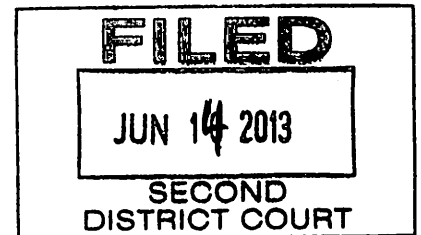


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IN THE SECOND DISTRICT COURT OF DAVIS COUNTY,
STATE OF UTAH

STATE OF UTAH, Plaintiff, vs. ANDRES ESQUIVEL Defendants.	STATE'S MOTION IN LIMINE Case No. 111701135 Judge David Connors
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The State, by and through Deputy Davis County Attorney Nathan D. Lyon, requests this Court exclude all of Defendant's proposed witnesses except for Logan Laws because the substance of their proposed testimony the Defendant does not meet the relevancy requirements under Rule 401 of the Utah Rules of Evidence.

FACTS

During March 2008 through April 2009 Defendant was in the process of starting a business venture called Xtagged. Xtagged is a social media website in which individuals create profiles associated with their license plates on their car. During this start up phase Defendant solicited and received money for the company in exchange for a percentage of ownership in the company. The State contends that during the solicitation phase Defendant made numerous untrue statements of material fact and omitted statements of material fact. For purposes of this case, the

state has outlined the facts surrounding each relevant transaction:

1. Kyle Cluff

In February 2008, Kyle Cluff met the Defendant at Anytime Fitness Gym. At the time Cluff worked at the gym as a personal trainer. The Defendant made the following statements to Cluff: (1) the government had given Xtagged \$2,000,000 for startup research money to keep kids safe on the internet; (2) Esquivel was scheduled to appear on The Oprah Winfrey Show until he rescheduled because he thought his servers could not handle the hits that would occur after the show aired; (3) Xtagged's stock price was \$1 per share; (4) \$500 minimum was required to invest; (5) Xtagged's stock price would be \$30 to \$40 per share immediately after Xtagged became a public company; (6) Xtagged's stock price would be more than Google's after Esquivel's appeared on The Oprah Winfrey Show; (7) if Xtagged was unsuccessful, Esquivel would return Cluff's money with a 3% interest; (8) Xtagged had a 20 year patent with 18 years remaining until expiration; and (9) Myspace had offered \$5,000,000 to purchase Xtagged.

Several days later Cluff decided to invest in Xtagged by paying Defendant's associate, John, a \$4,000 Wells Fargo cashier's check. The check was dated March 11, 2008, and was made out to XTAGG INC. After paying the cashier's check Cluff then received a contract from John. A few months later, in May or June 2008, the Defendant called Cluff and offered him 1% share of Xtagged for \$50,000. After a few days, the Defendant sent Cluff an email from Jason Webb, the Defendant's corporate attorney, verifying 1% of Xtagged was worth \$50,000. The next day, the Defendant sent an email saying Cluff could have 1% ownership in Xtagged for \$20,000 by giving Esquivel \$2,000, Cluff's 1998 Chevy Cavalier, preparing \$2,000 worth of fitness/diet plans, and converting Cluff's existing \$4,000 investment towards the 1% interest. The

Defendant assessed the value of the above mentioned list at \$10,000 and told Cluff he would personally finance the other \$10,000 to equal the required \$20,000 for the 1%. Subsequently, Cluff agreed to purchase the 1% and paid the defendant another Wells Fargo cashier's check for \$2,000, dated June 2, 2008, addressed to XTAGGED INC. A few days later, the Defendant gave Cluff a promissory note indicating 1% ownership in Xtagged. Later, Cluff attempted to have his money returned, however, no refund or payment has been made to Cluff from the Defendant.

2. Christopher Engelbrecht

In February 2008, Christopher Engelbrecht met the Defendant at Anytime Fitness Gym. In the meeting, the Defendant told Engelbrecht: (1) Xtagged was a multimillion-dollar website; (2) Myspace, Michael Jordan, and Google were interested in purchasing Xtagged; (3) the Utah DMV was going to authorize Xtagged to communicate with the DMV's databases; (4) in a couple of weeks the Defendant was going on The Oprah Winfrey show to promote Xtagged; (5) in two weeks Xtagged would be a public company; (6) Xtagged stock would be the same as Google after going public; (7) Engelbrecht's investment would be an endorsement that would be converted into stocks when Xtagged went public; (8) every \$1 invested would convert to one stock; (9) if Xtagged was not a public company in two years, the Defendant would return Engelbrecht's investment with a 7% interest; (10) Engelbrecht would become a millionaire by investing in Xtagged; and (11) there was no risk in the investment.

Engelbrecht did not invest in Xtagged immediately. However, after three weeks, Engelbrecht called the Defendant wanting to invest. Engelbrecht wrote a personalized check for \$2,000, addressed to Xtagged, Inc. The Defendant picked up the check from Engelbrecht and gave him a promissory note, dated March 11, 2008, indicating Engelbrecht's investment of

\$2,000. After two years, Engelbrecht mailed the Defendant a certified letter requesting the 7% interest payment that the Defendant had promised. The letter was returned for failure to answer. Engelbrecht similarly emailed the Defendant, but did not receive a response from the Defendant. Despite multiple attempts to have his money returned, Engelbrecht has yet to receive a refund or payment from his Xtagged investment.

