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Counsel for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

TIMOTHY MELLON, a Wyoming resident,)	
)	
Plaintiff,)	
)	
v.)	Case No. 13 CV 118-S
)	
THE INTERNATIONAL GROUP FOR)	
HISTORIC AIRCRAFT RECOVERY, a)	
Delaware non-profit corporation and)	
RICHARD E. GILLESPIE,)	
)	
Defendants.)	

**DEFENDANTS' MOTION IN LIMINE AS TO ANY EVIDENCE OR ARGUMENTS
REGARDING "SASQUATCH"**

COME NOW Defendants The International Group for Historic Aircraft Recovery ("TIGHAR") and Richard E. Gillespie (collectively "Defendants") by and through their undersigned counsel John A. Masterson and Alaina M. Stedillie of Lewis Roca Rothgerber, LLP

and William J. Carter of Dean & Carter, PLLC, and submit this *Motion in Limine as to Any Evidence or Arguments Regarding "Sasquatch."* Pursuant to U.S.D.C.L.R. 7.1(b)(1)(A), the undersigned affirm that they have conferred with opposing counsel before filing this Motion. All counsel met in good faith, and in person, to discuss motions in limine, but no compromise could be reached.

Defendants realize that the title of this Motion is odd; so are the facts surrounding its purpose. Regardless, Defendants believe it is necessary to file.

Jeff Glickman has been disclosed by Defendants as a prospective witness. Mr. Glickman analyzed the video footage of the 2010 expedition. He is a volunteer for TIGHAR, and he has a background in forensic and historical analysis of photographs. One of Mr. Glickman's past forensic analyses, completely unrelated to TIGHAR or the issues in this case, was of the 1967 "Patterson Film," which depicts what, to some, appears to be conclusive evidence that Sasquatch had been found strolling through the woods in broad daylight. Mr. Glickman was asked to analyze the film and prepare a report, which he did in 1998. This report is available to the public on the Internet. Importantly, it makes no ultimate finding that the figure in the film is Sasquatch, but instead states that at the time of his analysis, and within the bounds of forensic science, he could not make ultimate conclusions about the authenticity of the film or the figure depicted therein.

If called, it is the Defendants' belief that the Plaintiff will attempt to use this remote, irrelevant, unrelated, and inconclusive report in an attempt to discredit Mr. Glickman's forensic analysis skills. Defendants hold this belief based on statements Plaintiff has made on the TIGHAR forum referencing the Patterson Film, because Plaintiff wore a homemade hat to his

deposition with the words "Gone Squatchin'" across the front, and because Plaintiff signed some forum posts using his name along with the phrase "Gone Squatchin'." Pl. depo. pp. 124-25.¹

Federal Rule of Evidence 401 governs whether evidence is relevant. To be relevant, evidence must have "any tendency to make a fact more or less probable than it would be without the evidence," and the fact must be of "consequence in determining the action." F.R.E. 401(a) & (b). If an item is relevant, it is generally admissible. F.R.E. 402. However, as in this case, if the probative value of evidence is substantially outweighed by other considerations, otherwise relevant evidence may be excluded. F.R.E. 403. These factors include unfair prejudice, confusion of the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence. *Id.*

In the case of Mr. Glickman's involvement 16 years ago with providing a forensic evaluation of a film, any evidence concerning that involvement is certainly irrelevant. It is unrelated to the instant case, it is remote in time, it has no consequence in determining the action, and it does not have the tendency to make any fact in the case more or less probable than it would be if evidence of his prior forensic evaluation were not presented to the jury. This past analysis, which was performed according to the scientific method and established standards in forensic analysis, has no bearing on whether Mr. Glickman's analysis of the 2010 footage is accurate, let alone whether Defendants discovered Ms. Earhart's plane and hid it from the world or failed to discover it in the 2010 footage. Even if this information were relevant, any reference or mention by Plaintiff of anything involving Sasquatch, Big Foot or any other mythical woodland creature would be highly prejudicial to the Defendants, not to mention confusing to the jury and a waste of time for all involved in this case.

