

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF NORTH CAROLINA
 CHARLOTTE DIVISION
 3:18-cv-00197-RJC-DSC

BRUCE RHYNE & JANICE RHYNE)

Plaintiffs,)

v.)

UNITED STATES STEEL)
 CORPORATION, et al.)

Defendants.)

ORDER ON MOTIONS IN LIMINE

THIS MATTER comes before the Court on a combination of Plaintiffs’ and Defendants’ motions in limine. (Doc. Nos. 281, 284, 286, 315, 317, 323, 329, 335, 347, 352, 354, 357, 361; 288, 290, 292, 294, 296, 299, 301, 303; and 321, respectively.) In the interests of providing the parties with the Court’s rulings ahead of trial, the Court below lists the parties’ relevant motions by docket number, all docket numbers associated with the motion, a summary of the request in the motion, and the Court’s ruling on the motion.

Plaintiffs’ Motions in Limine

<u>Doc. Nos.</u>	<u>Request</u>	<u>Decision</u>
281 282 367 399	<u>Request:</u> Defendants should be excluded from arguing/testifying that Bruce Rhyne was negligent in his use of Liquid Wrench based on the product’s flammability.	GRANTED
284 285	<u>Request:</u> Defendants should be excluded from arguing/testifying that there was any radiation at the Duke site or that Bruce Rhyne had radiation exposure and worked at a nuclear power plant, and all evidence of radiation and nuclear power should be excluded.	DENIED
286 287 390	<u>Request:</u> Defendants should be precluded from arguing/testifying/introducing evidence about any payments to Plaintiffs from a	GRANTED

	collateral source. (This motion is not intended to raise issues as to any post-verdict offsets.)	
315 316 368 398	<u>Request:</u> Plaintiffs should be allowed to introduce specific Mobil documents concerning the benzene content of Liquid Wrench as well as related testimonial excerpts on the same topic.	GRANTED (Provided that Expert Relied on the Document)
317 318 379 381	<u>Request:</u> Plaintiff asks that Defendants be precluded from introducing evidence or in any way arguing a list of points. (Parties have since reached agreement for many such requests.) The remaining unresolved requests ask that Defendants not be allowed to discuss:	
	<ul style="list-style-type: none"> References as to financial status of Plaintiff or Plaintiff's witnesses (including debts, income, unemployment, or government assistance). 	(Reserve Ruling)
	<ul style="list-style-type: none"> Questioning whether Plaintiff's witnesses believe that Defense witnesses are honorable or credible. 	(Reserve Ruling)
	<ul style="list-style-type: none"> References to pleadings that have been superseded, including arguments about Plaintiff's prior dismissed claims. 	(Reserve Ruling)
	<ul style="list-style-type: none"> Evidence about Plaintiff's unrelated prior or subsequent claims. 	(Reserve Ruling)
	<ul style="list-style-type: none"> Insinuation that the claims are 'lawyer-made' claims or were generated by counsel. 	(Reserve Ruling)
	<ul style="list-style-type: none"> Suggestions of reduced damages based on conduct of non-parties. 	(Reserve Ruling)
	<ul style="list-style-type: none"> References to Rhyne having unrelated injuries, disease, or illness. 	DENIED
	<ul style="list-style-type: none"> Any apology or offer of condolences by Defendants. 	DENIED

323 324 380	<u>Request:</u> Defendant Savogran's 28 th Affirmative Defense should be struck, and the jury should be prevented from hearing whether employer negligence joined and concurred with Defendants' negligence in producing any injury.	(Reserve Ruling)
329 330 385	<u>Request:</u> The Court should prevent Defendants from presenting evidence about workers' compensation claims and settlements.	(Reserve Ruling)
335 336 370 389	<u>Request:</u> Defendants should be precluded from introducing or making references to the Federal Hazardous Substances Act (FHSA).	DENIED
347 348 386	<u>Request:</u> Defendants should be precluded from introducing evidence of courts' prior exclusion of Plaintiff's expert witnesses.	DENIED
352 353 378	<u>Request:</u> The Court should allow certain paid medical expenses into evidence for the purposes of trial.	GRANTED
354 355 377	<u>Request:</u> The Court should preclude the report and all testimony by Defendants' expert witness Dominik Alexander as a 'net opinion' under Rule 702.	DENIED
357 372	<u>Request:</u> Plaintiff asks the Court to resolve admissibility issues as to certain exhibits prior to trial:	
	• PTE 104	ADMITTED CONDITIONALLY
	• PTE 105	ADMITTED CONDITIONALLY
	• PTE 106	ADMITTED CONDITIONALLY
	• PTE 118	EXCLUDED (Except Impeachment)
	• PTE 120	ADMITTED CONDITIONALLY
	• PTE 125	ADMITTED CONDITIONALLY
	• PTE 126	ADMITTED CONDITIONALLY
	• PTE 127	ADMITTED CONDITIONALLY