3. Ryion Butcher

In April 2009, Ryion Butcher met the Defendant at Performax Gyms where Butcher worked as a sales manager. Butcher sat in a meeting with Kyle Cluff, Logan Laws, and the Defendant. In the meeting, the Defendant made the following statements to Butcher: (1) only 1% (100,000 shares) of ownership of Xtagged was left and it was worth \$5,000; (2) the 1% ownership was actually worth \$30,000, however, Butcher could work off the difference by promoting Xtagged, setting up events, and producing a promotional video for Xtagged; (3) the Defendant had investors willing to invest \$1 million for 1% ownership in Xtagged; (4) the 1% would be worth \$50,000 next week, and worth \$1 million in a month; (5) Anytime Butcher wanted out, the Defendant would return his money with a 12% interest; (6) Google wanted to purchase Xtagged for one billion dollars and the Defendant was flying out to discuss the deal with them in two weeks; (7) Xtagged was worth more than Facebook and Myspace; (8) Hugh Hefner wanted to buy into Xtagged, but the Defendant rejected him because he wanted to keep Xtagged clean; (9) if Mitt Romney came on board with Xtagged, Romney would win the election; (10) Google or Microsoft was going to buy Xtagged, and Butcher would get 1% of the sale of Xtagged; (11) the Defendant would not sell Xtagged for less than \$500 million; (12) Defendant turned down an offer to buy Xtagged for \$5 million; (13) Xtagged was a registered

LLC in Utah; (14) Xtagged was patented; (15) the Defendant had 10 lawyers; (16) Butcher should not be surprised if movie stars call him and try to buy his 1% ownership in Xtagged for \$500,000 to \$1 million; (15) the Utah Department of Motor Vehicles approved Xtagged; (17) the FBI approved of Xtagged; and (18) the Xtagged software could take a picture of a license plate and find the license plate owner's profile on Xtagged.

On April 7, 2009, Butcher decided to invest in Xtagged by giving the Defendant a \$2,500 personal check for himself and \$2,500 in cash on behalf of Logan Laws. Defendant then signed a document, dated April 7, 2009, showing Butcher's and Laws' combined stock purchase of 100,000 shares for \$5,000.

In May 2009, Butcher told Defendant he wanted his money back to purchase a home and even offered to waive the 12% interest if his original investment was returned. The Defendant told Butcher he would return his money, but that he needed to get things straightened out with a new investor. Butcher never received a refund from the Defendant or payment for his investment into Xtagged.

ARGUMENT

I. THE DEFENDANT'S PURPOSED WITNESSES SHOULD BE EXCLUDED BECAUSE THE DEFENDANT DOES NOT GIVE A SUMMARY OF THE WITNESSES' EXPECTED TESTIMONY AND THE WITNESSES' TESTIMONIES ARE NOT RELEVANT IN THIS CASE.

The State's motion for discovery, which the Court ordered on July 12, 2012, requires Defendant to provide for each proposed witness:

(a) the name of said witness, (b) the current address of said witness, (c) the phone number of said witness, (d) the date of birth of said witness, (e) whether the defense anticipates that said witness will be used to testify at

any hearings in this case, (f) a summary of the information provided to defense by said witness, and (g) a summary of the anticipated testimony of said witness.

Order for Discovery dated July 17, 2012. (Exhibit 1).

Defendant has attempted to comply with this discovery order. (Exhibit 2). However, Defendant's witness list is problematic because the required information that must accompany each proposed witness is incomplete. While some of the information might be able to be remedied by providing the State with the necessary contact information, dates of birth, etc., more problematic is vague and confusing summary of the witnesses' anticipated testimony. Based upon the summaries provided by Defendant, the State is unable to reasonably anticipate the substance of these witnesses' expected testimony and why it is relevant to this case. Indeed, the only witness the State recognizes as having any relevance to this case is Logan Law, and that is only because the State is familiar with this witness through the original investigation.

Absent any showing of relevancy, these witnesses must be excluded. Rule 401 of the Utah Rules of Evidence states that "[e]vidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." Therefore, in order for any of these proposed witnesses to meet Rule 401's threshold standard, Defendant must specifically articulate how each witness's proposed testimony is relevant to the charge of Securities Fraud under *Utah Code Ann. § 61-1-1*. Here, the Defendant not only fails to coherently give a summary of expected testimony, but also fails to explain how the proposed witnesses' testimony are relevant to the charges of Securities Fraud. The State will analyze each proposed defense witness:

1. Daryl Acumen. The Defendant describes Acumen's testimony as follows:

Daryl Acumen: he recommended law firm look at the seven email video
<http://youtu.be/Dho6alrdIkU> Allen fired Daryl from Xtag in 07 to hire his mother Rebecaa Dunn
as Xtagged CEO, Daryl then started this conspiracy with Ryion etc. #0069
http://www.karmacause.info/Daryl_Gone_Wild_.html

Here, the Defendant's description of Daryl Acumen fails to establish what Daryl will testify at trial or how Daryl's testimony is relevant. The videos contained in the hyperlink also provide no additional insight into his expected testimony. Indeed, the videos in the hyperlink are very confusing and essentially consist of the Defendant making homemade movies with a digital camera. These videos are confusing and irrelevant to the case. Therefore, the State asks this court to exclude Daryl Acumen as a witness at trial.

2. Jason Webb. The Defendant describes Webb's testimony as follows:

Jason Webb: Xtag patent/corps attorney he told all Xtagged owners he could only sell securities #0070 http://www.youtube.com/watch?v=7DnOzznZTZI&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Here, the description fails to describe what Jason Webb knows and give a summery of Jason's testimony. Further, the video is a homemade video of the Defendant recording a man named Allen holding an Xtagged folder claiming Xtagged is a real company and discussing issues that have nothing to do with Webb. Thus, the state asks this Court to exclude Webb as a witness because the Defendant's description of Webb and the video in the hyperlink fail to give a summery of what Webb will testify about at trial or how his testimony is relevant.

3. Saeed Kermani. The Defendant describes Kermani's testimony as follows:

Saeed Kermani 801.301.1097: started Single & Dating patent search 2006 & 2707 Fox13 news we offered kirk 1% ownership #0071 <http://youtu.be/A5wd0TzuliM>

Here, the Defendant fails to coherently describe the substance of Saeed's testimony and how his testimony is relevant. Further, the video consists of the Defendant discussing various hearsay conversations with State prosecutors. Personal opinions of the State and hearsay statements allegedly made by the State are not admissible. Thus, the State requests this Court exclude Kermani as a witness because the Defendant fails to describe what Kermani will testify about at trial and how his testimony is relevant.

