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UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, NORTHERN DIVISION

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MELISSA WADDOUPS and COREY  
WADDOUPS,

Plaintiffs,

v.

BARRY A. NOORDA, M.D. et al.,

Defendants.

**ORDER**

Case No. 1:11-cv-00133 CW

Judge Clark Waddoups

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This matter is before the court on three motions. A hearing on the motions was held before the Honorable Clark Waddoups on June 17, 2014. G. Eric Nielson and Paul M. Simmons appeared on behalf of plaintiffs Melissa Waddoups and Corey Waddoups. Stephen W. Owens appeared on behalf of Defendants Barry A. Noorda and Cache Valley Women's Center, PLLC. After due consideration of the evidence, the parties' filings, oral arguments, and otherwise being fully advised,

IT IS HEREBY ORDERED, for the reasons stated on the record, the following:

1. Plaintiffs' Motion for Reconsideration is GRANTED.<sup>1</sup> Based on the Utah Court of Appeals' recent interpretation of the Apology Rule in *Lawrence v. MountainStar Healthcare*, 2014 UT App 40, the court concludes Plaintiffs may introduce evidence about Dr. Noorda's alleged statements that he "[d]efinitely got it wrong. Must have gotten disoriented. (Remember[ed] struggling.) My fault, I got it in the wrong spot."

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<sup>1</sup> Dkt. No. 276.

2. Defendants' Motion to Bifurcate is GRANTED IN PART and DENIED IN PART.<sup>2</sup>

a. The court grants the motion with respect to evidence of Dr. Noorda's wealth or financial condition. Any such evidence may only be presented if the jury finds Dr. Noorda liable for punitive damages. Additionally, the court grants the motion and excludes from the opening statement remarks such as "you should send a message to the community," or "you need to teach Dr. Noorda a lesson," or "Dr. Noorda should be punished" since such remarks constitute argument.

b. The court denies the motion with respect to informing the jury that punitive damages are being sought based on reckless indifference. A preliminary jury instruction will inform the jury about the standard for imposing punitive damages and Plaintiffs may state during their opening statement the evidence that will be presented on this issue.

3. Defendants' Motion in Limine re Reptile/Veiled Golden Rule Arguments is GRANTED.<sup>3</sup>

In addition to the above motions, the court also addressed disclosure of certain photographs regarding Ms. Waddoups' labiaplasty surgery. This is the second time the court has addressed the matter, and hereby ORDERS that all photographs provided to the medical illustrator also be produced by Plaintiffs. The court further ORDERS Plaintiffs to inform Defendants about the order

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<sup>2</sup> Dkt. No. 278.

<sup>3</sup> Dkt. No. 286.

in which witnesses will be called and the expected length of testimony. Plaintiffs shall provide this information on or before **July 2, 2014**. Finally, the court ORDERS Plaintiffs to produce all of Ms. Waddoups' medical records for the past year. Plaintiffs shall produce the medical records on or before **July 2, 2014**.

SO ORDERED this 18<sup>th</sup> day of June, 2014.

BY THE COURT:

  
Clark Waddoups  
United States District Court