

1       IN THE CIRCUIT COURT OF THE STATE OF OREGON  
2                       FOR THE COUNTY OF MULTNOMAH  
3  
4       COUNTY OF MULTNOMAH  
5                       Plaintiffs,  
6               v.                       Case No. 23CV25164  
7       EXXON MOBIL CORP. et al.,  
8                       Defendants.

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11  
12               TRANSCRIPT OF PROCEEDINGS  
13                       October 30, 2025  
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1 BE IT REMEMBERED THAT the above-entitled Court  
2 and Cause came regularly on for hearing before the  
3 Honorable Benjamin Souede, said hearing was  
4 reported by Julie A. Walter, Certified Shorthand  
5 Reporter and Registered Professional Reporter, on  
6 October 30, 2025, commencing at the hour of 11:10  
7 a.m., the proceedings being reported in the  
8 Multnomah County Courthouse, 1200 SW First Avenue,  
9 Portland, Oregon.

10  
11 APPEARANCES:

12 LAW OFFICE OF RICHARD SCHECHTER

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2

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1 THURSDAY, OCTOBER 30, 2025

2 P R O C E E D I N G S

3  
4 THE COURT: We are on the record. This is  
5 County of Multnomah versus Exxon Mobil Corp. et al.  
6 That is Case Number 23CV25164. This is the time  
7 set for hearing of defendant Chevron Corporation's  
8 and Chevron U.S.A. Inc.'s motion to strike  
9 references to articles supported or otherwise  
10 influenced by plaintiffs' counsel.

11 I strongly hope that we have everybody we're  
12 expecting to have. It's hard to imagine others  
13 joining us. Welcome to everybody on the Webex  
14 platform as well.

15 If we could take appearances from those  
16 attorneys intending to be heard from this morning,  
17 beginning with counsel for the plaintiff County.

18 MR. COON: Your Honor, James Coon, Thomas,  
19 Coon, Newton & Frost. With me at counsel table are  
20 Richard Schechter and Roger Worthington.

21 Mr. Schechter will be presenting argument today.

22 Also, with the consent of the Court, we have  
23 Alexis Haskett-Wood, part of the Oregon State Bar's  
24 mentor program, here to observe.

25 THE COURT: Thank you, Mr. Coon. And you are

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1 all very welcome.

2 Who is appearing for moving defendant  
3 Chevron -- moving defendants Chevron?

4 MS. ROTHAUGE: Good morning, Your Honor. It's  
5 Renée Rothauge. I am joined today by Julia  
6 Markley, who will be helping us with slides, and  
7 also by Andrea Smith of Gibson, Dunn, who will be  
8 handling the arguments today.

9 THE COURT: Thank you. You are all very  
10 welcome as well.

11 Anybody else who is expecting to be heard and  
12 would like to check in? Okay. Nobody has waived  
13 anything. If somebody else wants to speak up  
14 later, we can make time for that.

15 Okay. I've reviewed, I think, everything I was  
16 supposed to review. I have Chevron Corporation's  
17 motion. I have plaintiffs' response. I have the  
18 various exhibits that have been filed. I have read  
19 all of those things. Also, of course, Chevron's  
20 reply. So I think I've seen everything that you  
21 all wanted me to see. If you're talking about  
22 something and I don't know what you're talking  
23 about, I will surely let you know, but I suspect  
24 there will not be many surprises in that regard.

25 With that said, it is Chevron's motion. You're

1 welcome to proceed.

2 MS. SMITH: Thank you, Your Honor. Good  
3 morning. I thought we would start with the two  
4 articles that we are seeking to have stricken. As  
5 you know, based on the plaintiffs' submission in  
6 opposition to the anti-SLAPP motion, this is a very  
7 intensive scientific-based case, and so the  
8 integrity of the scientific evidence is going to be  
9 critically important, and that's part of the reason  
10 that we're here today. Both the articles at issue  
11 relate to causation, which is a central scientific  
12 issue in the case, and they were represented to the  
13 Court by plaintiffs as being neutral and  
14 independent, and we submit that they were not  
15 totally neutral and independent.

16 So the first was the Callahan-Mankin 2025  
17 article. The published version was titled "Carbon  
18 majors and the scientific case for climate  
19 liability." It ultimately concludes vis-à-vis  
20 Chevron in particular that Chevron alone has  
21 worldwide heat-loss liability of  
22 between 791 billion and 3.6 trillion. This article  
23 was directly cited by plaintiffs in their  
24 opposition; in other words, they featured it  
25 without an intervening expert. And then it was

1 also relied on by Dr. Franta, who is one of the  
2 experts they offered on their prima facie case that  
3 we have also separately moved to strike.

4 THE COURT: Plaintiff says it's not important.  
5 There is tons of other evidence that was submitted.  
6 This article doesn't really matter and isn't  
7 germane to the Court's decision on the anti-SLAPP  
8 motions. I have some questions about why something  
9 would be included on that basis, and I plan to ask  
10 those questions. But for now, do you agree or  
11 disagree, or do these articles matter on the  
12 pending motion?

13 MS. SMITH: I think they matter to the extent  
14 they purport to be able to show a link between  
15 emissions and ultimate harm and be able to  
16 calculate that and fill in all the dots in between.  
17 I think they might not ultimately matter because,  
18 as the Court will see on our motions to strike, the  
19 plaintiffs have not submitted substantial evidence  
20 in support of their prima facie case, and, in fact,  
21 they presented exactly zero evidence on the key  
22 issue, which is whether the alleged so-called  
23 campaign of deception, if it happened at all, which  
24 we dispute, caused anybody to change their behavior  
25 and caused any change in actual emissions. And

1 they certainly haven't quantified by anybody the  
2 emissions that would be at issue in this case  
3 because they are linked to the deception.

4 So we think their case as presented has a  
5 massive hole in it that they have made no effort to  
6 fill. So if the Court would agree with us on that,  
7 then these particular articles on one element of  
8 their showing would not be significant.

9 THE COURT: Okay.

10 MS. SMITH: Keep going.

11 THE COURT: Go ahead.

12 MS. SMITH: The issue with this article, Your  
13 Honor, is that there were two prepublication  
14 versions, a 2022 and 2023 version on the article on  
15 plaintiffs' counsel's website. And, as we stand  
16 here today, we don't know why, how he obtained  
17 them, why he obtained them, who, if anybody, helped  
18 draft them. The article definitely evolved  
19 from 2022 to 2025, and I'll get to those details in  
20 a second. But the point is that they had a much  
21 more litigation focus, and they morphed from  
22 targeting just fossil fuel companies to targeting  
23 Chevron in particular. And we think there is a  
24 significant issue with prepublication access to  
25 scientific literature that's not disclosed.