4. Mehrnaz Sheikhi. The Defendant describes Sheikhi's testimony as follows:

Mehnaz Sheikhi 647.890.2647: was paid back \$10,000 just as Ryion B. was paid back \$2,500 through Logan Laws #0072 <http://wisertechnology.com/PRESS.html>

Here, the Defendant gives a short description of Mehrnaz Sheikhi being paid back money, but does not describe the substance of Mehrnaz's testimony or how Mehrnaz's testimony is relevant to the current charges of securities fraud. Indeed, regardless if Mehrnaz was paid back money, his proposed testimony is irrelevant to the charge of making an untrue statement of a material fact or to omit to state a material fact. Furthermore, the hyperlink goes to a website with random videos that have nothing to do with Mehrnaz or this case. Thus, the State requests this Court exclude Mehrnaz Sheikhi as a witness because the Defendant fails to summarize what Saeed Kermani will testify about at trial and how his testimony is relevant.

5. Logan Laws. The Defendant describes Laws' testimony as follows:

Logan Laws: Logan & Ryion teamed up for \$5,000 & after Logan begged Andy to separate them due to Ryion Butcher being a A—hole these are Logan's words about Ryion to Shar Jenkins & texts #0073 <https://www.diigo.com/item/image/2a7gz/jrvs?size=o>

The State contends that Defendant's description fails to articulate the substance of Logan Laws' testimony or how it will be relevant at trial. Notwithstanding this, because the State is

familiar with Laws and can at least see how he might have some relevance. Thus, the State does not object to his testimony.

6. Steve Klemark. The defendant describes Klemark's testimony as follows:

Steve Klemark 970.278.1816: Wisertechnology.com CIO I have attached his Denver Halo P.D ID Steve Bought Xtagged in 2009 & he made Ryion B. \$5,000 money order... Steve stop going with Andy to court in Utah because Steve said prosecutor J.C.Y. & Mr. Holje was conspiring. Steve made two videos... #0074 http://www.youtube.com/watch?v=cOv-rVstvYk&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

The description of Steve Klemark does not describe his knowledge of the case or how his testimony is relevant. Further, the hyperlink video is a 5 minute video of Klemark discussing Xtagged, attacks from bloggers, and future business opportunities with his company. The video does not discuss the substance of Klemark's testimony or how his testimony is relevant, but merely discusses confusing personal attacks on bloggers and other irrelevant issues. Thus, the State requests this Court exclude Klemark as a witness at trial because the Defendant fails to describe what Klemark will testify about at trial or how his testimony is relevant.

7. Shar Jenkins. The Defendant describes Jenkins' testimony as follows:

Shar Jenkins 303.588.1699: not only paid Logan Laws \$2,500 money order he offered everybody buy-outs just as Steve K. did and Allen Brady and many more... #0075 http://www.youtube.com/watch?v=iVz8dVJ7VfA&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Here, the Defendant's description of what Shar Jenkins will testify about at trial is confusing and unrelated to securities fraud. Further, the video in the hyperlink is equally confusing because the video shows Jenkins walking around a building discussing Xtagged and how a bar called the "playground" will be successful for dating. Therefore, the State requests this Court exclude Steve Klemark as a witness at trial because the Defendant fails to describe what Steve Klemark will testify about at trial and how his testimony is relevant.

8. Kirk Yuhnke. The Defendant describes Yuhnke's testimony as follows:

Kirk Yuhnke: Fox13 now Denver Fox31 my first prime time interview for my invention of car tags I offered Kirk Yuhnke 1% ownership of system Sindy was witness look at attachment file D.I.D #0076 <http://youtu.be/vpigHzAq2pI>

Here, the Defendant fails to summarize what Kirk Yuhnke will testify about at trial or how his testimony is relevant. Further, the hyperlink video is of an interview of the Defendant by Mr. Yuhnke on Fox 13 News. The video discusses a website called singleanddating.com and the concept behind the Xtagged idea. However, the video fails to describe what Kirk Yuhnke will testify about or how his involvement is relevant. Therefore, the State requests this Court exclude Yuhnke as a witness at trial because the Defendant fails to summarize what Yuhnke will testify about at trial and how his testimony is relevant.

9. Sindy Manzano. The Defendant describes Manzano's testimony as follows:

Sindy Manzano 770.709.4737: worked for Xtagged 06 to present in 05 the Deseret News did story on Sindy Manzano <http://www.deseretnews.com/article/600137594/Grad-conquers-obstacles.html?pg=all> D.I.D file #0077

Here, the Defendant's description of Sindy Manzano's testimony fails to summarize what Manzano will testify about or how her testimony is relevant. Further, the hyperlink connects to a Deseret News article that discusses Manzano dropping out of school in order to pay for her brother's medical bill. The article fails to discuss her involvement with the Defendant or Xtagged. Therefore, the State requests this Court exclude Sindy Manzano as a witness at trial because the Defendant fails to describe what Sindy will testify about at trial and how her testimony is relevant.

10. Trevor Riley. The Defendant describes Riley's testimony as follows:

Trevor Riley his attorney 801.413.9943: Xtagged Inc Bank manager and helper his email MrXtagged@gmail.com FB attachments are to his attorney #0078

Here, the defendant does not discuss what Trevor Riley will testify about at trial or how his testimony is relevant. Therefore, the State requests this Court exclude Riley as a witness at trial because the Defendant fails to describe what Trevor will testify about at trial and how his testimony is relevant.

11. Allen Brady. The Defendant describes Brady's testimony as follows:

Allen Brady 801.819.5126: Wisertechnology.com CEO I think Allen has told you plenty and gave you his paper work Allen and his family attempted many time to buy-out the plaintiffs they just attacked Allen and his mother... #0079 <http://www.youtube.com/user/BLOGFRAUD>

Here, the Defendant fails to summarize Allen Brady's testimony and how his testimony is relevant. Further, the description is confusing regarding buying out the "plaintiffs" with paper work or how the "plaintiffs" attacked Allen and his mother. Also, the hyperlink is confusing because it takes you to a channel on youtube.com called blog fraud's channel with a number of videos about blogging fraud. Indeed, the videos do not discuss Allen Brady's testimony or have anything to do with this case. Thus, the State requests this Court exclude Allen Brady as a witness at trial because the Defendant fails to summarize what Allen Brady will testify about at trial or how his testimony is relevant.

12. John Steer. The Defendant describes Steer's testimony as follows:

John Steer 832.398.0831: He was second victim at hero's computers 09 in Bountiful, John can verify conspiracy John also made up paperwork for Ryion Butcher & Taylor he was second in command at Xtagged #0080
http://www.youtube.com/watch?v=cNu6mDT3fQE&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Here, the defendant fails to summarize John Steer's testimony or how it is relevant.

Indeed, the video consists of the Defendant describing a random fight where twenty men attacked the Defendant and John Steer. Thus, this Court should exclude John Steer as a witness because the Defendant fails to describe what John Steer will testify at trial or how his testimony is relevant.

13. Jake House. The Defendant describes House's testimony as follows:

Jake House 720.318.8625: ran our Bountiful Sushi shop with John Steer Jake is co-owner of Xtag & has exact paperwork as Ryion Butcher and Jake has made video testimony online against Ut plaintiffs #0081 http://www.youtube.com/watch?v=H-RfiW5MiLY&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Here, the Defendant fails to summarize Jake House's testimony or explain how House's testimony is relevant. Further, the hyperlink video is 35 minutes long and consists of the Defendant, Jake House, and Steve Klemark, sitting around a table discussing various issues with bloggers, past business partners, and how Xtagged is a real company. Thus, the State requests this Court exclude House as a witness at trial because the Defendant fails to summarize what House will testify about or how his testimony is relevant.

14. Jeff Parker. The Defendant describes Parker's testimony as follows:

Jeff Parker 801.505.1183: My first partner we bought first system stickers together Jeff has exact paper as Ryion and was at trial Feb, 26, 2013 #0082 look at his video http://www.youtube.com/watch?v=q3qsfhfcZJE&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Here, the Defendant does not inform the State regarding the substance of Jeff Parker's testimony or how his testimony is relevant to the Defendant's charge of committing securities fraud. The hyperlink video does not establish what Parker will testify about at trial, but is the Defendant in front of the courthouse with Parker. In the video, the Defendant rants about his

problems in court and how Parker will support him. The video is confusing and does not establish how Parker's testimony will be relevant for trial. Thus, the State requests this Court exclude Parker as a witness because the Defendant fails to describe what Parker will testify about and how his testimony is relevant.

15. Daris Garner. The Defendant describes Garner's testimony as follows:

Daris Garner daris.garner@facebook.com 208.403.5042 208.359.3196: My third partner 06 after Jeff Parker we all worked for Saeed K. at Comcast, Daris has the same paperwork as Ryion B. and was at pretrial Holje would not speak to Daris nor Albright... #0083

Here, the Defendant's description of Daris Garner's testimony is vague and unclear.

Thus, the State requests this Court exclude Garner as a witness because the Defendant fails to describe what Garner will testify about and how his testimony is relevant.

16. Andre Rawka. The Defendant describes Rawka's testimony as follows:

Andre Rawka 801.651.4463: John Steer gave Andre 1% ownership free for all the media Dre brought to Xtagged and yes it was the same paperwork as Ryion's. Dre is now a climbing star in Utah #0084 <http://wisertechnology.com/Xtag.php>

Here, the Defendant's description of Andre Rawka's testimony is unclear. Further, the hyperlink goes to wisertechnology.com, which contains no information about Rawka's testimony. Thus, the State requests this Court exclude Andre Rawka as a witness because the Defendant fails to summarize what Rawka's will testify about at trial and how their testimony is relevant.

17. Zachary Edwards. The Defendant describes Edward's testimony as follows:

Zachary Edwards zllsh@facebook.com : John Steer gave 1% ownership to Zac same reason as Dre above Zac can also verify conspiracy attacks on Xtagged.com, Wiser e-cig, Wisertechnology.com, Karmacause.com etc. #0085 http://www.youtube.com/watch?v=GAoR-1DxKJY&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Here, the description of Zachary Edward's expected testimony is vague and confusing. Moreover, the video in the hyperlink is about a bottle the Defendant designed and has no relevance to Edwards or this case. Thus, this Court should exclude Edward's as a witness because Defendant fails to summarize Edward's expected testimony and explain why that testimony is relevant.

18. Taylor Jones. The Defendant describes Jones' testimony as follows:

Taylor Jones taylorjoness@gmail.com: John Steer gave ownership to Taylor from our Sushi shop in Utah yep same paperwork as plaintiffs. Taylor then brought our attention to Jason Cowdin for Xtagged real estate app, #0086 <https://www.diigo.com/user/xtagged?type=image>

Here, the description of the Taylor Jones' testimony is inadequate and the content of the testimony is irrelevant to the Defendant's case. Specifically, the hyperlink goes to a website with numerous videos that are not related to Jones or this case. Thus, the state requests this Court exclude Jones as a witness because the Defendant did not provide an adequate summary of Jones' testimony or describe how it is relevant.

19. Jason Cowdin. The Defendant describes Cowdin's testimony as follows:

Jason Cowdin: Taylor Jones got ownership for Jason C. from John Steer & I yep John gave Jason same paperwork as plaintiffs. Jason C. was responsible for big VC meeting one with his mentor that stated "Andy is not about money" then second meeting with Social Sam people. #0087

Here, the description of the Jason Cowdin's testimony is inadequate and the content of the testimony is irrelevant to the Defendant's case. Specifically, the description is confusing and irrelevant to the issues in this case. Thus, the state requests this Court exclude Cowdin as a witness because the Defendant did not provide an adequate summary of Cowdin's testimony or describe how it is relevant.

