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**IN THE COURT OF COMMON PLEAS OF LUCAS COUNTY, OHIO**

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| STATE OF OHIO | * | CASE NO: CR23-2718 and 24-1626 |
| | * | |
| Plaintiff, | * | Judge Lindsay Navarre |
| | * | |
| vs. | * | **MOTION IN LIMINE TO PRECLUDE EXPERT TESTIMONY AND DISCUSSION OF CONTRACT LAW** |
| | * | |
| LAWRENCE CREADY | * | Mark Hanusz (103870) |
| | * | Assistant Prosecuting Attorney |
| Defendant. | * | Lucas County Prosecutor's Office |
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NOW COMES the Plaintiff, the State of Ohio, by and through counsel, and respectfully moves this Court for an order precluding the defense from introducing expert testimony regarding civil contract law and from discussing civil contract law at trial.

In support of this motion, the State asserts that the anticipated testimony and discussion of civil contract law are irrelevant and immaterial to the criminal charges in this case, and their admission would confuse the jury, prejudice the State, and improperly interfere with the judge's role in explaining the law to the jury. This motion is grounded in the following legal arguments:

**1. Irrelevance Under the Ohio Rules of Evidence**

Under Ohio Evid. R. 401, evidence is relevant if it has "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." Ohio Evid. R 402 provides that irrelevant evidence is inadmissible.

In this case, the Defendant is charged with violating R.C. 2913.02(A)(3), which prohibits knowingly obtaining or exerting control over property or services by deception, with the purpose of depriving the owner of that property or service. The elements the State must prove are:

- The Defendant knowingly obtained or exerted control over property or services,
- The Defendant did so by deception,
- The Defendant acted with the purpose of depriving the victim of the property or services.

The core issues for the jury are the Defendant's conduct, knowledge, intent, and use of deception. Whether a valid civil contract existed between the parties or whether the Defendant breached such a contract is immaterial to the criminal charges at hand. Questions of contract formation or breach are matters for civil litigation and have no bearing on the elements of theft by deception, which is the subject of this criminal trial.

Therefore, expert testimony on contract law under Ohio Evid. R. 702 is irrelevant. It will not aid the jury in determining any fact that is of consequence to the criminal charges, as civil contract law has no role in proving whether the Defendant engaged in criminal conduct by intentionally deceiving the victim for financial gain.

In this case, expert testimony on contract law is particularly irrelevant because the existence or terms of a civil contract between the Defendant and the victim have no bearing on whether the Defendant committed theft by deception. The central question before the jury is whether the Defendant, Lawrence Cready, knowingly and purposefully deceived the victim to obtain $43,559.40—not whether the parties had a binding contractual agreement. Introducing testimony on contract law would mislead the jury by diverting their attention from the key issue of deception and encouraging them to consider a civil law framework that is irrelevant to the criminal prosecution.

**2. Risk of Confusing the Jury**

Even if the Court were to find that civil contract law has some marginal relevance, its admission would be more prejudicial than probative and should be excluded under Ohio Evid. R. 403(A). The introduction of civil contract principles in a criminal trial would likely confuse the jury and distract them from their primary role: determining whether the Defendant's actions constituted theft by deception. Civil contract law governs the agreements and obligations between parties in civil cases, which differ significantly from the criminal standards the jury must apply in this case. This distinction is critical and could easily be obscured by introducing irrelevant contract law.

In this case, the jury's sole task is to determine whether Lawrence Cready intentionally deceived the victim into paying $43,559.40 under false pretenses. Civil contract law, which involves unrelated issues such as mutual agreement and performance, would introduce unnecessary complexity and risk confusing the jury. The Defendant's expert could delve into contract breaches and other civil issues, which have no bearing on the criminal question of Cready's intent to deceive. Such testimony would detract from the key issue—whether Cready acted with criminal intent to deprive the victim of money through deception—and make it more difficult for the jury to remain focused on the relevant legal standards for criminal conduct.

**3. It is the Role of the Court, Not a Witness, to Explain the Law**

It is well established that the trial court is the sole arbiter of the law and is responsible for instructing the jury on the applicable legal principles. It is not the role of witnesses, including experts, to explain the law to the jury. "In charging the jury, the court must state to it all matters of law necessary for the information of the jury in giving its verdict. The court must also inform the jury that the jury is the exclusive judge of all questions of fact." R.C. 2945.11. In *State v. Johnson* 2002-Ohio-6957 the court emphasized that it is not for witnesses to instruct the jury on applicable principles of law, but for the judge to do so. Similarly, in *State v. Webb*, 1993 Ohio App. LEXIS 5683 the court reiterated that the person who states the law to the jury is the judge, not the witness.

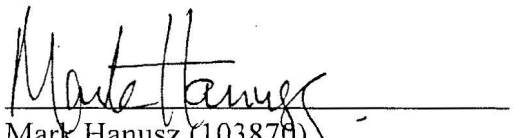
The Supreme Court has determined that decisions regarding the admissibility of expert testimony must be left in the hands of the trial court, which must decide on a case-by-case basis whether expert testimony is relevant and will assist the trier of fact. *State v. Williams* (1983), 4 Ohio St.3d 53.

In this case, allowing an expert witness to testify on civil contract law would improperly encroach upon this Court's authority to instruct the jury on the law. The expert's testimony would inevitably involve legal interpretations of contractual terms, which is the province of the Court, not the witness. Further, by introducing contract law concepts, the jury might be misled into believing that it is their duty to determine legal issues surrounding contract validity or breach, which could divert their attention from determining whether the Defendant committed the criminal offense of theft by deception. The Defendant's attempt to introduce civil law into a criminal trial threatens to blur the clear distinction between the roles of the judge, the jury, and witnesses, and would usurp the Court's critical function in instructing the jury on the applicable legal standards.

**Conclusion**

For the foregoing reasons, the State respectfully requests that this Court grant its motion *in limine* and preclude the defense from introducing expert testimony or any other evidence or discussion related to civil contract law. Such evidence is irrelevant to the criminal charges at hand, poses a significant risk of confusing the jury, and improperly encroaches upon the Court's role in instructing the jury on the law.

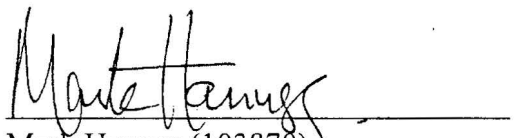
Respectfully submitted,



Mark Hanusz (103870)
Assistant Prosecuting Attorney

**CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the foregoing Motion was served on Kurt Bruderly, counsel for the defendant, via email to kurt@lawkwb.com on September 26, 2024.



Mark Hanusz (103870)
Assistant Prosecuting Attorney