

**UNITED STATES DISTRICT COURT**

**MIDDLE DISTRICT OF LOUISIANA**

**BRETTE TINGLE**

**\* CIVIL NO. 15-626**

**\***

**VERSUS**

**\* HON. JOHN W. DEGRAVELLES**

**\***

**TROY HEBERT, IN HIS  
INDIVIDUAL OFFICAL CAPACITY AS  
THE COMMISSIONER OF THE  
OFFICE OF ALCOHOL AND TOBACCO  
CONTROL OF THE LOUISIANA  
DEPARTMENT OF REVENUE**

**\* MAG. ERIN WILDER-DOOMES**

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**\* JURY TRIAL REQUESTED**

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**DEFENDANT’S MOTION TO STRIKE PREJUDICIAL AND INFLAMMATORY  
OPINION BY PLAINTIFF’S EXPERT PSYCHOLOGIST**

Defendant, the Office of Alcohol and Tobacco Control of the Department of Revenue (“ATC”), files this motion to strike and exclude Plaintiff’s expert psychologist Dr. Alan Taylor from testifying or offering an opinion as to the potential effects on Plaintiff if he is unsuccessful in this litigation. ATC asserts that such opinion is not relevant or probative to claims, and, instead, is inflammatory, prejudicial, and designed to invoke the jury’s sympathy, guilt, and emotions. Therefore, this opinion should be excluded under Fed. R. Evid. 403.

Pursuant to this Court’s standing instruction, counsel have conferred prior to filing this motion in limine. In response to the ATC’s concerns about this testimony and opinion, Plaintiff’s counsel stated he had spoken to Dr. Taylor, and, “at [Plaintiff’s counsel’s] request, Dr. Taylor is working on alternative language, which, . . . should address your concerns.” However, Dr. Taylor has not updated his report to eliminate the language, and, further, there is no assurance from Plaintiff’s counsel that this opinion will not be elicited from Dr. Taylor or Dr. Taylor will not offer the opinion at trial. Instead, it appears Dr. Taylor may try to offer the opinion through “alternative language.”

WHEREFORE, Defendant ATC seeks to strike and exclude inflammatory and prejudicial opinion testimony by Dr. Alan Taylor.

Respectfully Submitted:

**JEFF LANDRY  
ATTORNEY GENERAL**

/s/ Renee Culotta  
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**COUNSEL FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 9th day of July, 2018, a copy of the above and foregoing pleading was filed electronically with the Clerk of Court using the CM/ECF system.

/s/ Renee Culotta

**UNITED STATES DISTRICT COURT  
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**DEFENDANT’S MEMORANDUM IN SUPPORT  
OF MOTION TO STRIKE PREJUDICIAL AND INFLAMMATORY OPINION BY  
PLAINTIFF’S EXPERT PSYCHOLOGIST**

Defendant, the Office of Alcohol and Tobacco Control of the Department of Revenue (“ATC”), files this motion to prevent Plaintiff’s expert psychologist from testifying or offering an opinion as to the potential effects on Plaintiff if he is unsuccessful in this litigation. Dr. Alan Taylor, a psychologist retained as an expert by Plaintiff’s counsel, opines that if Plaintiff Brette Tingle is unsuccessful in this lawsuit (i.e., the jury returns a defense verdict), Plaintiff is at risk for “significant depression even to the point of self-harm.” In other words, Dr. Taylor seeks to inform the jury that if they don’t find in Tingle’s favor, he is at risk to commit suicide. This testimony must be excluded as it is not relevant and extremely prejudicial.

## **I. FACTUAL BACKGROUND**

Plaintiff's counsel retained Dr. Alan Taylor as an expert psychologist in this case. Dr. Taylor is not Plaintiff's treating physician or psychologist. Instead, Dr. Taylor has evaluated Plaintiff twice as a retained expert. Dr. Taylor's first evaluation occurred in August 2016 (the initial testing and evaluation) and, his updated evaluation occurred last month, on June 19, 2018, in preparation for the upcoming trial. Dr. Taylor rendered two reports: the first report was rendered in August 2016, is ten pages, and is entitled "Report of Psychological Evaluation" (Exhibit A); the second report is a letter update to the original report dated June 27, 2018, is three pages, and was previously attached to Plaintiff's motion for leave to supplement the expert report (Rec. Doc. 218) (Exhibit B).<sup>1</sup>

Dr. Taylor asserts the following inflammatory and objectionable opinions in his reports:

If [Brette Tingle's] attempt to address his problems in court is unsuccessful, this will form an extension of the humiliating circumstances that he already finds almost unbearable. There would likely be a significant risk of a depressive episode, possibly including suicidal ideation or behavior, or a fugue state.

