

**IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT**

STATE OF OHIO)	CASE NO.: CR-2024-02-0473-C
)	
Plaintiff)	JUDGE SUSAN BAKER ROSS
-vs-)	
)	
CHARLES E. JONES)	<u>ORDER</u>
)	
Defendant)	

- - -

This matter comes before the Court upon two motions. First, Defendant Charles Jones (Jones) and Michael Dowling's (Dowling) (collectively "the Defendants") Motion to Exclude the Expert Testimony of George D. Jonson (Jonson). The State filed a response. The Defendants filed a reply. Second, Defendants' Motion to Strike Newly Produced Expert Opinion of George Jonson and To Exclude His Proposed "Supplemental" Testimony. The State filed a response.

I. ANALYSIS

A. OVERVIEW

On April 15, 2024, the State provided an expert report authored by Jonson to the Defendants (the Report). On May 7, 2025, the Court issued an order (the Order). The Order imposed a July 7, 2025 expert deadline. On September 25, 2025, the State provided a supplemental report (Supplemental Report) authored by Jonson to the Defendants. .

B. THE COURT FINDS THE DEFENDANTS' MOTION TO STRIKE LACKS MERIT

The Defendants argue that the Supplemental Report was provided in violation of the Order. As such, Defendants request the Court to prohibit its opinion. In response, the State argues the Supplemental Report was expeditiously produced in response to the Court's order dated September 15, 2025.

Crim.R. 16(K) states an expert written report must be disclosed “under this rule no later than twenty-one days prior to trial.” However, the rule gives the Court discretion to modify this period “for good cause shown, which does not prejudice any other party.” *Id.* In this case, the Court set the July 7, 2025 expert deadline. Consistently, the Court may allow the State to supplement the Report. Upon review, the Court finds the State has shown good cause and the Supplemental Report’s late disclosure does not prejudice the Defendants. Specifically, Jonson also authored the Supplemental Report, and the Report included a similar standard of care analysis. Moreover, the Report was disclosed roughly four months prior to trial.

C. THE COURT FINDS THAT JONSON IS QUALIFIED TO TESTIFY AS AN EXPERT PURSUANT TO EVID.R. 702 AND HIS TESTIMONY IS RELEVANT AND NOT UNFAIRLY PREJUDICIAL

Jonson’s CV states he received his Juris Doctor and received his license to practice law in the state of Ohio in 1983. Jonson testified that he provides ethical advice to lawyers and to all judges in the state of Ohio. Moreover, Jonson had his first legal ethics case in 1989. In addition, Jonson testified that during his legal career he has worked in civil litigation, and had a continuous focus on legal malpractice. Jonson has been qualified as an expert on the legal standard of care. Jonson testified that has had been involved in or reviewed over a thousand civil settlements over the course of his career. Jonson also opined that a term sheet dated January 8, 2013 fell below the legal standard of care. Finally, Jonson testified that he did not have substantial experience in the field of utility law.

During the hearing, the State indicated Jonson’s testimony pursuant to the Supplemental Report was the extent of his trial testimony. As such, the Court will limit its findings to Jonson’s qualification and opinion related to his Supplemental Report.

‘In general, courts should admit [expert] testimony when material and relevant, in accordance with Evid.R. 702”. *State v. Gilbert*, 2025-Ohio-4623, ¶ 68 (9th Dist.) citing *State v. Irvine*, 2019-Ohio-959, ¶ 33, (9th Dist.), quoting *Terry v. Caputo*, 2007-Ohio-5023, ¶ 16. State

v. Gilbert, 2025-Ohio-4623, ¶ 68. Evid.R. 702 governs the admissibility of expert witness testimony. Evid.R. 702 states the following:

A witness may testify as an expert if all of the following apply:

- (A) The witness' testimony either relates to matters beyond the knowledge or experience possessed by lay persons or dispels a misconception common among lay persons;
- (B) The witness is qualified as an expert by specialized knowledge, skill, experience, training, or education regarding the subject matter of the testimony;
- (C) The witness' testimony is based on reliable scientific, technical, or other specialized information. To the extent that the testimony reports the result of a procedure, test, or experiment, the testimony is reliable only if all of the following apply:
 - (1) The theory upon which the procedure, test, or experiment is based is objectively verifiable or is validly derived from widely accepted knowledge, facts, or principles;
 - (2) The design of the procedure, test, or experiment reliably implements the theory;
 - (3) The particular procedure, test, or experiment was conducted in a way that will yield an accurate result.

The Defendants argue that Jonson is not qualified to opine on agreements in the utility industry. In addition, the Defendants argue that Jonson should be barred from offering legal conclusions. Finally, the Defendants argue that Jonson's opinion as it relates to the term sheet is not relevant and/or unfairly prejudicial in this matter. Upon review, the Court finds the Defendants' arguments lack merit.

