

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

ANA MARIE DELGADO, et al.,)
)
) Plaintiffs,)
)
v.) Docket no. 3:14-cv-1735-GZS
)
DORADO HEALTH INC. d/b/a MANATI)
MEDICAL CENTER, et al.,)
)
)
) Defendants.)

PRETRIAL ORDER ON PENDING MOTIONS

In order to assist counsel in their final preparations for trial, the Court provides the following rulings on pending pretrial motions:

Plaintiffs’ Motion Regarding Luis Delgado (ECF No. 383)

GRANTED WITHOUT OBJECTION IN PART & DENIED IN PART. To the extent that Plaintiffs sought to block reference to and evidence related to arrest or use of illicit drugs by Luis Delgado, the Motion is GRANTED WITHOUT OBJECTION. To the extent the Motion sought pretrial exclusion of evidence or references to Sofia or Luis Delgado’s relationship with Sofia’s mother, the Motion is DENIED. This denial is made without prejudice to Plaintiffs renewing any related objections at trial. Defense counsel shall not mention Sofia explicitly in their opening statements and shall notify the Court outside the hearing of the jury before asking questions related to Sofia.

Plaintiffs’ Motion in Limine to Preclude Dr. Juan Perez Rosado from Using Himself as an Expert Witness (ECF No. 385)

DENIED without prejudice to Plaintiffs renewing their objections at trial.

Plaintiffs’ Motion in Limine to Preclude Dr. Miguel Colon Perez from Testifying (ECF No. 391)

DENIED without prejudice to Plaintiffs renewing their objections at trial.

Plaintiffs' Motion in Limine to Preclude Dr. Gilberto Rodriguez Morales from Testifying on Issues Regarding Nursing Care & Ventilator Acquired Pneumonia (ECF No. 392)

DENIED without prejudice to Plaintiffs renewing their objections at trial.

Plaintiffs' Motion in Limine to Preclude Dr. Braulio Jimenez Velez from Testifying (ECF No. 393)

DENIED without prejudice to Plaintiffs renewing their objections at trial.

Plaintiffs' Motion in Limine to Limit Defense Experts' Testimony to the Four Corners of Their Reports by Virtue of Rule 37(c)(1) (ECF No. 394)

DENIED without prejudice to Plaintiffs renewing their objections at trial.

Plaintiffs' Motion in Limine to Preclude Testimony by Ramon Cao, Economist (ECF No. 398)

RESERVE RULING. The Court may allow Dr. Cao to testify depending on the evidence that is admitted during Plaintiffs' case. Defense counsel shall give the Court notice prior to calling Dr. Cao in order to allow the Court to make a ruling based on the then-available trial record.

Plaintiffs' Motion Submitting Parties' Agreement on Division of Allotted Trial Days (ECF No. 403)

GRANTED. Counsel shall consult with each other at the end of each trial day to ensure that there is a plan to have ample witnesses available for the next trial day. In other words, even if Plaintiffs were to complete the presentation of their case-in-chief in two days, the Court expects one or more of the co-defendants to be prepared to immediately begin their presentation of evidence by having witnesses available in the courthouse. Failure to make such adequate preparations may result in the Court deducting the lost time from a party's allotted trial hours.

Plaintiffs' Motion Submitting Parties' Agreement on Stipulation and When They Should be Read to the Jury (ECF No. 404)

GRANTED IN PART. The Court accepts the stipulations submitted as ECF No. 404-1 as well as the agreement that these stipulations be read to the jury immediately after opening statements. However, the Court will not read these factual stipulations to the jury as it may confuse the jury regarding the Court's role in determining the law versus the jury's role in determining the facts. If counsel cannot reach agreement on one or more attorneys or an impartial person to read the stipulations to the jury, they shall inform the Court by March 2, 2018, and the Court will designate other courtroom personnel to read the stipulations to the jury at the agreed-upon time.

Plaintiffs' Motion Submitting Plaintiffs' Proposed Additional Stipulations (ECF No. 405)

GRANTED. Having reviewed Dr. Cruzado's Response in Opposition to this Motion (ECF No. 416), the Court understands that one or more Defendants object to these six additional stipulations being read to the jury. The Court hereby overrules this objection and informs all counsel that it is the Court's present intention to have these six stipulations included in the stipulations that are read to the jury, which will already necessarily know that two insurers are named defendants in this case.¹

The Court will consider giving cautionary instructions that reflect the principles embodied in F.R.E. 411. Parties shall submit proposed cautionary instructions in this regard either as part of their proposed jury instructions or no later than March 2, 2018.

Defendant Dorado Health's Motion Submitting Exhibit 1 to Docket No. 411 (ECF No. 419)

GRANTED.

Defendant Dorado Health's Motion Submitting Exhibit 1 to Docket No. 413 (ECF No. 421)

GRANTED.

Defendant Dorado Health's Motion Submitting Exhibit 1 to Docket No. 414 (ECF No. 422)

GRANTED. The Court notes that the same exhibit was previously submitted to the Court as ECF No. 398-1.

Defendant Dorado Health's Motion Nunc Pro Tunc Requesting an Extension of Time of One Hour (ECF No. 426)

GRANTED. Based on the representations made in the Motion, the Court finds no prejudice was caused by the brief delay and the interests of justice are served by allowing the extension.

Plaintiffs' Motion to Strike ECF No. 411-415, 417 & 419-423 and any further motions or responses filed after noon on February 23, 2018 (ECF No. 424)

DENIED AS MOOT IN PART and GRANTED IN PART. To the extent this Motion sought to strike any motion or related filing that the Court has ruled upon in this Order, the Court considers the Motion to Strike moot in light of the rulings contained herein. The Court notes that

¹ Counsel are free to revise the stipulations exhibit to reflect this ruling or have two separate stipulation exhibits read to the jury.

it has considered the noted delay but has concluded that striking the belated filings does not serve the interests of justice.

To the extent that the Motion to Strike raises issues regarding filings not resolved in this Order, the Court notes that Plaintiffs' objection as to timing of the filing will be considered by the Court in ruling upon that motion. However, Plaintiffs are also free to renew their timing objection in this regard in their response to any motion that remains pending. The deadline for any such response generally remains noon on March 1, 2018. However, the Court reiterates that any response to the Motion for Apportionment to be Included in the Verdict Form (ECF No. 417) is due no later than noon on March 2, 2018. See Final Pretrial Order (ECF No. 402) at 2 & 5.

SO ORDERED.

/s/ George Z. Singal
United States District Judge

Dated this 26th day of February, 2018.