

2015 DEC 31 PM 3:26

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**IN THE DISTRICT COURT OF FRANKLIN COUNTY, KANSAS  
FOURTH JUDICIAL DISTRICT**

STATE OF KANSAS, )  
Plaintiff, )  
vs. ) Case No. 2013 CR 104  
KYLE FLACK, )  
Defendant. )

**STATE'S RESPONSE TO DEFENDANT'S MOTION TO PRECLUDE IMPROPER  
IMPEACHMENT OF EXPERT WITNESSES**

**COMES NOW** the State of Kansas, by and through Stephen A. Hunting, Franklin County Attorney, in response to defendant's Motion to Preclude Improper Impeachment of Expert Witnesses:

**ARGUMENTS AND AUTHORITIES**

K.S.A. 60-420 states,

"Subject to K.S.A. 60-421 and 60-422, for the purpose of impairing or supporting the credibility of a witness, any party including the party calling the witness may examine the witness and introduce extrinsic evidence concerning any conduct by him or her and any other matter relevant upon the issue of credibility.

Exposing bias or motive for testifying is a proper subject for cross-examination. It is not error for a prosecutor to inquire about an expert's compensation. *See, State v. Wells*, 297 Kan. 741, 752- 753, 305 P. 3d 568 (2013); *See also, State v. Jones*, 273 Kan. 756, 783, 47 P.3d 783 (2002). Subsequent argument and comment on an expert witness' fee

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is not, of itself, misconduct. *State v. Lowrance*, 298 Kan. 274, 283, 312 P.3d 328 (2013).

The defendant does not cite any controlling Kansas authority to the contrary.

WHEREFORE, the State request the court deny the defendant's motion.

Respectfully submitted,



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Stephen A. Hunting, #21648  
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Attorney for the plaintiff

### CERTIFICATE OF SERVICE

I hereby certify that the original State's Response to Defendant's Motion to Preclude Improper Impeachment of Expert Witnesses was filed on the 31st day of December, 2015, to:

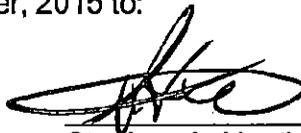
The Clerk of the Franklin County District Court  
301 S. Main Street  
Ottawa, KS 66067

and, I hereby certify that a true and accurate copy of the State's Response to Defendant's Motion to Preclude Improper Impeachment of Expert Witnesses was emailed to [mwright@sbids.org](mailto:mwright@sbids.org) and [tfrieden@sbids.org](mailto:tfrieden@sbids.org) and via facsimile to 785-291-3979 & 316-0267-3756 on the 31st day of December, 2015 to:

Maban Wright  
Attorney for the Defendant  
700 SW Jackson Street - Suite 500  
Topeka, KS 66603

Timothy Frieden  
Attorney for the Defendant  
266 N. Main, Suite 210  
Wichita, KS 67202

and, I hereby certify that a chamber copy of the State's Response to Defendant's Motion to Preclude Improper Impeachment of Expert Witnesses was delivered to Hon. Eric Godderz on the 31st day of December, 2015 to:



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Stephen A. Hunting, #21648  
Franklin County Attorney