1           Then we have the second article, Your Honor.

2           THE COURT: That I don't follow. I thought I  
3 just heard you say that prepublication --  
4 undisclosed prepublication access is a problem. Is  
5 that a problem, or is what you're suggesting that  
6 to the extent that augurs that something else is  
7 afoot, it's that something else that might be a  
8 problem?

9           MS. SMITH: I think it's that something else is  
10 afoot. I mean, I think you are entitled to know if  
11 a scientist is providing plaintiff counsel with  
12 prepublication copies. I think you are entitled to  
13 know that, full stop. But certainly the bigger  
14 concern is why was that access given, what did it  
15 consist of, who else was it given to?

16          THE COURT: Okay.

17          MS. SMITH: What happened during the access,  
18 which I think is what Your Honor is focused on.

19          THE COURT: Okay.

20          MS. SMITH: The second article is by lead  
21 author Beverly Law.

22          Can we go to the next slide. There we go.

23          Also 2025, "Anthropogenic climate change  
24 contributes to wildfire particulate matter and  
25 related mortality in the United States." Again,

1 this is an article that puts a very large dollar  
2 figure on purported liability. This article  
3 ultimately concludes that there is \$160 billion in  
4 damage related to climate change as it relates to  
5 wildfire and wildfire particulate matter. Also,  
6 the article itself was never submitted to the Court  
7 by plaintiffs. It was relied on by their expert,  
8 Dr. Swain, but neither he nor plaintiffs nor  
9 plaintiffs' counsel disclosed that it had been  
10 partially funded by plaintiffs' counsel. So on the  
11 record before it submitted to it by plaintiff, the  
12 Court had no way of knowing that, and that was not  
13 voluntarily disclosed to the Court.

14 There is a disclosure if the Court had gone to  
15 the article. As plaintiff points out, there is an  
16 acknowledgment at the end that says partial support  
17 was provided by Woodwell Climate Research and Roger  
18 Worthington. Now, this article was published two  
19 years after this case was filed, and  
20 Mr. Worthington is not identified in this  
21 acknowledgment as plaintiffs' counsel. So I think,  
22 Your Honor, this is a piece of some of the  
23 editorials we submitted to the Court where his role  
24 as plaintiffs' counsel, while relevant to anybody  
25 who is looking at this article and certainly Your

1 Honor or another Court, is not disclosed, so we  
2 don't view this as adequate. It's quite bare  
3 bones, and the nature of the support is not  
4 clarified, but they did clarify in their opposition  
5 that the support was financial funding.

6 Now, if we can return to the Callahan and  
7 Mankin articles.

8 Just the next slide. There we go.

9 I just wanted to review with Your Honor very  
10 quickly the evolution of this article. So this is  
11 the 2022 prepublication version of the Callahan and  
12 Mankin. And I can't read that, so I'm going to  
13 switch to my hard copy.

14 If Your Honor notes, the second sentence of the  
15 intro originally said, quote, "However, a dearth of  
16 evidence quantitatively linking major emitters to  
17 the downstream economic impacts of their emission  
18 makes the causal linkages between emitter and  
19 impact unclear, especially given the compounding  
20 uncertainties at each step in the causal chain from  
21 emission to impact." So a very large  
22 acknowledgment right off the bat about the serious  
23 uncertainties of trying to trace emissions all the  
24 way down to impacts even with the climate modeling  
25 as it exists today.

1       And then it says further down, quote, "The top  
2       five fossil fuel firms have collectively driven  
3       more than \$7 trillion in heat-driven losses,  
4       primarily in lower emitting tropical countries."

5       Then if we go to 2023 on the next slide, this  
6       has been completely rewritten, so there is no  
7       mention of uncertainty anymore. And then there is  
8       a focus on Chevron that was absent in the 2022  
9       version. It says about a little more than halfway  
10      down the intro, quote, "We link Chevron, for  
11      example, to more than 900 billion in heat-related  
12      losses over 1991 to 2020, with those burdens  
13      disproportionately falling on tropical regions  
14      least culpable for warming."

15      And then if we go to the published version  
16      in 2025, it gets even stronger. It says "Emissions  
17      linked to Chevron, the highest-emitting  
18      investor-owned company in our data, for example,  
19      very likely caused between \$791 billion  
20      and \$3.6 trillion in heat-related losses over the  
21      period 1991-2020, disproportionately harming the  
22      tropical regions least culpable for warming."

23      You'd also see, Your Honor, as you went through  
24      these evolutions of these articles, that legal  
25      concepts that weren't in the 2022 version get

1 in 2023 and 2025 such as but for causation. Also  
2 there was a disclosure in the 2023 version of  
3 funding by the ELI climate group, who was the other  
4 entity that we showed Mr. Worthington had  
5 prepublication copies in some of their -- one of  
6 their modules that drops out before this article  
7 gets published in 2020.

8 THE COURT: Let's move to the so-what part of  
9 our discussion.

10 MS. SMITH: So the so what, Your Honor, is that  
11 it is misleading to show -- put in scientific  
12 evidence without disclosing its prominence  
13 including its funding and including the extent to  
14 which plaintiffs' counsel or plaintiff was entitled  
15 to comment on, interact with the authors, encourage  
16 them to make changes that made it more litigation  
17 supportive.

18 THE COURT: All of which is speculative, as we  
19 sit here today, right? We have no idea.

20 MS. SMITH: We have no idea.

21 THE COURT: Okay.

22 MS. SMITH: Due to the narrow nature, I would  
23 submit, of Mr. Worthington's declaration.

24 THE COURT: I understand, but I want to be  
25 clear you're not accusing Mr. Worthington of having

1 done any of those things; you don't know.

2 MS. SMITH: We do not know, Your Honor.

3 THE COURT: Okay. So what we have is an  
4 article that changed over time in a way that  
5 Chevron does not like and that -- and we have  
6 information that Mr. Worthington had and published  
7 early -- an earlier iteration of that scientific  
8 report, right?

9 MS. SMITH: That's correct, Your Honor.

10 THE COURT: Okay. Therefore what?

11 MS. SMITH: Therefore we think that, because we  
12 still don't know why and how Mr. Worthington's firm  
13 got prepublication copies, that they should not be  
14 able to rely on this article or otherwise use it,  
15 hence our request that it be stricken.

