NO. D-1-GN-18-001835

NEIL HESLIN,	§	IN THE DISTRICT COURT OF
	§	
Plaintiff,	§	
	§	
v.	§	TRAVIS COUNTY, TEXAS
	§	
ALEX E. JONES, INFOWARS, LLC, FREE SPEECH SYSTEMS, LLC, and OWEN SHROYER,	§	
	§	
Defendants	§	261st JUDICIAL DISTRICT

DEFENDANTS' SECOND RENEWED REQUEST FOR RULINGS ON TIMELY FILED OBJECTIONS TO PLAINTIFF'S EVIDENCE

COME NOW, Defendants Alex E. Jones, Infowars, LLC, Free Speech Systems, LLC, and Owen Shroyer (collectively, the "Defendants"), and hereby file this their Second Renewed Request for Rulings on Timely Filed Objections to Plaintiff's Evidence and in support of same would respectfully show this Honorable Court as follows:

Defendants filed their Motion to Dismiss Under the Texas Citizens Participation Act (Act) in this case on July 13, 2018. Notice of the hearing date of August 30, 2018 on that motion was sent to Plaintiffs on July 19, 2018. Plaintiffs filed their Response to Defendants' Motion to Dismiss under the Texas Citizens Participation Act and attached affidavits on August 27, 2018. Prior to the date of the hearing, on August 29, Defendants served and filed their Objections to Plaintiff's Evidence Submitted in Response to Defendants' Motion to Dismiss Under the Texas Participation Act. Defendants' filed their Request for Rulings on Timely Filed Objections to Plaintiff's Evidence on September 11, 2018.

On August 17, 2018 Plaintiff filed his Motion for Sanctions and Motion for Expedited Discovery. On August 23, 2018 Defendants filed their Response to these motions and Defendants amended this Response on August 27, 2018 and the Court set those motions and

responses for hearing at the same time as it was to hear the Defendants' TCPA motion. For all these motions, the Court allotted each side approximately one hour to present argument and evidence.

Though prepared to argue at the hearing Defendants' objections to Plaintiff's evidence submitted prior to the hearing, at the hearing on August 30 it was clear that there would be insufficient time to argue the objections. Under §27.005 of the Act, this Court must rule on Defendants' motion no later than the thirtieth (30^{th}) day after that hearing.

Defendants formally renew their request that this Honorable Court make its rulings on all of their objections prior to its ruling on the motion.[1]

PRAYER

Wherefore, Defendants pray that this Honorable Court make and enter its rulings on Defendants' Objections to Plaintiff's Evidence Submitted in Response to Defendants' Motion to Dismiss before it rules on Defendants' Motion to Dismiss under the Texas Citizens Participation Act, that the Court sustain those objections and strike the related evidence and that the Court make such other rulings as it deems just and equitable.

[1] A proposed order is again attached hereto for the convenience of the Court.

RESPECTFULLY SUBMITTED,

GLAST, PHILLIPS & MURRAY, P.C.

/s/ Mark C. Enoch

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served upon the parties listed below via efile.txcourts.gov's e-service system on September 25, 2018:

Mark Bankston
Kyle Farrar
Kaster, Lynch, Farrar & Ball, LLP.
1010 Lamar, Suite 1600
Houston, Texas 77002

/s/ Mark C. Enoch

Mark C. Enoch

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Plaintiff,	§	
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ALEX E. JONES, INFOWARS, LLC, FREE SPEECH SYSTEMS, LLC, and OWEN SHROYER,	§	
	§	
Defendants	§	261st JUDICIAL DISTRICT

ORDER ON DEFENDANTS' OBJECTIONS TO PLAINTIFF'S EVIDENCE SUBMITTED IN RESPONSE TO DEFENDANTS' MOTION TO DISMISS UNDER THE TEXAS CITIZENS PARTICIPATION ACT

CAME ON TO BE HEARD on the 30th day of August, 2018, Defendants Alex E. Jones, Infowars, LLC, Free Speech Systems, LLC, and Owen Shroyer's Motion to Dismiss Under the Texas Citizens Participation Act. The Court having considered the Defendants' Objections to Plaintiff's Evidence submitted in response to Defendants' Motion and having heard the argument of counsel, the Court finds as to the Defendants' Objections to Plaintiff's Evidence submitted in Response to Defendants' Motion as follows:

1. OBJECTIONS TO AFFIDAVIT OF FRED ZIPP

Zipp Affidavit Exhibits A-1 to A-23	**Objections**	**Court's Ruling on Objection**
Exhibits A-1 to A-23	Hearsay Tex. R. Evid. R. 802	Overruled Sustained
Exhibits A-1 to A-23	Not relevant – Tex. R. Evid. R. 402	Overruled Sustained
Exhibits A-1 to A-23	Prejudice outweighs relevance – Tex. R. Evid. 403	Overruled Sustained
Exhibits A-1 to A-23	Violates best evidence rule Tex. R. Evid. R. 1002, 1003	Overruled Sustained
Exhibits A-1 to A-23	No authentication – Tex. R. Evid. R. 901	Overruled Sustained

Objections to Specific Statements

Affidavit Statements	**Objections**	**Court's Ruling on Objection**
Page 1, First paragraph under Scope of Review "whether assertions could be responsibly published"	Lack of foundation/predicate	Overruled Sustained
	Not Relevant	Overruled Sustained
	Vague and Ambiguous	Overruled Sustained
	Hearsay	Overruled Sustained
8 bullet points under Scope of Review	Lack of foundation/predicate	Overruled Sustained
	Lack of identification of materials reviewed	Overruled Sustained
	Hearsay	Overruled Sustained
Page 2, First paragraph under Background Knowledge of InfoWars, second sentence	Not relevant	Overruled Sustained
	Hearsay	Overruled Sustained
Second paragraph under Background Knowledge of InfoWars "significant amount of time"	Vague and Ambiguous	Overruled Sustained
	Conclusory	Overruled Sustained
Second paragraph under Background Knowledge of Infowars, second sentence	Conclusory	Overruled Sustained
	Lack of foundation/predicate	Overruled Sustained
	Not relevant	Overruled Sustained

Third paragraph under Background Knowledge of Infowars, second sentence	Conclusory	Overruled	Sustained
	Violates TRE 404	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
Fourth paragraph under Background Knowledge of Infowars,	Not relevant	Overruled	Sustained
	Hearsay	Overruled	Sustained
	Lack of predicate/foundation	Overruled	Sustained
	Conclusory	Overruled	Sustained
Page 3, First paragraph under number 1, first sentence	Conclusory	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
	Not relevant	Overruled	Sustained
	Lack of personal knowledge	Overruled	Sustained
	Statements of what was in June 26 and July 20 videos are hearsay, lack a foundation and predicate and are not complete	Overruled	Sustained
	Best evidence rule	Overruled	Sustained
Page 3, middle three paragraphs	Violates TRE 1002 – best evidence rule	Overruled	Sustained
	Hearsay	Overruled	Sustained
Last paragraph under number 1 at bottom of page 3 and continuing to page 4 beginning "My review…"	Statements of what was in June 26 and July 20 videos are hearsay, lack a foundation and predicate and are not complete	Overruled	Sustained

