
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

SCOTT K. MARLAND and JENNIFER D. MARLAND, as conservators for the minor child, J.S.M.,

Plaintiffs,

v.

ASPLUNDH TREE EXPERT CO., a Pennsylvania corporation,

Defendant.

MEMORANDUM DECISION AND ORDER GRANTING PLAINTIFFS' MOTION IN LIMINE NO. 9 TO EXCLUDE PHOTOS OF BOUNTIFUL CITY POWER'S BUILDING

Case No. 1:14-CV-40 TS

District Judge Ted Stewart

This matter is before the Court on Plaintiffs' Motion in Limine No. 9 to Exclude Photos of Bountiful City Power's Building. For the reasons discussed below, the Court will grant the Motion.

Defendant has identified photographs of the Bountiful City Light & Power ("BCLP") building as potential demonstrative exhibits. Defendant states that it intends to use these photos to show the jury "what the BCLP building looks like."¹ Defendant further states that its tree trimming crew turned in its time cards to Brent Thomas, Superintendent of Operations for BCLP, at this building. Thus, Defendant argues that "[t]hese photos give the jurors a visual aid for the building that is being discussed in that testimony."²

Federal Rule of Evidence 401 states that 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

¹ Docket No. 150, at 2.

² *Id.*

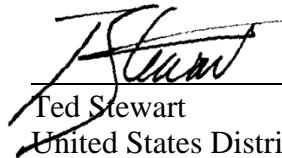
consequence in determining the action.” Neither the appearance of the BCLP building nor the location that Defendant’s tree trimming crews turned in their time cards are facts of consequence in this case. While the bar for relevance is admittedly low, Defendants have failed to come close to meeting it with respect to these pictures. Even if the pictures had some probative value, that limited probative value is substantially outweighed by the danger of wasting time.³ This will be a lengthy and complex trial. The Court will not allow either party to waste the jury’s time presenting unnecessary evidence.

It is therefore

ORDERED that Plaintiffs’ Motion in Limine No. 9 to Exclude Photos of Bountiful City Power’s Building (Docket No. 138) is GRANTED.

DATED this 27th day of January, 2017.

BY THE COURT:



Ted Stewart
United States District Judge

³ See Fed. R. Evid. 403.