

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

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RODNEY McCLOUD, JR.,

Plaintiff,

-vs-

LAKEVILLE MOTOR EXPRESS, INC.,  
a Minnesota Corporation,

Defendant.

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CIV. 07-4156

ORDER  
(Defendant’s Motions in Limine)

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The Defendant has filed motions in limine (Doc. 35 and Doc. 50) and supporting arguments.

Based on the written submissions and the arguments which were heard during the pre-trial conference, the Court enters the following rulings:

Doc. 35:

**Motion #1 :** (Precluding reference to compromise offers, settlement negotiations, or the lack thereof); **GRANTED.**

**Motion # 2:** (Precluding reference to the presence of liability insurance); **GRANTED.**

**Motion #3:** (Precluding reference to Defendant’s large financial resources); **GRANTED.**

**Motion # 4:** (Precluding Plaintiff’s counsel and his expert witness(s) from eliciting or expressing any opinions not disclosed in medical records); **DENIED** for the reasons explained during the pretrial conference. The requirements of a written report in paragraph 2(B) of Rule 26(a) apply only to those experts who are retained or specially employed to provide such testimony in the case. *See Advisory Committee Comments to Rule 26(a)(2)(B), 1993 amendments.* If the treating physician’s discovery deposition has been taken and the physician failed to disclose such opinion, it may not, however, be offered at trial.

**Motion # 5:** (Prohibiting Plaintiff, his counsel or any witness from presenting “golden rule” arguments or testimony); **GRANTED.**

**Motion # 6:** (Precluding Plaintiff, his counsel, or any witness from giving “per diem” testimony or argument); **GRANTED.**

Doc. 50:

**Motion # 7:** (Precluding reference to defendant's subsequent ceasing or refusal to deliver products to plaintiff's place of employment (Eco-Water)); **GRANTED.**

Dated this 10<sup>th</sup> day of November, 2008.

BY THE COURT:

s/John E. Simko

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John E. Simko  
United States Magistrate Judge