20. Brian Davis. The Defendant describes Davis' testimony as follows:

Brain Davis <https://www.facebook.com/BrokerBrian> : Mel & Brian 3% ownership of Xtagged Brian's with Bountiful **Coldwell Banker Real Estate LLC**
<https://www.diigo.com/item/image/2a7gz/82vp?size=o> Brian Davis paperwork. #0088

Here, the description of Brian Davis' testimony is inadequate and the content of the testimony is irrelevant to the Defendant's case. The hyperlink is irrelevant and goes to a picture of a letter of commitment between Bryan S. Davis, Melissa L. Garr, and the Defendant. Thus, the State requests this Court exclude Davis as a witness because the Defendant did not provide an adequate summary of Davis' testimony or describe how it is relevant.

21. Chue Berriel. The Defendant describes Berriel's testimony as follows:

Chue Berriel 909.900.1272: of CEA Property's Investments llc co-OWNER of Xtagged since 2008 Daryl & Ryion tried to manipulate Chue by contacting her son Edward Gonzales as court has been in progress look at Chue's statement on LinkedIn
<https://www.diigo.com/item/image/2a7gz/05o3?size=o> #0089

Here, the description of the Chue Berriel's testimony is inadequate and the content of the testimony is irrelevant to the Defendant's case. The hyperlink goes to an internet post from Berriel about a Daryl Acumen allegedly making false statements. Thus, the State requests this Court exclude Berriel as a witness because the Defendant did not provide an adequate summary of Berriel's testimony or describe how it is relevant.

22. Ladd Quayle. The Defendant describes Quayle's testimony as follows:

Ladd Quayle: plaintiff Kyle Cluff gave ownership to Ladd Q. you have copy of Kyle's email to Andy telling Andy to give Ladd ownership of Xtagged here's Ladd's latest email April 8 2013 below #0090 <https://www.diigo.com/item/image/2a7gz/j63c?size=o>

Here, the description of the Ladd Quayle's testimony is inadequate and the content of the testimony is irrelevant to the Defendant's case. Specifically, the hyperlink goes to a message from Allen Brady to Quayle discussing various issues that are not related to Ladd's testimony or

this case. Thus, the State requests this Court exclude Ladd Quayle as a witness because the Defendant did not provide an adequate summary of Quayle testimony or describe how it is relevant.

23. Professor John Richards. The Defendant describes Richards' testimony as follows:

Professor John Richards of B.Y.U: he would not meet until our paperwork & no scam was confirmed Ladd has all emails from Steve Klemark because Steve Bought Xtagged Dec of 2009... #0091

Here, the description of John Richard's testimony is inadequate and the content of the testimony is irrelevant to the Defendant's case. Thus, the State requests this Court exclude Richards as a witness because the Defendant's summary of Richards' testimony is inadequate and his testimony is irrelevant.

24. Professor Sampson. The Defendant describes Sampson's testimony as follows:

Professor Sampson of B.Y.U: He was at the \$700,000,000 man John Richards meeting 02 of 2010...#0092

Here, the description of Professor Sampson's testimony is inadequate and the content of the testimony is irrelevant to the Defendant's case. Thus, the State requests this Court exclude Professor Sampson as a witness because the Defendant's summary of Professor Sampson's testimony is inadequate and his testimony is irrelevant.

25. Rebecca Dunn. The Defendant describes Dunn's testimony as follows:

Rebecca Dunn BeckieDunnz@aol.com: Xtagged.com C.E.O 2008-2011 I have provided seven emails dating 01-25-08 to 03-02-08 that proves all <http://darylacumenslandersite.blogspot.com/> http://www.youtube.com/watch?v=p6skByU7_4Y&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg <http://rebeccaondaryl.blogspot.com/> you have copies of our Xtagged CEO Final warning letter. #0093

Here, the description of Rebecca Dunn's testimony is inadequate and the content of the

testimony is irrelevant to the Defendant's case. Specifically, the hyperlink video consists of the Defendant on the phone with Rebecca discussing a blog post that is entirely unrelated to this case. Thus, the State requests this Court exclude Dunn as a witness because the Defendant's summary of Rebecca Dunn's testimony is inadequate and her testimony is irrelevant.

26. Andrew Couch. The Defendant describes Couch's testimony as follows:

Andrew Couch of Bump.com: #0094 Andrew told all Xtagged workers "We are going to put Andy in prison no matter what" Andrew conspired with Daryl A. & Ryion B. to smear/slander Xtagged and then re-filed patent in May of 2010, Andrew's <https://www.diigo.com/item/image/355gm/rgs1?size=o> & Andy's 2007 <https://www.diigo.com/item/image/355gm/pn0q?size=o>

Here, the description of Andrew Couch's testimony is inadequate and the content of the testimony is irrelevant to the Defendant's case. Specifically, the hyperlink goes to a picture of Couch's Linkin profile. Thus, the State requests this Court exclude Couch as a witness because the Defendant's summary of Andrew Couch's testimony is inadequate and his testimony is irrelevant.

27. Jonathan King. The Defendant describes the Kings' testimony as follows:

Jonathan King: ex-FBI agent I meet with in 2009 plaintiff Kyle Cuff arrange meeting I told him about The smear/slander conspiracy back in 2009 and I gave him 40% ownership of Xtagged... #0095 <https://www.diigo.com/item/image/2a7gz/q0pw?size=o>

Here, the description of Jonathan King's testimony is inadequate and the content of the testimony is irrelevant to the Defendant's case. Specifically, the hyperlink connects to a picture from Facebook and discusses issues unrelated King's testimony or this case. Thus, the State requests this Court exclude King as a witness because the Defendant's summary of King's testimony is inadequate and his testimony is irrelevant.

28. Leonard Martinez. The Defendant describes Martinez's testimony as follows:

303.623.3300 Leonard Martinez & his assistant: Allen Brady and I gave them \$2,575.00 in 2010 to pay Plaintiff Chris E... Leonard can also confirm smear/slander conspiracy 2010 through 2013 #0096 http://www.youtube.com/watch?v=TlyiPqTOynE&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Here, the description of Leonard Martinez's testimony is inadequate and the content of the testimony is irrelevant to the Defendant's case. Specifically, the hyperlink connects to a video of the Defendant talking to Martinez about random issues that are unrelated to Leonard's testimony or this case. Thus, the State requests this Court exclude Martinez as a witness because the Defendant's summary of Martinez's testimony is inadequate and his testimony is irrelevant.

