

2026 WL 936341

Only the Westlaw citation is currently available.
 United States District Court, W.D. Louisiana,
 ALEXANDRIA DIVISION.

HERBERT BROOKS

v.

LOWES HOME CENTERS LLC

CIVIL ACTION NO. 24-1063

|
 Filed 04/07/2026

Attorneys and Law Firms

W. Paul Wilkins, Ross Michael LeBlanc, Dudley DeBosier
 Injury Lawyers, Baton Rouge, LA, for Herbert Brooks.

David Scott Rainwater, Michael Mann Thompson, Doran
 LeDrew Drummond, Taylor Wellons et al, Baton Rouge, LA,
 for Lowes Home Centers LLC.

MEMORANDUM ORDER

JERRY EDWARDS, JR. UNITED STATES DISTRICT
 JUDGE

*1 Before the Court is an omnibus Motion in Limine (ECF No. 49), filed by the plaintiff, Herbert Brooks (“Mr. Brooks”). The defendant, Lowe's Home Centers, LLC (“Lowe's”), opposes. *See* ECF No. 53.

After careful consideration of the parties' memoranda and the applicable law, the Motion is **GRANTED in part, DENIED in part, and DEFERRED in part.**

I. BACKGROUND

This case concerns Mr. Brooks' alleged trip-and-fall over a security cable at a Lowe's store in Alexandria, Louisiana. *See* ECF No. 1-2 at 2. With trial approaching soon, Lowe's filed numerous evidentiary motions. *See* ECF Nos. 28, 30, & 33. The Court held oral argument on those motions, as well as the instant Motion. *See* ECF No. 56. We dispensed with Lowe's motions. *See* ECF No. 57. This Motion remains. Within, Mr. Brooks seeks to exclude five categories of evidence. *See* ECF No. 49. We address each category below.

II. LEGAL STANDARD

“A motion in limine is used to preclude prejudicial or objectionable evidence before it is presented to the jury.” Stephanie Hoit Lee & David N. Finley, Federal Motions in Limine § 1:1 (2018). The decision on a motion in limine is consigned to the district court's discretion—including the decision of whether to rule before trial at all. *See Hawthorne Partners v. AT&T Techs., Inc.*, 831 F. Supp. 1398, 1400 (N.D. Ill. 1993) (noting that a court may wait to resolve the evidentiary issues at trial, where the evidence can be viewed in its “proper context”). Motions in limine should not be used to resolve factual disputes or to weigh evidence, and evidence should not be excluded prior to trial unless the “evidence is clearly inadmissible on all potential grounds.” *Ind. Ins. Co. v. Gen. Elec. Co.*, 326 F. Supp. 2d 844, 846 (N.D. Ohio 2004); *see also LSQ Funding Grp. v. EDS Field Servs.*, 879 F. Supp. 2d 1320, 1337 (M.D. Fla. 2012). Even then, rulings on these motions are not binding on the Court, and the Court may change such rulings in response to developments at trial. *See Luce v. United States*, 469 U.S. 38, 41 (1984).

“A motion in limine presents a pretrial issue of admissibility of evidence that is likely to arise at trial, and as such, the order, like any other interlocutory order, remains subject to reconsideration by the court throughout the trial.” *In re Seroquel Prods. Liab. Litig.*, No. 06-1769, 2009 WL 223140, at *1 (M.D. Fla. Jan. 30, 2009). “Denial of a motion in limine does not necessarily mean that all evidence contemplated by the motion will be admitted at trial.” *Id.* (internal quotation marks omitted). “Instead, denial of the motion means the court cannot determine whether the evidence in question should be excluded outside the trial context.” *Id.* “The court will entertain objections on individual proffers as they arise at trial, even though the proffer falls within the scope of a denied motion in limine.” *Id.*

Generally, all relevant evidence is admissible. [Fed. R. Evid. 402](#). Evidence is relevant if “it has any tendency to make a fact more or less probable than it would be without the evidence.” [Fed. R. Evid. 401](#). The determination of whether evidence is relevant to an action or issue is expansive and inclusive. *See Sprint/United Mgmt. Co. v. Mendelsohn*, 552 U.S. 379, 384–87 (2008). However, the Court may exclude otherwise relevant evidence “if its probative value is substantially outweighed by the danger of” unfair prejudice. [Fed. R. Evid. 403](#). Further, evidence may be excluded when there is a significant danger that the jury might base its decision on emotion, or when non-party events would distract reasonable jurors from the real issues in a case. *See Tennison v. Circus*

[Enterprises, Inc.](#), 244 F.3d 684, 690 (9th Cir. 2001); [United States v. Layton](#), 767 F.2d 549, 556 (9th Cir. 1985).

III. ANALYSIS

A. Prior Litigation

*2 Mr. Brooks seeks to bar Lowe's from mentioning or offering evidence of Mr. Brooks' \$1,260,000.00 jury award from another personal injury suit in 2021. *See* ECF No. 49 at 1. Mr. Brooks fears that Lowe's will seek to introduce the verdict amount to show that he already has plenty of money and does not need any more, and, further, that he knows how to sue. *See* ECF No. 49-1 at 4. Mr. Brooks contends that this evidence is irrelevant, unfairly prejudicial, violative of “the spirit of the collateral source rule,” and inadmissible under [Fed. R. Evid. 408](#). *See id.* at 2–5. Lowe's counters that the Motion is premature, and if not, that it does not intend to use the evidence to show Mr. Brooks' financial status. *See* ECF No. 53 at 2. Rather, Lowe's avers, the evidence is relevant to evaluating the veracity of Mr. Brooks' future medical award figure, as he previously sought and received a future medical award for a [spinal cord stimulator](#) that he never received. *See id.* at 3. Finally, Lowe's points out that a jury award from a prior case is not a collateral source under Louisiana law, nor a settlement under [Fed. R. Evid. 408](#). *See id.*

“While evidence of prior lawsuits is generally not permitted for the purpose of demonstrating that a plaintiff is a chronic litigant, [...] evidence of a prior lawsuit can be admitted to show a possible cause of plaintiff's injury unrelated to the acts of the defendant.” [Napolitano v. Synthes, Inc., No. 09-CV-828, 2014 WL 12868859, at *2 \(D. Conn. May 2, 2014\)](#). Here, Lowe's may not introduce the dollar amount of the prior verdict, but we see no basis for excluding the fact that Mr. Brooks previously sought and received a damages award, insofar as Lowe's can establish the relevance of such evidence at trial. *See* [SynQor, Inc. v. Vicor Corp., No. 14-CV-287, 2022 WL 7219272, at *5 \(E.D. Tex. Oct. 7, 2022\)](#) (“SynQor is precluded from referencing the specific amount of damages the jury awarded in the '497 case. [...] This does not preclude SynQor from asserting [...] that there was a damages award...”). Accordingly, the Motion is **GRANTED** insofar as we **EXCLUDE** evidence of the dollar amount of Mr. Brooks' prior verdict award. The Motion is **DEFERRED** insofar as a conflict may arise at trial regarding other evidence of Mr. Brooks' prior litigation.

B. Spoliation

Mr. Brooks seeks to exclude the fact that he spoliated evidence by dodging a pre-surgery independent medical examination. *See* ECF No. 49-1 at 5. We have already decided this. *See* ECF No. 57. The jury will receive an adverse inference instruction regarding the shoulder and no evidence regarding the knee. *Id.* **DENIED**.

C. Arrests

Mr. Brooks seeks to limit any mention of his criminal history. *See* ECF No. 49-1 at 8–9. Specifically, Mr. Brooks fears that Lowe's will introduce evidence of a past arrest for illegal discharge of a firearm. *See* ECF No. 53 at 8. Mr. Brooks contends that only *convictions*, and not arrests, may be admitted for impeachment purposes. *See* ECF No. 49-1 at 9. Lowe's avers that the issue is not the fact of the arrest itself, but rather that Mr. Brooks lied about it in his discovery responses and deposition. *See* ECF No. 53 at 6–9.

Lowe's provides the perfect case on the subject. *See id.* at 8 (citing [Hicks v. Craw, No. 17-475, 2022 WL 3593623, at *9 \(N.D.N.Y. Aug. 22, 2022\)](#)). In *Hicks*, the court said:

As the Court understands Plaintiff's request, he asks not to be impeached because of testimony about arrests that he did not fully recall during his deposition. The Court lacks information sufficient to resolve this motion. As a general matter, Plaintiff's deposition testimony speaks for itself. If that testimony contradicts his trial testimony, Defendants are free to use it to impeach him. Defendants may not, of course, introduce evidence of past arrests that did not result in a conviction to impeach Defendant's character for truthfulness.

The same goes here. The Motion is accordingly **DEFERRED** on the issue of Mr. Brooks' prior arrest(s).

D. Attorney-Doctor Referral

Mr. Brooks would like to exclude evidence that his attorneys referred him to his treating physicians as irrelevant and prejudicial. *See* ECF No. 49-1 at 10–12. He provides only one first principles case and [Rule 403](#) in support of this proposition. *See id.* Lowe's delivers a heap of caselaw suggesting that Mr. Brooks' proposition is wrong. *See* ECF No. 53 at 9–10. That said, “the referral of Plaintiff by [his] lawyer to a physician and/or evidence of an ongoing referring relationship of counsel with that physician is relevant on the issue of possible bias and is therefore admissible.” [Feagins v. Wal-Mart Stores, Inc., No. 16-181, 2017 WL 8944098, at](#)

[*2 \(M.D. La. Sept. 20, 2017\)](#); *see also* [Thomas v. Chambers](#), No. CV 18-4373, 2019 WL 8888169, at *14 (E.D. La. Apr. 26, 2019); [Gunn v. Robertson](#), 801 So. 2d 555, 566 (La. App. 5 Cir. 11/14/01), *writ denied*, 811 So. 2d 942 (La. 3/22/02). **DENIED.**

E. Diabetes

*3 Mr. Brooks seeks to limit any testimony or argument that his management (or mismanagement) of his medical issues contributed to the fall. *See* ECF No. 49-1 at 12–13. More specifically, Mr. Brooks argues that Lowe's must take plaintiffs as it finds them and cannot fault Mr. Brooks' diabetes for his injuries. *See id.* Lowe's concedes that Mr. Brooks cannot be faulted for having diabetes, but posits that how he acts or fails to act in light of his [diabetes](#) is a different matter. *See* ECF No. 53 at 11–12. Lowe's contends that, for example, Mr. Brooks' failure to use a walking cane despite his [diabetic neuropathy](#) could shed light on whether his own negligence contributed to his injuries. *Id.* Mr. Brooks has not shown that this evidence is clearly inadmissible; this portion of the Motion is **DEFERRED.**

IV. SHOW CAUSE

While deciding Mr. Brooks' Motion, the Court ran into a rule statement propped up by a pair of dubious citations. Mr. Brooks provided that:

Courts consistently and uniformly hold that evidence of prior settlement or verdict amounts is irrelevant to the issues of liability and damages in a subsequent, unrelated accident. *See* [Tompkins v. Cyr](#), 202 F.3d 770, 787 (5th Cir. 2000) (evidence must be relevant to a “consequential fact” in the case at bar); [Collins v. Wayne Corp.](#), 621 F.2d 777, 784 (5th Cir. 1980) (excluding evidence that had no bearing on the specific issues before the jury).

