

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA,
BUTTE DIVISION

Estate of Daniel Keith Ross v. Gallatin County and John Does 5-10

Estate of Ross · No. CV 22-26-BU-DLC · Decided January 6, 2026

SUMMARY

The United States District Court for the District of Montana ruled on Gallatin County’s first motion in limine, the Estate’s motions in limine, and the Estate’s motion to strike an amended expert disclosure. The court denied the County’s motion in limine, granted some of the Estate’s motions while denying or reserving ruling on others, and denied the motion to strike. The order addresses treating-provider expert testimony, nonparty and settled-party fault, evidence of the decedent’s history, and the proposed use of an amended liability expert disclosure.

CASE DETAILS

COURT	United States District Court for the District of Montana, Butte Division
WRITING FOR THE COURT	Dana L. Christensen
JURISDICTION	United States District Court for the District of Montana, Butte Division
DECIDED	January 6, 2026
DOCKET	CV 22-26-BU-DLC
DISPOSITION	other
PROCEDURAL POSTURE	The court ruled on Gallatin County's first motion in limine, the Estate's motions in limine, and the Estate's motion to strike an amended liability expert disclosure before trial.
STANDARD OF REVIEW	Motions in limine are reviewed under the district court's discretion. The court also applied relevance and prejudice principles under Federal Rules of Evidence 401, 403, and 404(b), and exercised discretion regarding the requested discovery-related exclusion and motion to strike.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Estate of Daniel Keith Ross v. Gallatin County, John Does 5-10

TOPICS

motion in limine

expert testimony

evidence

civil procedure

municipal liability

PRACTICE AREAS

civil procedure

evidence

torts

municipal liability

expert testimony

QUESTIONS PRESENTED

1. Whether treating providers could offer causation opinions concerning K.R.'s emotional distress without Rule 26(a)(2)(B) expert reports.
2. Whether the defendant could present evidence or argument attributing Ross's death to nonparties who had not been joined or to parties who had settled or been released.
3. Whether evidence of Ross's prior criminal conduct, incarcerations, drug use, and alcohol use was relevant and admissible despite potential prejudice.
4. Whether evidence concerning Ross's divorce, alleged domestic violence, and alleged abuse or neglect of children should be excluded before trial.
5. Whether comparative fault could be presented on the Estate's Section 1983 claim after summary judgment had eliminated that claim.
6. Whether Gallatin County's amended disclosure identifying Dr. Sally Ann Cunningham Johnson as a retained expert should be stricken or her testimony excluded.

HOLDINGS

1. Treating providers may offer causation opinions developed during the course of treating K.R. without the written report required by Federal Rule of Civil Procedure 26(a)(2)(B), so long as the disclosure satisfies Rule 26(a)(2)(C) and the providers made a foundational showing that they developed their causation opinions during treatment.
2. Gallatin County may not argue, suggest, or present evidence that Ross's death was caused by Poucher, Ross's mother, or the treating hospital because those entities were not joined as third parties and had not settled with or been released by the claimant.
3. Gallatin County may not argue, suggest, or present evidence that Ross's death was caused by WMMHC or Clayleen Pipinich, because the Estate had settled its claims against them and Gallatin County had not alleged that a settled or released party was at fault.
4. Evidence of Ross's prior criminal conduct, incarcerations, and drug or alcohol use was not categorically excluded and could be admitted because it was relevant to liability and damages and its probative value was not outweighed by undue prejudice.
5. The Estate's motion to strike Dr. Johnson's amended expert disclosure was denied because the disclosure was not untimely in light of the scheduled trial date and the Estate had prior notice of both the opinions and Gallatin County's intent to use them.

KEY QUOTATIONS

“There is thus no basis to preclude the Estate from offering causation opinion testimony at trial from these 53 witnesses under Rule 26 or Rule 37(c)(1).” (Discussion § I)

“Defendants may not argue, suggest or present evidence suggesting that Ross’s death was caused by Poucher, Ross’s mother, or the treating hospital.” (Discussion § II.A)

“These siderails include but are not limited to: (1) precluding cumulative expert testimony on any issue; and (2) precluding any mention, by any party, that WMMHC and Pipinich were previously defendants in this case, that Dr. Johnson was previously retained as an expert by WMMHC and Pipinich, and that WMMHC and Pipinich settled with the Plaintiff.” (Discussion § III)

FACTUAL BACKGROUND

Daniel Keith Ross attempted suicide on or around March 13, 2019, while incarcerated at the Gallatin County Detention Center and died at a local hospital on April 4, 2019. Ross was survived by his daughter, K.R., whose mental-health treatment and emotional distress were central to the evidentiary disputes. The Estate's remaining claims against Gallatin County were negligence and wrongful death and survivorship. The parties disputed the admissibility of evidence concerning causation, Ross's history, nonparty fault, and expert disclosures.

PROCEDURAL HISTORY

The Estate filed the action on April 1, 2022, arising from Daniel Keith Ross's suicide attempt while incarcerated at the Gallatin County Detention Center and his subsequent death. After other defendants were dismissed and the court granted Gallatin County partial summary judgment, only negligence and wrongful-death-and-survivorship claims remained. The court addressed the parties' evidentiary motions and the motion to strike in advance of the February 17, 2026, trial.

DISPOSITION

other

CASES CITED

- United States v. Tokash, 282 F.3d 962, 968 (7th Cir. 2002)
- United States v. Heller, 551 F.3d 1108, 111-12 (9th Cir. 2009)
- United States v. Ravel, 930 F.2d 721, 726 (9th Cir. 1991)
- St. Vincent v. Werner Enterprises, Inc., 267 F.R.D. 344, 345 (D. Mont. 2010)
- Goodman v. Staples the Office Superstore, LLC, 644 F.3d 817, 826 (9th Cir. 2011)
- Melashenko v. Unigard Ins. Co., 2017 WL 4781801, at *2 (D. Mont. Oct. 23, 2017)
- Mears v. Safeco Ins. Co. of Illinois, 888 F. Supp. 2d 1048, 1056 (D. Mont. 2012)
- Teague v. Remington Arms Co., 2022 WL 16574241, at *6 (D. Mont. Nov. 1, 2022)
- Truman v. Mont. Eleventh Dist. Court, 68 P.3d 654, 660 (Mont. 2003)
- Huddleston v. United States, 485 U.S. 681, 688 (1988)
- Fantasy, Inc. v. Fogerty, 984 F.2d 1524, 1527 (9th Cir. 1993)

- **Fogerty v. Fantasy Inc.**, 510 U.S. 517, 127 (1994)

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