

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE

Patricia McBreairty, as Personal Representative of the Estate of
Shawn McBreairty v. Brewer School Department, et al.

McBreairty · No. 1:24-cv-00053-JAW · Decided December 22, 2025

SUMMARY

The United States District Court for the District of Maine denies defendants’ motion in limine to exclude evidence of compensatory damages under Federal Rule of Civil Procedure 37(c)(1). Although plaintiff failed to provide timely and adequate Rule 26(a) disclosures, the court concludes that excluding six of thirteen proposed witnesses was a sufficient sanction, that a complete exclusion of compensatory-damages evidence could effectively dismiss the case, and that defendants had actual or implicit notice of the damages evidence. The order addresses claims arising from alleged First Amendment retaliation involving a published article about a school restroom policy.

CASE DETAILS

COURT	United States District Court for the District of Maine
WRITING FOR THE COURT	John A. Woodcock, Jr.
JURISDICTION	United States District Court for the District of Maine
DECIDED	December 22, 2025
DOCKET	1:24-cv-00053-JAW
DISPOSITION	denied
PROCEDURAL POSTURE	Defendants moved in limine under Federal Rule of Civil Procedure 37(c)(1) to exclude all evidence of compensatory damages because plaintiff allegedly failed to make timely Rule 26(a) disclosures. The district court denied the motion.
STANDARD OF REVIEW	The court applied the discretionary Rule 37(c)(1) sanction framework, weighing the Esposito factors and applying a comparatively more robust justification requirement because exclusion of compensatory-damages evidence would carry the force of dismissal.
PRECEDENTIAL VALUE	Unpublished district court order; persuasive but not binding precedent outside the case.

TOPICS

motion in limine

sanctions

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civil procedure

section 1983

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QUESTIONS PRESENTED

1. Whether plaintiff's failure to timely disclose a computation of compensatory damages under Federal Rule of Civil Procedure 26(a)(1)(A)(iii) required exclusion of all compensatory-damages evidence under Rule 37(c)(1).
2. Whether exclusion was warranted where defendants had actual or constructive notice from the complaint and subsequent litigation that plaintiff sought damages for emotional distress.
3. Whether exclusion was an excessive sanction because it would effectively dismiss or defeat the practical viability of the damages claims.

HOLDINGS

1. Exclusion of all evidence of compensatory damages was not warranted under Rule 37(c)(1) because defendants knew or should have known from the complaint and motion practice that plaintiff sought damages for emotional distress, and the circumstances did not justify a sanction tantamount to dismissal.
2. Excluding six of plaintiff's thirteen proposed witnesses was sufficient to sanction the untimely initial disclosures; a further sanction excluding all compensatory-damages evidence was not justified.

KEY QUOTATIONS

“Thus, the Court determines that the sanctions imposed by Chief Judge Walker are sufficient to punish Plaintiff’s initial disclosure failure, and greater sanctions, which would be tantamount to dismissal, are not justified.” (VI)

“Here, Plaintiff’s failure to make timely initial disclosures, although not commendable, “is not enough to overcome the strong presumption in favor of deciding cases on the merits.”” (V.C)

FACTUAL BACKGROUND

Brewer School Department officials and counsel objected to portions of Shawn McBreairty's article concerning a transgender student's use of school restrooms, student petition activity, and alleged privacy and defamation concerns. Counsel demanded that McBreairty remove specified content, and he removed the article. The complaint alleged emotional-distress and other compensatory damages, but plaintiff did not timely provide the Rule 26(a) damages disclosures required by the scheduling order. After McBreairty's death, Patricia McBreairty was substituted and sought to present evidence of his emotional distress during the period between the February 13, 2024 demand letter and his June 3, 2024 death.

PROCEDURAL HISTORY

Shawn McBreairty filed a § 1983 action alleging First Amendment retaliation and a parallel Maine constitutional claim after Brewer School Department counsel demanded removal of portions of an article. After McBreairty died, Patricia McBreairty was substituted as personal representative. The court denied preliminary injunctive relief, resolved earlier summary-judgment motions, and previously excluded six of plaintiff's thirteen proposed witnesses as a sanction for untimely initial disclosures. Defendants then sought exclusion of all compensatory-damages evidence, which the court denied.

DISPOSITION

denied

CASES CITED

- Harriman v. Hancock Cty., 627 F.3d 22, 29 (1st Cir. 2010)
- Laplace-Bayard v. Battle, 295 F.3d 157, 162 (1st Cir. 2002)
- Ortiz-Lopez v. Sociedad Espanola de Auxilio Mutuo y Beneficiencia de Puerto Rico, 248 F.3d 29, 34 (1st Cir. 2001)
- Esposito v. Home Depot U.S.A., Inc., 590 F.3d 72, 77-79 (1st Cir. 2009)
- Santiago-Diaz v. Laboratorio Clinico y de Referencia del Este, 456 F.3d 272, 276 (1st Cir. 2006)
- Doe v. Austin, No. 2:22-CV-00368-NT, 2024 U.S. Dist. LEXIS 199423, at *6 (D. Me. Nov. 1, 2024)
- Joyce v. Postmaster Gen., U.S. Postal Serv., 846 F. Supp. 2d 268, 278 (D. Me. 2012)
- U.S. Bank Nat'l Ass'n v. James, Civil No. 09-84-P-JHR, 2010 U.S. Dist. LEXIS 34043, at *6 (D. Me. Apr. 5, 2010)
- Griffith v. Eastern Me. Med. Ctr., 599 F. Supp. 2d 59, 65 n.4 (D. Me. 2009)
- Corinth Pellets, LLC v. Andritz, Inc., No. 1:20-cv-00082-NT, 2022 U.S. Dist. LEXIS 230150, at *9 (D. Me. Dec. 22, 2022)
- Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993)

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