Paragraph beginning "My review…"	Speculation	Overruled	Sustained
	Lack of personal knowledge	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
	Conclusory	Overruled	Sustained
	Not relevant	Overruled	Sustained
	Violates TRE 403	Overruled	Sustained
Same paragraph, fourth and fifth sentence	Not relevant	Overruled	Sustained
	Not probative	Overruled	Sustained
	Improper opinion of expert on question of law	Overruled	Sustained
	Lack of personal knowledge	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
	Speculation	Overruled	Sustained
Under "Opinions" Page 4, first paragraph	Not relevant	Overruled	Sustained
	violates TRE 404	Overruled	Sustained
	violates best evidence rule conclusory	Overruled	Sustained
	lack of foundation/predicate	Overruled	Sustained
	hearsay	Overruled	Sustained
	lack of personal knowledge	Overruled	Sustained
	speculation as to state mind and intent	Overruled	Sustained
p. 5, 1st paragraph	Not relevant	Overruled	Sustained

	violates TRE 404	Overruled	Sustained
	violates best evidence rule	Overruled	Sustained
	conclusory	Overruled	Sustained
	lack of foundation/predicate	Overruled	Sustained
	hearsay	Overruled	Sustained
	lack of personal knowledge	Overruled	Sustained
	speculation as to state mind and intent	Overruled	Sustained
p. 5, 2nd paragraph	Not relevant	Overruled	Sustained
	violates TRE 404	Overruled	Sustained
	violates best evidence rule	Overruled	Sustained
	conclusory	Overruled	Sustained
	lack of foundation/predicate	Overruled	Sustained
	hearsay	Overruled	Sustained
	lack of personal knowledge	Overruled	Sustained
	speculation as to state mind and intent	Overruled	Sustained
p. 6, 1st paragraph	Not relevant	Overruled	Sustained
	violates TRE 404	Overruled	Sustained
	violates best evidence rule	Overruled	Sustained
	conclusory	Overruled	Sustained
	lack of foundation/predicate	Overruled	Sustained
	hearsay	Overruled	Sustained

	lack of personal knowledge	Overruled	Sustained
	speculation as to state mind and intent		
p. 6, 2nd paragraph	Not relevant	Overruled	Sustained
	violates TRE 404	Overruled	Sustained
	violates best evidence rule	Overruled	Sustained
	conclusory	Overruled	Sustained
	lack of foundation/predicate	Overruled	Sustained
	hearsay	Overruled	Sustained
	lack of personal knowledge	Overruled	Sustained
	speculation as to state mind and intent	Overruled	Sustained
p. 7, 1st paragraph	Not relevant	Overruled	Sustained
	violates TRE 404	Overruled	Sustained
	violates best evidence rule	Overruled	Sustained
	conclusory	Overruled	Sustained
	lack of foundation/predicate	Overruled	Sustained
	hearsay	Overruled	Sustained
	lack of personal knowledge	Overruled	Sustained
	speculation as to state mind and intent	Overruled	Sustained
p. 7, under A., 1st paragraph	Not relevant	Overruled	Sustained
	violates best evidence rule	Overruled	Sustained
	conclusory	Overruled	Sustained
	lack of foundation/predicate	Overruled	Sustained

	hearsay	Overruled	Sustained
	lack of personal knowledge	Overruled	Sustained
	speculation as to state mind and intent	Overruled	Sustained
p. 7 second paragraph through penultimate paragraph on p. 13	Hearsay TRE 801	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
	Repeating videos needless presentation of cumulative evidence TRE 403	Overruled	Sustained
	Not relevant TRE 402	Overruled	Sustained
	No predicate of personal knowledge TRE 602	Overruled	Sustained
p. 7, last paragraph, 1st sentence, "numerous false and irresponsible claims"	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 7, 1st full paragraph, "false statements"	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact	Overruled	Sustained

	finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620		
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 10, 2nd paragraph, 1st sentence "false claims"	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 10, last paragraph, "prior false claims"	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained

	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 11, last paragraph, 2nd sentence – "numerous false claims . . . made over the years"	Not relevant TRE 402	Overruled	Sustained
	No predicate of personal knowledge TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 12, last paragraph – "false claims … chilling finale"	Not relevant -- TRE 402	Overruled	Sustained
	No predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert	Overruled	Sustained

	specialty -- TRE 702		
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Violates best evidence rule -- TRE 1002, 1003	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 13, 1st full paragraph – "is the subject of a separate lawsuit . . . De La Rosa"	Not relevant TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
p. 13, 1st full paragraph, 2nd sentence – "false accusation"	Not relevant TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	No predicate of personal knowledge TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained

	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 13, 2nd full paragraph, 3rd sentence – "waffled on"	Not relevant TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 14, 1st full paragraph	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of	Overruled	Sustained

	personal knowledge -- TRE 602		
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 14, 2nd full paragraph	Opinion not relevant -- TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides	Overruled	Sustained

	on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)		
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 14, 3rd full paragraph	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Last sentence and quote: Hearsay TRE 802	Overruled	Sustained
	Not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained

	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 14, last paragraph	Hearsay TRE 802	Overruled	Sustained
	Not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 15, 1st full paragraph	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Last sentence and quote: Hearsay TRE 802	Overruled	Sustained
	Not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs	Overruled	Sustained

	relevance – TRE 403 Violates best evidence rule TRE 1002, 1003		
p. 15, 2nd full paragraph	Opinion not relevant -- TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 15, heading at 2.	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained

	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 15, under heading 2, 1st paragraph	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 15, heading A	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of	Overruled	Sustained

	personal knowledge -- TRE 602		
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 15, last paragraph	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-	Overruled	Sustained

	03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005) Sentences 5, 6, 7, 8, & 9: Hearsay TRE 802	Overruled	Sustained
	Not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 16, 1st paragraph	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 16, heading B	Opinion not relevant TRE 402	Overruled	Sustained

	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
p. 16, 2nd full paragraph	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides	Overruled	Sustained

	on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)		
	Hearsay TRE 802	Overruled	Sustained
	Not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 16, 3rd full paragraph with indent	Opinion not relevant TRE 402 – "unhinged crank," "disturbing," "ridiculous," "bizarre"	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702 -- "unhinged crank," "disturbing," "ridiculous," "bizarre"	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 -- "unhinged crank," "disturbing," "ridiculous," "bizarre"	Overruled	Sustained
	Conclusory without bases – TRE 703 -- "unhinged crank," "disturbing," "ridiculous," "bizarre"	Overruled	Sustained

	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Hearsay TRE 802	Overruled	Sustained
	Not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 16, last paragraph and photo on page 17	Opinion not relevant TRE 402 – "purported"	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	No authentication – TRE 901 -- photo	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-	Overruled	Sustained

	03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)		
	Not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 17, 1st full paragraph with indent	Opinion not relevant TRE 402 – "bizarre," "anti-Semitic rants"	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Hearsay TRE 802	Overruled	Sustained
	Not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained

	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 17, last full paragraph an 1st photo on p. 18	Opinion not relevant TRE 402 – "obsessed"	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Hearsay TRE 802	Overruled	Sustained
	Not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
	No authentication – TRE 901 - photo	Overruled	Sustained
p. 18, only paragraph and photo	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained

	Conclusory without bases – TRE 703	Overruled	Sustained
	Hearsay TRE 802	Overruled	Sustained
	Not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 19, 1st paragraph	Opinion not relevant TRE 402 – "no rational journalist," "for anything," "improbable," "uncritical," "reckless," "deceptive"	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Hearsay TRE 802	Overruled	Sustained

	Statements not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 19, heading C	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Hearsay TRE 802	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 19, 2nd full paragraph	Opinion not relevant TRE 402 – "wild," falsehoods," "debunked," "malicious"	Overruled	Sustained

	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Hearsay TRE 802	Overruled	Sustained
	Not relevant – TRE 402 – "five years"	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
p. 19, 3rd full paragraph	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained

	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Hearsay TRE 802	Overruled	Sustained
	Not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
	Ambiguous and vague – "made a variety of factual allegations," "various claims," "wide variety"	Overruled	Sustained
p. 19, 4th full paragraph	Opinion not relevant TRE 402 – "ample," "enormous," extreme," "outcry," "unlikely," "intentionally," "reasonable," "entertain serious doubts," "desire to mislead"	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602 -- "ample," "enormous," extreme,"	Overruled	Sustained

	"outcry," "unlikely," "intentionally," "reasonable," "entertain serious doubts," "desire to mislead"		
	Outside scope of expert specialty -- TRE 702 -- "ample," "enormous," extreme," "outcry," "unlikely," "intentionally," "reasonable," "entertain serious doubts," "desire to mislead"	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
	Vague and ambiguous -- "ample," "enormous," extreme," "outcry," "unlikely," "intentionally,"	Overruled	Sustained