(Exhibit A, p. 9, ¶ 1.)

Depending on the outcome of his efforts, Brette is at risk for a significant and possibly impulsive emotional reaction or as he puts it, "I would just go away".

(Exhibit A, p. 9, ¶ 3.) Dr. Taylor's most recent report states this even more pointedly:

A resolution of his legal proceedings will have variable effects depending on whether he is successful, feels vindicated, and can reestablish himself. If this case has a poor outcome, I would be very concerned about his emotional well-being and would expect that the risk for significant depression even to the point of self-harm would increase.

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<sup>1</sup> Defendant has sought to obtain Dr. Taylor's records, specifically, any notes, testing, or other documents, from the June 19, 2018 evaluation. Defendant previously issued a subpoena to Dr. Taylor for his records, and Defendant have asked that Dr. Taylor update his response to that subpoena. However, Dr. Taylor has not provided to Defendants with updated records to date. These records may provide additional support for this motion, in which case, Defendants will supplement the motion accordingly.

(Exhibit B, p. 3, ¶ 2.)

Defendant seeks to exclude these opinions as they are not relevant to Plaintiff's emotional distress caused by the alleged retaliation, invasion of privacy and/or defamation, and are highly prejudicial and are intended to sway a jury to render a verdict for Plaintiff out of sympathy.

## **II. LAW AND ANALYSIS**

### **A. Legal Standard**

The ATC is not questioning Dr. Taylor's qualifications or expertise in the field of psychology; this is not a *Daubert* motion to exclude Dr. Taylor as an expert in this case. Indeed, as this Court has previously noted, "it is apparent [Dr. Taylor] is highly qualified and very experienced." *Williams v. E.I. du Pont de Nemours*, 14-382, 2016 WL 1417816, at \*3 (M.D. La. April 11, 2016).

Instead, Defendant seeks to strike only Dr. Taylor's opinion regarding Brette Tingle's potential response should he lose this case, that is, that there is a significant risk that Tingle would experience depression, suicidal ideation or behavior, enter a fugue state, have an "impulsive emotional reaction," and inflict "self-harm" if he is unsuccessful at trial. (See Exhibit A, p. 9; Exhibit B, p. 3.) This opinion is not relevant to an issue in this case and is highly prejudicial, and therefore, should be excluded under Federal Rules of Evidence 401, 402 and 403.

Rule 403 is discretionary and allows a court to "exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting

cumulative evidence.” Fed. R. Evid. 403. According to the relevant advisory committee, “[u]nfair prejudice’ within its content means an undue tendency to suggest decision on an improper basis, commonly, though not necessarily, an emotional one.” Fed. R. Evid. 403 advisory committee note. As case law further explains, “evidence is prejudicial [for purposes of Rule 403] only when it tends to have some adverse effect upon accused beyond proof of fact or issue that justified its admission into evidence, by proving some adverse fact not in issue or exciting emotions against accused.” *United States v. Figueroa*, 618 F.2d 934, 943 (2 Cir. 1980). Although Rule 702 permits expert opinion testimony if its preconditions are met, Rule 702 “does not render all expert testimony admissible.” *Baxter v. Anderson*, 2017 WL 8944175, at \* 2 (M.D. La. Oct. 4, 2017). “Rather, beyond being subject to the Rule’s helpfulness requirements, expert testimony can still be excluded per Rule 403.” *Id.*

Dr. Taylor’s opinion regarding Plaintiff’s response should he not succeed in this litigation is not relevant or probative of any issue as it does not have any tendency to prove a fact of consequence to Plaintiff’s claims. Plaintiff’s emotional distress, depression and/or anxiety caused by trial or the litigation process is not at issue; likewise, Plaintiff’s potential reaction to the jury’s finding is not and cannot be an element of his emotional distress or compensatory damages flowing from his alleged retaliation, invasion of privacy or defamation claims. Instead, this opinion is designed solely to elicit sympathy and a verdict based on an emotional response. Indeed, the opinion is tantamount to emotional blackmail of the jurors—that is, find in favor of Plaintiff, else he might commit suicide (and you, the jury, will be to blame for it). This is a powerful form of manipulation, the classic “self-punisher’s threat.” Further, this opinion is speculative, has no scientific basis, and, more importantly, is an improper instruction to the jury. If Dr. Taylor is allowed to present this opinion to the jury, it will likely illicit fear, obligation and

guilt from the jury. Therefore, Dr. Taylor's opinion suggesting Tingle's anticipated reaction to the jury verdict should have no place in this litigation. *See e.g., Lopez v. Allstate Fire and Casualty Ins. Co.*, 2015 WL 5584930, at \* 1 (S.D. Fla. Sept. 23, 2015) (excluding expert physician who would offer opinion as that plaintiff's testifying and attendance at trial posed a serious risk to her health as "wholly irrelevant" and unfairly prejudicial to Defendant).

### **III. CONCLUSION**

WHEREFORE, Defendant the Office of Alcohol and Tobacco Control of the Department of Revenue respectfully requests this Honorable Court to exclude Dr. Alan Taylor from testifying or offering any opinion regarding the anticipated consequences should Plaintiff be unsuccessful in litigation.

Respectfully Submitted:

**JEFF LANDRY  
ATTORNEY GENERAL**

/s/ Renee Culotta  
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**COUNSEL FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 9th day of July, 2018, a copy of the above and foregoing pleading was filed electronically with the Clerk of Court using the CM/ECF system.

/s/ Renee Culotta





ALAN L. TAYLOR & ASSOCIATES, INC.  
Clinical Psychological Services

7931 Picardy Avenue, Suite C  
Baton Rouge, Louisiana 70809

(225) 767-2372  
Fax (225) 769-6708

**STATEMENT OF OPINION AND BASIS**

**REGARDING BRETTE TINGLE**

1. This report is based on the following data:
  - a. Personal and Social History
  - b. Psychosocial testing (MMPI-2, BDI-II, BAI, PPI-R, MAST)
  - c. Clinical Interview
  - d. Behavioral Observation
  - e. Review of Collateral Information
2. Exhibit: Report of Psychological Evaluation
3. VITA
4. Other Court Cases
5. Professional Fee
  - a. Evaluation Fee: \$1,750.00
  - b. Court Fee: \$1,250.00 for up to 3 hours, thereafter \$250.00 per hour

**EXHIBIT**  
**A**



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### **REPORT OF PSYCHOLOGICAL EVALUATION**

NAME: Brette Tingle

DATE OF BIRTH:

AGE: 53

DATES OF EVALUATION: 8/10/2016 & 8/12/2016

#### **REFERRAL**

Brette Tingle was referred for a psychological evaluation by his attorney, J. Arthur Smith, III. Brette Tingle was and is involved in various types of legal action associated with his dismissal from previous employment with ATC. Brette felt that his termination was unjust, unfair, and severely damaging to his reputation and emotional well-being. He has filed suit for damages and is also serving as a witness in at least one other suit. Brette's attorney requested a psychological evaluation for determination of current mental status, impact of recent and current events on Brette's emotional functioning, and treatment recommendations.

Brette's psychological evaluation consisted of individual interviews and completion of psychological testing with various instruments. Confidentiality and informed consent was discussed with Brette and he is aware that his information may be submitted as evidence in his case.

#### **BACKGROUND INFORMATION**

As part of his assessment, Brette provided a personal history. He is 53 years old and currently married to Tracy Tingle, age 46. He has a stepdaughter within this relationship. He was previously married from July 1984 to July 2006 and has three children from that marriage.

Brette's children range in age from 24 to 30 years of age, with two currently in college and one having completed college. Brette was born to Charles and Mary Lee Tingle in Ascension

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**Brette Tingle**

Parish. He was raised by his birth parents throughout his childhood. His father died of Alzheimer's disease in 1974, and his mother is currently 74 years old. His father was employed in insurance sales and management and his mother was a homemaker. He described his current relationship with his mother as good. He stated that his father was a great listener and always wanted to give good advice.

Brette also has a younger brother and a younger sister. He has not been particularly close to his sister, but reports a "great relationship" with his brother. He described his home life as a happy one. Discipline was moderate and incorporated reasonable spankings at younger ages and then restrictions as the children got older. His parents did not openly argue or fight. He denies any type of physical, mental, sexual, or emotional abuse in the family.

Brette's family religion was Mormon from the time he turned 15. The family became very active in the Mormon church and he in fact went on a mission for the church for 18 months at the age of 19. This was his first departure from home, but he lived with his parents briefly after the mission was over until he got his own trailer.

Brette reports having almost 40 hours of college credit. He repeated one grade of elementary school but otherwise did well. He played football and track in school and reports that he was well-liked in terms of social adjustment. His grades generally ranged from C+ to B-.

