

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

TINA OXLEY,)
)
 Plaintiff,)
)
 v.) CV-09-21-JAW
)
 PENOBSCOT COUNTY, *et al.*,)
)
 Defendants.)

ORDER ON MOTION *IN LIMINE*

Based on a stipulation of the parties, the Court GRANTS the Defendants' Motion *in Limine* insofar as it seeks to exclude evidence to justify the imposition of punitive damages against the Defendants (Docket # 87). The Plaintiff concedes that punitive damages are not available against the County or against Sheriff Ross in his official capacity. *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981); *Powell v. Alexander*, 391 F.3d 1, 23 (1st Cir. 2004).

At oral argument on August 6, 2010, the Defendants withdrew their Motion *in Limine* to the extent they claimed that the Plaintiff failed to timely list Naomi Chavaree as a witness. However, the Defendants maintain their objection to Ms. Chavaree's testimony under Rules 401 and 403. As a late-noticed witness, the Defendants have not had the opportunity to engage in discovery and the Court has scheduled Ms. Chavaree to make herself available for questioning by defense counsel outside the presence of the jury on Monday, August 9, 2010 at 4:00 p.m. The Court will rule at that time whether her testimony must be excluded or limited

under Rules 401 and 403. The Court DEFERS ruling on the portion of the Defendants' Motion *in Limine* that seeks to exclude the testimony of Ms. Chavaree. (Docket # 87).

SO ORDERED.

/s/ John A. Woodcock, Jr.
JOHN A. WOODCOCK, JR.
CHIEF UNITED STATES DISTRICT JUDGE

Dated this 6th day of August, 2010

Plaintiff

TINA OXLEY

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V.

Defendant

PENOBSCOT COUNTY

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Defendant

GLEN ROSS
*In his official Capacity as Penobscot
County Sheriff (Individual capacity
terminated 5/25/10)*

represented by **PETER T. MARCHESI**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

CASSANDRA S. SHAFFER
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ATTORNEY TO BE NOTICED

Defendant

JANE DOE 1
*In her individual Capacity
TERMINATED: 05/12/2009*

represented by **PETER T. MARCHESI**
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ATTORNEY TO BE NOTICED

Defendant

JANE DOE 2
*In her individual Capacity
TERMINATED: 05/12/2009*

represented by **PETER T. MARCHESI**
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Defendant

HANNAH KELLEHER
TERMINATED: 05/25/2010

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