	"reasonable," "entertain serious doubts," "desire to mislead"		
p. 19, heading D	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Hearsay TRE 802	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
	Ambiguous and vague	Overruled	Sustained
p. 19, last paragraph, continuing to p. 20 – "rise to notoriety," coincided," "boast," "considered by many"	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert	Overruled	Sustained

	specialty -- TRE 702		
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Hearsay TRE 802	Overruled	Sustained
	No authentication or predicate for documentary cites – TRE 902, TRE 802	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
	Statements not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
p. 20, 1st full paragraph	Hearsay TRE 802	Overruled	Sustained
	No authentication or predicate for documentary cites – TRE 902, TRE 802	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
	Statements not relevant – TRE 402	Overruled	Sustained

	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
p. 20, 2nd full paragraph	Hearsay TRE 802	Overruled	Sustained
	Statements not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
p. 20, 3rd full paragraph	Hearsay TRE 802	Overruled	Sustained
	No authentication or predicate for documentary cites – TRE 902, TRE 802	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
	Statements not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
p. 20, last paragraph and photo on p. 21	Opinion not relevant TRE 402 – "similar"	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Hearsay TRE 802	Overruled	Sustained

	No authentication or predicate for photo – TRE 902, TRE 802	Overruled	Sustained
	Violates best evidence rule TRE 1002, 1003	Overruled	Sustained
	Statements not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
p. 21, 1st full paragraph	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled	Sustained
	Statements not relevant – TRE 402	Overruled	Sustained
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained

p. 21, after Conclusion – "evidence I have reviewed," "failed to use reasonable care," "entertained serious doubts," "acting with intent to deceive," "reckless disregard," "falsity," "harmful," "subject him to public contempt, hate or ridicule"	Opinion not relevant TRE 402	Overruled	Sustained
	Speculation, no predicate of personal knowledge -- TRE 602	Overruled	Sustained
	Outside scope of expert specialty -- TRE 702	Overruled	Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled	Sustained
	Conclusory without bases – TRE 703	Overruled	Sustained
	Vague and ambiguous.	Overruled	Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)		
	Hearsay TRE 802	Overruled	Sustained
	Statements not relevant – TRE 402		
	Prejudice outweighs relevance – TRE 403	Overruled	Sustained
	Vague and ambiguous	Overruled	Sustained

2. OBJECTIONS TO AFFIDAVIT OF BROOKE BINKOWSKI

Binkowski Affidavit	**Objections**	**Court's Ruling on Objection**
Qualifications	No predicate to show expert qualifications. TRE 702	Overruled Sustained
Relevance; Question of Law	Issue of whether Defendants defamed Plaintiff by *innuendo*, this is a question of law. TRE 702	Overruled Sustained
	Ms. Binkowski's statement (last paragraph on page 2) to the effect that a viewer "could reasonably interpret these comments as asserting that the Sandy Hook shooting was staged and that [Plaintiffs] were not real parents" is an opinion on a question of law and no bases. TRE 702, 703	Overruled Sustained
	Ms. Binkowski's last opinion (on page 3), that "this" "fits a larger pattern of behavior [of routinely denigrating victims of shootings]" - Not relevant TRE 402	Overruled Sustained
	Ms. Binkowski does not identify the data; conclusory, no bases TRE 704	Overruled Sustained

The Court further finds as to Ms. Binkowski's opinion as follows:

Paragraph	**Affidavit Objections**	**Court's Ruling on Objection**
11	Not relevant TRE 402	Overruled Sustained
	No assistance to fact finder -- TRE 702	Overruled Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained

	Conclusory without bases – TRE 703	Overruled Sustained
14	Not relevant TRE 402 No predicate of personal knowledge TRE 602 No assistance to fact finder -- TRE 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Violates best evidence rule TRE 1002, 1003 Conclusory without bases – TRE 703	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
16	Not relevant TRE 402 Outside scope of expert specialty -- TRE 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Violates best evidence rule TRE 1002, 1003 "significant:" Conclusory without bases – TRE 703	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained

17	Not relevant – TRE 401, 402	Overruled Sustained
18	Not relevant TRE 402 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Violates best evidence rule TRE 1002, 1003 "notable," "not consistently" -- Conclusory without bases – TRE 703	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
19	Violates best evidence rule TRE 1002, 1003	Overruled Sustained
20	Not relevant TRE 402 No assistance to fact finder -- TRE 702 "ambiguous," "reasonably" -- Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Violates best evidence rule TRE 1002, 1003 Conclusory without bases – TRE 703	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
21	Not relevant & no assistance to fact	Overruled Sustained

	finder – TRE 401, 402, 702	
	No predicate for expert testimony – TRE 703	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained
22	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
23	Not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Hearsay – TRE 801(d), 802	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained

24	Not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Hearsay – TRE 801(d), 802	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained
25	Not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Hearsay – TRE 801(d), 802	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication –	Overruled Sustained

	TRE 901 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	 Overruled Sustained
27	Hearsay – TRE 801(d), 802 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901	Overruled Sustained Overruled Sustained Overruled Sustained
28	Not relevant & no assistance to fact finder – TRE 401, 402, 702 Hearsay – TRE 801(d), 802 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
29	Not relevant & no assistance to fact finder – TRE 401, 402, 702 Hearsay – TRE	Overruled Sustained Overruled Sustained

	801(d), 802 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901	 Overruled Sustained Overruled Sustained
30	Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained Overruled Sustained Overruled Sustained
31	Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Conclusory, lack of foundation/predicate, lack of personal	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained

	knowledge – TRE 701, 702, 703	
32	"callously," "sickening," and "own opinion" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained
33	"own assertion," "false," "not contradicted" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Best Evidence Rule –	Overruled Sustained

	TRE 1001, 1002, 1007 No authentication – TRE 901 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	 Overruled Sustained Overruled Sustained
34	"deceptively edited" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
34	"deceptively" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained

	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained
35	"reinforces" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained
36	Opinion not relevant	Overruled Sustained

	& no assistance to fact finder – TRE 401, 402, 702	
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge, speculation – TRE 701, 702, 703	Overruled Sustained
37	Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	"continuously debunked"-- Conclusory, lack of	Overruled Sustained

	foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	
38	Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained Overruled Sustained Overruled Sustained
39	Best Evidence Rule – TRE 1001, 1002, 1007 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained Overruled Sustained
40	Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Hearsay – TRE 802 Conclusory, lack of foundation/predicate, lack of personal	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained

	knowledge – TRE 701, 702, 703	
41	"likewise traffics fake news" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained
42	Not relevant – TRE 401, 402	Overruled Sustained
	Hearsay – TRE 802	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal	Overruled Sustained

	knowledge – TRE 701, 702, 703	
43	Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained Overruled Sustained Overruled Sustained
44	Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Hearsay – TRE 802 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
45	Invades province of the fact finder – TRE	Overruled Sustained

	702, *GTE*, 998 S.W. 2d 605, 620 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	 Overruled Sustained
46	Not relevant – TRE 402 Relevance outweighed by unfair prejudice, confusion, & misleading – TRE 403 Hearsay – TRE 802 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
47	"fake news items" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained Overruled Sustained

	Best Evidence Rule – TRE 1001, 1002, 1007 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained Overruled Sustained
48 and two photos	Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Hearsay – TRE 802 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
49	"fake news" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Conclusory, lack of foundation/predicate, lack of personal knowledge, speculation – TRE 701, 702, 703	Overruled Sustained Overruled Sustained Overruled Sustained

50	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained
51	Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
52	"fake news," "dangerous," "conspiracy" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained Overruled Sustained

	Conclusory, lack of foundation/predicate, lack of personal knowledge, speculation as to intent – TRE 701, 702, 703	Overruled Sustained
53	"intentionally deceptive," "recklessly disregarded," "deceptive" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Best Evidence Rule – TRE 1001, 1002, 1007 Conclusory, lack of foundation/predicate, lack of personal knowledge, speculation – TRE 602, 701, 702, 703 Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled Sustained Overruled Sustained Overruled Sustained
54	"outlandish," "inherently improbable,"	Overruled Sustained