16 THE COURT: Even in the absence of any actual  
17 evidence that he had anything other than early  
18 access to it?

19 MS. SMITH: I think early access is enough,  
20 Your Honor, to at least open the door to an  
21 explanation to the Court of how that access was  
22 obtained, why it was obtained and what did happen  
23 during that access.

24 THE COURT: And as you pointed out, that is not  
25 information that Mr. Worthington has provided to

1     this Court?

2           MS. SMITH: That is not, Your Honor. I think  
3     if Your Honor has read his declaration, paragraph 4  
4     uses the word "I" exclusively. There is no neither  
5     myself nor anyone at my firm type language there,  
6     and he states very firmly, I obtained these two  
7     articles, full stop. He could have shared how,  
8     why, whether he interacted with the authors at all,  
9     but he chose not to do that, and I think that that  
10    raises even more issues. And I think there is  
11    enough there there to not allow them to proceed  
12    with the use of these articles in an absence of a  
13    further explanation, which is, of course, why we  
14    seek to strike them.

15          THE COURT: Is your -- obviously, your  
16    arguments between the two articles are different?

17          MS. SMITH: Yes. The one was failure to show  
18    the Court on the record that one had been funded,  
19    which is a very particular type of support or  
20    influence. And then this one, it's unknown what  
21    the nature of the -- why there was access and what  
22    it consisted of.

23          THE COURT: Okay.

24          MS. SMITH: So it leaves us in a difficult  
25    position. We can't speak to the truth of the facts

1 because we don't have them. That's why we asked  
2 for either additional discovery for either  
3 ourselves or the Court to question Mr. Worthington  
4 to sort this out or that the articles be stricken  
5 now because what doesn't -- what isn't proper under  
6 Hazel-Atlas and otherwise is allowing scientific  
7 articles to go forward that did have input and  
8 influence from one side or the other's counsel  
9 that's not disclosed openly and freely. That's our  
10 position, Your Honor.

11 THE COURT: Okay. Anything else?

12 MS. SMITH: No, Your Honor.

13 THE COURT: Let me ask one more question, even  
14 though I know you're eager to sit down. Why  
15 should -- there is a lot of ink spilled about the  
16 ELI and about the editorials or the -- excuse me,  
17 the op-eds. Why should the Court care about any of  
18 that? I mean, maybe the Bar cares. Maybe other  
19 people care. But why -- what, if anything, do you  
20 think the Court should do with that information?

21 MS. SMITH: We think, as we hopefully said in  
22 our papers, Your Honor, that it provides a relevant  
23 context. I mean, all evidence needs to be looked  
24 at in context, and so the failure to disclose the  
25 funding relationship is not dissimilar to the

1 failure to disclose your role as plaintiffs'  
2 counsel when you have a different audience in terms  
3 of an op-ed.

4 THE COURT: Okay. But even if we assume  
5 failing to disclose to the readers of the "Bend  
6 Bulletin" is in some way poor form or not good  
7 behavior, it's not inside of this case. You're  
8 just saying he does it out there, too.

9 MS. SMITH: Correct. It gives the Court some  
10 context in which to judge his sophistication,  
11 whether there was intentionality here and those  
12 types of issues. But we're not saying you should  
13 direct him to do something with regard to  
14 editorials or even the ELI module.

15 THE COURT: Okay. Okay. Thank you.

16 Mr. Schechter.

17 MR. SCHECHTER: May it please the Court, good  
18 morning.

19 THE COURT: Good morning.

20 MR. SCHECHTER: Your Honor, Chevron's charge  
21 that Roger Worthington or anyone on behalf of the  
22 County has engaged in fraud on the Court is both  
23 false and unsubstantiated.

24 THE COURT: This was good behavior; you're  
25 proud of it?

1 MR. SCHECHTER: Which particular behavior, Your  
2 Honor?

3 THE COURT: The submission of the articles  
4 without any notice to the Court about anything  
5 having to do with one or the other articles. You  
6 stand by it; you're proud of it; you'd do it again?

7 MR. SCHECHTER: So, first, Your Honor, with  
8 respect to the Callahan and Mankin article with  
9 which most time was devoted, Mr. Worthington had  
10 nothing to do with that article, and he said so in  
11 his declaration.

12 THE COURT: You feel good about it? There is  
13 nothing wrong with it; you'd do it again?

14 MR. SCHECHTER: There is nothing wrong with  
15 that. He had no role to play in that whatsoever.

16 With respect to the -- the article, I'm going  
17 to call it the wildfire article by Law, it is  
18 disclosed in the article. Your Honor, for the  
19 Court's convenience, we probably should have  
20 identified that, but as the Court knows, funding of  
21 articles does not make the article inadmissible in  
22 evidence. It simply means -- it simply gives the  
23 other party a basis for cross-examination on that  
24 issue, and it's no different than most experts.  
25 This question -- you know, this happens all the

1 time in trials, how much are you being paid for  
2 this, that kind of thing.

3 THE COURT: Goes to weight.

4 MR. SCHECHTER: Goes to weight, exactly, Your  
5 Honor. And since the Chevron folks have raised the  
6 procedural posture of this case, it is worth  
7 noting, Your Honor, we're in an anti-SLAPP setting.  
8 This article was part of a response to an  
9 anti-SLAPP motion, and that means, first, before  
10 the Court even gets to the article, Chevron has to  
11 prove because the burden of proof in this motion is  
12 on Chevron.

13 THE COURT: Initially, sure, but we don't  
14 bifurcate the briefing, right?

15 MR. SCHECHTER: No, no. But I'm just saying in  
16 this motion --

17 THE COURT: Sure.

18 MR. SCHECHTER: -- where Chevron is alleging  
19 fraud on the Court, Chevron has the burden to prove  
20 by clear and convincing evidence that this one  
21 citation is material to the Court's decision-making  
22 process. And we're going to talk about that. But  
23 they can't get there until they show they were,  
24 one, entitled to file the motion.

25 There are two statutory exclusions that

1 prevented Chevron from filing this motion, the  
2 county counsel exclusion and the commercial speech  
3 exclusion, which the Court has recently addressed  
4 in the Northwest Natural Gas case. Chevron makes  
5 no effort to show it was entitled to those -- get  
6 past those exclusions, and it makes no effort to  
7 show that it has met the first step of the  
8 anti-SLAPP statutory requirement for the purposes  
9 of this motion. So in an effort to prove  
10 materiality, Chevron has totally failed to prove  
11 that the Court even gets to this article.