In Ohio, an "individual offered as an expert need not have complete knowledge of the field in question, as long as the knowledge he or she possesses will aid the trier of fact in performing its fact-finding function." *Gilbert*, at ¶ 68 quoting *State v. Drummond*, 2006-Ohio-5084, ¶ 113. The Court finds that Jonson's extensive experience in legal ethics and drafting civil agreements qualifies him as an expert regarding an attorney's standard of care. In addition, "Evid.R. 702(C) requires that a legal expert's opinion be based upon some reliable legal principle or methodology". *Bangor v. Amato*, 2014-Ohio-5503, ¶ 30 (7th Dist.) citing *Tavia Galonski, Summit County Clerk of Courts*

Franjesh v. Berg, 1996 WL 556899 (Oct. 2, 1996) (9th Dist.). Upon review, the Court concludes that Jonson's opinion, testimony and Supplemental Report provides said basis.

The Defendants are correct that, “(a)n expert's interpretation of the law is not admissible as such because the interpretation of the law is the province of the tribunal.” *Cincinnati Federal Savings & Loan Company v. McClain*, 2022-Ohio-725, ¶ 45. However, expert legal opinions about the standard of care are generally admissible as it relates to legal malpractice matters. *Globalcor Associates v. Law Office of Robert Soles*, 2019-Ohio-2208, ¶ 34. In addition, (t)he purpose of expert testimony is to aid and assist the trier of fact in understanding the evidence presented and in arriving at a correct determination of the litigated issues.” *Pietrangelo v. PolyOne Corporation*, 2021-Ohio-4239, ¶ 57 (9th Dist.) quoting *Waste Mgt. of Ohio, Inc. v. Cincinnati Bd. of Health*, 159, 2005-Ohio-1153, ¶ 55 (10th Dist.). Thus “(e)xpert testimony is necessary ‘[u]nless a matter is within the comprehension of a layperson’”. *Id.*, citing *Ramage v. Cent. Ohio Emergency Servs., Inc.*, 64 Ohio St.3d 97, 102 (1992); Evid.R. 702(A). The Court finds that the legal standard of care needed to draft a settlement agreement is not within the knowledge of a layperson. Consequently, the Court concludes that Jonson's opinion relates to matters beyond the knowledge or experience possessed by laypersons or would dispel a misconception common among laypersons.

‘Relevant evidence’ means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” Evid.R. 401. Generally, all relevant evidence is admissible and all non-relevant evidence is inadmissible. Evid.R. 402. The Defendants argue that Jonson's opinion and related testimony are not relevant to the Defendants' charges. In response, the State argues that Jonson's testimony is relevant to determine whether the term sheet was a valid settlement agreement or designed to disguise a pattern of corrupt activity.

Upon review, the Court concludes Jonson's opinion is relevant. In addition, the Court finds the related testimony is admissible pursuant to Evid.R. 403.

Evid.R. 403 states as follows:

- A) Exclusion Mandatory. Although relevant, evidence is not admissible if its probative value is substantially outweighed by the danger of unfair prejudice, of confusion of the issues, or of misleading the jury.
- B) Exclusion Discretionary. Although relevant, evidence may be excluded if its probative value is substantially outweighed by considerations of undue delay, or needless presentation of cumulative evidence.

"Logically, all evidence presented by a prosecutor is prejudicial, but not all evidence unfairly prejudices a defendant." *State v. Rafferty*, 9th Dist. Summit No. 26724, 2015-Ohio-1629, ¶ 114 citing *State v. Ellis*, 9th Dist. Summit No. 27012, 2014-Ohio-4186, quoting *State v. Wright*, 48 Ohio St.3d 5, 8 (1990). In addition, "[t]he Ohio Supreme Court has stated that 'relevant evidence, challenged as being outweighed by its prejudicial effects, should be viewed in a light most favorable to the proponent of the evidence, maximizing its probative value and minimizing any prejudicial effect to one opposing admission.'" *Id.* quoting *State v. Frazier*, 73 Oho St.3d 323,333 (1995). The Supplemental Opinion does not include any language regarding violations of professional rules and would not confuse the jury. Thus, the Court's opinion is consistent with its prior order. Upon review, the Court concludes that Jonson's testimony is not unfairly prejudicial.

Upon review, the Court **DENIES** Defendants' Motion to Exclude the Expert Testimony of George D. Jonson and **DENIES** Defendants' Motion to Strike Newly Produced Expert Opinion of George Jonson and To Exclude His Proposed "Supplemental" Testimony.

IT IS SO ORDERED.

A handwritten signature in blue ink, appearing to read "Tavia Galonski", is positioned above a horizontal line.

JUDGE SUSAN BAKER ROSS

CC: PRINCIPAL ASSISTANT ATTORNEY GENERAL, MATTHEW MEYER
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