

THE STATE OF NEW HAMPSHIRE

COOS, SS.

COOS COUNTY SUPERIOR COURT

STATE OF NEW HAMPSHIRE

V.

VOLODYMYR ZHUKOVSKYY

214-19-CR-78

**Motion in Limine: Testimony of Donna Papsun**

NOW COMES the defendant, Volodymyr Zhukovskyy, by and through counsel, Jay Duguay, Esq., and respectfully requests this Honorable Court limit the testimony of the State's toxicology witness, Donna Papsun.

In Support of this motion, the Defendant States the following:

1. State filed a motion to limit the testimony of defense expert Dr. Edward Sellers regarding several aspects of his report. Pertinent to this motion, the State requested that Dr. Sellers not be allowed to opine about whether Mr. Zhukovskyy was intoxicated or impaired at the time of the accident; whether Albert Mazza was intoxicated or impaired at the time of the accident; or opine as to the causation of the accident.

2. After a lengthy hearing on the merits, the Court issued an order on November 16, 2021 in which it granted the State's motion to exclude the first two items listed above on the grounds that the testimony was outside of Dr. Sellers' area of expertise given that he was not present at the time of the crash, therefore his testimony on that issue will not aid the jury. The third item was excluded as being outside the scope of Dr. Sellers expertise.

3. For the reasons stated in the Court's November 16, 2021 order on the State's motion in Limine regarding the testimony of Dr. Sellers, the testimony of the State's toxicology witness Donna Papsun must be likewise limited. Donna Papsun was not present at the time of the accident. In addition, any opinion that she would offer regarding the causation of the accident would be outside the scope of her expertise.

4. Accordingly, Donna Papsun must not be permitted to opine about whether Mr. Zhukovskyy or Albert Mazza was intoxicated or impaired at the time of the accident. In addition, Donna Papsun must be prohibited from offering any opinion regarding the causation of the

accident.

Wherefore, Mr. Zhukovskyy respectfully requests this Honorable Court preclude the State from offering the above testimony.

Respectfully submitted,

/s/Jay Duguay \_\_\_\_\_  
Jay Duguay, Esq.  
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**CERTIFICATE OF SERVICE:**

I hereby certify that a copy of this Motion in Limine: Testimony of Donna Papsun has been forwarded to the Coos County Attorney's Office on this 14 day of March, 2022.

   /s/Jay Duguay\_\_\_\_\_

Jay Duguay, Esq.