12 THE COURT: It's just fraud in the air, at  
13 most?

14 MR. SCHECHTER: Well, we don't believe it's  
15 fraud at all, Your Honor.

16 THE COURT: I understand.

17 MR. SCHECHTER: But giving Chevron the benefit  
18 of every doubt, it is not material. It is as close  
19 to material as Pluto is to the sun.

20 THE COURT: Does it get -- does it become  
21 material -- at what point would it become material?

22 MR. SCHECHTER: In this particular setting,  
23 Your Honor, this article that Mr. Worthington,  
24 where he partially funded the research, is never  
25 material to the resolution of the anti-SLAPP

1 motion, and that's --

2 THE COURT: And so plaintiff is conceding or  
3 averting or declaring or boasting that it submitted  
4 an article or it submitted the declaration of an  
5 expert who relied in part on an article that is not  
6 material to the task of the Court in resolving that  
7 motion?

8 MR. SCHECHTER: Well, no, Your Honor, because  
9 material in this setting, fraud on the Court, means  
10 its central to the resolution of this case. And is  
11 the fact that there is harm caused by wildfire  
12 smoke central to the resolution of this case, yeah,  
13 central to some component of that, but the article  
14 itself focuses on the number of deaths, and the  
15 number of deaths is not central to the resolution  
16 of the anti-SLAPP motion.

17 THE COURT: It is essential enough that  
18 plaintiff submitted it and wanted the Court to  
19 consider it. I agree with you there are a number  
20 of things -- hurdles that would need to be jumped  
21 and tunnels that would need to be gone through  
22 before the Court got to that part of the analysis,  
23 but it was obviously important enough to plaintiff  
24 to include it if and when -- so that the Court  
25 would be influenced by it if and when the Court got

1 to that point.

2 MR. SCHECHTER: It was central enough to  
3 Dr. Swain, that he believed it was important. And  
4 we didn't write Dr. Swain's, you know, declaration.  
5 This was something he believed and was submitted to  
6 the Court, yes.

7 THE COURT: Okay.

8 MR. SCHECHTER: May I jump back a point?

9 THE COURT: Please.

10 MR. SCHECHTER: We don't even -- we don't  
11 believe that the authority that Chevron has cited  
12 for the basis for this motion and for the relief it  
13 seeks, that statute provides the Court authority.  
14 Chevron relies on ORS 1.010.

15 Does the Court have ORS 1.010 --

16 THE COURT: I do.

17 MR. SCHECHTER: -- in front of you? So 1.010  
18 is the general powers of the court of justice.  
19 Nowhere in that statute does it authorize the Court  
20 to consider motions regarding fraud on the Court,  
21 and it certainly does not authorize any of the  
22 relief Chevron seeks, either the opportunity to  
23 depose Mr. Worthington or whoever else they have in  
24 mind or to strike evidence.

25 If Your Honor looks at 1.020, which is the

1 contempt statute that follows 1.010, it says, for  
2 the effectual exercise of the powers specified in  
3 ORS 1.010, the Court may punish by contempt. That  
4 is the only power 1.010 grants to courts.

5 And there are three cases from the Oregon Court  
6 of Appeals that specifically address this issue.  
7 If the Court would like, may I approach and hand  
8 the Court the cases?

9 THE COURT: You certainly may. While you do  
10 so, I'm interested in whether you think Oregon Rule  
11 of Civil Procedure 21E is implicated at all on this  
12 motion?

13 MR. SCHECHTER: So while I walk, I'm going to  
14 let Mr. Coon tell me what to -- how to answer that  
15 question. I have to go back and look.

16 THE COURT: Sure thing.

17 MR. SCHECHTER: Copy for you.

18 Your Honor, a copy for you of the three cases.

19 THE COURT: And I won't play guess what I'm  
20 thinking. ORCP 21E, "On motion made by a party" or  
21 if no -- "before responding to a pleading or, if no  
22 responsive pleading is permitted by these rules, on  
23 motion made by a party within 10 days after the  
24 service of the pleading on such party or on the  
25 court's own initiative at any time, the court may

1 order stricken: any sham, frivolous, or irrelevant  
2 pleading or defense or any pleading containing more  
3 than one claim or defense not separately stated" or  
4 "any insufficient defense or any sham, frivolous,  
5 irrelevant, or redundant matter inserted in a  
6 pleading" or "any response to an amended pleading,  
7 or part thereof, that raises new issues, when  
8 justice so requires."

9 MR. SCHECHTER: I believe that's about  
10 pleadings, Your Honor, and not evidence.

11 THE COURT: Okay.

12 MR. SCHECHTER: I have not looked at the case  
13 law on it, but it appears to be focused on  
14 pleadings and defenses as opposed to evidence.

15 THE COURT: Okay.

16 MR. SCHECHTER: But there are three Oregon  
17 Court of Appeals cases that have addressed  
18 ORS 1.010. The first one is Phan v. Morrow. And I  
19 have highlighted for all counsel on the third page.  
20 In Phan v. Morrow, it says failure to comply with  
21 the Court's order may result in the imposition of  
22 sanctions.

23 However, in this particular case where  
24 plaintiffs' counsel -- where the Mr. Phan's counsel  
25 did not show up for a hearing, the Court could not

1 have properly sanctioned Mr. Phan by dismissing the  
2 case. And there is important language here. It  
3 says "we are unaware of any authority under  
4 ORS 1.010 allowing the court to visit the sins of  
5 petitioner's court-appointed counsel on his  
6 client."

7 So, Your Honor, the fundamental principle is  
8 you cannot punish a client for something that the  
9 lawyer did wrong under 1.010. In this case, there  
10 is no allegation that Multnomah County has done  
11 anything wrong, Your Honor. Chevron does not make  
12 that allegation, and so 1.010 does not provide the  
13 Court any basis for striking either of the articles  
14 in the evidence. It may provide a basis for  
15 assessing contempt. However, the contempt statute,  
16 Mr. Worthington -- the failure to disclose -- the  
17 failure to highlight for the Court what is  
18 disclosed in an underlying article is nowhere near  
19 sufficient to establish contempt, in our view.

20 The Laack case, the Laack family v. Botello,  
21 further emphasizes this, also on page 3, again,  
22 indicating the Court may find counsel in contempt  
23 and impose sanctions against that counsel for  
24 failing to comply with the Court's order or attend  
25 a status conference, but there is no statutory

1 authority for providing any sanction against the  
2 client.