29. Ron Kelsay. The Defendant describes Kelsay's testimony as follows:

Ron Kelsay 720.233.4104: Documentary film maker he has evidence against Mr. Holje & Mr. Lyon he was at court 5 times and recorded Holje & Lyon saying Xtagged plates system was stupid & Laughing they did not know who Ron Kelsay was and Oct. 2011 Ron recorded statements from plaintiffs that put them in hot water... #0097

Here, the description of Ron Kelsay's testimony is irrelevant to the Defendant's case. Neither the prosecution nor Mr. Holje's personal opinion of Defendant's business has any relevance to this case. Thus, the State requests this Court exclude Kelsay as a witness because his testimony is irrelevant.

30. Edward Gonzales. The Defendant describes Edward's testimony as follows:

Edward Gonzales: was contacted during court by Ryion Butcher & Daryl Acumen and told he would be very well paid if he would talk his mother Chue berriel into saying she was a security and Edward started calling all relative's telling them HUNDREDS of people were scammed and Ryion told them it was Mr. Lyon that told him to call all my relative's that's why Lyon wanted my witnesses and evidence taken out of court... #0098

Here, the description of Edward Gonzales' testimony is incoherent and fails to state how this proposed testimony is relevant to the case. It appears Defendant claims that the State requested a witness contact Defendant's relatives to inform them Defendant's business was a

scam. While the State certainly denies such an accusation, any evidence to this effect is inadmissible because it is irrelevant and involves multiple layers of hearsay. Thus, the State requests this Court exclude Gonzales as a witness because his testimony is irrelevant and calls for hearsay.

31. Trish Valdez. The Defendant describes Valdez's testimony as follows:

Trish Valdez: same as Edward she tried to manipulate my uncle Chris Valdez my aunt brought him on as 1% owner Chris & my aunt will be at trial... #0099

Chris Valdez 720.329.0559: My aunt Chue Berriel brought my uncle on board as Owner. I agreed because the Xtagged conspiracy ran By Ryion, Daryl & J.C Y. was under way remember J. King... Chris witnessed everything for the last 4 years his brother in law is law enforcement in Denver... #0100

Here, the description of Trish Valdez's testimony is inadequate and the content of the testimony is irrelevant to the Defendant's case. Thus, the State requests this Court exclude Valdez as a witness because the Defendant's summary of Valdez's testimony is inadequate and her testimony is irrelevant.

32. Rob Brady. The Defendant describes Rob's testimony as follows:


Rob Brady: Allen Brady's family all want to be called in to court they were viciously attacked by your plaintiffs ... #0101 ←---(That's funny media its code;)x

Here, the description of Brady's testimony is irrelevant to the Defendant's Case. Any sort of altercation that occurred is irrelevant to whether Defendant committed securities fraud. Thus, the State requests this Court exclude Brady as a witness because his testimony is irrelevant.

CONCLUSION

For the reasons stated above, the State respectfully requests this Court exclude all of Defendant's proposed witnesses with the exception of Logan Laws.

Dated this 14th day of June, 2013.



Nathan D. Lyon
Deputy Davis County Attorney

CERTIFICATE OF DELIVERY

I hereby certify that a true and correct copy of the foregoing *State's Motion in Limine* was faxed, emailed, mailed, postage pre-paid, or hand-delivered to the following:

DATED this 14th day of June, 2013

NKZ

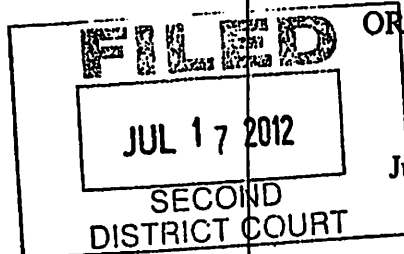
Exhibit 1

IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
IN AND FOR THE COUNTY OF DAVIS, STATE OF UTAH

THE STATE OF UTAH
Plaintiff,

vs.

ANDRES ESQUIVEL
Defendant.



ORDER FOR DISCOVERY

Case No. 111701135
Judge: David M. Connors

Pursuant to Rules 12, 16(c) and 16(d) of the Utah Rules of Criminal Procedure,
State v. Spry, 21 P.3d 675 (Utah Ct. App. 2001), and on good cause shown,

IT IS HEREBY ORDERED that the defendant provide the State with the
following information and/or evidence:

1. That the defendant provide to the State with any information as required by statute relating to alibi or insanity.
2. That the defendant provide in writing to the State a list of each and every document any defense witness may intend to use either at trial or in preparation for trial.
3. That the defendant provide in writing to the State a list of each and every witness which the defense intends to call at the time of trial; and as to each witness, provide (a) the name of said witness, (b) the current address of said witness, (c) the phone number of said witness, (d) the date of birth of said witness, (e) whether the defense anticipates that said witness will be used to testify at any hearings in this case, (f) a summary of the information provided to defense by said witness, and (g) a summary of the anticipated testimony of said witness.
4. That the defendant provide to the State information pertaining to any relationship the defendant has with any witnesses the defense intends to call at trial.

5. That the defendant provide in writing to the State a list of exhibits, intended to be introduced at the time of trial or relied on by any witness in preparation for testifying at the time of trial.

6. That the defendant provide the State with the opportunity to inspect, photograph, and or copy any physical evidence, documents and photographs that the defense intends to introduce at trial.

7. That the defendant disclose to the State any other item of evidence which should be made available to the prosecution in order for the prosecution to adequately prepare its case.

8. That the defendant make all foregoing disclosures as soon as practicable and at least ten days before trial.

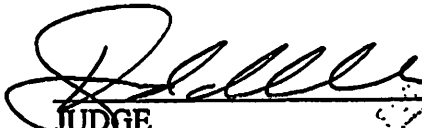
9. That, pursuant to Utah Code Ann. §77-17-13, if the defendant intends to call any expert to testify at trial or any hearing in a felony matter, the defense disclose to the prosecution as soon as practicable, but not less than thirty days before trial or ten days before a hearing, the name and address of the expert, the expert's curriculum vitae and qualifications, a copy of any reports and conclusions of said expert and information concerning any remuneration that the expert may be receiving for such testimony.

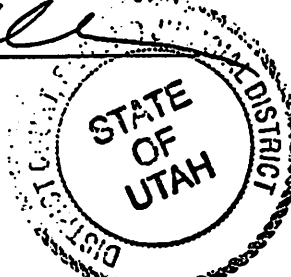
10. That, pursuant to Rule 16(c) and 16(d) of the Utah Rules of Criminal Procedure, if the defendant intends to call any expert to testify at trial or any hearing in a misdemeanor matter, the defense disclose to the prosecution as soon as practicable, but not less than ten days before trial or before a hearing, the name and address of the expert, the expert's curriculum vitae and qualifications, a copy of any reports and conclusions of said expert and information concerning any remuneration that the expert may be receiving for such testimony.

The Court FURTHER ORDERS that to the extent any information or documents are subsequently acquired or discovered by the defendant, which are in any way responsive to the requests contained in the State's motion, that the defendant deliver promptly thereafter such documents or information to the State.

Dated this 17th day of July, 2012.

BY THE COURT


JUDGE



CERTIFICATE OF MAILING/DELIVERY

I certify that I mailed/delivered an unexecuted copy of the foregoing Motion and Order for Discovery and Supporting Memorandum to Andres Esquivel, 990 Upham Street, Lakewood City, CO, 80214 on July 13, 2012.

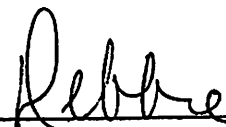

Secretary

Exhibit 2

The witness list & videos; FYI- All on this list was offered to become co-founders & co-owner of Xtag.

Daryl Acumen: he recommended law firm look at the seven email video <http://youtu.be/Dho6alrdIkU>
Allen fired Daryl from Xtag in 07 to hire his mother Rebecaa Dunn as Xtagged CEO, Daryl then started this conspiracy with Ryion etc. #0069 http://www.karmacause.info/Daryl_Gone_Wild_.html

Jason Webb: Xtag patent/corps attorney he told all Xtagged owners he could only sell securities #0070
http://www.youtube.com/watch?v=7DnOzznZTZI&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Saeed Kermani 801.301.1097: started Single & Dating patent search 2006 & 2707 Fox13 news we offered kirk 1% ownership #0071 <http://youtu.be/A5wd0TzuliM>

Mehraz Sheikhi 647.890.2647: was paid back \$10,000 just as Ryion B. was paid back \$2,500 through Logan Laws #0072 <http://wisertechnology.com/PRESS.html>

Logan Laws: Logan & Ryion teamed up for \$5,000 & after Logan begged Andy to separate them due to Ryion Butcher being a A—hole these are Logan's words about Ryion to Shar Jenkins & texts #0073
<https://www.diigo.com/item/image/2a7gz/jrvs?size=o>

Steve Klemark 970.278.1816: Wisertechnology.com CIO I have attached his Denver Halo P.D ID Steve Bought Xtagged in 2009 & he made Ryion B. \$5,000 money order... Steve stop going with Andy to court in Utah because Steve said prosecutor J.C.Y. & Mr. Holje was conspiring. Steve made two videos... #0074
http://www.youtube.com/watch?v=cOv-rVstvYk&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Shar Jenkins 303.588.1699: not only paid Logan Laws \$2,500 money order he offered everybody buy-outs just as Steve K. did and Allen Brady and many more... #0075
http://www.youtube.com/watch?v=iVz8dVJ7VfA&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Kirk Yuhnke: Fox13 now Denver Fox31 my first prime time interview for my invention of car tags I offered Kirk Yuhnke 1% ownership of system Sindy was witness look at attachment file D.I.D #0076
<http://youtu.be/vpiGhzAq2pl>

Sindy Manzano 770.709.4737: worked for Xtagged 06 to present in 05 the Deseret News did story on Sindy Manzano <http://www.deseretnews.com/article/600137594/Grad-conquers-obstacles.html?pg=all> D.I.D file #0077

Trevor Riley his attorney 801.413.9943: Xtagged Inc Bank manager and helper his email MrXtagged@gmail.com FB attachments are to his attorney #0078

Allen Brady 801.819.5126: Wisertechnology.com CEO I think Allen has told you plenty and gave you his paper work Allen and his family attempted many time to buy-out the plaintiffs they just attacked Allen and his mother... #0079 <http://www.youtube.com/user/BLOGFRAUD>

John Steer 832.398.0831: He was second victim at hero's computers 09 in Bountiful, John can verify conspiracy John also made up paperwork for Ryion Butcher & Taylor he was second in command at Xtagged #0080 http://www.youtube.com/watch?v=cNu6mDT3fQE&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Jake House 720.318.8625: ran our Bountiful Sushi shop with John Steer Jake is co-owner of Xtag & has exact paperwork as Ryion Butcher and Jake has made video testimony online against Ut plaintiffs #0081 http://www.youtube.com/watch?v=H-RfiW5MiLY&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Jeff Parker 801.505.1183: My first partner we bought first system stickers together Jeff has exact paper as Ryion and was at trial Feb, 26, 2013 #0082 look at his video http://www.youtube.com/watch?v=q3gsqhfzJE&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Daris Garner daris.garner@facebook.com 208.403.5042 208.359.3196: My third partner 06 after Jeff Parker we all worked for Saeed K. at Comcast, Daris has the same paperwork as Ryion B. and was at pretrial Holje would not speak to Daris nor Albright... #0083

Andre Rawka 801.651.4463: John Steer gave Andre 1% ownership free for all the media Dre brought to Xtagged and yes it was the same paperwork as Ryion's. Dre is now a climbing star in Utah #0084 <http://wisertechnology.com/Xtag.php>

Zachary Edwards z1sh@facebook.com: John Steer gave 1% ownership to Zac same reason as Dre above Zac can also verify conspiracy attacks on Xtagged.com, Wiser e-cig, Wisertechnology.com, Karmacause.com etc. #0085 http://www.youtube.com/watch?v=GAoR-1DxKJY&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Taylor Jones taylorjoness@gmail.com: John Steer gave ownership to Taylor from our Sushi shop in Utah yep same paperwork as plaintiffs. Taylor then brought our attention to Jason Cowdin for Xtagged real estate app, #0086 <https://www.diigo.com/user/xtagged?type=image>

Jason Cowdin: Taylor Jones got ownership for Jason C. from John Steer & I yep John gave Jason same paperwork as plaintiffs. Jason C. was responsible for big VC meeting one with his mentor that stated "Andy is not about money" then second meeting with Social Sam people. #0087

Brain Davis <https://www.facebook.com/BrokerBrian>: Mel & Brian 3% ownership of Xtagged Brian's with Bountiful

Coldwell Banker Real Estate LLC

<https://www.diigo.com/item/image/2a7gz/82vp?size=o> Brian Davis paperwork. #0088

Chue Berriel 909.900.1272: of CEA Property's Investments llc co-OWNER of Xtagged since 2008 Daryl & Rylon tried to manipulate Chue by contacting her son Edward Gonzales as court has been in progress look at Chue's statement on LinkedIn <https://www.diigo.com/item/image/2a7gz/05o3?size=o> #0089

Ladd Quayle: plaintiff Kyle Cluff gave ownership to Ladd Q. you have copy of Kyle's email to Andy telling Andy to give Ladd ownership of Xtagged here's Ladd's latest email April 8 2013 below #0090 <https://www.diigo.com/item/image/2a7gz/j63c?size=o>

Professor John Richards of B.Y.U.: he would not meet until our paperwork & no scam was confirmed Ladd has all emails from Steve klemark because Steve Bought Xtagged Dec of 2009... #0091

Professor Sampson of B.Y.U.: He was at the \$700,000,000 man John Richards meeting 02 of 2010...#0092

Rebecca Dunn BeckieDunnz@aol.com: Xtagged.com C.E.O 2008-2011 I have provided seven emails dating 01-25-08 to 03-02-08 that proves all <http://darylacumenslandersite.blogspot.com/>
http://www.youtube.com/watch?v=p6skByU7_4Y&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg
<http://rebeccaondaryl.blogspot.com/> you have copies of our Xtagged CEO Final warning letter. #0093

Andrew Couch of Bump.com: #0094 Andrew told all Xtagged workers "We are going to put Andy in prison no matter what" Andrew conspired with Daryl A. & Ryion B. to smear/slander Xtagged and then re-filed patent in May of 2010, Andrew's <https://www.diigo.com/item/image/355gm/rgs1?size=o> & Andy's 2007 <https://www.diigo.com/item/image/355gm/pn0q?size=o>

Jonathan King: ex-FBI agent I meet with in 2009 plaintiff Kyle Cuff arrange meeting I told him about The smear/slander conspiracy back in 2009 and I gave him 40% ownership of Xtagged... #0095
<https://www.diigo.com/item/image/2a7gz/q0pw?size=o>

303.623.3300 Leonard Martinez & his assistant: Allen Brady and I gave them \$2,575.00 in 2010 to pay Plaintiff Chris E... Leonard can also confirm smear/slander conspiracy 2010 through 2013 #0096
http://www.youtube.com/watch?v=TlyiPqTOynE&feature=share&list=UUWlr_oKT-Yfm90zc7LquZbg

Ron Kelsay 720.233.4104: Documentary film maker he has evidence against Mr. Holje & Mr. Lyon he was at court 5 times and recorded Holje & Lyon saying Xtagged plates system was stupid & Laughing they did not know who Ron Kelsay was and Oct. 2011 Ron recorded statements from plaintiffs that put them in hot water... #0097

Edward Gonzales: was contacted during court by Ryion Butcher & Daryl Acumen and told he would be very well paid if he would talk his mother Chue berriel into saying she was a security and Edward started calling all relative's telling them HUNDREDS of people were scammed and Ryion told them it was Mr. Lyon that told him to call all my relative's that's why Lyon wanted my witnesses and evidence taken out of court... #0098

Trish Valdez: same as Edward she tried to manipulate my uncle Chris Valdez my aunt brought him on as 1% owner Chris & my aunt will be at trial... #0099

Chris Valdez 720.329.0559: My aunt Chue Berriel brought my uncle on board as Owner. I agreed because the Xtagged conspiracy ran By Ryion, Daryl & J.C Y. was under way remember J. King... Chris witnessed everything for the last 4 years his brother in law is law enforcement in Denver... #0100

Rob Brady: Allen Brady's family all want to be called in to court they were viciously attacked by your plaintiffs ... #0101 ←---(That's funny media its code;)x

I had 40,000 members of <http://www.Xtagged.com> the trial will be full of my people and Chris E. cannot testify I told you many times I didn't do deal with Chris E. & just to have it in writing for court Mr. Lyon we have told you I have watch cam of it "Mr. Lyon, Steve k. Allen Brady and I Andy Esquivel met with S.E.C. JUDGE Aug, 2 of 2011 he already noted things wrong and stated to Allen Brady "Allen I promise as soon as you get Davis to drop charges I WILL START MY OWN INVESTIGATION" THE MEETING WAS RECORDED YOU CAN GET COPY!!! I met with Judge Connors Aug 3 2011 & we told D.A. this info and about my multi-million \$ lawsuit against www.Bump.com that same day...

<http://www.wisertechnology.com/PRESS.html>

<https://www.facebook.com/Xtagged>

<https://www.diigo.com/user/xtagged>

<https://www.diigo.com/user/Allenbrady>

<https://www.diigo.com/user/Kcdbc01>

www.KarmaCause.com

All my inventions can be found at http://wisertechnology.com/Home_Page.php God Bless Us All, Amen