

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
LOUISIANA

Deborah Heller v. Hillstone Restaurant Group, Inc.

Heller · No. No. 24-2295 · Decided January 9, 2026

SUMMARY

The United States District Court for the Eastern District of Louisiana denied the remaining portions of Hillstone Restaurant Group, Inc.'s motion in limine in Deborah Heller's premises-liability action. The court held that testimony concerning statements allegedly made by a Hillstone employee after the accident was admissible under Federal Rule of Evidence 801(d)(2)(D) and relevant to notice and creation of the hazard. The court also held that expert testimony concerning alleged dips or “bellies” in the restaurant's sewer line was relevant to constructive notice and admissible.

CASE DETAILS

COURT	United States District Court for the Eastern District of Louisiana
WRITING FOR THE COURT	Wendy B. Vitter
JURISDICTION	United States District Court for the Eastern District of Louisiana
DECIDED	January 9, 2026
DOCKET	No. 24-2295
DISPOSITION	denied
PROCEDURAL POSTURE	Defendant moved in limine to exclude two remaining categories of evidence in a premises-liability action. The court denied the pending portions of the motion.
STANDARD OF REVIEW	Motions in limine are governed by the relevance and admissibility standards in Federal Rules of Evidence 401, 402, and 403. District courts have wide discretion in determining evidentiary relevance and admissibility; evidentiary rulings are reviewed for abuse of discretion on appeal.
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential

TOPICS

- motion in limine
- hearsay
- expert testimony
- relevance
- premises liability

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether testimony by Daniel Morris concerning statements allegedly made by a Hillstone employee immediately after Heller's fall should be excluded as hearsay, irrelevant, or unfairly prejudicial.
2. Whether testimony and evidence concerning alleged dips or “bellies” in the restaurant's sewer or sanitary line, and alleged violations of plumbing standards, should be excluded as irrelevant, unfairly prejudicial, confusing, misleading, or inadmissible expert testimony.

HOLDINGS

1. The proffered testimony was admissible at the motion-in-limine stage because the evidence sufficiently supported that the declarant was a Hillstone employee speaking about a matter within the scope of the employment relationship. The statements were relevant to whether Hillstone created or had constructive notice of a sewage-system hazard and were not subject to exclusion under Rule 403.
2. Evidence and expert testimony concerning alleged “bellies” in the restaurant's sewer or sanitary line were relevant and admissible because they could assist the jury in determining whether Hillstone created or had actual or constructive notice of the hazardous sewage condition. The probative value was not substantially outweighed by the dangers identified in Rule 403.

KEY QUOTATIONS

“The exclusion of evidence under Rule 403 should occur only sparingly.” (§ II)

“Thus, testimony from Mr. Morris regarding the statements are relevant under Rule 401, not barred by Rule 403, and admissible under Rule 801.” (§ III.A)

“The Court finds that Serauskas’s testimony and report will assist the trier of fact in the present case because those opinions relate to whether Defendant created or had actual or constructive knowledge of the hazard that allegedly caused the damage.” (§ III.B)

FACTUAL BACKGROUND

Heller alleges that she slipped and fell in the women's restroom of Houston's Restaurant after sewage began emerging from a floor drain. Daniel Morris testified that, immediately after the fall, an individual flushed the toilets again and offered complimentary drinks to Heller and Morris, while also making statements that the condition “kind of happens” and that “it's been flooding like that.” Heller also proffered expert testimony from Damien Serauskas concerning alleged “bellies” in the underground sewer or sanitary piping and their potential contribution to recurring clogs.

PROCEDURAL HISTORY

Deborah Heller alleges that she slipped and fell in a restaurant restroom after sewage emerged from a floor drain. Hillstone moved in limine to exclude eight categories of evidence; the court resolved six categories at the pretrial conference and addressed the remaining two in this Order and Reasons. The court denied the motion as

to testimony concerning statements by a Hillstone employee and evidence concerning alleged sewer-line dips or “bellies.”

DISPOSITION

denied

CASES CITED

- O'Rear v. Fruehauf Corp., 554 F.2d 1304, 1306 n.1 (5th Cir. 1977)
- United States v. Pace, 10 F.3d 1106, 1115-16 (5th Cir. 1993)
- United States v. Powers, 168 F.3d 741, 749 (5th Cir. 1999)
- Sprint/United Management Co. v. Mendelsohn, 552 U.S. 379, 384 (2008)
- Kelly v. Boeing Petroleum Services, Inc., 61 F.3d 350, 356 (5th Cir. 1995)
- Davis v. Mobil Oil Expl. & Producing Se., Inc., 864 F.2d 1171, 1174 (5th Cir. 1989)
- Namer v. Am. Internet Servs., LLC, No. CV 15-3317, 2016 WL 828223, at *5 (E.D. La. Mar. 3, 2016)
- Bocanegra v. Vicmar Servs., Inc., 320 F.3d 581, 584 (5th Cir. 2003)
- Daubert v. Merrell Dow Pharms., Inc., 509 U.S. 579, 592, 113 S. Ct. 2786, 2796, 125 L. Ed. 2d 469 (1993)
- White v. Wal-Mart Stores, Inc., 699 So. 2d 1081, 1084 (La. 1997)