3 And the same with the Markstrom v. Guard  
4 Publishing case. These are the three cases that we  
5 have been able to locate that deal with this  
6 particular issue, the power on ORS -- under  
7 ORS 1.010 for the Court to assess any type of  
8 sanction.

9 And, Your Honor, these are all very clear.  
10 None of these cases would authorize any sanction  
11 that might impact the County, which is excluding  
12 the articles, and ORS 1.010 does not contain any  
13 power -- authorization for Courts to order a  
14 deposition or discovery into the conduct of  
15 counsel. That is the sole basis that Chevron has  
16 alleged for its motion. The motion fails. Like a  
17 house of cards, Your Honor. You flick and the  
18 foundation falls, the rest falls as well.

19 THE COURT: In a different case with different  
20 lawyers and different parties, nothing having to do  
21 with anybody in this room, if there was a motion to  
22 strike a portion of an affidavit or references to a  
23 scientific article by a defendant and the plaintiff  
24 got up and said, yep, you're right. That article  
25 is not only wrong, it was made up. We went into

1 the back room, and we created it out of whole  
2 cloth. It is a complete fabrication with  
3 absolutely no scientific grounding whatsoever. You  
4 may have noticed that because it was written in  
5 crayon and also included hand-drawn pictures. Your  
6 argument would be the same?

7 MR. SCHECHTER: With respect to ORS 1.010, but,  
8 Your Honor, you have hit on a critical difference  
9 here. Because the Court has authority to deal with  
10 fabricated evidence but there is no allegation this  
11 evidence was fabricated. And in our response, Your  
12 Honor, on page 7 of our response, we specifically  
13 challenged Chevron. We said, you have no evidence  
14 that anything about the Law article was fabricated,  
15 is false or is in any way misleading.

16 THE COURT: We have a mechanism in Oregon for  
17 adducing evidence when somebody believes something  
18 is afoot and there is no -- there is not yet any  
19 evidence in the record. You're resisting that  
20 mechanism with all you've got.

21 MR. SCHECHTER: Which mechanism are you  
22 referring?

23 THE COURT: Discovery. That's how civil  
24 litigation works.

25 MR. SCHECHTER: Discovery, Your Honor, if the

1 Court orders discovery with respect to the Mankin  
2 article, the first article, we're going to object  
3 as attorney-work product. The mechanism by which  
4 we obtained that information reveals our efforts to  
5 investigate and establish this case.

6 THE COURT: But you don't think I get to order  
7 it in the first place. My point is it's a little  
8 cute to argue on the one hand there is no evidence  
9 of any shenanigans and also the Court does not have  
10 the power, inherent, statutory, otherwise, to  
11 engage the mechanism that Courts usually use for  
12 the discovery of evidence.

13 MR. SCHECHTER: Not under 1.010, which is the  
14 mechanism -- which is the statute they chose to  
15 base their whole motion on.

16 THE COURT: Okay.

17 MR. SCHECHTER: Not trying to be cute, Your  
18 Honor.

19 THE COURT: I understand.

20 MR. SCHECHTER: And that gets to the -- really  
21 the second point that I'd like to make is that  
22 there is no evidence of fraud on the Court in this  
23 case. With respect to the Mankin article, Your  
24 Honor, Mr. Worthington has filed a declaration. It  
25 has nothing to do with this. That's the allegation

1 they made. He has said he has nothing to do with  
2 this article. He didn't fund it. He didn't -- he  
3 didn't influence it. He didn't help write it. He  
4 didn't pull the crayon out and make suggestions to  
5 them. He just had nothing to do with it. The mere  
6 fact that he has a prepublication copy does not  
7 tell us anything, as you have noted.

8 Chevron has the burden, Your Honor, of proving  
9 by clear and convincing evidence that  
10 Mr. Worthington did something wrong, and they have  
11 offered nothing. They failed to carry their burden  
12 of proof with respect to the Mankin-Callahan  
13 article.

14 With respect to the -- with respect to the Law  
15 article, there is no dispute that Mr. Worthington  
16 was a partial funder of that article, but he has  
17 filed a declaration in which he stated he had  
18 nothing to do with the substance of the article.  
19 And the mere fact that someone partially funds a  
20 scientific study does not mean they had any  
21 influence on the results of the study.

22 May I give the Court a simple example of this?

23 THE COURT: Go ahead.

24 MR. SCHECHTER: When my son was little, he  
25 loved to bowl and he and his -- when we would have

1 his buddies over to spend the night, my wife would  
2 dispatch me with the boys down to the bowling alley  
3 so they could burn off some energy. And I would  
4 pay for them to bowl, Your Honor, but I didn't do  
5 anything to affect the score. Whatever score they  
6 reached was whatever they bowled.

7 And that's what we have here in this case.  
8 Mr. Worthington helped fund the article, but there  
9 is zero evidence that the article was fabricated,  
10 fraudulent or that Mr. Worthington did anything  
11 wrong. In fact, Your Honor, this is the incredible  
12 thing. If you look at the article on Exhibit 5,  
13 page 7, Table 3, which has a list of the counties  
14 that are most affected by wildfire smoke, Multnomah  
15 County is not even on it. I told Mr. Worthington,  
16 if you're going to buy testimony, at least have it  
17 relevant to Multnomah County. I mean, this is the  
18 claim that he somehow fabricated this or that this  
19 is done to benefit Mr. Worthington or the  
20 plaintiffs in this case is ridiculous.

21 THE COURT: It's ridiculous to suggest that an  
22 attorney who helped fund a study, that that  
23 attorney then retains an expert in a case who  
24 relies on that study; it's ridiculous to suggest  
25 that that is not in some way mutually reinforcing

1 or that, if you'll forgive the expression, that  
2 there might be some smoke there? I'm not saying --  
3 I have no -- as you say, I have no evidence  
4 Mr. Worthington did anything not only illegal but  
5 scientifically compromising with respect to the  
6 study. I have no idea. I'm not accusing him of  
7 anything. But you're saying it's ridiculous to  
8 suggest --

9 MR. SCHECHTER: It's probably not ridiculous,  
10 Your Honor.

11 THE COURT: Okay. So what do we have here?  
12 What we have here is an attorney who has appeared  
13 on a case, who has filed a lawsuit on behalf of a  
14 client who, in filing a response to a motion to  
15 strike, submitted an affidavit from an expert who  
16 relied on a study that that attorney helped to  
17 fund.