¹ Plaintiff's deposition excerpt is attached hereto as Exhibit A.

WHEREFORE, Defendants respectfully request that this Court enter an Order directing Plaintiff to not provide any testimony or evidence of the 1967 Patterson Film or Mr. Glickman's forensic evaluation of it, or Plaintiff's catch phrase "Gone Squatchin'" in any way, and for any other and further relief as this Court deems appropriate.

DATED this 17th day of July, 2014.

THE INTERNATIONAL GROUP FOR HISTORIC
AIRCRAFT RECOVERY and RICHARD E.
GILLESPIE

By _____ /s/
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of July, a true and correct copy of the foregoing was electronically served upon all parties registered as CM/ECF users in this case via the Court's CM/ECF electronic mail service including the following:

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/s/
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EXHIBIT A
MELLON DEPOSITION

1 Q. Okay. Why did you write that?

2 A. I think it was a result of a back and forth
3 with Jeff Neville, talking about various people's
4 ways of posting, and integrity, and so forth.

5 Q. Okay. Because you -- you felt people needed
6 to take the high road.

7 A. Yes. I think it's a better course of
8 action, generally speaking.

9 Q. Under some of them is the phrase "Gone
10 Squatchin," which is the same thing that's on your
11 hat, I noticed. What's the significance of that?

12 A. Because I'm not going to wear this in the
13 shower.

14 Q. What is the significance of that phrase?

15 A. I believe that part of Mr. Glickman's fame
16 is based on a verification of the existence of
17 Sasquatch.

18 Q. Okay.

19 A. And there was considerable press coverage of
20 his efforts in that.

21 Q. Okay.

22 A. So it's a reference to Mr. Glickman.

23 Q. Okay. Kind of a poking at him a little bit?

24 A. That's your interpretation.

25 Q. Okay. Well, how would you characterize it?

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1 A. Gone Squatchin.

2 Q. What does it mean?

3 A. I just explained it.

4 Q. No, I'm just asking what the significance of
5 it is. I said you're poking at him a little bit and
6 you said that's my interpretation, so I'm asking you.
7 Why would you put it up there?

8 A. Why not?

9 Q. Okay. It's not the high road, though.

10 A. Well, that's your opinion.

11 Q. Okay. And then on your post --

12 A. Have you studied Mr. Glickman's study of
13 Sasquatch?

14 Q. I have not.

15 A. Okay, we'll talk again when you have.

16 Q. In the Earhart Forum where you posted the
17 message about why you filed your lawsuit, the phrase
18 is, "Take No Prisoners." What's that refer to?

19 A. That's a phrase used by the Marine Corps.

20 Q. And why would you put that up there?

21 A. Because I don't believe in laying over when
22 you see something going on that's wrong. I believe
23 if you see ill, then it's your duty to go after it
24 and correct it.

25 Q. We talked about the closure of some of the

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**ORDER ON DEFENDANTS' MOTION IN LIMINE AS TO ANY EVIDENCE OR
ARGUMENTS REGARDING "SASQUATCH"**

This matter having come before the Court on Defendants' Motion in Limine asking this Court to issue its Order precluding the introduction of evidence, argument, questioning, mention

or testimony of the 1967 "Patterson Film," Mr. Glickman's forensic evaluation of said film, or Plaintiff's 'catch phrase "Gone Squatchin'," and the Court, being fully advised in the premises:

IT IS HEREBY ORDERED, ADJUDGED and DECREED that Defendants' Motion in Limine be, and the same hereby is granted, and accordingly there shall be no the introduction of evidence, argument, questioning, mention or testimony of the 1967 "Patterson Film," Mr. Glickman's forensic evaluation of said film, or Plaintiff's 'catch phrase "Gone Squatchin'."

DATED this ____ day of _____, 2014.

United States District Judge