

IN THE IOWA DISTRICT COURT FOR OSCEOLA COUNTY

AL BRUEGGEMAN, DAN BREUKER,
TOM BREMER, ROGER BOSMA, MARK
DILLEHAY, RANDY ROWE, ALLEN
ROWE, and JARROD WALLACE,

Plaintiffs,

vs.

OSCEOLA COUNTY, and the CITY OF
HARRIS,

Defendants.

No. CVCV019663

**MOTION TO STRIKE DEFENDANTS'
EXPERT WITNESS DESIGNATION**

The Plaintiffs, for their Motion to Strike Defendants' Expert Witness Designation, state the following:

1. On April 29, 2016, Defendants designated John Danos as an expert witness. His expert opinion is based largely on inadmissible opinions on the legal meaning of Iowa Code Chapter 403—the ultimate issue in the case.

2. “An expert witness ‘cannot opine on a legal conclusion or whether the facts of the case meet a given legal standard.’” *Iowa Supreme Court Atty. Disciplinary Bd. v. Blessum*, 861 N.W.2d 575, 583 (Iowa 2015) (quoting *In re Palmer*, 691 N.W.2d 413, 419 (Iowa 2005)).

3. “Iowa Rule of Evidence 5.702 allows expert opinion testimony ‘[i]f scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue.’” *State v. Tyler*, 867 N.W.2d 136, 153 (Iowa 2015) (quoting Iowa R. Evid. 5.702)).

4. “[A]n expert may not opine as to whether a particular legal standard has been satisfied. . . .” *Id.* at 153-54 (citing *State v. Smith*, 522 N.W.2d 591, 593-94 (Iowa 1994)). Further,

the Iowa Supreme Court has continually held “that expert testimony is not admissible merely to bolster credibility.” *Id.* at 154 (citing *State v. Dudley*, 856 N.W.2d 668, 676 (Iowa 2014)).

5. The affidavit of John Danos is filled with inadmissible statements that go to the ultimate issues to be decided in this case—the meaning of terms in Iowa Code Chapter 403. Particularly, paragraphs 9-14 are taking a position on the ultimate issue and are directing the Court, the factfinder in this case, how it should interpret terms in a statute. Further, statements that this individual has setup other similar urban renewal areas without legal issues has no relevance to this case. In addition, pursuant to Iowa R. Evid. 5.702, this so-called expert’s testimony will not assist the Court in understanding the evidence or determining facts. Accordingly, Defendants’ expert designation should be stricken.

WHEREFORE, the Plaintiffs pray the Court grant their Motion to Strike Defendants’ Expert Witness Designation.

Respectfully submitted,

EICH, VAN DYKE, WERDEN & STEGER PC

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