18 MR. SCHECHTER: Correct. Who relied in part --

19 THE COURT: Sure.

20 MR. SCHECHTER: -- in a small part on one issue  
21 in his --

22 THE COURT: Understood.

23 MR. SCHECHTER: -- declaration.

24 THE COURT: Let's now talk about fraud for a  
25 moment. Is it not an inference that is available

1 to a reasonable person that perhaps at the very  
2 least the reason that attorney would have helped  
3 sponsor that article is to help that attorney's  
4 case somewhere down the road, and, further, is it  
5 not an available reasonable inference that the  
6 attorney might well have tried to shape or  
7 influence the conclusions of that study separate  
8 and apart from fabricating anything but simply that  
9 that attorney would have helped to steer that  
10 inquiry and the resulting report in some way? Are  
11 those not two very plain available inferences?

12 MR. SCHECHTER: Absolutely, Your Honor. And  
13 they are the grist for the cross-examination mill.  
14 That is -- in any case in which the credibility of  
15 the witness is on the line, that is very clear  
16 cross-examination.

17 THE COURT: But on this motion, I don't think  
18 it is likely that we're going to have live  
19 testimony, right? The testimony comes in the form  
20 of the declarations, and there is no opportunity,  
21 absent discovery, which you're resisting, to  
22 actually inquire on those points beyond, well,  
23 there is an inference that's available.

24 MR. SCHECHTER: You are correct, Your Honor.  
25 And because under -- considering anti-SLAPP

1 motions, the Court is not to weigh the credibility  
2 or weigh the evidence in any way, shape or form.

3 THE COURT: Which, if the attorney, not naming  
4 anyone -- if our hypothetical attorney in this  
5 position is looking to get up to no good, that's a  
6 pretty clean shot at it, isn't it, on a motion when  
7 there isn't going to be live testimony and where,  
8 indeed, the Court is precluded from engaging in a  
9 weighing contest?

10 MR. SCHECHTER: It could be, Your Honor,  
11 depending on the setting and depending on the  
12 movant's ability to prove by clear and convincing  
13 evidence that there was fabrication. Because to  
14 some extent, Your Honor, in every -- in every  
15 anti-SLAPP motion where an expert's testimony,  
16 expert's declaration, is submitted, there is always  
17 room for cross-examination on prejudice, on bias.  
18 And the Court -- the legislature does not authorize  
19 it, and the courts in Oregon don't allow it because  
20 courts aren't to be weighing the credibility of  
21 testimony. It violates the constitutional right to  
22 trial by jury. The same is true on summary  
23 judgment. On summary judgment, a lawyer doesn't  
24 even have to submit the expert report, Your Honor.  
25 The lawyer just provides a piece of paper.

1 THE COURT: I'm familiar --

2 MR. SCHECHTER: I know you are.

3 THE COURT: -- with the practice of summary  
4 judgment in Oregon. I think what I'm struggling  
5 with is the sort of nested bias here because the  
6 argument is not that the expert who wrote the  
7 report was bought. The argument is -- and, again,  
8 I'm not casting allegations, but the suggestion is,  
9 well, how do we know that -- even if we assume that  
10 this expert is of good faith -- and, of course, the  
11 expert was paid for, but that, as you say, is  
12 normal court procedure. But how do we know that  
13 this expert isn't relying on something in good  
14 faith but mistakenly because the thing he's relying  
15 on is corrupt because the attorney purchased the  
16 result of that report on which the expert in good  
17 faith is relying?

18 MR. SCHECHTER: And in this case, Your Honor,  
19 there is a clear way. If you look at the -- at the  
20 Law article at the -- which is Exhibit 5 --

21 THE COURT: I'm with you.

22 MR. SCHECHTER: -- and you go to page 9, you  
23 will see there that there is a section called "Data  
24 availability" where all the data that the experts  
25 used in writing this article is available, and on

1 the top of the next column, it says Code  
2 availability." The article involved computer  
3 modeling. The code is available. All publicly  
4 available. If Chevron thought that there was  
5 something fabricated or fraudulent about this, all  
6 they had to do was pull the data and run it through  
7 the computer. Chevron has almost 50,000 employees,  
8 Your Honor, some of whom know how to use a  
9 computer, many of whom are scientists and  
10 engineers. They couldn't find one person to say  
11 the article was fabricated or false or had bad  
12 methodology? They couldn't find one expert? That  
13 is a check with respect to this article, Your  
14 Honor. It is -- the data is publicly available.  
15 The fact that Chevron has offered no evidence that  
16 it's fabricated, false, uses bad methodology,  
17 whatever, to us, that is telling.

18 There may be other instances where other  
19 lawyer -- where other lawyers pull out a crayon, do  
20 something wrong, as the Court suggested, but it's  
21 not here. There is no evidence of it, and Chevron  
22 had the burden of proving it by clear and  
23 convincing evidence before anything.

24 THE COURT: Anything else?

25 MR. SCHECHTER: Your Honor, we don't even think

1     there is a legal basis for fraud on the Court. As  
2     we have pointed out to the Court, fraud on the  
3     Court requires evidence of extrinsic -- the Court  
4     knows this from the A.B.A. v. Wood case. Fraud on  
5     the Court is a subspecies of fraud. It requires  
6     evidence of extrinsic fraud, and there is no  
7     evidence of extrinsic fraud in this particular  
8     case. And there is no -- here is the unusual part  
9     of this, Your Honor.

10         Fraud on the Court requires conduct that  
11         affects the outcome of the case, but there is no  
12         outcome. The Court has not yet even resolved this  
13         case. And so there is no way for the -- for  
14         Chevron to prove fraud on the Court because there  
15         is no outcome that was fraudulently obtained.  
16         There is no interference with the normal practice  
17         of Courts resolving matters. And they have raised  
18         it here. There is no -- nobody has interfered with  
19         Chevron's ability to raise the facts, to draw the  
20         Court's attention to this issue. The Court will  
21         resolve it pursuant to the anti-SLAPP statute and  
22         the rules set down by the appellate courts in  
23         Oregon, and we're totally confident of that.

24         THE COURT: Mr. Schechter, thank you.

25         MR. SCHECHTER: Thank you, Your Honor.

1 MS. SMITH: Thank you, Your Honor. I'm going  
2 to bounce around a little bit, if that's all right.

3 So with regard to the Court's question  
4 about 21E, which I was not previously familiar  
5 with, I will admit, Section 2 appears to say that  
6 the Court can strike anything that's sham or  
7 frivolous that's inserted in a pleading, and that  
8 would certainly include, I think, the citation to a  
9 scientific article. So that does seem to be a  
10 relevant provision for the Court to operate under.

