

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

TROY M. HURD, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 THE CITY OF LINCOLN, a political )  
 subdivision, TOM CASADY, in their )  
 individual and official capacities, )  
 JOHN HUFF, in their individual and )  
 official capacities, PAT BORER, in )  
 their individual and official )  
 capacities, ROGER BONIN, in their )  
 individual and official capacities, )  
 JEANNE PASHALEK, in their )  
 individual and official capacities, and )  
 LEO BENES, in their individual and )  
 official capacities, )  
 )  
 Defendants. )  
 )

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4:16CV3029

**ORDER**

After careful consideration of the parties’ briefs, evidence, and oral arguments regarding Defendant City of Lincoln’s Motion to Exclude Plaintiff’s Proposed Expert Testimony/Opinions by Amy Oppenheimer (Filing No. 141),

IT IS ORDERED:

1. The Motion to Exclude Plaintiff’s Proposed Expert Testimony/Opinions by Amy Oppenheimer (Filing No. 141) is denied. However, the expert may not express an opinion directly or indirectly that the City retaliated against the Plaintiff because it failed to follow the alleged “standard of care.” Plaintiff’s counsel shall so instruct the expert.

2. Furthermore, I will give a limiting instruction similar to the following if requested by the City:

Members of the Jury,

You are about to hear testimony by a person designated by the Plaintiff as an expert. It is for you to decide whether such a person is an expert and, if so, how much weight, if at all, to give to the testimony of the witness. The expert is not permitted to render an opinion that the City retaliated against the Plaintiff. In fact, the expert has no expertise in determining such a question, as that is for you alone to decide. Furthermore, even if you find that the City did not follow generally accepted human-resource policies, sometimes called the “standard of care,” that does not necessarily mean that the City retaliated against Plaintiff.

DATED this 16th day of October, 2018.

BY THE COURT:

*s/ Richard G. Kopf*  
Senior United States District Judge