD J. DAVILA
United States District Judge