11 In terms of the Court's authority under 1.010,  
12 I was -- the cases that counsel handed were not in  
13 the briefing, so I have not had more than a few  
14 seconds with them. But they all seem to stand for  
15 the proposition that under that section you don't  
16 have the authority to strike an entire claim or  
17 dismiss an entire case based on the conduct of  
18 counsel. That's not at issue here.

19 You certainly have inherent authorities  
20 under 1.010, and in the cases that we cited in our  
21 briefing, I think they made clear that that  
22 inherent authority to control the processes before  
23 Your Honor includes being able to guard against  
24 things like failure of counsel to meet its duty of  
25 candor or make disclosures about funding and other

1 issues.

2 On the issue of the cross-examination -- and I  
3 think what Your Honor very aptly described as  
4 nested bias -- even if we were further down the  
5 road, the person you get to cross-examine is the  
6 testifying expert, not the 200 other authors that  
7 they rely on. So the issue that Ms. Law was funded  
8 by plaintiffs' counsel on this occasion and four or  
9 five others is information that should have been  
10 provided. And they did not respond to this  
11 motion -- I'm a little bit confused by the theory  
12 that none of these articles are material or  
13 relevant because, A, as the Court pointed out, they  
14 submitted them, and, B, in the face of this motion,  
15 their response was not, well, we will just withdraw  
16 those two articles because nobody cares and save  
17 everybody time.

18 THE COURT: It was not.

19 MS. SMITH: So I just don't think that can be  
20 accepted.

21 In terms of the idea that they are going to  
22 raise attorney-client work product, I think there  
23 is a bit of a sword-and-a-shield problem here  
24 because, on the one hand, he put in a declaration  
25 saying no involvement but didn't speak on behalf of

1 his entire firm, but now if we get to question him  
2 about that representation, he's going to assert  
3 work product or attorney-client privilege. Seems  
4 like a bit of a sword-and-a-shield issue.

5 I would also note -- and we have this on a  
6 slide, but we don't have to put it up, but if we  
7 have the opportunity -- that we saw these  
8 pre-public versions because they were posted to  
9 their website. So how they can represent  
10 attorney-client work product over which the  
11 privilege has not been waived is certainly unclear.

12 Then I will go back to the fact that in the  
13 argument about this going to the weight -- I think  
14 the funding would go to the weight had they  
15 disclosed it. But as we know, we're here on an  
16 issue of disclosure. And the Court is being asked  
17 to determine if the plaintiffs submitted, quote,  
18 substantial evidence on each of its claims. So  
19 it's not like you don't look at the evidence and  
20 consider it at all. Certainly you don't create the  
21 two-step process that they did in the one case  
22 where they waived -- they looked at the plaintiffs'  
23 evidence and said it was substantial and then  
24 looked at the defendants' evidence and said it's  
25 better, and so they granted the anti-SLAPP in

1 error. Yes, you don't do that, but you do have to  
2 evaluate the evidence before you, and you have to  
3 confirm that it's admissible evidence. And if it's  
4 been misrepresented to the Court, that should not  
5 be the case.

6 In terms of whether they're central or not, I  
7 think we covered this in our briefing, but at least  
8 the Supreme Court in Hazel-Atlas rejected that as a  
9 requirement on an issue like this. In reversing  
10 the lower court, the U.S. Supreme Court held that  
11 it was not necessary to engage in such a, quote,  
12 "attempted appraisal," closed quote, of the  
13 centrality of the article. It was sufficient that  
14 Hartford's counsel had demonstrated that the  
15 article was material through their efforts to  
16 publish it. And I would analogize that here in  
17 terms of through their efforts to cite it in their  
18 opposition and rely on it.

19 In terms of the extrinsic-intrinsic fraud  
20 issue, I think we addressed that in our reply brief  
21 as not being relevant here in the anti-SLAPP  
22 context. Even if it were relevant, Your Honor, I  
23 think in Hazel-Atlas the Court treated out-of-court  
24 involvement in scientific articles as some sort of  
25 extrinsic fraud because they set aside a judgment

1 based on it nine years after it had been issued.

2 And then, Your Honor, I would just like to draw  
3 the Court's attention, I think, to some concepts.

4 In the matter of the New York Asbestos  
5 Litigation v. Georgia-Pacific, the Court said "'The  
6 publication of [research] findings and conclusions  
7 invites use by persons whom the findings favor and  
8 invites reliance by the finders of fact. The  
9 public has an interest in resolving disputes on the  
10 basis of accurate information.'" And all the  
11 courts indicate that any involvement by plaintiffs'  
12 counsel in a study, whether it's funding or  
13 otherwise, is relevant to assessing the accuracy of  
14 that information.

15 And I think we have the issue here, Your Honor,  
16 where we don't have a forthcoming declaration on  
17 the prepublication issues. We have funding that  
18 clearly was not disclosed, and that will have a  
19 tendency to mislead the Court and any other trier  
20 of fact.

21 So it's our position, Your Honor, that either  
22 there should be discovery granted, which they are  
23 opposing while saying that nothing has happened  
24 here, or that the articles should be stricken for  
25 the purposes of the anti-SLAPP. And their argument

1 basically is that, even in the Hazel-Atlas context,  
2 had it been an anti-SLAPP motion instead of a  
3 motion to set aside a nine-year-old judgment, the  
4 Court's hands would have been tied as Your Honor  
5 noted earlier in the hypothetical. The idea that  
6 you can't do anything about the failure to make  
7 disclosures to the Court that should have been  
8 made, it's just antithetical to our entire process,  
9 and it can't be right. So we'd ask that the motion  
10 be granted, Your Honor.

11 THE COURT: Thank you. Any last thoughts?

12 MR. SCHECHTER: Just very quickly, Your Honor.  
13 As we noted in our response, none of the cases that  
14 the defendant has cited involve anything near the  
15 facts in this case. They all involve fabricated or  
16 fraudulent evidence. Chevron has the burden of  
17 proof here. They failed to meet that burden of  
18 proof.

19 And, Your Honor, we've looked. We cannot find  
20 any case in the history of American jurisprudence  
21 in which any Court has ever held that anything  
22 similar to the facts in this case, the funding of  
23 an article that is disclosed in the article but not  
24 highlighted for the Court, constitutes fraud on the  
25 Court. And notably, after we put that in our

1 response, Chevron has not provided the Court with  
2 any such case either.

