

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA
TODD HAFER and KATHRYN : No. 05-01913
HAFER, his wife, :

Plaintiffs

vs.

FRANKLIN TRIMBLE,
Defendant

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: CIVIL ACTION - LAW

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: Plaintiff's Motion in Limine
ORDER

AND NOW, this ____ day of March 2007, the Court **DENIES** Plaintiffs' Motion in Limine, which seeks to preclude Plaintiff Todd Hafer's statement that he was traveling 60 mph. at the time of the accident. This statement is relevant for several purposes. At the very least, this statement is relevant to Mr. Hafer's credibility because it is inconsistent with his deposition testimony that he was going 30 miles per hour. This statement also is relevant to Defendant's claim that Plaintiff was contributory negligent, because the speed limit was 55 mph. See Landis v. Conestoga Transp. Co., 349 Pa. 97, 36 A.2d 465 (1944); Santiago v. Bishop, 63 Pa. D & C 4th 177 (Berks Cty. 2003). Finally, Plaintiff's speed at the time of the incident is relevant to the overall facts and circumstances of the accident.¹

By the Court,

Kenneth D. Brown, P.J.

¹ In his motion and brief, Plaintiff asserts Defendant does not have sufficient evidence of causation; therefore it would be prejudicial to allow Defendant to introduce statements regarding negligence. The Court cannot agree for several reasons. First, Plaintiff cannot file an untimely motion for summary judgment by captioning it a motion in limine. Second, because this is a motion in limine and not a motion for summary judgment, Defendant was not obligated to set forth the evidence he has to prove all the elements of contributory negligence. Instead, he appropriately responded by arguing the various purposes for which Plaintiff's statement would be relevant and admissible. Third, the cases cited above seem to indicate that causation can be an issue for the jury based on the facts and circumstances of the case without expert testimony. Even assuming that expert testimony would be necessary under the facts and circumstances of this particular case, the statements would be relevant and admissible for other purposes such as the factual background of the case and credibility of Plaintiff.

cc: Joseph F. Orso, III, Esquire
David E. Wilk, Esquire
Gary Weber, Esquire (Lycoming Reporter)