	"obviously dubious" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703 Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled Sustained Overruled Sustained Overruled Sustained
55	Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Conclusory, lack of foundation/predicate, lack of personal knowledge,	Overruled Sustained Overruled Sustained Overruled Sustained

	speculation as to state of mind – TRE 701, 702, 703 Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled Sustained
56	Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703 Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
57	"directly contradicts"	Overruled Sustained

	-- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702	
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Hearsay – TRE 802	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained
58	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Hearsay – TRE 802	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained
	Relevance outweighed by unfair	Overruled Sustained

	prejudice, confusion, misleading and cumulative – TRE 403	
59	Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Hearsay – TRE 802 Relevance outweighed by unfair prejudice, confusion, misleading and cumulative – TRE 403	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
60	"too suggest" some fact -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Hearsay – TRE 802 Conclusory, lack of	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained

	foundation/predicate, lack of personal knowledge – TRE 701, 702, 703 Relevance outweighed by unfair prejudice, confusion, misleading and cumulative – TRE 403	 Overruled Sustained
61	"dishonest" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Hearsay – TRE 802 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703 Relevance outweighed by unfair prejudice, confusion, misleading and cumulative – TRE	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained

	403 Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	 Overruled Sustained
62	"clear" "chose not to do so" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Hearsay – TRE 802 Conclusory, lack of foundation/predicate, lack of personal knowledge, speculation as to state of mind – TRE 701, 702, 703 Relevance	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained

	outweighed by unfair prejudice, confusion, misleading and cumulative – TRE 403 Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	 Overruled Sustained
63	"clear" "deceptively edited" "give the appearance" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Hearsay – TRE 802 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained

	701, 702, 703 Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	 Overruled Sustained
64	"abundance of primary sources" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Best Evidence Rule – TRE 1001, 1002, 1007 No authentication – TRE 901 Hearsay – TRE 802 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
65	"no reasonable basis" -- Opinion not relevant & no	Overruled Sustained

	assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703 Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled Sustained Overruled Sustained Overruled Sustained
66	"only way a journalist could support" "intentionally distorting" "source material demonstrates that is exactly what occurred in this case" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained Overruled Sustained

	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled Sustained
67	"video contains no such statements" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Hearsay – TRE 802	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE	Overruled Sustained

	701, 702, 703	
68	"injurious motive" "clearly an attack" "pleaded" "false" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Hearsay – TRE 802	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	Overruled Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled Sustained
69	"clearly provoked a retaliation" --	Overruled Sustained

	Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702	
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	No authentication – TRE 901	Overruled Sustained
	Hearsay – TRE 802	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge, speculation as to state of mind – TRE 701, 702, 703	Overruled Sustained
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled Sustained
70	"clear" "part of ongoing effort to support and justify" "vile five-year lie" -- Opinion not relevant	Overruled Sustained

	& no assistance to fact finder – TRE 401, 402, 702 Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620 Best Evidence Rule – TRE 1001, 1002, 1007 Hearsay – TRE 802 Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703 Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	 Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
71	"in horror" "repeatedly" "systematically" "distorted" "misrepresented" "false" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained

	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Best Evidence Rule – TRE 1001, 1002, 1007	Overruled Sustained
	Hearsay – TRE 802	Overruled Sustained
	Conclusory, lack of foundation/predicate, lack of personal knowledge – TRE 701, 702, 703	
	Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled Sustained
72	"clear" "in bad faith" "utter contempt for the truth" -- Opinion not relevant & no assistance to fact finder – TRE 401, 402, 702	Overruled Sustained
	Invades province of the fact finder – TRE 702, *GTE*, 998 S.W. 2d 605, 620	Overruled Sustained
	Conclusory, lack of foundation/predicate,	Overruled Sustained

	lack of personal knowledge – TRE 701, 702, 703 Improper for opinion witness just choosing sides on the case outcome. *See Gutierrez v. State*, No. 04-03-00396-CR, 2005 Tex. App. LEXIS 1430, at *7 (App.—San Antonio Feb. 23, 2005)	Overruled Sustained

3. OBJECTIONS TO AFFIDAVIT OF NEIL HESLIN

Paragraph	Affidavit Objections	Court's Ruling on Objection
Paragraph 2	Mr. Heslin's assertion, without specifying what publications he claims constitute "lies" make his assertion irrelevant and thus inadmissible under Tex. R. Evid. R. 401. The assertion also violates the "best evidence" rule (Tex. R. Evid. R. 1002). Mr. Heslin's assertion without specifying what "occasions" make his assertion irrelevant and thus inadmissible under Tex. R. Evid. R. 401. The assertion also violates the "best evidence" rule (Tex. R. Evid. R. 1002).	Overruled Sustained
Paragraph 4	This paragraph is evidently calculated to portray Mr. Heslin as not a public figure or quasi-public figure. As such it is irrelevant under Tex. R. Evid. R. 401 and R. 701 because whether someone is a public figure is a	Overruled Sustained

	question of law for the Court. See *Klentzman v. Brady*, 312 S.W.3d 886, 904 (Tex. App. - Houston [1st Dist.] 2009, no pet.) Also Mr. Heslin's subjective intent is irrelevant; whether he is a public figure can only be determined by compiling and analyzing objective facts. Accordingly this paragraph is irrelevant under Tex. R. Evid. R. 401 and R. 701.	
Paragraphs 5, 6	Relevance (Tex. R. Evid. R. 401). Whether Mr. Heslin was invited or sought out the public fora doesn't matter. No one told him he had to give interviews; he was not under subpoena. As long as he was not coerced, only the fact that he made public appearances matters.	Overruled Sustained
Paragraphs 7 - 14	Relevance, Tex. R. Evid. R. 401. Mr. Heslin's subjective feelings, motive and intent are irrelevant; it's what he did that matters.	Overruled Sustained
Paragraph 15	The authentic record of the interview is the best evidence of what was said or not said. Mr. Heslin's summation violates the best evidence rule (Tex. R. Evid. R. 102).	Overruled Sustained
Paragraph 16	Relevance, Tex. R. Evid. R. 401. This is Mr. Heslin's own summary of his actions and reactions.	Overruled Sustained
Paragraph 17	Relevance, Tex. R. Evid. R. 401. Mr. Heslin's subjective feelings, motive and intent are irrelevant; it's what he did that matters. The authentic record of the interview is the best evidence of what was said or not said. Mr. Heslin's summation violates the best	Overruled Sustained

	evidence rule (Tex. R. Evid. R. 1002).	
Paragraphs 18 - 21	The authentic record of the interview is the best evidence of what was said or not said. Mr. Heslin's summation violates the best evidence rule (Tex. R. Evid. R. 1002).	Overruled Sustained
Paragraphs 22 - 27	In these paragraphs Mr. Heslin attempts to present evidence to establish mental anguish as an element of damages. These paragraphs are irrelevant and inadmissible under Tex. R. Evid. R. 401 because the substantive law applicable to such damages, and in defamation cases in particular, makes the averments irrelevant. • Mental anguish damages may not be recovered in a *per quod* case. Mr. Heslin has alleged – but has produced no evidence to establish- defamation *per se*. • Perhaps words cannot describe the mental anguish Mr. Heslin has sustained as a result of the death of his son, but that does not mean it does not exist. However, Mr. Heslin does not take this into account. In paragraphs 26 and 27 he attempts to	Overruled Sustained

		attribute his alleged mental anguish to the June 26, 2017 publication alone and provides no evidence of how this was caused by that video. • In the entirety of paragraphs 21 -27 Mr. Heslin fails to account for other actors who may have caused his alleged mental anguish. Mr. Heslin is attributing to this publication the criminal activity of others over whom Defendants have no control and provides no evidence of how this was caused by that video. • As for out-of-pocket expenses (paragraphs 28-31) Mr. Heslin's declaration does not amount to legally sufficient evidence because (1) the evidence that the publication at issue was a producing cause or a proximate cause is legally insufficient to establish that Mr. Heslin's need for	

		counseling was a result of the publication and not something else; the evidence is legally insufficient to establish a temporal nexus between the publication and the counseling thus raising the inference that the counseling was a result of the publication and not something else (paragraph 28). The same is true of the other expenses (paragraphs 29-31): even assuming that Mr. Heslin's security concerns were justified, the evidence that the publication – and not the actions of others – was a producing cause is legally insufficient; (2) There is no evidence that these out-of-pocket expenditures were reasonable in amount.	