3 THE COURT: Perhaps that's because no lawyer in  
4 the history of American jurisprudence thought it  
5 appropriate to submit an expert declaration relying  
6 on an article that the plaintiffs' lawyer helped  
7 buy.

8 MR. SCHECHTER: Your Honor, there are a number  
9 of cases, and we provided the Court with three or  
10 four of the cases, including the Wade case that  
11 lists them, where evidence of funding by a lawyer  
12 is relevant on the issue of credibility. And we're  
13 not disputing that it's relevant on the issue of  
14 credibility, and if that article is cited at trial  
15 or if somebody comes to trial and relies on it,  
16 have at it.

17 THE COURT: Okay. Thank you.

18 MR. SCHECHTER: Thank you.

19 THE COURT: I appreciate the arguments. Okay.  
20 Here is where we are. As so often happens with  
21 lawyers in a courtroom or lawyers around the dinner  
22 table, there are two things going on at the same  
23 time. One is the technical discussion of the laws  
24 that are cited and apply, the statutes that are  
25 relevant, the case law that reads on those

1 statutes. We talk about those things because they  
2 matter and because they drive outcomes and because  
3 that's how a nation of laws works. And they're not  
4 the only things that matter.

5 Here I agree with plaintiff that there is not a  
6 sufficient basis to find a fraud upon the Court. I  
7 don't believe -- certainly with respect to the  
8 prepublication article. I think that's an easier  
9 call. The wildfire article as well. I think -- I  
10 think we have not met a set of facts that establish  
11 fraud upon the Court. And that resolves part or  
12 all of the motion before the Court.

13 What we also have is an almost gobsmacking  
14 failure by plaintiff to do anything close to what  
15 we expect counsel and a party to do in litigation,  
16 especially in litigation that is well funded, that  
17 is hard fought, that is complicated, that is about  
18 important issues. I just want to say it clearly.  
19 It is not acceptable to submit a declaration by an  
20 expert that is based in part on a reliance on a  
21 scientific article that plaintiffs' counsel helped  
22 to fund without pointing out to the Court that that  
23 is so. I agree with Mr. Schechter; that goes to  
24 weight. That goes to cross-examination. But it  
25 can only go to weight, it can only be

1 cross-examined if people know about it, if the  
2 Court is aware of it. Hiding the ball there is so  
3 completely out of bounds it almost defies belief.  
4 It doesn't create a fraud because, as Mr. Schechter  
5 points out, fraud has a definition and we're not  
6 there. Whether or not it violates Rule 3.3 of the  
7 Oregon Rules of Professional Conduct is outside of  
8 my purview, and I'm not going to opine on it. But  
9 I will say that this judge expects more of the  
10 lawyers that appear in this court.

11 And so I'm denying the motion to strike. I'm  
12 not going to order discovery. But I can assure you  
13 that, if and when the Court gets to the point of  
14 having to weigh the quality of plaintiffs'  
15 evidence, understanding that at that point we're  
16 not doing comparative weighing, we're only looking  
17 at whether what is on plaintiffs' side is enough,  
18 the expert's reliance on the wildfire article will  
19 carry absolutely no weight. The entirety of that  
20 expert's opinion will be diminished because of this  
21 behavior. And so what has been achieved by this  
22 knowing hiding of the ball is beyond me. This is  
23 simply not an appropriate way to practice law in  
24 the courts of the state of Oregon.

25 The motion is denied. Plaintiff is directed to

1       prepare a form of order to that effect.

2           Is there anything else for the record from any  
3 party?

4       MS. SMITH:   No, Your Honor.   Thank you.

5       MR. SCHECHTER:   Nothing, Your Honor.   Thank  
6 you.

7       THE COURT:   I appreciate the arguments of the  
8 lawyers.   Thank you.   Have a good day.

9           (PROCEEDINGS ADJOURNED 12:05)

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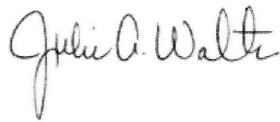
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C E R T I F I C A T E

I, Julie A. Walter, CSR No. 90-0173, do hereby  
certify that, the hearing before Judge Benjamin  
Souede, was reported by me at the time and place  
mentioned in the caption herein; that said hearing,  
was taken down by me in stenotype and thereafter  
reduced to typewriting; and, that the foregoing  
transcript, Pages 1 to 46, both inclusive,  
constitutes a full, true and accurate record of  
said hearing, and of all other proceedings had  
during the taking of said hearing, and of the whole  
thereof, to the best of my ability.

Witness my hand at Portland, Oregon, this 3rd  
day of November, 2025.



Julie A. Walter  
CSR No. 90-0173

[& - air]

<b>&amp;</b>	<b>2025</b> 1:13 2:6	<b>8</b>	15:21
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[liability - multnomah]

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[truth - worthington]

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Oregon Rules of Civil Procedure  
Rule 39, Depositions Upon Oral Examination

(F) Submission to Witness; Changes; Statement.

F(1) Necessity of submission to witness for examination. When the testimony is taken by stenographic means, or is recorded by other than stenographic means as provided in subsection C(4) of this rule, and if any party or the witness so requests at the time the deposition is taken, the recording or transcription shall be submitted to the witness for examination, changes, if any, and statement of correctness. With leave of court such request may be made by a party or witness at any time before trial.

F(2) Procedure after examination. Any changes which the witness desires to make shall be entered upon the transcription or stated in a writing to accompany the recording by the party taking the deposition, together with a statement of the reasons given by the witness for making them.

Notice of such changes and reasons shall promptly be served upon all parties by the party taking the deposition. The witness shall then state in writing that the transcription or recording is correct subject to the changes, if any, made by the witness, unless the parties waive the statement or the witness is physically unable to make such statement or cannot be found. If the statement is not made by the witness within 30 days, or within a lesser time upon court order, after the deposition is submitted to the witness, the party taking the deposition shall state on the transcription or in a writing to accompany the recording the fact of waiver, or the physical incapacity or absence of the witness, or the fact of refusal of the witness to make the statement, together with the reasons, if any, given therefor; and the deposition may then be used as fully as though the statement had been made unless, on a motion to suppress under Rule 41 D, the court finds that the reasons given for the refusal to make the statement require rejection of the deposition in whole or in part.

F(3) No request for examination. If no examination by the witness is requested, no statement by the

witness as to the correctness of the transcription  
or recording is required.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES  
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.  
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,  
2019. PLEASE REFER TO THE APPLICABLE STATE RULES  
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored

in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

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