At the present time, Brette is employed as a hotshot driver for a local transportation company. He has taken this position after being dismissed from his primary employment. In the past, he has worked as a special agent with the Louisiana ATC. He was also in the Coast Guard Reserve and has been in service since April 2002. Before going to work in Baton Rouge, Brette spent a period of time working with the Iberville Parish Sheriff's office in 1996.

In providing a self-assessment, Brette indicated that he sees himself as outgoing, driven, an "outside the box" thinker, and a person who cares about other people. He mentions under weaknesses sometimes caring too much about others, tending to bottle up his feelings, and being opinionated. His primary current attitudes selected from a list are considerate, optimistic, and conflicted. His primary worries consist of his future career and security, his finances, and his family. He is using his free time currently in terms of trying to reestablish a career. He describes being alone as one of the ways in which he is able to relax.

Brette acknowledges consumption of alcohol and use of painkillers in the past. He denies any kind of dependency or addiction, or any adverse consequences from involvement with substances. He mentioned that his daughter has had some problems with drinking and substance use.

In 2015, Brette suffered a heart attack which resulted in surgical intervention. He had three

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**Brette Tingle**

stents placed and is now taking medication for cholesterol and high blood pressure. Otherwise, he is generally been in good health throughout his life.

In terms of legal involvement, Brette has served as a witness in two cases and is involved in his own court action as well.

Brette elaborated on his family history in a clinical interview. He grew up in the New Orleans area until he was of elementary school age, when the family moved to White Castle and later to Plaquemine. He attended high school in that area.

Although Brette's mother stayed at home with him, Brette reported that his mother helped his father by working in his office. She is currently having some health problems and she went through a difficult period of time nursing his father during the last stages of Alzheimer's.

Brette indicated that he did not have to work very hard in school and therefore focused on other things such as sports. He was able to simply listen in class to make passing grades. He eventually decided to get a GED and went to work. By the age of 19, he went on a one-year mission to California. When he came back, he worked with a swimming pool company but always thought about being in law enforcement and decided to pursue this as a career.

Brette met his first wife at the age of 17 while she was 15. They married three years later and had three children, who are now young adults. He reported that he helped put his wife through school as a respiratory technician. He was married to her for 23 years and reports that he still cares for her now. He believes part of the reason for their separation was that she became more and more involved in her religion while he did not.

At the age of 34, Brette began to work in law enforcement and started out as a deputy with the Iberville Parish Sheriff's Department. He began with regular employment and then went through academy training to become a deputy. When Murphy Foster became ATC Commissioner, he asked Brette to come to work for ATC. Brette always wanted to work in the undercover and narcotics divisions. The demands of this work grew steadily and Brette's marriage became more strained. He felt that other people encouraged his wife to become disenchanted with him and eventually she no longer wanted to stay in the marriage. The couple separated in 2006 and divorced in 2007. He reports that their divorce was civil and that he settled all his affairs. He reports that he and his ex-wife got along well and still do.

During his employment, Brette worked on a task force and was assigned to the DEA for almost 10 years. He reported that he worked long and hard hours but enjoyed the work, and he also enjoys work with the Coast Guard. He met his current wife Tracy while she was

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**Brette Tingle**

working at the ATC office. They began dating after she divorced and the couple married in 2008. They have no children together, but Tracy has a 14-year-old daughter.

Brette for a period of time was overseas in 2010. He deployed with the Navy and progressed to the rank of lieutenant. Afterward, he came back to work at ATC.

Brette reported that Troy Hebert assumed the Commissioner's position previously held by Murphy Foster, who has gone through considerable controversy and various legal proceedings/lawsuits. Brette reported that, at the time Mr. Hebert assumed his position as Commissioner, he was "paranoid". He indicated that Mr. Hebert had been warned by Murphy Foster about "who to watch out for". Brette stated that during Mr. Foster's tenure, he had become the "golden child" and wanted to go into his new situation with Mr. Hebert with an open mind. He wanted to set up workable and effective programs, but became disenchanted fairly quickly with Mr. Hebert and did not like the way he treated ATC employees. He reported that political considerations began to dictate policy and the day-to-day functioning of the organization.

Brette talked about his work situation and his feelings about the events that have occurred. He stated that he initially was the "go to" guy and essentially the number two person in the department in terms of experience and capabilities. However, he provided a statement to assist persons who were filing an EEOC complaint against Mr. Hebert and from this point he feels he became the target of a campaign to eliminate him from his position, which process required discrediting him and manufacturing charges to force his dismissal. He indicated that he was "fired twice". When the first attempt failed, he stated that the now current ATC director eventually rescinded his second firing but would not rehire him. A number of different allegations were made about him including racist and sexual remarks, dereliction of duty, and payroll fraud. He stated that an OIG investigation done over the course of the year came up with no validation of any of the claims. Secondly, a state police investigation also decided there was no merit to the charges made against him. Brette stated that he can refute the allegations as being overblown and exaggerated, but also show an overall pattern of the use of political pressure and influence to remove him from his job. He provided a copy of a news release that he stated was sent out to discredit him and prevent him from continuing in his law enforcement career. He stated that he is prepared to refute all the allegations as either nonexistent or exaggerated.

**PRESENTING PROBLEM**

When Brette was asked how he feels about the recent events, he indicated that he feels totally disenfranchised and that the "most meaningful thing in my life" has been taken away. He stated "the first time I sacrificed my marriage and family life for my job and career, and this time I was betrayed by the people I counted on the most". His friends always thought that

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**Brette Tingle**

he was a very strong and an almost invincible person. He wants very badly to continue in his law enforcement career but finds it hard to imagine that he has any chance of being hired. He stated that his situation makes him “want to leave and be alone, be somewhere else”. In another instance, he stated that “I just want to go away”. He now tends to withdraw from other people and to isolate himself, although he knows this is not healthy for him. He stated that “Hebert retaliated against me, labeled me as a criminal, ruined my career, and hurt myself and my wife’s reputation”. Brette has filed suit against Mr. Hebert personally and the State as his employer. He stated “I’ve always prided myself on being there for my coworkers and they come to me”. He trusted his superiors and enjoyed his work. He felt that this trust allowed him to work independently in a very difficult job situation.

Brette stated that “Hebert has made me a suspect in the public’s mind”, as well as sending information to the Coast Guard in an attempt to ruin his career there.

Brette also described Mr. Hebert as vindictive and retaliatory in terms of treating a number of other employees in the same fashion.

Brette was concerned about undergoing a psychological evaluation for fear this information will also be distorted and misused against him. He was willing to do so because he wants to be able to resume his career and regain some of his earlier standing and respect.

**BEHAVIORAL OBSERVATIONS**

During his interviews, Brette presented as intelligent, verbally capable, and sincere in expressing his emotions. He did not give any evidence of thought disorders, loosening of associations, or other problems in mental functioning. He presented information in a straightforward and organized way. He expressed an appropriate amount of emotion and was able to use a degree of introspection and to display self-awareness. He did not appear to be attempting to distort or exaggerate his problems. He continued this process in his approach to psychological testing and the data that he provided. The results obtained appear to be consistent with observations and previous history, as well as current observations.

**TESTS ADMINISTERED**

Clinical Interview with Client  
Minnesota Multiphasic Personality Inventory - 2<sup>nd</sup> Edition (MMPI-2)  
Beck Depression Inventory (BDI-II)  
Michigan Alcoholism Screening Test (MAST)  
Beck Anxiety Inventory (BAI)  
Psychopathic Personality Inventory - Revised (PPI-R)



**TEST RESULTS****Minnesota Multiphasic Personality Inventory - 2<sup>nd</sup> Edition (MMPI-2)**

As part of his assessment, Brette completed psychological testing with the **Minnesota Multiphasic Personality Inventory - 2<sup>nd</sup> Edition (MMPI-2)**. He displayed a mild elevation on the L scale, which can reflect possible exaggeration of superlative characteristics and denial of faults, but can also often indicate strongly held personal standards, beliefs and values. This scale is often elevated concurrently with scale 3(Hy), which tends to measure some of the same aspects. Otherwise, his validity indicators did not suggest that there are serious questions about overall profile validity.

Brette produced slight elevations on scales 4, 6, and 3. These elevations are influenced by significant ideas of persecution and a currently low fund of positive emotions. He acknowledges mild to moderate anxiety and depression, some current health concerns, and significant overcontrol of angry feelings. He is prone to utilize repression as a psychological defense. He tests as significantly introverted. The following subscales are emphasized in reflecting mild elevations: subjective depression, physical malfunctioning, denial of social anxiety, social alienation, persecutory ideas, poignancy, social avoidance, lack of drive, and neurological symptoms

In terms of attitude and approach to the test, Brette's responses suggest concern as to how his level of distress is appreciated. That is, he tended to be guarded and somewhat denying of problems but also provided several atypical/rarely given responses. This does not render his profile to be of questionable validity, but reflects his earlier comments during an interview that he had mixed feelings about whether having mental health symptoms would be seen as positive or negative and how this would reflect on him. There were no indications of any attempt to "fake sick". Misapprehension as to how his test results might be used appears to be the best explanation for the validity pattern displayed.

Brette's profile indicates a currently paranoid state. He is prone to be tense and agitated when feeling trapped or threatened. He tests as tending to project his angry feelings and aggressive impulses onto others, especially when he observes behavior or events that he sees as confirming of his suspicions. He appears somewhat lacking in insight and defensive about admitting emotional weakness. However, his ego strength score predicts areas of organized functioning and practical self-sufficiency toward immediate or short-term goals.

Because Brette appears to maintain high standards for himself, he could be seen as resentful toward what he considers personal rebuffs. Hypertension and other physical symptoms related to repressing feelings of hostility and anxiety have been associated with this pattern. His overall profile might be seen as a reflection of "wounded pride" and the feeling of having

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**Brette Tingle**

been unfairly treated.

Brette's profile suggests that he would resist accepting what he might see as a vulnerable and exposed patient role. It would be hard for him to talk about his internal feelings or psychological conflicts. He would tend to want to hold on to defenses that worked for him in the past. Brette expressed concern lest the results of his testing reflect badly on him or that they may be exploited and used against him.

### **Treatment Considerations**

In terms of treatment considerations, Brette's anger management and ambivalence would be the focus of treatment. It would be important for him to recognize the intensity of his own hurt and angry feelings. In similar cases, it has been seen as very important to avoid interruption of employment or to strongly encourage that employment be resumed as the best means to avoid further deterioration and promote recovery. It would take some time for him to establish trust and open up in therapy.

### **Minnesota Multiphasic Personality Inventory - 2<sup>nd</sup> Edition (MMPI-2) - Summary**

An overall description of the current test results would be a characterization of Brette's current functioning as "unfairness sensitization". This would be a means of adapting to what are perceived as cold and uncaring judgments paired with unduly harsh punishments, or acute sensitivity to perceived unfair and punitive actions against the self and/or others. When this has occurred at a severe level (one involving public punishment and or humiliation), the belief of having been seriously and callously wronged promotes a response to stop or reverse these actions for the sake of the individual and/or other affected persons.

Brette endorsed a number of specific items within the MMPI-2 indicating a lack of self-confidence, feeling useless, sleep problems, belief that he is being plotted against and has enemies, and a number of physical aches and pains. His distress level is likely higher than he can or will acknowledge.

### **Beck Depression Inventory (BDI-II)**

The **Beck Depression Inventory - 2<sup>nd</sup> Edition (BDI-II)** is a 21-item questionnaire to assess symptoms and severity of depression. Brette obtained an overall score of 25 on the BDI-II, suggesting that he is currently experiencing a significant degree of depression generally distributed across a number of separate areas. These include sadness, pessimism, feelings of failure, loss of pleasure, guilt feelings, self dislike, self criticalness, crying, agitation, loss of interest, indecisiveness, worthlessness, lack of energy, sleep problems, irritability, appetite problems, concentration problems, fatigue, and loss of interest in sex. In addition, he



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**Brette Tingle**

acknowledged having suicidal ideation without intent. These results suggest that further assessment and treatment is needed to alleviate or reduce the depressive symptoms.

**Michigan Alcoholism Screening Test (MAST)**

The **Michigan Alcoholism Screening Test (MAST)** is a 24-item self report measure tests used to identify alcohol use problems. A total score of 4 indicates early problem drinking behaviors. A total score of 5 or above indicates problem drinking behaviors. Brette's score (0) indicates that he perceives himself as a normal drinker, and that this view is shared by others who know him. He does not endorse having any significant problems related to drinking or any effects in other life areas.

**Beck Anxiety Inventory (BAI)**

Brette completed the Beck Anxiety Inventory (BAI) by endorsing a number of mild to moderate symptoms including dizziness, feeling smothered, heart racing, rapid breathing, sweating, anxiety, numbness, and urinary urgency. The score reflects a mild to moderate level of anxiety which is likely reactive in nature.

**Psychopathic Personality Inventory - Revised (PPI-R)**

The **Psychopathic Personality Inventory - Revised (PPI-R)** is a measure of psychopathy which provides a global estimate of overall psychopathy compared to a normal population. It also identifies several types of lower order factors which illustrate personality traits. The test includes eight content scales, three factor scales, and a total scale score. The scales are defined by T scores with accompanying percentiles.

Brette achieved a total (global) T-score of 56, placing him at the 75<sup>th</sup> percentile. As a global measure, this score suggests that he is approaching a borderline level, but is below the cutoff for significance in concluding that he has general psychopathy. Brette's overall performance does not give indications of significant psychopathic or sociopathic traits. It does suggest that he is generally fearless, exhibits very little reaction to anxiety or stressful situations, is willing to take risks, and has the ability to influence others.

Brette's scores are significantly lower on traits such as narcissistic and ruthless attitudes and interpersonal functioning, reckless lack of concern regarding social norms, tendency to blame others for one's problems and rationalize misbehavior, and attitudes of indifference in planning one's actions.

**Report of Psychological Evaluation Page - 9****Brette Tingle****SUMMARY**

Brette is manifesting a severe adjustment disorder with the identified stressor consisting of his dismissal from his previous employment and the manner in which this occurred. A more specific diagnosis would involve adjustment disorder with mixed anxiety and depressed mood (309.28). Since the stressor is ongoing, it is unlikely that he will be able to make significant improvement until this stressful situation is resolved. Depending on the outcome of the legal process, Brette may be able to focus on recovery and restoration if he is able to regain employment. If his attempt to address his problems in court is unsuccessful, this will form an extension of the humiliating circumstances that he already finds almost unbearable. There would likely be a significant risk of a depressive episode, possibly including suicidal ideation or behavior, or a fugue state. Brette will need two types of therapeutic support, with one focused on managing his current circumstances and maintaining emotional stability, and a longer-term process to recover from this emotionally traumatic experience.

Brette has been and is facing a major stressor having the potential to create both current and long-term damage. As he has described it, he is facing somewhat of an ultimate nightmare of being publicly disgraced and humiliated, dismissed from a career which he takes very seriously and has made great sacrifices to obtain, and he has received a significant blow to his self-esteem and personal and professional identity.

Brette's defensive style of repressing anxiety as much as possible has led to actual physical damage highly influenced by stress. He is acknowledging a significant amount of depressive symptoms and a reinforcement of his tendency to keep his feelings to himself as opposed to seeking relief by sharing them with others. Brette tends to operate in an "all or none" fashion. For the present, he is still proceeding as forcefully and aggressively as he can to defend himself and to restore his reputation. His comments and some of his test scores suggest that this is proving to be more and more ineffective as the level of stress continues and he cannot return to his career track, from which he draws most of his identity. Depending on the outcome of his efforts, Brette is at risk for a significant and possibly impulsive emotional reaction or as he put it, "I would just go away".

Brette's evaluation is occurring under circumstances where there is a radical difference between two stories being presented. The primary factors to consider under the circumstances would be the following:

1. Considering the allegations made concerning Brette's behavior and conduct, is there anything from previous history or other investigation/evaluations that tends to corroborate the types of conduct and personality characteristics attributed to Brette? Brette presents no such history, and by his report other investigations, conducted over a long period of time and in significant detail,

**Report of Psychological Evaluation Page - 10**

**Brette Tingle**

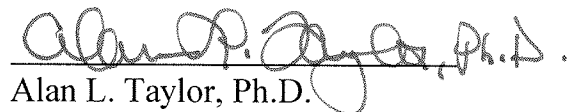
have not provided any supporting evidence that the way he has been depicted is accurate.

2. Brette has also made a significant number of allegations against Mr. Hebert. The appropriate question here would be whether there is evidence that his accounts and descriptions of Mr. Hebert's behavior and conduct are supported by independent outside accounts. Brette contends that there are such accounts from a number of sources.

While the above issues may be addressed in a court setting, from a psychological standpoint it is definitely the case that Brette Tingle is struggling with a significant emotional disorder related to the loss of his career and position and that he is in need of psychological assistance on both an acute treatment and rehabilitative basis.

**OPINIONS TO BE STATED**

1. Brette currently manifests an adjustment disorder with mixed anxiety and depressed mood.
2. Brette is in need of mental health services including psychotherapy and medication assessment/management.
3. The primary stressor affecting Brette appears to be his dismissal and litigation process.
4. As long as this stressor continues, Brette will likely do no better and may get worse, both mentally and physically.

  
Alan L. Taylor, Ph.D.  
Clinical Psychologist

ALT/laa



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June 27, 2018

J. Arthur Smith, IV  
**Smith Law Firm**  
830 North Street  
Baton Rouge, Louisiana 70802

*Via Facsimile: 225-383-7773*

**RE: Brette Tingle vs. Troy Hebert**  
**U. S. District Court Middle District of Louisiana**  
**Civil Action No. 3:15-CV-00626**

Dear Mr. Smith:

I am providing a summary of my recent visit with Mr. Brette Tingle, whom I last saw during July and August of 2016. At that time, I performed a psychological evaluation and provided a report including a summary of my assessment. Mr. Tingle was involved in legal proceedings. I understand that court is still in process and wanted me to provide an update of my recent contact with Mr. Tingle in light of my previous assessment.

At the time I saw Mr. Tingle in 2016, he provided me with extensive background information, participated in psychological testing, and subsequently I produced a report. Part of my conclusions at the time were that in terms of diagnosis the most accurate description would have involved an adjustment disorder with a clearly identified stressor that was still active. Mr. Tingle was exhibiting a mixture of anxiety and depression symptoms. He had already suffered physical problems related to the stress, but more importantly damage to his self-esteem and identity.

Although this was the case, my prediction at that time was that given Mr. Tingle's personality style he would likely try to continue as much as possible to find work as a means of maintaining his identity. I did not expect that he would seek out in-depth counseling but would probably manage as well as he could for as long as possible. The tension at the time involved whether some resolution of Mr. Tingle's legal proceedings would occur and what the emotional impact on him would be depending on the outcome.

Mr. Tingle was seen for an updated interview on June 19, 2018. He appeared much the same physically and in fact seemed somewhat healthier. As before, he was very forthright and direct in providing his information.

**EXHIBIT  
B**

**EXHIBIT A**



**RE: Brette Tingle**

**Page 2**

Mr. Tingle initially began work with hotshot driving and later was able to do contract work overseas. He worked for the Triple Canopy Company the company as a field training officer and was due to get promoted but was informed that he would need a higher level security clearance and that this was not possible because of issues with his past record. He also spent a period of time working in Kuwait but eventually returned home. At the time, he sought more information about increasing his level of security clearance.

As an illustration, Mr. Tingle stated that he was paid on an hourly basis for an overall salary of approximately \$57,000 per year. If he had had security clearance he would have made over \$100,000 per year. During the current period, he is working for a manufacturing company that installs pools. He is living in Prairieville now. He visits with family members but eventually would want to be able to leave Louisiana. There are still family issues such as medical problems. As he did before, he attempts to "screen things off" his wife as much as possible.

When asked about his goals, Mr. Tingle stated that he wants his job back and to be fully reinstated. He sees this as a specific starting point but recognizes that any opportunities for him in that position could be or might be compromised. He definitely wants to stay with law enforcement and recognizes at this stage of life he may have to take a supervisory position. He would also want a clearing of all Internet records and other reports of previous allegations about him.

Mr. Tingle's last statement was "I have always wanted mainly to be a good soldier. I never necessarily wanted to be a chief. During the better days of my work I really felt I had a home where I was respected and appreciated".

Mr. Tingle indicated that he is taking action as a plaintiff in his case and has also already served as a witness in a previous case. He noted that there are other cases upcoming involving the same defendant. He described the reason for his continuing on as his feelings that this was an individual who had retaliated against him, labeled him a criminal, hurt his career, and harmed his wife's reputation and emotional well-being.

Mr. Tingle indicated that he has pursued other work during the interim period, but has consistently run into problems, usually involving his security clearance which can never be expanded beyond a certain level. He strongly believes and has been told by various individuals that there will be a limit to his opportunity to take on more challenging and more lucrative work because he is unable to obtain a full security clearance. He has worked under contract overseas but has found himself doing work at a much lower level than he has been accustomed to in the past.

**RE: Brette Tingle**

**Page 3**

At this point in time, Mr. Tingle appears to be functioning much as he was previously. He has demonstrated an extremely high level of persistence and determination in going on with his life and attempting to work despite ongoing frustrations. He appears strongly resolved and determined to see his legal process through to the end, as it is his fervent wish to be able to continue with his previous occupation. It is a major part of his identity and he wants to reestablish his reputation and be able to pursue his career.

As the core stressor has not been removed, Mr. Tingle's diagnosis would continue, but on a longer-term basis. A resolution of his legal proceedings will have variable effects depending on whether he is successful, feels vindicated, and can reestablish himself. If this case has a poor outcome, I would be very concerned about his emotional well-being and would expect that the risk for significant depression even to the point of self-harm would increase.

I understand that my earlier evaluation may seem now more historical, but if looked at as a blueprint or snapshot of Mr. Tingle's functioning at the time, I believe his subsequent behavior illustrates that the evaluation was accurate and his subsequent behavior is consistent with those results.

I will be glad to answer any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Alan Taylor", written over a horizontal line.

Alan L. Taylor, Ph.D.  
Clinical Psychologist

ALT/laa