	• PTE 212	ADMITTED CONDITIONALLY
	• PTE 220	ADMITTED CONDITIONALLY
	• PTE 116	ADMITTED CONDITIONALLY
	• PTE 117	ADMITTED CONDITIONALLY
	• PTE 217	ADMITTED CONDITIONALLY
	• PTE 128	ADMITTED CONDITIONALLY
	• PTE 129	ADMITTED CONDITIONALLY
	• PTE 130	ADMITTED CONDITIONALLY
	• PTE 131	ADMITTED CONDITIONALLY
	• PTE 132	ADMITTED CONDITIONALLY
	• PTE 133	ADMITTED CONDITIONALLY
	• PTE 246	ADMITTED (Limited to Punitive Damages)
	• PTE 247	ADMITTED (Limited to Punitive Damages)
	• PTE 248	ADMITTED (Limited to Punitive Damages)
	• PTE 249	ADMITTED (Limited to Punitive Damages)
	• PTE 250	ADMITTED (Limited to Punitive Damages)
	• PTE 251	ADMITTED (Limited to Punitive Damages)
	• PTE 252	ADMITTED (Limited to Punitive Damages)
	• PTE 253	ADMITTED (Limited to Punitive Damages)
	• PTE 254	ADMITTED (Limited to Punitive Damages)

	<ul style="list-style-type: none"> • <u>PTE 255</u> 	ADMITTED (Limited to Punitive Damages)
361 362	<u>Request:</u> Plaintiffs are asking to enter certain exhibits into evidence relating to Defendant Savogran. These exhibits are:	
	<ul style="list-style-type: none"> • PTE 302 	ADMITTED
	<ul style="list-style-type: none"> • PTE 304 	ADMITTED
	<ul style="list-style-type: none"> • PTE 309 	ADMITTED
	<ul style="list-style-type: none"> • PTE 349 	ADMITTED
	<ul style="list-style-type: none"> • PTE 350 	(Reserve Ruling)
	<ul style="list-style-type: none"> • PTE 316 	(Reserve Ruling)
	<ul style="list-style-type: none"> • PTE 315 	(Reserve Ruling)

Defendant U.S. Steel’s Motions in Limine

<u>Doc. Nos.</u>	<u>Request</u>	<u>Decision</u>
288 289 382	<u>Request:</u> Plaintiffs should be precluded from introducing evidence/testimony about other toxic tort litigation involving any of the Defendants in this case, and from soliciting opinions from witnesses concerning those cases.	GRANTED
290 291 375	<u>Request:</u> The Court should exclude any of U.S. Steel’s Material Safety Data Sheets (‘MSDS’) for benzene dated after April 1978 from evidence, as well as any testimony/statements/inferences about such MSDSs after such date.	GRANTED
292 293 365 395	<u>Request:</u> Plaintiffs should be precluded from introducing any evidence/testimony/argument that is contrary to Plaintiffs’ prior judicial admissions before the Court of Common Pleas (PA) regarding the sophistication of Radiator Specialty Company and its knowledge about potential dangers of benzene and raffinate.	DENIED
294 295 384	<u>Request:</u> Defendant makes several requests regarding U.S. Steel’s corporate library: that documents from this library be excluded as hearsay, that any such AML-related documents accompany a limiting instruction explaining that the documents only show that	DENIED (Will Consider Limiting Instruction at Trial)

	U.S. Steel had the documents in their possession, and that any non-AML-related documents be excluded as not relevant.	
296 297 388	<u>Request:</u> No parties should be able testify, argue, or reference this trial as being the first civil jury trial in the District during COVID, or discuss the decision to proceed to trial during the pandemic.	GRANTED
299 300 364 393	<u>Request:</u> The ‘Motor Cleaning Document,’ which discusses the potential hazards of solvents (including benzene) when cleaning industrial motors in steel mills, should be excluded from evidence.	DENIED
301 302 376	<u>Request:</u> The ‘Mobil Document’ and all references to it should be excluded from evidence, and if so, the deposition of Dr. Mehlan should also be excluded.	DENIED (If Relied Upon by Expert)
303 304 383 394	<u>Request:</u> The ‘Gary Steel Works’ document, and testimony/statements/inferences regarding the document, should be excluded from evidence.	DENIED

Defendant Savogran’s Motion in Limine

<u>Doc. Nos.</u>	<u>Request</u>	<u>Decision</u>
321 373	<u>Request:</u> The Court should exclude certain past testimony from Mark Monique, president of Savogran.	DENIED

SO ORDERED.

Signed: September 14, 2020



Robert J. Conrad, Jr.
United States District Judge

