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NO. **DF-24-18010**

IN THE MATTER OF	§	IN THE DISTRICT
COURT THE MARRIAGE OF	§	
	§	
GWENDOLYN ULIJASZ-MCKEMIE	§	<u>254th</u> JUDICIAL DISTRICT
AND	§	THE HON. JUDGE BROWN, PRESIDING
JASON MCKEMIE	§	DALLAS COUNTY, TEXAS

**MOTION TO STRIKE IMPROPER EXPERT DESIGNATIONS
AND TO LIMIT TESTIMONY OF OPPOSING COUNSEL**

TO THE HONORABLE JUDGE BROWN:

COMES NOW, **Jason McKemie**, Respondent and **pro se** party to this action, and respectfully moves this Court to **strike the designations of Jeff Cook, William Cook, and Ethan Scroggins—attorneys for Petitioner—as testifying expert witnesses and to limit their testimony** in accordance with the Texas Rules of Civil Procedure, and in support thereof would respectfully show the Court as follows:

I. BACKGROUND

On **April 7, 2025**, Petitioner filed documents **designating her attorneys—Jeff Cook, William Cook, and Ethan Scroggins—as “testifying expert witnesses”** regarding the reasonableness and necessity of their own attorney’s fees. **These individuals are not third-party experts.** They are counsel of record and fact witnesses to their own timekeeping, billing practices, and litigation conduct.

II. ARGUMENT AND AUTHORITIES

Under Texas Rule of Civil Procedure 192.3(l), a party may discover information about a testifying expert’s qualifications, opinions, and the facts forming the basis of those opinions. However, when **counsel of record serves as their own expert witnesses**, it creates an **impermissible dual role that undermines the procedural integrity** of the litigation process and prejudices Respondent’s ability to conduct proper discovery and cross-examination.

A. Failure to Provide Mandatory Expert Disclosures

Petitioner's designations omit critical disclosures that are **expressly required** under Texas Rules of Civil Procedure 194.2(f) and 192.3(g), **including curriculum vitae (CVs), prior testimony history, expert reports, and substantive summaries of the basis for their opinions.** These omissions are not merely technical—they are **procedural violations** that deprive Respondent of the opportunity to **assess the qualifications and credibility of the purported experts.**

B. Deficient and Conclusory Designations

The disclosures submitted consist solely of generic, boilerplate language that is **virtually identical across all three individuals.** There is no evidence of independent analysis or supporting data. Such conclusory assertions **fall well short of what is required to qualify as expert** testimony under the applicable rules.

C. Use of Designations to Obstruct Discovery

The manner in which these designations are presented appears calculated **to shield Petitioner's attorneys from discovery** into underlying billing records and to **create procedural barriers to their depositions.** These individuals **are not independent third-party experts**—they are fact witnesses to their own billing practices and litigation conduct.

D. Independent Experts Were Available but Not Utilized

Attorneys serving as both advocate and expert are generally disfavored unless the dual role is unavoidable and clearly disclosed. Petitioner had every opportunity to retain an independent expert on attorney's fees but declined to do so, instead assigning "expert" status to her own legal team. This choice **undermines the neutrality expected of expert witnesses.**

E. Prejudice to Pro Se Respondent

The effect of these designations is to impose an **unfair burden** on Respondent, **a pro se litigant, by limiting his access to discovery and inhibiting his ability to depose or cross-examine** those responsible for generating and advocating for the claimed fees. **This imbalance is especially pronounced in a case where the opposing party is represented by a multi-attorney team of 5.**

F. Compromising Procedural Integrity Through Dual Roles

Petitioner’s counsel **cannot simultaneously serve as both advocates and expert witnesses without compromising the fairness of these proceedings.** The disclosures offer **no independent analysis, no supporting documentation, and no foundation typically required for expert testimony**—only self-validating opinions about their own work. This is not expert testimony as contemplated by the Rules; it is a procedural artifice designed to insulate their own conduct from scrutiny.

- **Texas courts have recognized that “[a]n attorney serving simultaneously as advocate and expert witness risks compromising procedural fairness.”** *El Apple I, Ltd. v. Olivas*, 370 S.W.3d 757, 764 (Tex. 2012) (discussing evidentiary standards for attorney’s fees and expert testimony). That risk is clearly present here.

G. Attempt to Circumvent the Timing and Purpose of Expert Testimony

Respondent does not dispute that expert testimony on attorney’s fees may be appropriate in some contexts. However, such testimony is typically presented **post-trial, through a neutral third party, and in high-stakes commercial litigation**—not mid-case, **by a party’s own attorneys, in a family law matter involving a self-represented litigant.** This approach is irregular and prejudicial.

H. Implications for Fee Shifting and Fairness

The context in which these designations are made further compounds the concern: **(1) fee recovery may ultimately be sought from Respondent, and (2) Petitioner’s counsel has previously represented that their firm would bill Petitioner directly.** If these self-serving designations are later used to support **fee-shifting, the absence of third-party neutrality raises serious questions about fairness and reliability.**

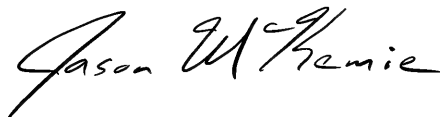
III. RELIEF REQUESTED

A. Respondent respectfully requests that the Court issue an order:

- **Striking the designation** of Jeff Cook, William Cook, and Ethan Scroggins **as testifying expert witnesses.**
- **Precluding them from providing opinion testimony** regarding the reasonableness or necessity of their own attorney’s fees.

- Requiring that Petitioner retain an **independent, non-party expert** if she wishes to offer expert opinion on attorney's fees.
 - **Granting any other relief in law or equity** that the Court deems appropriate.
-

Respectfully Submitted,



Jason McKemie
539 W Commerce Street
Suite # 2010
Dallas, TX 75208
Jason@CallVital.com
(214) 868-4901

CERTIFICATE OF SERVICE

I hereby certify that a **true and correct copy** of the foregoing document has been served upon **all counsel of record via electronic service** in accordance with the **Texas Rules of Civil Procedure** on this **14th Day of April 2025**.

Jason McKemie
Pro Se Respondent

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Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Kim Jones		kjones@sullivancook.com	4/14/2025 10:59:09 AM	SENT
Jeffrey E Cook		jcook@sullivancook.com	4/14/2025 10:59:09 AM	SENT
Tiffany Castenada		tcastenada@sullivancook.com	4/14/2025 10:59:09 AM	SENT
William C Cook		wcook@sullivancook.com	4/14/2025 10:59:09 AM	SENT
Ethan Scroggins		escroggins@sullivancook.com	4/14/2025 10:59:09 AM	SENT
Crystal Martinez		crystal@jhfamilylaw.com	4/14/2025 10:59:09 AM	SENT
Donna Tomlinson		donna@jhfamilylaw.com	4/14/2025 10:59:09 AM	SENT
Brant M. Webb		firm@webbfamilylaw.com	4/14/2025 10:59:09 AM	SENT
Betty Villarreal		betty@webbfamilylaw.com	4/14/2025 10:59:09 AM	SENT
Chandler Alt		calt@sullivancook.com	4/14/2025 10:59:09 AM	SENT
Jason McKemie		jmckemie@mckemie.net	4/14/2025 10:59:09 AM	SENT
JASON EMORYMCKEMIE		jason@callvital.com	4/14/2025 10:59:09 AM	SENT