See ECF No. 49-1 at 3. In combing through *Tompkins*, the Court could not find any mention of a prior settlement or verdict, or of a subsequent, unrelated accident. *See generally*, [202 F.3d 770](#). The Court further found no reference to the parenthetically quoted “consequential fact” anywhere in the opinion, much less at the pincite. *See id.* In fact, the pincited page has nothing to do with evidence at all, but rather, as luck would have it, *sanctions*. *Collins*, while at least somewhat on track with the explanatory parenthetical, also had nothing to do with prior settlements or verdicts. This mismatch prompted the Court to question the rest of the cites. There's more.

- The quoted phrase “the policy behind [Rule 408](#) is to encourage settlements” does not appear in [Bankcard America, Inc. v. Universal Bancard Systems, Inc.](#), 203 F.3d 477, 484 (7th Cir. 2000), contrary to Mr. Brooks' brief. *See* ECF No. 49-1 at 5. *Bankcard America* uses the word “purpose” instead of policy.
- The quoted sentence “Gilliam's body is fundamentally different from a vehicle or other inanimate piece of evidence... plaintiffs are free to determine when they should undergo medical treatment deemed necessary by their physicians” does not appear in [Gilliam v. Uni Holdings, LLC](#), 201 A.D.3d 83, 88–89 (1st Dep't 2021), contrary to Mr. Brooks' brief, *see* ECF No. 49-1 at 6, and the pincite should be at 86–87. Nor does the quoted phrase “a plaintiff's decision to undergo surgery does not constitute spoliation of evidence[.]” which Mr. Brooks' brief says the *Gilliam* court “emphasized.” *See* ECF No. 49-1 at 6.
- The quoted phrase “did not have a duty to delay his surgery” does not appear in [Menges v. Cliffs Drilling Co.](#), 2000 WL 765082, at *3 (E.D. La. June 12, 2000), contrary to Mr. Brooks' brief. *See* ECF No. 49-1 at 7.
- The quoted phrase “must have acted in ‘bad faith’” does not appear in [King v. Illinois Cent. R.R.](#), 337 F.3d 550, 556 (5th Cir. 2003), contrary to Mr. Brooks' brief. *See* ECF No. 49-1 at 7.
- The quoted sentence “The tortfeasor takes his victim as he finds him and is responsible for all natural and probable consequences of his tortious conduct” does not appear in [Lasha v. Olin Corp.](#), 625 So. 2d 1002, 1006 (La. 1993), contrary to Mr. Brooks' brief. *See* ECF No. 49-1 at 13. *Lasha* uses the word “defendant” instead of the quoted “tortfeasor[.]” And the correct pincite is 1005.
- *4 Whether by humans or by large language models, misquoting precedent has never been okay. *See* [Precision Specialty Metals, Inc. v. United States](#), 315 F.3d 1346, 1347 (Fed. Cir. 2003) (affirming sanction for “misquoting and failing to quote fully from two judicial opinions in a motion [that the attorney] signed and filed.”). “This [...] is about trust.” [Mattox v. Prod. Innovations Rsch., LLC](#), 807 F. Supp. 3d 1341, 1343 (E.D. Okla. 2025). We must be able to trust that the attorneys practicing before us—as officers of the Court—have verified that the cases cited and quotes attributed in their briefs are correct. *See id.* Here we cannot.

V. CONCLUSION

For the foregoing reasons,

IT IS ORDERED that the Motion in Limine (ECF No. 49) is **GRANTED in part, DENIED in part, and DEFERRED in part**, in the manner set forth herein.

IT IS FURTHER ORDERED that Mr. Brooks' counsel, W. Paul Wilkins and Ross M. LeBlanc, shall show cause in

writing within fourteen (14) days of the signing of this Order, why they should not be sanctioned for misquoting precedent, under [Fed. R. Civ. P. 11](#).

THUS DONE AND SIGNED this 7th day of April, 2026.

All Citations

Slip Copy, 2026 WL 936341

End of Document

© 2026 Thomson Reuters. No claim to original U.S. Government Works.