4. OBJECTIONS TO AFFIDAVIT OF H. WAYNE CARVER, II, M.D.

Paragraph	Affidavit Objections	Court's Ruling on Objection
Paragraphs 3 – 10	Relevance; The averments of these paragraphs do not make any relevant fact more likely than not and do not aid the fact-trier in resolving any issue. Thus these statements are irrelevant under Tex. R. Evid. R. 401 and 701.	Overruled Sustained
Paragraph 11	Dr. Carver's professed "familiar[ity]" with Defendants is irrelevant under Evid. Rules 401 and 701. He does not state the source of his averred familiarity. Is he a regular viewer? Or is his "familiar[ity]" based on what others have told him? (In which case his averment is inadmissible hearsay.) The second sentence of paragraph 11 is objectionable for the same reasons. The third sentence is objectionable because (a) Newtown, Connecticut's at-large population is not a party to this case so any community feeling of angst is irrelevant (Tex. R. Evid. R. 401); (b) Dr. Carver does not state his qualifications to express an opinion on public sentiment in Newtown, Connecticut; and (c) Dr. Carver does not state the underlying basis for his opinion.	Overruled Sustained
Paragraphs 12 and 13	Relevance (Tex. R. Evid. R. 401); Authenticity (Tex. R. Evid. R. 1002) Dr. Carver does not adequately establish that what he viewed is the	Overruled Sustained

	original publication or some other iteration. Whether the statements referred to the Plaintiff is a matter of law for the Court. *Newspapers, Inc. v. Matthews*, 339 S.W.2d 890, 893 (Tex. 1960).	
Paragraphs 14 – 17	Relevance (Tex. R. Evid. R. 401) Whether a statement is defamatory is a question of law for the Court. His opinion is therefore not probative. See *Bingham v. Southwestern Bell Yellow Pages, Inc*., 2008 Tex. App. LEXIS 463 *9 - *10 (Tex. App. – Ft. Worth 2001, no pet.) (citing *Musser v. Smith Protective Svcs., Inc.*, 723 S.W.2d 653, 655 (Tex. 1987). The test is how the statement would be construed by the average reasonable person or the general public. See *Arant v. Jaffe*, 436 S.W.2d 169, 176 (Tex. App. – Dallas 1968, no writ). Whether the statements referred to the Plaintiff is a matter of law for the Court. *Newspapers, Inc. v. Matthews*, 339 S.W.2d 890, 893 (Tex. 1960). Whether Dr. Carver is an "average reasonable person," or falls in some other category, his idiosyncratic spin on the broadcast at issue is irrelevant because it usurps the function of the Court.	Overruled Sustained

Paragraph 18	Relevance (Tex R. Evid. R. 401, 701 and 703) Dr. Carver does not state any facts that support his opinion. His "personal involvement" is too vague to comprise an adequate basis for his opinion.	Overruled Sustained
Paragraphs 19 – 21	Relevance (Tex. R. Evid. R. 401) Whether a statement is defamatory is a question of law for the Court. His opinion is therefore not probative. See *Bingham v. Southwestern Bell Yellow Pages, Inc*., 2008 Tex. App. LEXIS 463 *9 - *10 (Tex. App. – Ft. Worth 2001, no pet.) (citing *Musser v. Smith Protective Svcs., Inc.*, 723 S.W.2d 653, 655 (Tex. 1987). The test is how the statement would be construed by the average reasonable person or the general public. See *Arant v. Jaffe*, 436 S.W.2d 169, 176 (Tex. App. – Dallas 1968, no writ). Whether Dr. Carver is an "average reasonable person," or falls in some other category, his idiosyncratic spin on the broadcast at issue is irrelevant because it usurps the function of the Court. Whether the statements referred to the Plaintiff is a matter of law for the Court. *Newspapers, Inc. v. Matthews*, 339 S.W.2d 890, 893 (Tex. 1960).	Overruled Sustained

5. OBJECTIONS TO AFFIDAVIT OF SCARLETT LEWIS

Paragraph	**Affidavit Objections**	**Court's Ruling on Objection**

Bullet points 5-10	Ms. Lewis sets out her "understanding[s]" derived from watching a youtube video. None of her alleged understandings is relevant under Tex. R. Evid. R. 401 because whether a statement is defamatory is a question of law. Whether a statement is defamatory is a question of law for the Court. Her "understanding" (*ie*. opinion) is therefore not probative. See *Bingham v. Southwestern Bell Yellow Pages, Inc*., 2008 Tex. App. LEXIS 463 *9 - *10 (Tex. App. – Ft. Worth 2001, no pet.) (citing *Musser v. Smith Protective Svcs., Inc*., 723 S.W.2d 653, 655 (Tex. 1987). The test is how the statement would be construed by the average reasonable person or the general public. See *Arant v. Jaffe*, 436 S.W.2d 169, 176 (Tex. App. – Dallas 1968, no writ). Whether the statements referred to the Plaintiff is a matter of law for the Court. *Newspapers, Inc. v. Matthews*, 339 S.W.2d 890, 893 (Tex. 1960). Whether Ms. Lewis is an "average reasonable person," or falls in some other category, her idiosyncratic spin on the broadcast at issue is irrelevant because it usurps the function of the Court. Whether the statements referred to the Plaintiff is a matter of law for the Court. *Newspapers, Inc. v. Matthews*, 339 S.W.2d 890, 893 (Tex. 1960).	Overruled Sustained

4. OBJECTIONS TO AFFIDAVIT OF JOHN CLAYTON

Affidavit Objections	**Court's Ruling on Objection**
Rule 703 Relevance The issue before the Court is whether the 2017 publication made the basis of this case is defamatory. This is a question of law. See *Bently v. Bunton*, 94 S.W.3d 561, 580 (Tex. 2003); *Campbell v. Clark*, 471 S.W.3d 615, 624 (Tex. App. – Dallas 2015, no pet.); *Main v. Royall*, 348 S.W.3d 381, 389 (Tex. App. – Dallas 2011, no pet.). Mr. Clayton's unsupported opinions regarding Mr. Jones's fidelity to some unidentified journalistic standard(s) has no bearing on this issue. There is no basis for Mr. Clayton's implied premise that persons who disseminate information through the use of social media (or "alternative media" in Mr. Clayton's words) are to be held to the same standards of journalism as print or electronic (radio, TV) reporters. Indeed, there is much debate and no consensus on the question. This Court is not the forum for resolving this issue.	Overruled Sustained
Reliability Mr. Clayton's tirade against his former employer is filled with conclusions, but is woefully short on facts to support his opinions. From the affidavit, it appears that Mr. Clayton last worked for or with Mr. Jones some nine years ago. (Affidavit paragraph 5) It does not appear that Mr. Clayton is familiar with the publications	Overruled Sustained

at issue in this case. One of the requisites of reliability is that the opinion testimony must be tied to the facts of the case. *Exxon Pipeline Co. v. Zwahr*, 88 S.W.3d 623, 629 (Tex. 2002). It is difficult to see how Mr. Clayton's testimony can meet this test when he does not even profess to have any knowledge of those facts.	
Rule 404 Relevance The accusations that Mr. Jones "no longer had any commitment to the principles and philosophy of the independent media movement (*Id.*, paragraph 6)," "it became apparent that he made a conscious decision not to care about accuracy" (*Id.*, paragraph 8) and "it become [sic] standard practice in InfoWars to disregard basic protocols in journalism" (*Id.*, paragraph 9) violate Tex. R. Evid. R. 404(a)(1) prohibiting evidence of a character trait to prove that in a particular instance the actor acted in accordance with that trait.	Overruled Sustained
Rule 406 Relevance For evidence of routine or habit to be admissible under Rule 406, it must establish a regular response to a repeated specific situation. See *Ortiz v. Glusman*, 334 S.W.3d 812, 816 (Tex. App. – El Paso 2011, pet. den.); *Johnson v. City of Houston*, 928 S.W.2d 251, 254 (Tex. App. – Houston [14th Dist.] 1996 no writ). Although Mr. Clayton alludes to many occasions, he cites no examples. This Court must take his word that they exist and that the undescribed incidents	Overruled Sustained

are sufficiently similar.	
Rule 403 Relevance Even if the Court determines that the undescribed (as to time, place, parties or substance) incidents are relevant, the prejudice of allowing Mr. Clayton's testimony is far outweighed by the danger of unfair prejudice and confusing the issues. In order to determine admissibility, the Court would have to try each instance to determine whether it occurred and whether it evidences malice toward the truth in connection with the publication made the basis of this case. Certainly Mr. Clayton has no right to usurp the Court's duties in this regard by substituting his judgment for the Court's. If the undescribed incidents are inadmissible, because Plaintiffs have failed to make any showing that they were reasonably relied upon by Mr. Clayton (Indeed, how can the Court make such a determination absent any description?) Mr. Clayton's opinions founded upon them are not admissible.	Overruled Sustained

7. OBJECTIONS TO AFFIDAVIT OF MARCUS TURNINI

Affidavit and Exhibit Objections	**Court's Ruling on Objection**
The exhibits were unlawfully obtained in that they were evidently obtained for use in the litigation in violation of §9.1 of the Infowars terms of service which	Overruled Sustained

provides: "You may not copy or otherwise attempt to benefit or assist others to benefit, directly or indirectly, from use of our Licensed Materials or intellectual property of third parties other than through normal use of the Website."	
Relevance (Evid. R. 401). The material deals with use by licensed subscribers of the Infowars Website. It has nothing to do with whether the publication made the basis of this case is defamatory or any of the sub-issues (i.e. public or quasi:-public figure, malice).	Overruled Sustained

8. OBJECTIONS TO EXHIBIT I

Objections	**Court's Ruling on Objection**
1. It is not authenticated as required by Tex. R. Evid. R. 901.	Overruled Sustained
2. It is not self-authenticating as permitted under Tex. R. Evid. R. 902(2);	Overruled Sustained
3. It is not relevant under Tex. R. Evid. R. 401.	Overruled Sustained
4. Any relevancy is far outweighed by the prejudice engendered by the document under Tex. R. Evid. R. 403.	Overruled Sustained
5. It is hearsay and contains hearsay within hearsay.	Overruled Sustained

9. OBJECTIONS TO EXHIBIT J - AFFIDAVIT OF FRED ZIPP

Affidavit Statements	Objections	Court's Ruling on Objection
Page 1, First paragraph under Scope of Review "whether assertions could be responsibly published"	Lack of foundation/predicate	Overruled Sustained
	Not Relevant	Overruled Sustained
	Vague and Ambiguous	Overruled Sustained
	Hearsay	Overruled Sustained
	Lack of foundation/predicate	Overruled Sustained
	Lack of identification of materials reviewed	Overruled Sustained
	Hearsay	Overruled Sustained
Page 2, First paragraph under Background Knowledge of InfoWars, second sentence	Not relevant	Overruled Sustained
	Hearsay	Overruled Sustained
Second paragraph under Background Knowledge of InfoWars "significant amount of time"	Vague and Ambiguous	Overruled Sustained
	Conclusory	Overruled Sustained
Second paragraph under Background Knowledge of Infowars, second sentence	Conclusory	Overruled Sustained
	Lack of foundation/predicate	Overruled Sustained
	Not relevant	Overruled Sustained
Third paragraph under Background Knowledge of Infowars, second sentence	Conclusory	Overruled Sustained
	Violates TRE 404	Overruled Sustained
	Lack of	Overruled Sustained

	foundation/predicate	
Fourth paragraph under Background Knowledge of Infowars,	Not relevant Hearsay Lack of predicate/foundation Conclusory	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
Page 3, First paragraph under number 1, first sentence	Conclusory Lack of foundation/predicate Not relevant Lack of personal knowledge Exhibit A-26 is hearsay, lacks a foundation and predicate and is not complete	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
Page 3, middle three paragraphs	Violates TRE 1002	Overruled Sustained
Last paragraph under number 1 at bottom of the page and continuing to page 4 beginning "My review…" First and second sentence.	Vague and Ambiguous ("suggests") Lack of personal knowledge Lack of foundation/predicate Conclusory Not relevant Hearsay as to second and third sentence	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
Same paragraph, third sentence	Defendants incorporate the same objections to this sentence as they stated to	Overruled Sustained

	the affidavit and conclusions of Mr. Fredericks.		
	Not relevant	Overruled	Sustained
	Violates TRE 403	Overruled	Sustained
	Hearsay	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
Same paragraph, fourth and fifth sentence	Not relevant	Overruled	Sustained
	Not probative	Overruled	Sustained
	Improper opinion of expert on question of law	Overruled	Sustained
	Lack of personal knowledge	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
	Speculation	Overruled	Sustained
Page 4, first paragraph under paragraph 2.	First sentence: Not relevant, violates TRE 404, conclusory, lack of foundation/predicate, hearsay, lack of personal knowledge	Overruled	Sustained
	Second sentence: Not relevant, vague and ambiguous, conclusory, lack of foundation/predicate, lack of personal knowledge, hearsay	Overruled	Sustained
	Third sentence: Not relevant, vague and ambiguous, conclusory, lack	Overruled	Sustained

	of foundation/predicate, lack of personal knowledge,	
First paragraph under 2. A.	Not relevant Lack of persona knowledge	Overruled Sustained Overruled Sustained
Second paragraph under 2. A.	Not relevant Hearsay Lack of foundation/predicate	Overruled Sustained Overruled Sustained Overruled Sustained
Third paragraph under 2. A.	First sentence: Not relevant, conclusory, speculative Second and third sentence: Not relevant, hearsay, lack of personal knowledge, lack of foundation/predicate,	Overruled Sustained Overruled Sustained
Page 5, top paragraph (under two top photos)	Not relevant, speculative, hearsay, conclusory, lack of personal knowledge, lack of foundation/predicate	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
Bottom paragraph (under two lower photographs)	Not relevant, speculative, hearsay, conclusory, lack of personal knowledge,	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained

	lack of foundation/predicate	Overruled	Sustained
Bottom paragraph (under two lower photographs)	Not relevant,	Overruled	Sustained
	speculative,	Overruled	Sustained
	hearsay,	Overruled	Sustained
	conclusory,	Overruled	Sustained
	lack of personal knowledge,	Overruled	Sustained
	lack of foundation/predicate	Overruled	Sustained
Page 7, photo	Not relevant	Overruled	Sustained
	Hearsay	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
Page 7, top paragraph (under photo and above B.)	Not relevant,	Overruled	Sustained
	speculative,	Overruled	Sustained
	hearsay,	Overruled	Sustained
	conclusory,	Overruled	Sustained
	lack of personal knowledge,	Overruled	Sustained
	lack of foundation/predicate	Overruled	Sustained
Paragraph B.	Not relevant	Overruled	Sustained
	Conclusory	Overruled	Sustained
	lack of personal knowledge,	Overruled	Sustained
	lack of foundation/predicate	Overruled	Sustained
Last paragraph (under B)	Not relevant	Overruled	Sustained
	Conclusory	Overruled	Sustained
	lack of personal knowledge,	Overruled	Sustained

	lack of foundation/predicate	Overruled	Sustained
	Exhibit 24 is not complete	Overruled	Sustained
Page 8, top photo	Not relevant	Overruled	Sustained
	Hearsay	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
Page 8, top paragraph	Not relevant	Overruled	Sustained
	Conclusory	Overruled	Sustained
	Hearsay	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
	Lack of personal knowledge	Overruled	Sustained
	Violates TRE 1002		
Lower photo	Hearsay	Overruled	Sustained
	Not relevant	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
Bottom paragraph	Not relevant	Overruled	Sustained
	Hearsay	Overruled	Sustained
	Lack of personal knowledge	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
	Conclusory	Overruled	Sustained
	Violates TRE 1002	Overruled	Sustained
Page 9 photo	Not relevant	Overruled	Sustained

	Hearsay	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
First paragraph	First sentence:		
	Not relevant,	Overruled	Sustained
	Lack of personal knowledge,	Overruled	Sustained
	Lack of foundation/predicate,	Overruled	Sustained
	conclusory	Overruled	Sustained
	Second sentence: Not relevant,	Overruled	Sustained
	Lack of personal knowledge,	Overruled	Sustained
	Lack of foundation/predicate,	Overruled	Sustained
	conclusory,	Overruled	Sustained
	speculative	Overruled	Sustained
	Third sentence:		
	"did not reasonably suggest any cover-up or manipulation": Not relevant, Lack of foundation/predicate, conclusory, speculative	Overruled	Sustained
	Fourth sentence: Not relevant, Lack of personal	Overruled	Sustained

	knowledge, Lack of foundation/predicate, conclusory Violates TRE 1002	 Overruled Sustained
Paragraph C.	Not relevant Lack of personal knowledge	Overruled Sustained Overruled Sustained
Last paragraph	First sentence: Not relevant, Lack of personal knowledge Second and third sentence: Not relevant, Lack of personal knowledge, Lack of foundation/predicate, conclusory, hearsay Violates TRE 1002	Overruled Sustained Overruled Sustained Overruled Sustained
Page 10 photo	Not relevant Hearsay Lack of foundation/predicate	Overruled Sustained Overruled Sustained Overruled Sustained
Paragraph D.	Not relevant, Lack of personal knowledge	Overruled Sustained
First paragraph under D.	First sentence: Not relevant, lack of personal knowledge Second sentence: Not relevant, lack of personal knowledge Third sentence: Not relevant, lack of personal knowledge, hearsay	Overruled Sustained Overruled Sustained Overruled Sustained

	Exhibit A2 is hearsay, lacks a foundation and predicate and is not complete.	Overruled	Sustained
	Last sentence: Not relevant, lack of personal knowledge	Overruled	Sustained
Bottom paragraph	Not relevant	Overruled	Sustained
	Hearsay	Overruled	Sustained
	Lack of personal knowledge	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
	Conclusory	Overruled	Sustained
Page 11, photo	Not relevant	Overruled	Sustained
	Hearsay	Overruled	Sustained
	Lack of foundation/predicate	Overruled	Sustained
First paragraph (above E)	First sentence: Not relevant, lack of personal knowledge, lack of foundation/predicate conclusory	Overruled	Sustained
	Second sentence: Not relevant, lack of personal knowledge, lack of foundation/predicate conclusory	Overruled	Sustained
	Last sentence: Not relevant, lack of personal knowledge, lack of foundation/predicate conclusory	Overruled	Sustained
Paragraph E	Not relevant, Lack of personal knowledge	Overruled	Sustained
	Violates TRE 1002	Overruled	Sustained

First paragraph under E.	Both sentences: Not relevant, Lack of personal knowledge Violates TRE 1002	Overruled Sustained Overruled Sustained
Bottom paragraph	First sentence: Not relevant, Lack of personal knowledge, lack of foundation/predicate, speculative, hearsay, conclusory – Violates TRE 1002 Second sentence: Not relevant, Lack of personal knowledge Third sentence: Not relevant, Lack of personal knowledge, lack of foundation/predicate, hearsay Fourth and fifth sentence including caption continuing on page 12: lack of foundation/predicate, hearsay	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
Page 12, top paragraph and captions	Not relevant, Hearsay, lack of foundation/predicate	Overruled Sustained
Middle paragraph	First and second sentence: Not relevant, lack of foundation/predicate, lack of personal knowledge Third and fourth sentence: Not relevant, Hearsay. Lack of personal knowledge, lack of foundation/predicate	Overruled Sustained Overruled Sustained

	Fifth and sixth sentence: Not relevant, lack of foundation/predicate, lack of personal knowledge	Overruled	Sustained
	Seventh through ninth sentences: Not relevant, Hearsay. Lack of personal knowledge, lack of foundation/predicate	Overruled	Sustained
	Tenth sentence: Not relevant, lack of foundation/predicate, lack of personal knowledge, speculation	Overruled	Sustained
	Eleventh sentence: Not relevant, conclusory, lack of foundation/predicate, speculation	Overruled	Sustained
Last paragraph continuing to page 13	First sentence: Not relevant Second sentence: Not relevant, vague and ambiguous, hearsay, lack of foundation/predicate	Overruled	Sustained
	Third sentence: Not relevant, hearsay, lack of foundation/predicate, lack of personal knowledge	Overruled	Sustained
	Last sentence: Not relevant, conclusory, lack of foundation/predicate, speculative	Overruled	Sustained
Page 13, paragraph 1	Not relevant, conclusory, lack of foundation/predicate, Expert testimony not probative on matters of law	Overruled	Sustained
First paragraph under 1	Not relevant, conclusory,	Overruled	Sustained

	lack of foundation/predicate Expert testimony not probative on matters of law	
All paragraphs under A starting on page 13 and continuing to the second to the last paragraph on page 19	Not relevant, previous acts are outside of statute of limitations, violates TRE Rule 403, lack of personal knowledge, lack of foundation/predicate, hearsay Violates TRE 1002 Exhibits A3-A13 and A20-25 are not relevant, contain statements outside of statute of limitations, hearsay and lack foundation and predicate.	Overruled Sustained Overruled Sustained
Page 19, bottom paragraph	First sentence: Lack of personal knowledge Second sentence: Lack of personal knowledge, lack of foundation/predicate, speculative, conclusory, expert opinion not reliable, expert opinion not needed to assist fact finder to interpret words used in broadcast (TRE Rule 702), opinion not based on stated broadcast (TRE Rule 703) – Violates TRE 1002 Third sentence: Not relevant; conclusory, lack of foundation/predicate, speculative, Expert opinion not probative on question of law or actual malice	Overruled Sustained Overruled Sustained Overruled Sustained

	Last sentence: Not relevant; conclusory, lack of foundation/predicate, speculative, Expert opinion not probative on question of law or actual malice	Overruled	Sustained
Page 20, top paragraph	First sentence: Not relevant, lack of personal knowledge Violates TRE 1002	Overruled	Sustained
	Second and third sentence: Not relevant, lack of personal knowledge, conclusory, lack of foundation/predicate Violates TRE 1002	Overruled	Sustained
	Exhibit A28 is not authenticated, it is not relevant and it is not a complete transcript of that broadcast.	Overruled	Sustained
	Fourth sentence: Not relevant regarding accusations about a cover-up, lack of personal knowledge	Overruled	Sustained
	Fifth and sixth sentences: Not relevant,, lack of personal knowledge	Overruled	Sustained
	Exhibit A29 lacks authentication, is not relevant and is not a complete copy of the broadcast.	Overruled	Sustained
Second paragraph, page 20	Both sentences: Not relevant and lack of personal knowledge.	Overruled	Sustained
	Exhibit A30 lacks	Overruled	Sustained

	authentication, is not relevant and is not a complete copy of the broadcast.	
Third paragraph , page 20 (paragraph under B)	Not relevant, lack of foundation/predicate	Overruled Sustained
Fourth paragraph, page 20	All sentences: Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, speculative	Overruled Sustained
Fifth paragraph, page 20 continuing to page 21	All sentences: Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, speculative	Overruled Sustained
Page 21, first paragraph	First sentence: Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, speculative, conclusory, lack of personal knowledge, hearsay	Overruled Sustained
	Second sentence: Not relevant, hearsay, lack of foundation/predicate	Overruled Sustained
	Third sentence: Not relevant, hearsay, lack of foundation/predicate, conclusory	Overruled Sustained
	Fourth sentence and quotation: Not relevant, hearsay, lack of foundation/predicate, Quotation violates TRE	Overruled Sustained

