

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

DAVE J. PARILLO, et al.,	:	Case No. 3:14-cv-369
	:	
Plaintiffs,	:	Judge Thomas M. Rose
	:	
v.	:	
	:	
WERNER CO., et al.,	:	
	:	
Defendants.	:	

ENTRY AND ORDER TERMINATING MOTIONS IN LIMINE (DOCS. 76, 78, 79) RE: EXPERT WITNESSES, PREJUDICIAL TESTIMONY AND DAMAGES REPORT; GRANTING MOTION IN LIMINE (DOC. 77) RE: WERNER CO.'S BANKRUPTCY; AND SETTING BRIEFING SCHEDULE ON MOTION IN LIMINE (DOC. 83) RE: LAY OPINION TESTIMONY

This case is before the Court on five Motions in Limine (Docs. 76-79, 83) filed by Defendant Lowe's Home Centers, LLC ("Lowe's") in anticipation of trial. On August 24, 2017, the Court held the Final Pretrial Conference, during which the parties addressed four of the five pending Motions in Limine (Docs. 76-79). The parties agreed to further discuss the Motions in Limine after the Final Pretrial Conference to determine if any of them could be resolved by agreement.

On September 5, 2017, Lowe's filed a fifth Motion in Limine (Doc. 83) and notified the Court that the parties had entered into a Stipulation resolving its Motion in Limine to Preclude Testimony of Plaintiffs' Medical Expert Witnesses (Doc. 76). The Court **ACCEPTS** the parties' Stipulation, attached hereto as an exhibit. The parties shall comply with the Stipulation's terms, absent leave of Court. The Court therefore

TERMINATES the Motion in Limine (Doc. 76) as moot.

On September 6, 2017, Lowe's notified the Court that the parties resolved three additional Motions in Limine. Specifically, the parties agreed that the Motion in Limine (Doc. 77) to Preclude Testimony of the Pecuniary Condition of the Defendant should be granted. The Court therefore **GRANTS** the Motion in Limine (Doc. 77) and **PROHIBITS** Plaintiffs from eliciting or mentioning any information regarding former co-Defendant Werner Co.'s prior bankruptcy at trial. Lowe's also agreed to withdraw its Motions in Limine (Docs. 78-79) regarding prejudicial testimony and Plaintiffs' damages report. The Court therefore **TERMINATES** those Motions in Limine (Docs. 78-79) per the parties' agreement.

Plaintiffs have not responded to the most recent Motion in Limine (Doc. 83), by which Lowe's seeks to prohibit Plaintiffs from offering lay opinion testimony as to medical causation, diagnosis, prognosis or permanency. Plaintiffs are **ORDERED** to respond to that Motion in Limine (Doc. 83) by September 11, 2017. Lowe's may file a reply in support of the Motion in Limine by September 13, 2017. If the Court deems oral argument necessary, it will hear the matter before the commencement of trial on September 18, 2017. In light of the above rulings, the Court will not proceed with the hearing that was tentatively scheduled for September 11, 2017.

DONE and ORDERED in Dayton, Ohio, this Thursday, September 7, 2017.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE