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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

GLENN S. MORRISON, DO.,

Plaintiff,

v.

STATE OF WASHINGTON;
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES; DEPARTMENT OF
HEALTH; DAVID HOLT, COE WESTERN
STATE HOSPITAL; KATHERINE
RAYMER, DANIEL RUIZ PAREDES,
TODD M. TERHAAR, DOH HEALTH
CASE INVESTIGATOR III; CITY OF
TACOMA and JENNIFER TERHAAR,

Defendants.

CASE NO. 3:20-cv-06015-JHC

ORDER

I

INTRODUCTION

This matter comes before the Court on Defendant Todd M. Terhaar’s (Defendant) Motion to Strike Plaintiff’s Expert Witness Michael Jones. Dkt. # 108. Having considered the submissions in support of and in opposition to the motion, the balance of the case file, and the applicable law, the Court GRANTS the motion in part and DENIES it in part.

II**BACKGROUND**

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3 Plaintiff Dr. Glenn S. Morrison was employed by the Washington Department of Social
4 and Health Services (DSHS) as a psychiatrist at Western State Hospital. Dkt. # 1–1 at 4. On
5 August 1, 2018, the Washington Department of Health (DOH) received an anonymous complaint
6 “alleging that Dr. Morrison had been engaging in prostitution solicitation, illicit drug use and
7 child pornography.” *Id.* at 7.

8 Defendant, a DOH Healthcare Investigator and former Tacoma police officer,
9 investigated the complaint. *Id.* at 8. During the investigation, Defendant asked Plaintiff if he
10 had ever solicited the services of a prostitute and Plaintiff said he had not. *Id.* at 9. Defendant
11 then obtained non-conviction data regarding an arrest from 2011 for which Plaintiff was not
12 charged.¹ *Id.* at 9. Defendant allegedly warned Plaintiff that the arrest record contradicted
13 Plaintiff’s statements that he had not solicited a prostitute, and that Plaintiff may face “additional
14 charges” for “failure to cooperate” and “interference with an investigation.” *Id.* at 9. The
15 complaint alleges that Defendant did not have the law enforcement credentials or a “legitimate
16 law enforcement purpose” to access this data. *Id.* Plaintiff says Defendant may have relied on
17 his wife, an employee of the Tacoma Police Department, to get the police report, or he may have
18 improperly obtained the report from South Sound 911’s record center after getting the police
19 report number from his wife. *Id.* at 9–10.

20 On October 25, 2018, Defendant sent Plaintiff’s doctor a letter asking for verification that
21 Plaintiff was being treated for urinary tract problems, that he needed catheters for treatment, and
22 that Plaintiff inserted the catheters himself. *See* Dkt. # 58 at 30. During his arrest, Plaintiff had

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¹ The complaint does not detail what Plaintiff was arrested for in 2011; it says that it was “an
arrest of [Plaintiff] for which no criminal charges were ever filed.” Dkt. # 1–1 at 9.

1 stated he had lubricant with him because he was “self-catheterizing.” Dkt. # 43 at 3. The
2 Complaint alleges that Defendant threatened Plaintiff’s doctor with “fines, sanctions and public
3 shaming on the DOH website” if the doctor did not comply with Defendant’s “information
4 request” for Plaintiff’s protected health information (PHI). Dkt. # 1–1 at 11. Defendant did not
5 receive the requested information. *Id.* at 13.

6 On November 5, 2018, a second anonymous complaint about Plaintiff was mailed to the
7 Chief Executive Officer of Western State Hospital. *Id.* at 13. The complaint alleged that
8 Plaintiff was “arrested and booked” on charges of solicitation of a prostitute and was “currently
9 under investigation for not reporting this incident” and “lying about it to investigators.” *Id.*
10 Plaintiff alleges that Defendant “was among the only persons aware of” his allegedly untruthful
11 responses to Defendant’s questions, and says that if Defendant sent the anonymous complaint,
12 such action would be outside the “scope of his duties as a Health Care Investigator.” *Id.*

13 Plaintiff filed suit against Defendant and six other defendants in Pierce County Superior
14 Court on September 16, 2020.² *See generally id.* Among other causes of action, Plaintiff claims
15 that Defendant violated Plaintiff’s right of privacy by improperly obtaining non-conviction data
16 and improperly disclosing confidential information to Defendant’s wife, DOH, and DSHS. *Id.* at
17 19. Plaintiff also claims that Defendant violated Washington’s Criminal Records Privacy Act by
18 improperly accessing, copying, and disclosing non-conviction criminal history information. *Id.*
19 at 20–21. Defendant City of Tacoma removed the case to federal court on October 14, 2020.
20 *See generally* Dkt. # 1.

21 Plaintiff disclosed Jones as an expert on August 10, 2022. Dkt. # 71 at 2. The disclosure
22 states:

23 _____
24 ² This order omits the allegations against the other defendants because Jones’s proposed
testimony focuses on Defendant Terhaar’s behavior.

1 [Jones] will express opinions regarding [a]ccess to criminal records, including non-
2 conviction data, protected health information and disclosure of such information,
3 the legal standards related thereto, training provided to law enforcement officials
4 provided access to such information and the protections afforded to the subject of
5 such inquiries by law enforcement of which a reasonable law enforcement official
6 would be aware.

7 *Id.* Plaintiff’s disclosure says that “the subject of [Jones’s] testimony is stated in the Declaration
8 of Michael A. Jones in Opposition to Defendants’ Motion for Summary Judgment and exhibits
9 thereto” and attaches the declaration as an exhibit to the disclosure.³ *Id.* Defendant deposed
10 Jones on October 19, 2022. Dkt. # 109 at 1. Defendant moves to strike Jones. *See* Dkt. # 108.

11 III

12 LEGAL STANDARDS

13 Federal Rule of Evidence 702 governs the admissibility of expert testimony. It states:

14 If scientific, technical, or other specialized knowledge will assist the trier of fact to
15 understand the evidence or to determine a fact in issue, a witness qualified as an
16 expert by knowledge, skill, experience, training, or education, may testify thereto
17 in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient
18 facts or data, (2) the testimony is the product of reliable principles and methods,
19 and (3) the witness has applied the principles and methods reliably to the facts of
20 the case.

21 Rule 702 charges trial courts to act as gatekeepers to ensure any expert testimony is reliable as
22 well as relevant. *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 590-91; *see also*
23 *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 148–49 (1999) (extending *Daubert*’s general
24 principles beyond scientific testimony to all expert testimony).

25 The reliability analysis asks whether the testimony has a “reliable basis in the knowledge
26 and experience of [the relevant] discipline.” *Kumho Tire Co.*, 526 U.S. at 149 (internal citation
27 omitted). Relevance is a question of “fit” and whether the expert testimony relates to the facts
28 and issues of the particular case. *Daubert*, 509 U.S. at 591. A Rule 702 inquiry is a “flexible

29 ³ Jones’s declaration in opposition to defendants’ motion for summary judgment was originally
30 submitted as Dkt. # 52 and Dkt. # 58 (apparently duplicates) on August 1, 2022.

1 one” that recognizes that “an expert is permitted wide latitude to offer opinions.” *Id.* at 592, 594.
2 “[S]haky but admissible evidence is to be attacked by cross examination, contrary evidence, and
3 attention to the burden of proof, not exclusion.” *Primiano v. Cook*, 598 F.3d 558, 564 (9th Cir.
4 2010).

5 IV 6 DISCUSSION

7 Defendant requests that Jones be struck from testifying as a witness at trial, saying he
8 lacks the qualifications to be an expert, his opinions are generally not reliably based on facts, two
9 specific opinions in his testimony are speculative, and his proposed testimony includes
10 prohibited statements of law. *See* Dkt. # 108 at 7–12.

11 A. Qualifications

12 Rule 702 “contemplates a broad conception of expert qualifications” by providing that an
13 expert may be qualified either by “knowledge, skill, experience, training, or education.” *Thomas*
14 *v. Newton Int’l Enters.*, 42 F.3d 1266, 1269 (9th Cir. 1994); Fed. R. Evid. 702. If an expert
15 witness fails to meet this standard, a court may exclude their testimony. *See United States v.*
16 *Urie*, 183 F. App’x 608, 611 (9th Cir. 2006) (excluding a cultural expert who had “no education
17 or training as a cultural expert generally, or as an expert on Nigerian culture specifically”); *see*
18 *also Jinro Am. Inc. v. Secure Invs. Inc.*, 266 F.3d 993, 1006 (9th Cir. 2001) (excluding an expert
19 on Korean business who had “no education or training as a cultural expert generally, or as an
20 expert on Korean culture specifically” and did not have any “legal, business or financial
21 expertise to evaluate the substance of the [business] transaction”).

22 Defendant says that Jones fails to qualify as an expert in a relevant field under Rule 702
23 because “his knowledge and expertise are based solely on his career in private security” and
24 “[t]here is no indication that Mr. Jones has ever worked in an investigatory role or been

1 employed by a state agency.” Dkt. # 108 at 8–9. Defendant likens Jones to the unqualified
2 expert in *Urie*, stating that Jones’s private security career is “wholly unrelated” to the type of
3 state-run investigation at issue in this case and Jones is unaware of “Washington Department of
4 Health investigatory practices, or any investigation for that matter.” *Id.* at 9.

5 But as Plaintiff emphasizes, Jones does have knowledge, experience, training, and
6 education related to investigations and management of non-conviction records and PHI. *See*
7 Dkt. # 124 at 7–10; *see United States v. Holguin*, 51 F.4th 841, 854 (9th Cir. 2022) (“Law
8 enforcement professionals are routinely qualified to offer expert testimony based on their
9 training and experience.”). Jones holds several degrees and certificates related to criminal
10 justice, including a Master of Science in Criminal Justice Administration. *See* Dkt. # 58 at 17.
11 Jones has had almost 30 years of experience with the Virginia Capitol Police in different roles
12 including police officer, investigator, captain, and chief of police. *Id.* at 19.

13 Jones also has relevant experience working with state agencies regarding their record
14 management practices. For example, Jones presented to the Virginia Department of Health
15 about “law enforcement and support of vital records systems” and completed a full audit of the
16 Virginia Department of Behavioral Health, including an analysis of its policies regarding
17 records. *See* Dkts. ## 58 at 24; 109 at 21. Jones has also trained Virginia healthcare
18 investigators about the release of health records and the authorization required to share such
19 information under National Criminal Information Center regulations, internal policies, and
20 Virginia Criminal Information Network regulations. *See* Dkt. # 109 at 22–23.

21 Defendant emphasizes that Jones’s experience is specific to Virginia and that he has
22 never worked in Washington. *See* Dkts. ## 108 at 3–4; 127 at 3; 109 at 24–25 (stating that 90
23 percent of Jones’s “projects, achievements, and tasks” occurred in Virginia). However, where an
24 expert is generally qualified, lack of specific experience “goes to the weight of [the expert’s]

1 testimony, not to its admissibility.” *United States v. Little*, 753 F.2d 1420, 1445 (9th Cir. 1984)
2 (allowing an expert in income tax to testify despite lacking specific experience in partnership
3 taxation); *see also United States v. Garcia*, 7 F.3d 885, 889–90 (9th Cir. 1993) (allowing an
4 expert in children’s mental health to testify despite lacking specific expertise on the subject of
5 child testimony through closed circuit television). This is true even if the expert gained
6 experience outside the locality of the case, as long as the matters at issue do not differ by
7 geographic location. *See Wilder Enters. Inc. v. Allied Artists Pictures Corp.*, 632 F.2d 1135,
8 1143–44 (4th Cir. 1980) (finding no evidence that subject of the expert’s testimony “would differ
9 essentially because of geographic location.”); *cf. United States v. Johnson*, 285 F.2d 35, 41 (9th
10 Cir. 1960) (explaining that although the district court did not err in excluding an expert that
11 lacked expertise in local conditions and the relevant specialty, “perhaps some other trial courts,
12 in the exercise of their discretion, would consider the witness qualified and permit his
13 testimony”). Here, Defendant does not provide any evidence that Jones’s lack of
14 experience as to Washington makes a legal difference. *See generally* Dkts. # 108, 127. And
15 Jones said in his deposition that the section of the Washington State Criminal Justice and Privacy
16 Act concerning “where records can go to and how they can be distributed” is “very similar to
17 [National Criminal Information Center] guidelines.” Dkt. # 109 at 29.

18 Therefore, the Court finds that Jones has sufficient qualifications to testify as an expert
19 regarding access to, and disclosure of, criminal records and PHI. Also, Jones is qualified to
20 testify about the training law enforcement officials receive about legal protections afforded to
21 criminal records and PHI.

22 B. Sufficiency of Facts

23 Rule 702 requires expert testimony to be based on “sufficient facts or data.” As a
24 gatekeeper, but not a fact finder, the district court’s role is not to decide “whether the expert is

1 right or wrong” in their conclusions. *Alaska Rent-A-Car, Inc. v. Avis Budget Grp., Inc.*, 738 F.3d
2 960, 969–970 (9th Cir. 2013). Instead, the court must determine whether there is a sufficient
3 factual foundation for the expert’s testimony to be reliable. *Elosu v. Middlefork Ranch Inc.*, 26
4 F.4th 1017, 1025–26 (9th Cir. 2022).

5 Defendant says that Jones’s testimony lacks a sufficient factual foundation because Jones
6 “is unaware of key facts and has already made many subjective, inaccurate assumptions
7 regarding [Defendant]’s actions as an investigator,” including Defendant’s law enforcement
8 credentials, the allegations Defendant was investigating, what constitutes non-conviction data,
9 and the rules governing the release of police incident reports under Washington law. Dkt. # 108
10 at 10. Defendant notes that courts sometimes exclude testimony when experts fail to base their
11 opinions on specific facts. *See* Dkt. # 108 at 9 (citing *Guidroz-Brault v. Missouri Pac. R.R. Co.*,
12 254 F.3d 825, 832 (9th Cir. 2001) (excluding an expert’s testimony when the case record did not
13 reveal any underlying facts which could support his opinion).

14 Jones’s testimony is distinguishable from the expert testimony in *Guidroz-Brault*. There,
15 Plaintiffs sued a railroad company for negligence after someone sabotaged the tracks and a train
16 derailed. *Guidroz-Brault*, 254 F.3d at 827. Plaintiffs’ accident reconstruction expert opined that,
17 assuming the saboteurs left visible gaps in the track, the engineer “should have applied the train’s
18 emergency breaks 400 feet before the train reached the [point of derailment].” *Id.* at 831.
19 However, the court found no facts in the record to support the opinion that the saboteurs left
20 visible gaps in the tracks, and the saboteurs had been careful to hide other signs of their sabotage.
21 *Id.* at 827–28, 832. Thus, the expert’s testimony was deemed inadmissible. *Id.* at 832.

22 Unlike in *Guidroz-Brault*, Jones relies on several documents in the record for his
23 testimony. For example, Jones relies on the Washington DOH’s Policy on confidential
24 healthcare information and the Washington DOH’s Investigator Desk Manual to support his

1 testimony about Washington record-sharing rules. *See* Dkt. # 58 at 11–12 (“DOH Policies
2 restrict the disclosure of confidential information in their own internal policies” and “[t]hat is
3 contrary to the procedures outlined by the Washington State Department of Health Investigator’s
4 Desk Manual . . .”). Jones also refers to Defendant’s answers to interrogatories. *Id.* at 10
5 (pointing to Defendant’s responses to several interrogatories to support that claim that Defendant
6 “did not maintain a record of the persons to whom he made disclosures of the criminal history
7 information”). This refutes Defendant’s assertion that Jones’s testimony is not grounded in
8 specific facts of the case, and it establishes the “sufficient factual grounds” required for Jones’s
9 testimony to be admissible. *Elosu*, 26 F.4th at 1025–26.

10 Plaintiff admits that Jones misspoke about some facts during his deposition but asserts
11 that Jones can “reexamine any misstatements before trial” and that limitations to the credibility
12 of his testimony can be challenged by Defendant at trial. *See* Dkt. # 124 at 11; *see also*
13 *Thompson v. City of Olympia*, No. 3:18-cv-05267-RBL, 2019 WL 3287822, at *4–5 (W.D.
14 Wash. July 22, 2019) (allowing testimony from a qualified expert despite Defendants’ concerns
15 about inaccurate assumptions about legal duties and liability because Defendants can raise
16 objections and cross-examine the witness); *Alaska Rent-A-Car, Inc.*, 738 F.3d at 969 (“the judge
17 is supposed to screen the jury from unreliable nonsense opinions, but not exclude opinions
18 merely because they are impeachable.”). Therefore, Defendant fails to establish a basis for
19 excluding Jones’s testimony on foundation grounds.

20 C. Letters

21 Defendant identifies two specific aspects of Jones’s testimony as particularly speculative
22 and thus too unreliable to be helpful to the jury. *See* Dkt. # 58 at 11–12. First, Defendant says
23 that Jones cannot testify that Defendant’s letter to Plaintiff’s doctor “amounts to a request for
24 records” because Jones lacks investigatory experience and “there is no indication that he is

1 knowledgeable in the area of records or requests or analyzing written documents to determine
2 their nature.” *Id.* at 12. Defendant also says that the “letter is completely devoid of the term
3 ‘record’ or any requests for record” so “any determination that the letter was a records request
4 would be unsupported speculation by Mr. Jones.” *Id.* Second, Defendant says that “[t]here is no
5 evidence in the record indicating” that Defendant authored an anonymous letter to the DOH, and
6 that “any reliance upon it will be unsupported speculation.” *Id.* at 11.

7 1. Letter to Plaintiff’s doctor

8 The Court disagrees with Defendant’s characterization of Jones’s testimony. Jones does
9 not say in his declaration that the letter is a “request for records.” *See generally* Dkt. # 58.
10 Instead, Jones’s declaration is focused on the propriety of the letter and whether Defendant
11 “attempted to obtain [Plaintiff]’s Protected Health Information” in violation of typical healthcare
12 investigation procedures. *See* Dkt. # 58 at 11–12. Jones also does not conclude that the letter is
13 a “request for records” in his deposition. *See* Dkt. # 109 at 38, 93 (describing the letter as an
14 attempt to gain PHI, or an “effort to gain intimate medical care information”). Defendant has not
15 raised an objection to Jones’s ability to testify about whether the letter reflected proper
16 healthcare investigation procedure. *See generally* Dkt. # 108. Thus, Defendant has failed to
17 establish a basis for excluding Jones’s testimony about Defendant’s letter to Plaintiff’s doctor.

18 2. Anonymous complaint letter

19 Jones identifies some “strong circumstantial evidence” in support of his conclusion that
20 Defendant authored the second anonymous complaint, including that the letter was sent “within
21 days of [Defendant] being blocked from accessing [Plaintiff]’s protected health information” and
22 “[the letter] references a confidential meeting between [Defendant], [Plaintiff], and [Plaintiff]’s
23 attorney of which no other person likely would have been aware.” Dkt. # 58 at 14. But Jones
24 fails to explain a nexus between his investigative knowledge, this circumstantial evidence, and

1 the conclusion he draws that Defendant authored the anonymous complaint. *See United States v.*
2 *Hermanek*, 289 F.3d 1076, 1094 (9th Cir. 2002) (emphasizing that a district court cannot solely
3 evaluate the reliability of an expert’s testimony by relying on the expert’s “general
4 qualifications” without evaluating the explanation provided for how the expert arrived at their
5 specific conclusion).

6 In *Holguin*, the court allowed Plaintiff’s expert, a former “Mexican Mafia” member with
7 experience analyzing Mexican Mafia communications for law enforcement, to testify about the
8 meaning of a coded letter because “[he] detailed how he applied [his] experience to the ranch
9 letter.” 51 F.4th at 860. Based on his “specific experience with the Mexican Mafia’s methods of
10 communication,” the expert identified individual expressions in the letters and explained how he
11 knew they were coded references to drug-related activities. *Id.*

12 Unlike the expert in *Holguin*, Jones fails to explain how he relied on his investigative
13 experience to interpret the circumstantial evidence to conclude that Defendant authored the
14 anonymous letter. *See generally* Dkt. # 58. To the contrary, Jones says “[i]t does not take
15 someone with my years of law enforcement investigations” to interpret the timing of the
16 anonymous letter as circumstantial evidence that the Defendant wrote it. *Id.* at 14. This
17 statement both fails to tie Jones’s conclusion to his experience and fails the Rule 702
18 requirement that “the subject matter at issue [in an expert’s testimony] must be beyond the
19 common knowledge of the average layman.” *United States v. Morales*, 108 F.3d 1031, 1038 (9th
20 Cir. 1997). Plaintiff’s response to the motion does not provide any information about how Jones
21 applied his investigative knowledge to interpret the circumstantial evidence and came to his
22 conclusion that Defendant authored the anonymous letter. *See generally* Dkt. 124. Jones is thus
23 excluded from testifying as such at trial.

1 D. Legal Conclusions

2 Fed. R. Evid. 704(a) provides that “testimony in the form of an opinion or inference
3 otherwise admissible is not objectionable because it *embraces* an ultimate issue to be decided by
4 the trier of fact” (emphasis added). But “an expert witness cannot give an opinion as to her *legal*
5 *conclusion*, i.e., an opinion on an ultimate issue of law. Similarly, instructing the jury as to the
6 applicable law ‘is the distinct and exclusive providence’ of the court.” *Hangarter v. Provident*
7 *Life and Accident Ins. Co.*, 373 F.3d 998, 1016 (9th Cir. 2004) (emphasis in original) (internal
8 citation omitted). In *Nationwide Transport Finance v. Cass Information Systems, Inc.*, 523 F.3d
9 1051, 1058 (9th Cir. 2008), the Ninth Circuit affirmed the district court’s exclusion of parts of an
10 expert witness’s testimony and report that stated the following legal explanations and
11 conclusions: discussions of the UCC and other non-UCC laws and their application to the facts
12 of the case; discussions of the parties’ “legal rights, duties, and obligations under the law”; and
13 discussions about whether the parties’ actions were “wrongful” or “intentional.” However, the
14 expert was still allowed to discuss “industry conditions, standards, practices, and norms.” *Id.*

15 Defendant states that Jones’s declaration⁴ “is riddled with legal conclusions of both state
16 and federal law.” Dkt. # 108 at 11. For example, Jones’s declaration “repeatedly asserts that
17 [Defendant]’s investigatory practices violated both state and federal law and includes citations to
18 both [f]ederal and Washington statutes.” *Id.*

19 The Court agrees with Defendant that Jones’s declaration does include various legal
20 conclusions. *See generally* Dkt. # 58. For example, Jones states that Defendant Terhaar’s
21 behavior “violates the Washington Criminal Justice Privacy Act, RCW 10.97 *et seq.* and
22 [Plaintiff]’s Constitutional right of privacy.” *Id.* at 2. Jones also concludes that “[t]he provisions
23

24 ⁴ This is at Dkt. # 28, Jones’s declaration in opposition to Defendants’ motion for summary judgment, noted above as the document used as Jones’s initial expert report.

1 of RCW 18.130.057(2)(b) prohibit the Department of Health from making disclosure of
2 information exempt from public inspection and copying pursuant to RCW 18.130.095(1). That
3 would include non-conviction data.” *Id.* at 11. Finally, Jones asserts that Defendant’s conduct
4 “violated Dr. Morrison’s rights, is unethical and may even rise to the level of criminal conduct.”
5 *Id.* at 14.

6 Like the expert witness in *Nationwide Transport Finance*, Jones may not testify about
7 federal or Washington laws on record-keeping and apply them to the facts of this case; discuss
8 the parties’ specific legal rights and duties under the law; and determine whether any conduct
9 violated the law.

10 E. Defendant’s Reply

11 As discussed above, Plaintiff responded to Defendant’s motion with a brief and two
12 declarations (one from Jones and one from Plaintiff’s attorney). *See* Dkts. # 124–26. In
13 Defendant’s reply to Plaintiff’s response, Defendant says that under Fed. R. Civ. P. 26(e)(2),
14 Jones’s new declaration and pages 1–5 of Plaintiff’s brief were untimely supplements to the
15 initial disclosure of expert testimony and reports, and should either be struck, or Defendant
16 should be allowed to re-depose Jones at Plaintiff’s cost. *See* Dkt. # 127 at 1–2.

17 Jones’s new declaration and Plaintiff’s summary of Jones’s professional experiences on
18 pages 1–5 of Plaintiff’s brief largely repeat information included in Jones’s declaration in
19 opposition to Defendants’ motion for summary judgment, deposition, and résumé. *Compare*
20 *generally* Dkts. # 58 and 109 *with* Dkts. # 125–26. Thus, the Court did not rely on Jones’s new
21 declaration and pages 1–5 of Plaintiff’s reply brief in reaching its conclusions in this order.
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V

CONCLUSION

For the foregoing reasons, the Court GRANTS in part and DENIES in part Defendant's Motion to Strike Expert Jones (Dkt. # 108). Michael Jones may not testify at trial as to legal conclusions about the application of federal and state record-sharing laws to the facts of this case, the parties' specific legal rights and duties under the law, or whether Defendant's conduct violated the law or are criminal. Also, Jones may not testify at trial about Defendant's potential authorship of the anonymous complaint letter. The motion is otherwise denied.

Dated this 17th day of August, 2023.



John H. Chun
United States District Judge