	1002	
Second paragraph, page 21	paragraph and quotation: Not relevant, hearsay, lack of foundation/predicate, violates TRE 1002	Overruled Sustained
Third paragraph, page 21	First sentence: Not relevant, speculative, Expert opinion not probative on question of law, conclusory, lack of foundation/predicate Second sentence: Not relevant, speculative, Expert opinion not probative on question of law and actual malice, conclusory, lack of foundation/predicate, vague and ambiguous Third sentence: Not relevant, speculative, lack of personal knowledge, lack of foundation/predicate, conclusory.	Overruled Sustained Overruled Sustained Overruled Sustained
Last paragraph, page 21	First sentence: Not relevant, Expert opinion not probative on question of law, lack of foundation/predicate, speculative, conclusory Second sentence: Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, speculative, conclusory Third sentence: Not relevant, lack of personal knowledge, lack of	Overruled Sustained Overruled Sustained Overruled Sustained

	foundation/predicate, conclusory Last sentence: Lack of personal knowledge Exhibit A26 is not authenticated, and is not a complete transcript of the broadcast	 Overruled Sustained Overruled Sustained
Page 22, first paragraph:	Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, speculative, conclusory	Overruled Sustained
Paragraph 2	Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, speculative, conclusory	Overruled Sustained
Second paragraph (under 2)	Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, speculative, conclusory	Overruled Sustained
Paragraph A	Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, speculative, conclusory	Overruled Sustained
Third paragraph, page 22 (under A)	First through third sentences: Not relevant, lack of foundation/predicate, speculative, conclusory Fourth sentence: Defendants incorporate their objections to Mr. Fredericks affidavit,	Overruled Sustained Overruled Sustained

	not relevant, hearsay, lack of personal knowledge, lack of foundation/predicate Entire paragraph is objectionable as it seeks to bolster improper expert opinion on question of law	 Overruled Sustained
Fourth paragraph, page 22	First sentence: Not relevant, speculative, lack of foundation/predicate, conclusory Second sentence: Not relevant, hearsay, lack of foundation/predicate, conclusory Last sentence and photos: Not relevant, hearsay, lack of foundation/predicate Photos are hearsay; lack of personal knowledge; lack of authentication; lack of foundation/predicate; violates TRE 1002	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
Last paragraph, page 22 continuing to page 23	Second sentence: Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, conclusory, speculative Third sentence: Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, conclusory, speculative Fourth sentence: Not	Overruled Sustained Overruled Sustained Overruled Sustained

	relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, conclusory, speculative	
Page 23, paragraph B	Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, conclusory, speculative; Violates TRE 403, 404 and 608(b)	Overruled Sustained
First paragraph (under B)	Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, conclusory, speculative	Overruled Sustained
	Second sentence: Not relevant, lack of personal knowledge, conclusory, lack of foundation/predicate	Overruled Sustained
	Exhibit A1 is not authenticated, is not relevant and is not a complete transcript of the broadcast.	Overruled Sustained
	Third sentence: Not relevant, lack of personal knowledge, conclusory, lack of foundation/predicate	Overruled Sustained
	Fourth sentence: Not relevant, lack of personal knowledge, conclusory, lack of foundation/predicate,	Overruled Sustained
	Last sentence: Not relevant, lack of personal knowledge, conclusory, lack of foundation/predicate	Overruled Sustained

	Entire paragraph is objectionable as it seeks to bolster improper expert opinion on question of law	Overruled Sustained
Second paragraph, page 23	First paragraph: Not relevant Second sentence: Not relevant, violates TRE 404, lack of foundation/predicate, lack of personal knowledge, hearsay, vague and ambiguous Third sentence: Not relevant, hearsay, lack of foundation/predicate, conclusory Entire paragraph is objectionable as it seeks to bolster improper expert opinion on question of law	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained
Third paragraph, page 23 (above C)	First sentence Not relevant, speculative, conclusory, lack of personal knowledge, lack of foundation/predicate Second sentence: Not relevant, vague and ambiguous, lack of personal knowledge Third sentence: Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, conclusory, speculative	Overruled Sustained Overruled Sustained Overruled Sustained

	Last sentence: Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, conclusory, speculative Entire paragraph is objectionable as it seeks to bolster improper expert opinion on question of law	Overruled Sustained Overruled Sustained
Paragraph C	Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, conclusory, speculative; violates TRE 403, 404, and 608(b)	Overruled Sustained
Last paragraph, page 23 (under C) continuing to page 24	Each sentence: Not relevant, entire paragraph is objectionable as it seeks to bolster improper expert opinion on question of law and actual malice, violated TRE 404,403	Overruled Sustained
All other paragraphs on page 24	Not relevant, violates TRE 404, 403, all paragraphs are objectionable as they seek to bolster improper expert opinion on question of law and actual malice	Overruled Sustained
Page 25 photo	Not relevant, violates TRE 404, 403	Overruled Sustained
Page 25, first paragraph (under photo)	Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, conclusory, speculative	Overruled Sustained

Paragraph D	Not relevant, Expert opinion not probative on question of law and actual malice, lack of foundation/predicate, conclusory,	Overruled Sustained
Second paragraph, page 25 (under D)	Not relevant, Defendants also incorporate herein all objections to Mr. Pozner's affidavit	Overruled Sustained
Third paragraph	First sentence: Not relevant, hearsay, lack of personal knowledge, Second sentence: Not relevant, hearsay, lack of foundation/predicate, lack of personal knowledge Exhibit A14 is not authenticated, is not relevant and is not a complete transcript of the broadcast. Last sentence: Not relevant, hearsay, lack of foundation/predicate, lack of personal knowledge Exhibit A15 is not authenticated, is not relevant and is not a complete transcript of the broadcast. Entire paragraph is objectionable as it seeks to bolster improper expert opinion on question of law and actual malice	Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained Overruled Sustained

Fourth paragraph	Each sentence: Not relevant, lack of personal knowledge, lack of foundation/predicate, Exhibit A16 is not authenticated, is not relevant and is not a complete transcript of the broadcast. Entire paragraph is objectionable as it seeks to bolster improper expert opinion on question of law and actual malice	Overruled Sustained Overruled Sustained Overruled Sustained
Page 26, first paragraph	Each sentence: Not relevant, lack of personal knowledge, lack of foundation/predicate Exhibits A17 and A18 are not authenticated, are not relevant and are not complete transcripts of the broadcasts. Entire paragraph is objectionable as it seeks to bolster improper expert opinion on question of law and actual malice	Overruled Sustained Overruled Sustained
Second paragraph and quotation	Not relevant, lack of personal knowledge Exhibit A19 is not authenticated, is not relevant and is not a complete transcript of the broadcast.	Overruled Sustained Overruled Sustained

	Entire paragraph is objectionable as it seeks to bolster improper expert opinion on question of law and actual malice	Overruled Sustained
Third paragraph	First sentence: Not relevant, lack of personal knowledge, lack of foundation/predicate, conclusory	Overruled Sustained
	Second sentence: Not relevant, Expert opinion not probative on question of law and actual malice, lack of personal knowledge, lack of foundation/predicate, conclusory, speculative	Overruled Sustained
Conclusion	First sentence: Not relevant, Expert opinion not probative on question of law and actual malice lack of personal knowledge, lack of foundation/predicate, conclusory, speculative	Overruled Sustained
	Second sentence: Not relevant, Expert opinion not probative on question of law and actual malice, lack of personal knowledge, lack of foundation/predicate, conclusory, speculative	Overruled Sustained
	Third sentence: Not relevant, Expert opinion not probative on question of law and actual malice lack of personal knowledge, lack of foundation/predicate, conclusory, speculative	Overruled Sustained

	Last sentence: Not relevant, Expert opinion not probative on question of law and actual malice, lack of personal knowledge, lack of foundation/predicate, conclusory, speculative	Overruled Sustained
All websites listed in footnotes	Lack of authentication; lack of foundation/predicate; not relevant; violate TRE 404, 608(b) and 703. In addition, footnotes 5, 6, 12, 13, 14-18, 41-43, 45 and 47 are hearsay.	Overruled Sustained

Dated: September _____, 2018.

JUDGE