

[CAPTION]

MOTION IN LIMINE
(General)

The Defendant, by counsel, respectfully moves this Court as follows:

1. The Defendant is charged with the offense of [insert offense(s)].
2. The Defendant is scheduled to be tried on this charge on [insert date].
3. Counsel for the Defendant, upon information and belief, has reasonable cause to believe

that the prosecution intends to introduce as evidence the following facts:

a. _____;

b. _____.

4. This evidence is inadmissible for the following reasons:

a. _____;

b. _____.

5. Any probative value of this evidence is substantially outweighed by the danger of the evidence's unfair prejudice, confusion of the issues, and misleading of the jury, and by considerations of undue delay, and needless presentation of cumulative evidence. Thus, the evidence is inadmissible under Indiana Rule of Evidence 403.

6. Such evidence is not necessary for a full and fair determination of the facts of the instant case.

WHEREFORE, the Defendant, by counsel, respectfully requests that this Motion in Limine be granted; and request the Court to order the State of Indiana, through its prosecutors, and its witnesses not to mention, refer to, interrogate concerning, or attempt to convey to the jury in any manner, either directly or indirectly the [insert specific evidence to be excluded] without first obtaining permission of the Court outside the presence of the jury; further instruct the State of Indiana and its witnesses not to make any reference to the fact that this Motion has been filed and granted and to warn and caution each and every one of their witnesses to strictly follow these same instructions; and order all relief just and proper in the premises.

(Signature)

NOTE

Objection to admission of evidence must be made at trial in order to preserve the issue for appeal.

CASE LAW

CASEBANK O.1.b

Davidson v. State, 442 N.E.2d 1076 (Ind. 1982) (motion in limine is only temporary order that requires the party to notify the court when evidence is intended to be offered so that the court at the time can rule on the admissibility of the evidence).

Phillips v. State, 550 N.E.2d 1290 (Ind. 1990) (when a motion in limine is granted, the excluded evidence must be offered at trial to preserve error because an order in limine merely holds evidence in abeyance until the trial court can make its ruling).

Burrus v. Silhavy, 155 Ind.App. 558, 293 N.E.2d 794 (1973) (it is the prejudicial effect of the questions asked or statements made in connection with the offer of the evidence, not the prejudicial effect of the evidence itself, which a motion in limine is intended to prevent).

Inman v. State, 271 Ind. 491, 393 N.E.2d 767 (1979) (no requirement that the wording of the motion in limine describe precisely the prejudice that the moving party expects to be encountered by the evidence or references to the evidence).

Gaines v. State, 456 N.E.2d 1058 (Ind.Ct.App. 1983) (no error results from the trial court's admission of evidence in violation of its order in limine if the evidence is otherwise admissible in the context of the particular trial).

Hill v. State, 51 N.E.3d 446 (Ind.Ct.App. 2016) (The State did not intimidate wife into invoking the Fifth Amendment by cautioning her about the danger of self-incrimination, and the trial court did not abuse its discretion in granting the State's motion in limine. By saying he would abide by the trial court's ruling on the motion in limine, D invited any error that may have occurred. See Wright v. State, 828 N.E.2d 904, 907 (Ind. 2005). Also, any possible error from not allowing wife to testify was harmless because there was other substantial evidence of D's guilt. See Johnson v. State, 747 N.E.2d 623, 629 (Ind. Ct. App. 2001). Held, judgment affirmed.