

Plaintiff
v.
Defendants

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE CITY
* Case No.

DEFENDANTS
MOTION IN LIMINE TO EXCLUDE VIDEOS OF AMPUTATIONS

Defendants,

by their attorneys,

hereby move for an order *in limine* precluding videos of amputations from being shown to the jury or admitted as evidence, and incorporate by reference as if fully stated herein, the attached memorandum of law.

Attorneys for Defendants

Plaintiff * IN THE
 v. * CIRCUIT COURT
 * FOR
 * BALTIMORE CITY
 Defendants * Case No

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS
MOTION IN LIMINE TO
EXCLUDE VIDEOS OF AMPUTATIONS

Defendants,

by their attorneys,

hereby move for an order *in limine* precluding videos (including stills from videos) of amputations from being shown to the jury or admitted as evidence at the trial of this matter, and in support thereof, state as follows:

FACTUAL BACKGROUND

In this medical malpractice action, Plaintiff, _____, alleges he suffered an above the knee amputation as a result of his visit to the emergency department at St. Agnes Hospital in December 2009. The care delivered by _____ and _____ occurred in the emergency department of St. Agnes Hospital. Mr. _____ amputation occurred at University of Maryland Hospital, several days later.

VIDEO EVIDENCE PRODUCED BY PLAINTIFF

Counsel for Mr. _____ provided counsel for Defendants three videos depicting above the knee and below the knee amputations which he may introduce at the trial of this matter. (Exhibit 1.) The videos produced by Mr. _____ counsel are not of the amputations performed on Mr.

Rather, the videos depict operative procedures performed on unknown patients and have no relevance to the issues present in this malpractice action.

PURPOSE AND SCOPE OF DEFENDANTS' MOTION IN LIMINE

seek to exclude the videos of the amputations as they are not probative of any issue in this matter. As noted above, the videos are not of Mr. Further, in the lawsuit filed by Mr. he make no claim of malpractice with respect to the actual performance of the amputation. His claims against the Defendants herein are based on the alleged failure to diagnose his initial injury which lead to the need for the surgery. The Plaintiff presumably seeks to introduce the videos to prejudice the jury against the Defendants by exciting them through the visualization of the procedure performed on Mr. Such a purpose is prohibited by the Maryland Rules and the videos of amputations should be excluded from the trial of this matter.

ARGUMENT

Maryland Rule 5-402 provides generally that irrelevant evidence is not admissible. Relevancy is defined in Rule 5-401 as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable" For evidence to be admissible it must be both relevant and material. Evidence is material if it tends to establish a proposition that has legal significance to the case. *Paige v. Manuzak*, 57 Md.App. 621, 632, 471 A.2d 758, cert. denied, 300 Md. 154, 476 A.2d 722 (1984). "[E]vidence which does not tend to describe or explain the facts and circumstances of the case is [not relevant and therefore] inadmissible." *Kennedy v. Crouch*, 191 Md. 580, 585, 62 A.2d 582 (1948).

There is no question of fact that Mr. underwent an amputation or that his alleged damages include the partial amputation of his left leg. The issue before this court is whether

breached the standard of care in their initial diagnosis of Mr. injury. The videos of amputations have no relation to the facts to be considered by the jury in making that determination. The videos are also not relevant to show damages in this matter. The jury is not informed of the pain and suffering allegedly endured by Mr. by viewing of the amputation procedure in the videos.

Further, assuming arguendo that the video evidence is relevant, the evidence is barred by Maryland Rule 5-403 because any potential probative value of the videos is substantially outweighed by the prejudicial effect which will most certainly occur should the videos be shown. The videos depict what will likely be seen by the jury as a gruesome procedure involving the partial removal of a person's limb. The introduction of such evidence will only serve to prejudice and mislead the jury and will not further inform the jury on whether the actions or inactions of and breached the standard of care. Accordingly, the videos are more likely to incite the jury than inform them and permit their emotions to prejudice the proper consideration of facts material to the case.

CONCLUSION

For all of the foregoing reasons, Defendants respectfully request that the Court enter an order in limine excluding the videos (including stills from videos) of amputations from the trial of this matter.

Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of May, 2014, a copy of the foregoing Motion in Limine to Preclude, memorandum of law in support, request for hearing, and proposed Order, were mailed and emailed to:

Plaintiff
v.
Defendants

* IN THE
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REQUEST FOR HEARING

Defendants,
by their undersigned counsel, respectfully request a hearing on their Motion in
Limine to Exclude Videos of Amputations.

Attorneys for Defendants

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ORDER

Upon consideration of Defendants

Motion in Limine to Exclude Videos of Amputations,
any opposition thereto, and any hearing thereon, it is this ____ day of _____, 2014,
hereby:

ORDERED, that Defendants' Motion is GRANTED; and further,

ORDERED that videos (including stills from videos) depicting amputations shall not be
shown to the jury or introduced as evidence at the trial of this matter.

Judge, Circuit Court for Baltimore City

cc: