

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 March 20, 2026

SUMMARY

The United States District Court for the District of Maine considers Plaintiff Patricia McBreairty’s motion in limine seeking to exclude evidence and testimony related to allegedly non-listed exhibits and witnesses. The court denies the motion as to witnesses and dismisses without prejudice the request to exclude exhibit categories identified in the defendants’ final pretrial memoranda, while deferring ruling on certain specific exhibits until trial. The court emphasizes the disclosure requirements and sanctions framework under Federal Rules of Civil Procedure 26 and 37.

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	March 20, 2026
DOCKET	1:24-cv-00053-JAW
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved in limine to exclude defense witnesses and exhibits allegedly not timely disclosed under Federal Rules of Civil Procedure 26 and 37 and the court's scheduling order.
STANDARD OF REVIEW	The court applied the discretionary Rule 26 and Rule 37(c)(1) framework for determining whether late-disclosed witnesses or evidence should be excluded, considering the history of the litigation, the party's need for the evidence, the justification for late disclosure, prejudice or surprise, and the effect on the court's docket.
PRECEDENTIAL VALUE	Unknown
PARTIES	Patricia McBreairty, as Personal Representative of the Estate of Shawn McBreairty v. Brewer School Department, Gregg Palmer, et al.

TOPICS

motion in limine

evidence

civil procedure

first amendment

civil rights

PRACTICE AREAS

civil procedure

evidence

civil rights

constitutional law

QUESTIONS PRESENTED

1. Whether defendants should be barred from calling witnesses not identified in their initial disclosures.
2. Whether defendants should be barred under Federal Rules of Civil Procedure 26 and 37 from introducing categories of exhibits identified in their final pretrial memoranda but not included in their initial disclosures.
3. Whether the court could make a pretrial ruling excluding two specific exhibits when the record did not show how defendants intended to use them.

HOLDINGS

1. The motion to exclude witnesses was denied because the witnesses identified by defendants had already been identified as trial witnesses or had long been known to be potential witnesses, so the requested exclusion was not warranted on the record presented.
2. The motion was dismissed insofar as it sought wholesale exclusion of the categories of evidence identified in the defendants' final pretrial memoranda because the late disclosure was less prejudicial, the defendants demonstrated a need for the evidence, the public statements were accessible to the plaintiff, and the disclosure did not threaten delay.
3. The motion was dismissed without prejudice as to defense exhibit numbers 9 and 21 because the court lacked sufficient information to determine how the defendants intended to use them and therefore deferred admissibility to trial.

KEY QUOTATIONS

“the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial, unless the failure was substantially justified or is harmless.” (III)

“Whether a party’s witnesses and exhibits should be excluded based on a failure to timely disclose is not, in other words, “a strictly mechanical exercise.”” (III)

“The Court DENIES in part and DISMISSES without prejudice in part Plaintiff’s Motion in Limine to Exclude Evidence and Testimony Related to Non- Listed Exhibits (ECF No. 214).” (V)

FACTUAL BACKGROUND

The defendants identified categories of trial evidence in their pretrial memoranda, including Shawn McBreairty's post, communications from counsel, and McBreairty's subsequent emails, online posts, and media appearances. Although some of that material was not included in the defendants' initial disclosures, it had been identified in a pretrial memorandum filed nearly a year before the motion and was publicly accessible to the plaintiff. The

defendants asserted that the evidence was relevant to responding to the plaintiff's claim for emotional-distress damages.

PROCEDURAL HISTORY

Shawn McBreairty filed a § 1983 action alleging retaliation for exercising First Amendment rights, along with a parallel Maine constitutional claim. After his death, Patricia McBreairty was substituted as personal representative. The court previously excluded certain late-disclosed witnesses, denied reconsideration, and proceeded toward trial on the remaining claims. The court denied the motion in part as to witnesses, dismissed it in part as to categories of exhibits identified in the final pretrial memoranda, and dismissed it without prejudice as to two specific exhibits because admissibility could not be determined pretrial.

DISPOSITION

other

CASES CITED

- Santiago-Diaz v. Laboratorio Clinico Y De Referencia Del Este, 456 F.3d 272, 276 (1st Cir. 2006)
- LaPlace-Bayard v. Batlle, 295 F.3d 157, 162 (1st Cir. 2002)
- Ortiz-Lopez v. Sociedad Espanola de Auxilio Mutuo Y Beneficiencia de P.R., 248 F.3d 29, 34 (1st Cir. 2001)
- Esposito v. Home Depot U.S.A., Inc., 590 F.3d 72, 78 (1st Cir. 2009)
- Doe v. Austin, No. 2:22-cv-00368-NT, 2024 U.S. Dist. LEXIS 199423, *6 (D. Me. Nov. 1, 2024)