

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
SAVANNAH DIVISION

JOHN A. GRIECO,

Plaintiff,

v. 4:12-cv-195

TECUMSEH PRODUCTS COMPANY,  
et al.,

Defendants.

ORDER

Before the Court is Tecumseh Products Company's and Tecumseh Compressor Company's ("Tecumseh") objection to Grieco's exhibits. ECF No. 45. Tecumseh takes issue with admission of 1) a new, unused Tecumseh compressor unless in "substantially the same condition as the compressor in question at the time of the incident;" 2) Grieco's medical records on the ground that they contain inadmissible hearsay and do not establish necessary medical care; and 3) collection notices for medical bills because they are irrelevant and the likelihood of confusion or prejudice far outweighs the notices' probative value. *Id.*


A new compressor resembling the compressor from the fire may be admitted as illustrative or demonstrative evidence, and the Court has great discretion in this area. *Carson v. Polley*, 689 F.2d 562, 579 (5th Cir. 1982) (citing *Gaspard v. Diamond M. Drilling Co.*, 593 F.2d 605, 607 (5th Cir. 1979)). The Court will instruct that the evidence is admitted "solely to help the witness explain his . . . testimony" and that

the new compressor is not the compressor involved in the fire. *Id.*

Federal Rule of Evidence 803 creates hearsay exceptions for statements made for medical diagnosis or treatment and records of a regularly conducted activity. To the extent that the medical records and bills fit within these exceptions, the Court will admit them. Whether or not medical treatment referenced in the records was necessary is not a consideration in determining the admissibility of evidence; rather, that is a question for the jury to decide. *See Manker v. Zurich Servs. Corp.*, No. 4:12-cv-089, at \*1 n.2 (S.D. Ga. Aug. 27, 2012).

The Court will exclude the collection notices as irrelevant under Federal Rule of Evidence 401 unless the notices contain some admissible information not found in the medical records or bills. The collection notices may show that Grieco continues to owe money for his treatment, but this fact is of no consequence in determining the magnitude of his medical bills.

This 21 day of November 2013.

  
B. AVANT EDENFIELD, JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA