2025 WL 3073933 (Neb.Dist.Ct.) (Trial Order)
District Court of Nebraska.
Douglas County

Billy MUNDY and Amber Mundy, Husband and Wife, Plaintiffs,
v.
CLICKSTOP, INC., d/b/a under a fictitious name, US Cargo Control, an Iowa Corporation, Defendant,
and
CRETE CARRIER CORPORATION, Defendant Employer, for workers' compensation subrogation only.

No. CI 23-6600.
October 17, 2025.

Editor's Note: This decision contains discussion of citation references that are incorrect or do not actually exist. These invalid citations appeared in the original court opinion and have been preserved as written since they are part of the official record. Any links to these invalid citations have been removed.

Order for Sanctions

Michael R Faz, mfaz@ctagd.com.

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Daniel P Lenaghan, dlenaghan@mlwdlaw.com.

Hon. James M. Masteller, District Judge.

***1** THIS MATTER came before the Court on September 10, 2025, for hearing pursuant to the Court's Order to Show Cause filed on September 1, 2025. James E. Harris, counsel for Plaintiffs, appeared. Michael R. Faz, counsel for Defendant Clickstop, Inc. d/b/a US Cargo Control ("Clickstop"), appeared. Daniel P. Lenaghan, counsel for Defendant Employer Crete Carrier Corporation, appeared. The hearing was held on the record. The Court takes judicial notice of all filings in this case.

BACKGROUND

On July 14, 2025, Defendant Clickstop filed a Motion for Summary Judgment and a Brief in Support of Defendant's Motion for Summary Judgment. On July 15, 2025, the Court filed a Summary Judgment Scheduling Order containing briefing deadlines regarding the Motion.

Briefs Filed

On July 28, 2025, Mr. Harris filed the following briefs: 1) Plaintiffs' Opposition MSJ: Conflict of Laws – Punitive Damages; 2) Plaintiffs' Opposition to Summary Judgment Based on Circumstantial Evidence; 3) Plaintiffs' Opposition to UCC Statute of Limitations for Express Warranty Future Performance Exception; 4) Plaintiffs' Opposition MSJ: Apparent Manufacturer and Importer Liability; and 5) Plaintiffs' Combined Spoliation Motion for Sanctions and Opposition MSJ Brief.

On August 1, 2025, Defendant's counsel filed 1) a Reply Brief in Support of Defendant's Motion for Summary Judgment, and 2) a Brief in Opposition to Plaintiffs' Combined Spoliation Motion for Sanctions.

On August 4, 2025, Mr. Harris filed Plaintiffs' Reply to USCC Opposition to Spoliation Motion. On August 5, 2025, Mr. Harris filed Plaintiffs' Supplemental Opposition to UCC Statute of Limitations Defense – Express Warranty for Future Performance Exception Under UCC § 2-725(2).

On August 6, 2025, Defendant's counsel filed a letter brief.

On August 6, 2025, Mr. Harris filed Plaintiffs' Supplemental Reply to UCC Statute of Limitations – Inapplicability of Express Warranty for Future Performance Exception Under UCC § 2-725(2) Where No Limitation or Disclaimer Exists Under Neb. U.C.C. § 2-316.

On August 11, 2025, Mr. Harris filed an Addendum to Plaintiffs' Reply Brief Clarifying: 1. The Limited Scope of UCC §2-725, and 2. Neb. Rev. Stat. §25-224 as the Controlling Product Liability Limitations Provision.

False Statements of Law

The hearing on Defendant's Motion for Summary Judgment was held on August 4, 2025, and August 5, 2025. During the hearing, Defendant's counsel expressed concerns regarding the validity of the case law cited in Plaintiffs' briefing. The Court, having reviewed said briefing, developed reason to believe that Plaintiffs' briefing contained false statements of law. Below are the most problematic portions of Plaintiffs' briefing.

"Plaintiffs' Opposition MSJ: Apparent Manufacturer and Importer Liability" filed by Plaintiffs on July 28, 2025.

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• Mr. Harris writes, "Nebraska law (*Stones v. Sears, Roebuck & Co.*, 251 Neb. 560, 558 N.W.2d 540, 570–71) provides that whether a company presented itself as a manufacturer is a classic jury question if the facts support 'holding out.'"

***2** • This appears to be a false statement of law as the Nebraska Supreme Court in Stones did not discuss jury questions and expressly declined to adopt the apparent manufacturer doctrine. In addition, the pincite provided discusses the Magnuson-Moss Warranty Act, not the apparent manufacturer doctrine.

• Mr. Harris writes, "Restatement (Third) of Torts §20 and 15 U.S.C. § 2052(a)(11) establish strict liability where importers control design, QC, or labeling—even if physical manufacturing is delegated."

• This appears to be a false statement of law as Restatement (Third) of Torts: Products Liability § 20 simply provides the "Definition of 'One Who Sells or Otherwise Distributes"' and 15 U.S.C. §2052(a)(11) defines "manufacturer" as "any person who manufactures or imports a consumer product."

• Mr. Harris writes, "Nebraska's functional test is explicit: 'For purposes of imposing strict liability in tort, a manufacturer has been defined as one who designs, produces, makes, fabricates … If the seller actively participates in … production, preparation, or processing … he may be treated as a manufacturer…' *Rahmig v. Mosley Mach. Co.*, 226 Neb. 423, 442 N.W.2d 33, 45."

• This appears to be a false statement of law as this alleged direct quotation does not exist in the provided case.

"Plaintiffs' Opposition to UCC Statute of Limitations for Express Warranty Future Performance Exception" filed by Plaintiffs on July 28, 2025.

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• Mr. Harris writes, "USCC's claim that the cause accrued at tender is squarely contradicted by Nebraska authority recognizing that such warranties for future performance are governed by the discovery rule, especially for latent defects (*Controlled Environments Constr., Inc. v. Key Indus.*, 2018 WL 1911384 (D. Neb.); *Lewy v. Remington Arms Co.*, 836 F.2d 1104, 1112; *Hogan v. Norfleet*, 191 Neb. 123)."

• Controlled Environments Constr., Inc. v. Key Indus., 2018 WL 1911384 (D. Neb.) is not the correct case citation. The citation "2018 WL 1911384" leads the Court to Legal Resource Index, "TITLE: GRASSROOTS CHALLENGES TO THE EFFECTS OF PRISON SPRAWL ON MENTAL HEALTH SERVICES FOR INCARCERATED PEOPLE. (Special Issue: The Geography of Confinement)." The Court was able to locate a case, Controlled Env'ts Const., Inc. v. Key Indus. Refrigeration Co., 266 Neb. 927, 938, 670 N.W.2d 771, 781 (2003) which stated that "[w]hen a warranty extends to future performance, as it does here, the statute of limitations is tolled and the cause of action does not begin to accrue until the breach of that warranty is or should have been discovered." Id.

• This appears to be a false statement of law as Lewy v. Remington Arms Co., 836 F.2d 1104 (8th Cir. 1988) does not stand for the proposed proposition as it discusses punitive damages, evidentiary rulings, and trial errors, not the discovery rule.

• This appears to be a false statement of law as Hogan v. Norfleet, 191 Neb. 123 does not appear to exist. The Court was able to locate Hogan v. Norfleet, 113 So. 2d 437, 438 (Fla. Dist. Ct. App. 1959), but this case involved specific performance of a contract under Florida law.

• Mr. Harris writes, "Plaintiff gave commercial notice of breach as soon as practicable upon discovering the failure, per industry and UCC standards (*Schiavone Construction Co. v. Time Equipment Rental, Inc.*, 205 Neb. 442, 287 N.W.2d 814)."

***3** • This appears to be a false statement of law as Schiavone Construction Co. v. Time Equipment Rental, Inc., 205 Neb. 442, 287 N.W.2d 814 does not appear to exist. The Court was able to locate Schiavone Const. Co. v. Time, Inc., 847 F.2d 1069, 1072 (3d Cir. 1988), but this was a defamation case.

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• Mr. Harris writes, "Such warranties require actual use and exposure; they cannot be confirmed (or breached) until a failure occurs, rendering the discovery rule for accrual mandatory (*Controlled Environments*, *Lewy*, *Hogan*)."

• This appears to be a false statement of law as Hogan v. Norfleet, 191 Neb. 123 does not appear to exist and Lewy v. Remington Arms Co., 836 F.2d 1104 (8th Cir. 1988) does not discuss the discovery rule.

• Mr. Harris writes, "Nebraska law and UCC § 2-313 make clear that no formal 'warranty' or duration language is required; reliance is presumed where product descriptions form the basis of the deal (*Freeman v. Hoffman-La Roche, Inc.*, 260 Neb. 552, 618 N.W.2d 827; *Cipollone v. Liggett Group, Inc.*, 505 U.S. 504)."

• This appears to be a false statement of law as Cipollone v. Liggett Grp., Inc., 505 U.S. 504, 525 (1992) does not mention Nebraska law or UCC § 2-313. Rather, it references New Jersey statute, N.J.Stat.Ann. § 12A:2–313(1)(a) (West 1962) which provides a claim for breach of an express warranty.

• This appears to be a false statement of law as although Freeman v. Hoffman-La Roche, Inc., 260 Neb. 552, 574–75, 618 N.W.2d 827, 844 (2000) references a claim of express warranty under Neb. U.C.C. § 2–313 (Reissue 1992), the reference does not include the proposition that reliance is presumed where product descriptions form the basis of the deal.

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• Mr. Harris writes, "Plaintiff provided timely notice per Neb. Rev. Stat. § 2-607(3)(a); see also *Schiavone Construction Co.*"

• This appears to be a false statement of law as Schiavone Construction Co. v. Time Equipment Rental, Inc., 205 Neb. 442, 287 N.W.2d 814 does not appear to exist.

• Mr. Harris writes, "No 'magic words' or formal warranty documentation is required; *Cipollone* and Nebraska law presume reliance on described product attributes shown at sale."

• This appears to be a false statement of law as Cipollone v. Liggett Grp., Inc., 505 U.S. 504, 525 (1992) does not contain this proposition of law.

"Plaintiffs' Combined Spoliation Motion for Sanctions and Opposition MSJ Brief" filed by Plaintiffs on July 28, 2025.

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• Mr. Harris writes, "*In re Ex Parte Application of Levi Strauss & Co., No. 18-mc-80123-JSC (N.D. Cal. Aug. 15, 2018)*: '[W]hen a website operator has the power to control the accessibility of data in the Wayback Machine, its removal may constitute spoliation.'"

• This appears to be a false statement of law as In re Levi Strauss & Co., No. 18-MC-80123-JSC, 2018 WL 3872790 (N.D. Cal. Aug. 15, 2018), does not contain this specific quote or even the word "spoliation."

• Mr. Harris writes, "Under *Panhandle Coop. Ass'n v. Whirlpool Corp.*, 250 Neb. 667, 675 (1996), and *Lewy v. Remington Arms Co.*, 836 F.2d 1104, 1112 (8th Cir. 1988), sanctions—including exclusion of exclusion or [sic] measurement defenses and denial of summary judgment—are warranted where negligent spoliation substantially prejudices the opposing party."

***4** • This appears to be a false statement of law as Panhandle Coop. Ass'n v. Whirlpool Corp., 250 Neb. 667, 675 (1996) does not appear to exist.

On August 1, 2025, counsel for Defendant Clickstop filed a "Reply Brief in Support of Defendant's Motion for Summary Judgment." In the brief, defense counsel pointed out "significant issues" with Plaintiffs' brief. First, defense counsel noted that Plaintiffs incorrectly cite to Controlled Env'ts Const., Inc.[1] In addition, defense counsel pointed out that Lewy[2] does not address the future performance exception or warranties and is based on Missouri substantive law. Further, defense counsel pointed out that Hogan v. Norfleet[3] could not be located except for a 1959 Florida case and Schiavone[4] could not be located.

In addition to raising concerns in its brief, defense counsel raised concerns with incorrect quotations and citations in Plaintiffs' briefs at the hearing held on August 4, 2025. Defense counsel asserted that there were quotations where no quotations actually existed as well as citations to cases that could not be found. In response, Mr. Harris thereafter filed two additional reply briefs.

"Plaintiffs' Reply to USCC Opposition to Spoliation Motion" filed by Plaintiffs on August 4, 2025.

In this filing, Mr. Harris states as follows:

> III. PLAINTIFF'S RESPONSE TO DEFENDANT'S MISQUOTE ALLEGATION AND LEVI STRAUSS CITATION

On page 3 of its Reply Brief, Defendant contends:

> "As a preliminary note, Plaintiff's motion should be viewed with great skepticism. For example, on page 3 Plaintiffs quote In re Levi Strauss & Co., No. 18-mc-80123-JSC (N.D. Cal. Aug. 15, 2018). The quote cited cannot be located by Defendant. This happens several times throughout their Motion, which is addressed in the footnotes."

A. THE CASE EXISTS AND IS ATTACHED

Plaintiff clarifies that In re Ex Parte Application of Levi Strauss & Co., No. 18-mc-80123-JSC, 2018 WL 6615645 (N.D. Cal. Aug. 15, 2018), is a genuine, published district court opinion and is attached for the Court's convenience. This order is directly relevant to the issues of Internet Archive (Wayback Machine) evidence and digital preservation in this matter.

B. ADMISSION AND CLARIFICATION REGARDING THE QUOTATION FORMATTING

Plaintiff acknowledges that the following sentence was presented as a direct quote: "When a website operator has the power to control the accessibility of data in the Wayback Machine, its removal may constitute spoliation."

This statement is a fair and accurate summary of the effect and holding of the Levi Strauss order but is not a verbatim quotation from the opinion. The inclusion of quotation marks was a scrivener's error. It should have been bracketed or otherwise identified as a paraphrase, consistent with how other authorities were cited within the same section. Importantly, this isolated formatting error stands in contrast to Plaintiff's handling of the subsequent two authorities, Gatto and Allied Signal, which were properly paraphrased or summarized without quotation marks, as they were not direct language from the opinions. This demonstrates Plaintiff's standard practice of careful attribution and citation formatting.

***5** C. THE ACTUAL LANGUAGE AND RATIONALE FROM THE ORDER

The Levi Strauss (2018) order includes, among other relevant language: "The Wayback Machine FAQ's state that an individual or other entity can request that a site be excluded from the Wayback Machine. (Id. at 5:10-12; see also https://archive.org/about/faqs.php#The_Wayback_Machine (last visited August 14, 2018).)" (Order p.3).

Further:

"For the reasons described above, the Court GRANTS the 1782 application with the following conditions:

1. The Subpoena is limited to seeking documents from Internet Archive in the three categories previously indicated: (1) whether New Yorker requested that the www.newyorker.de website be excluded from the Wayback Machine, (2) whether New Yorker requested that the history for the www.newyorker.cr and www.newyorker.sk website be excluded from the Wayback Machine; and (3) copies of any such website history that still exists even though it has been hidden from public view."

(Conclusion p.6).

The court's rationale is that the ability to control and potentially remove or restrict access to relevant archived website data during litigation justifies targeted discovery—precisely because such actions raise concerns about digital preservation and potential spoliation.

D. WHY PLAINTIFF'S SUMMARY WAS FAIR

Although not a verbatim quote, Plaintiff's summary accurately reflects the holding: if a party has the ability to control access to relevant archival website data and arranges for its removal after litigation is foreseeable, that conduct is properly the subject of discovery and may implicate spoliation principles. The reasoning and outcome of the order support exactly that interpretation.

E. SCOPE AND PURPOSE OF PLAINTIFF'S MOTION

Plaintiff's pending motion does not seek a spoliation or adverse inference jury instruction at this time. Nebraska law, as set out in State v. Devlin, 639 N.W.2d 631, 649 (Neb. 2002), limits such instructions to cases of intentional or bad faith destruction, with limiting instructions available for negligent loss. Plaintiff's briefing and proposed instructions are clear on this distinction. Now, Plaintiff seeks only leave for limited third-party and digital discovery related to recent changes in Defendant's Wayback Machine records and disclosures, as prompted by Defendant's July 14, 2025, expert disclosure and detailed in Plaintiff's affidavit. The issue of any jury instruction will be properly resolved, if necessary, at pretrial, trial, or jury instruction conference.

F. PROFESSIONAL RESPONSIBILITY AND RELIEF REQUESTED

Plaintiff's counsel takes full responsibility for correcting this inadvertent mistake and has now clarified the record. The substantive legal argument remains fully supported by the attached authority. Genuine issues of material fact prevent summary judgment. The relief requested at this stage is leave for the discovery necessary to ensure the factual record is complete and preserved for future stages.

(Id., pp. 5-8).

"Plaintiffs' Supplemental Opposition to UCC Statute of Limitations Defense – Express Warranty for Future Performance Exception Under UCC § 2-725(2)" filed by Plaintiffs on August 5, 2025.

***6** In this filing, Mr. Harris states as follows:

CRITICAL CITATION ERRORS REQUIRING IMMEDIATE CORRECTION

Your Honor, I respectfully bring to the Court's attention errors in case citations brought to my attention yesterday, contained in Plaintiffs' Opposition to UCC Statute of Limitations brief filed July 28, 2025. After thorough verification, I must correct the following citations on page 2:

1. CORRECTED CITATION:

INCORRECT: "Controlled Environments Constr., Inc. v. Key Indus., 2018 WL 1911384 (D. Neb.)"

CORRECT: Controlled Environments Construction, Inc. v. Key Industrial Refrigeration Co., 266 Neb. 927, 670 N.W.2d 771 (2003)

Court: Nebraska Supreme Court (NOT D. Neb.)

Year: 2003 (NOT 2018)

Relevance: This case actually supports Plaintiffs' argument - warranties promising goods will be "free from defects" for a specified period explicitly extend to future performance under Nebraska law.

2. CITATION TO BE REMOVED:

"Hogan v. Norfleet, 191 Neb. 123" - This Nebraska case does not exist. Only Hogan v. Norfleet, 113 So.2d 437 (Fla. Dist. Ct. App. 1959) exists - a Florida case about gas franchises, unrelated to warranty law.

3. VERIFIED CITATION:

Lewy v. Remington Arms Co., 836 F.2d 1104 (8th Cir. 1988) - Accurate but deals with document retention, not future performance warranties.

CONCLUSION

These corrections strengthen rather than weaken Plaintiffs' position. I respectfully request the Court's understanding regarding these citation errors and confirmation that the corrected authorities support Plaintiffs' opposition to summary judgment.

(Id., pp. 4-5).

Show Cause Hearing

On September 1, 2025, the Court issued an Order to Show Cause in which it directed Mr. Harris to appear before the Court on September 10, 2025, and show cause why the Court should not impose sanctions on him for repeatedly including false statements of law in his court filings. The Court noted in its Order that the legal errors and false case law in Plaintiffs' filings were consistent with problems other courts have observed when attorneys utilized generative artificial intelligence to produce court filings without adequately checking the assertions and citations within those filings. Consequently, the Court indicated that it had grave concerns regarding the extent to which it could rely on the authorities listed in Plaintiffs' motions and briefs. The Court specified in its Order that Mr. Harris would be afforded the opportunity at the hearing to adduce evidence regarding, among other things, 1) whether he utilized generative artificial intelligence in court filings without verifying the results produced therefrom, 2) whether he engaged in bad faith conduct, and 3) the appropriate sanction(s), if any, to be imposed on him by the Court.

During the hearing held on September 10, 2025, Mr. Harris adduced evidence and presented the Court with oral and written argument. Specifically, Mr. Harris offered Exhibit 70, "Plaintiffs Counsel's Response to Order," which was received into evidence by the Court. Mr. Harris separately filed this same document with the Clerk of Court on September 10, 2025. Mr. Harris also offered Exhibit 71, a privilege log, which was received into evidence by the Court. Finally, Mr. Harris offered Exhibit 72, a thumb drive containing his legal research and supporting materials which the Court treats as protected work product. The Court received Exhibit 72 into evidence under seal for purposes of appellate review.

***7** Mr. Harris then supplied the Court with oral argument. Mr. Harris advised he had met with his clients in person to advise them of the Court's Order to Show Cause. Mr. Harris further advised the Court that he takes full responsibility for the errors in his court filings, and that this will never happen again. Mr. Harris stated he had utilized generative artificial intelligence ("AI") in his court filings, and that the AI-generated content went beyond his established parameters and protocols to include, without his knowledge or intent, nonexistent cases and quotes that are commonly referred to as "hallucinations." Mr. Harris related that he has previously attended several trainings regarding the use of AI. Mr. Harris stated that this experience has reinforced his commitment to rigorous manual verification and the necessity of maintaining strict protocols to ensure the accuracy and reliability of his court filings.

Upon inquiry from the Court, Mr. Harris stated he had utilized AI in preparing Exhibit 70, "Plaintiffs Counsel's Response to Order." Mr. Harris advised that he had manually verified the contents of the Response to the best of his ability. On page 10 of the Response, Mr. Harris wrote the following:

> **Restatement (Third) of Torts: Products Liability—Key Provisions Section 1** sets out the general rule for strict liability in product cases: "One who sells or otherwise distributes defective products is subject to liability for harm to persons or property caused by the defect."
>
> — *Restatement (Third) of Torts: Products Liability § 1 (1998), at 5.*

(Response, p. 10). Although similar, the above quote appears to be hallucinated. See Restatement (Third) of Torts: Prod. Liab. § 1 (1998) ("One engaged in the business of selling or otherwise distributing products who sells or distributes a defective product is subject to liability for harm to persons or property caused by the defect.").

At the conclusion of the hearing, the Court took the matter under advisement. Having reviewed the evidence and considered Mr. Harris' oral and written arguments, and being now fully advised in the premises, the Court now finds and orders as follows.

ANALYSIS

Show Cause Procedure

Neb. Rev. Stat. § 25-2122 (Reissue 2016) provides that "[c]ontempts committed in the presence of the court may be punished summarily; in other cases the party upon being brought before the court, shall be notified of the accusation against him, and have a reasonable time to make his defense." Id. Regardless, this Court's power to punish for contempt is not dependent upon statute. This power "is incident to every tribunal from its very constitution and may be generally exercised only by that tribunal whose order has been violated or proceedings interfered with." In re Contempt of Potter, 207 Neb. 769, 773, 301 N.W.2d 560, 562 (1981); see In re Dunn, 85 Neb. 606, 124 N.W. 120 (1909) (discussing the inherent power of courts to punish for contempt).

As the Nebraska Supreme Court has explained, "[t]he distinction between direct contempt and indirect, or constructive, contempt is: The actions which constitute the former occur in the presence of the court so that the court has personal knowledge of the facts and has no need to inform itself of them by using witnesses or other evidence; the events constituting the latter occur outside the presence of the court and the court must inform itself of the facts through the use of witnesses or other evidence." Potter, 207 Neb. at 773, 301 N.W.2d at 562. "Direct contempt may be punished summarily." Id., 207 Neb. at 773, 301 N.W.2d

at 562. "Indirect or constructive contempt requires some notice of the facts allegedly constituting the contempt and a hearing or opportunity to be heard." Id. The Supreme Court has held that "before punishment for indirect contempt may be imposed, there must be an accusation in some form, notice, and an opportunity for defense." Id., Neb. at 774, 301 N.W.2d at 563.

***8** The Nebraska Supreme Court has recognized a form of hybrid contempt in which "the charge of contempt arose from events occurring in the presence of the court which it is claimed should be excused by matters taking place outside the courtroom." Id. The contempt here arose from court filings by Mr. Harris containing false statements of law, including case citations that were entirely fictional. Given these documents were filed with the Court, there was no need for the Court to further inform itself through witnesses or other evidence. As such, the contempt arose from events occurring in the presence of the Court. However, Mr. Harris' use of AI and his efforts to manually verify the AI-generated content occurred outside of the courtroom, and it is this behavior that Mr. Harris seeks to excuse or mitigate. Accordingly, the Court construes this matter as a hybrid of direct and indirect contempt.

This Court afforded Mr. Harris the process available in a hybrid contempt proceeding. The Court did not proceed summarily. The Court entered an Order to Show Cause which specifically informed Mr. Harris of the facts allegedly constituting the contempt. The Court scheduled the matter for hearing and gave Mr. Harris adequate time to prepare. At the hearing, Mr. Harris was given an opportunity to adduce evidence and present argument regarding his state of mind, any excuse he wished the Court to consider, as well as potential sanctions.

Court's Findings

Having reviewed the evidence before the Court and considered Mr. Harris' oral and written arguments, the Court finds that Mr. Harris did not knowingly or intentionally include false statements of law in his court filings. The Court finds that Mr. Harris did not deliberately attempt to perpetrate a fraud upon the Court. The Court further finds that Mr. Harris is sincerely remorseful for the false statements of law contained in his court filings.

However, the Court also finds that Mr. Harris clearly failed to sufficiently and manually verify for accuracy the AI-generated content he included in his court filings. Mr. Harris understood the necessity for such verification as he is knowledgeable regarding the potential risks associated with the use of AI in the preparation of court filings. Indeed, it is "general knowledge in the legal community that AI can hallucinate and make up cases. AI hallucination has been reported on extensively in media (not just in the legal context, but at large) and the subject of many seminars and continuing legal education trainings offered by bar associations, articles written in legal journals, and numerous well reported instances of courts sanctioning attorneys." United States v. McGee, No. 1:24-CR-112-TFM, 2025 WL 2888065, at *3 (S.D. Ala. Oct. 10, 2025). The fact that Mr. Harris did not knowingly include false statements of law in his court filings does not excuse his failure to verify for accuracy the citations therein. After a careful review of the matter, the Court determines that Mr. Harris' conduct was tantamount to bad faith. Ultimately, the Court finds that Mr. Harris has failed to show cause why the Court should not impose sanctions on him for having repeatedly included false statements of law in his court filings.

Sanctions Imposed

The conduct of Mr. Harris significantly interfered with the Court's administration of core judicial functions and its exercise of judicial powers. Mr. Harris' failure to have adequate safeguards in place for using AI when drafting court filings and his failure to manually verify the AI-generated content therein obstructed the Court's business by delaying the summary judgment proceedings and the scheduled jury trial in this case. In addition, this show cause proceeding has consumed an inordinate amount of the Court's time that could have been devoted to the multitude of the other cases pending before it.

The Nebraska Supreme Court has previously noted that "[t]here is a well– recognized duty imposed upon the judge or judges to see that the respect and integrity of the courts are maintained, and unpleasant as it may be, we cannot evade or flinch from the

discharge of that duty." In re Dunn, 85 Neb. 606, 124 N.W. 120, 130 (1909). The Court finds it necessary in this case to impose sanctions on Mr. Harris. The Court finds there is a direct relationship between Mr. Harris' conduct and the sanctions imposed. The Court further finds that the sanctions imposed on Mr. Harris are not excessive and are the sanctions minimally necessary to deter, alleviate, and counteract such conduct. The Court's sanctions are as follows.

1. Court Filings Stricken

***9** The Court strikes any Plaintiffs' motions filed on or after July 28, 2025, that have not yet been ruled upon by the Court. Plaintiffs may refile said motions and said motions will be deemed timely filed if the previously stricken motions were timely filed in accordance with the deadlines contained in the Third Amended Scheduling Order filed on May 14, 2025. In addition, the Court strikes Plaintiffs' briefs filed on or after July 28, 2025, pertaining to any Plaintiffs' motions that have not yet been ruled upon by the Court.

The Motion for Summary Judgment filed by Defendant Clickstop on July 14, 2025, is now scheduled for hearing at **1:30 p.m. on Tuesday, November 25, 2025**. The Court has reserved three (3) hours of court time for this hearing. The record on the motion shall not be reopened; the parties are confined to the evidence previously offered into evidence regarding said motion. Not less than ten (10) days before the hearing on the motion, Plaintiffs shall file with the Clerk and serve on all parties of record its Brief in Opposition. If counsel have a scheduling conflict on this date and time, counsel shall coordinate with the Court's Bailiff to secure a new date and time for this hearing.

2. Generative AI Certification Requirement

There is nothing fundamentally improper in counsel utilizing AI to draft court filings. However, problems arise when counsel do not manually verify for accuracy the AI-generated content in said filings. Henceforth, all pleadings, motions, and briefs filed in this case by Mr. Harris shall contain a written certification stating a) that no generative artificial intelligence program was used in drafting the document, or b) that to the extent such a program was used, Mr. Harris manually verified the accuracy of all generated text, including all citations, quotations, and legal authority.

3. Monetary Sanction

Courts have routinely and increasingly issued monetary sanctions for providing false and misleading statements of law to the court. As a Federal Magistrate Judge recently observed,

> Monetary sanctions ranging from $2,000 to $6,000 have been imposed in similar contexts in the past few years. See, e.g. Mid Cent. Operating Eng'rs Health & Welfare Fund v. HoosierVac LLC, 2025 WL 1511211 (S.D. Ind. May 28, 2025) ($6,000 sanction); Gauthier v. Goodyear Tire & Rubber Co., 2024 WL 4882651 (E.D. Tex. Nov. 25, 2024) ($2,000 sanction); Mortazavi v. Booz Allen Hamilton, Inc., 2024 WL 4308032 (C.D. Cal. Sept. 26, 2024) ($2,500 sanction); Mata v. Avianca, Inc., 678 F. Supp. 3d 443 (S.D.N.Y. 2023) ($5,000 sanction). Given the distressing number of cases calling out similar conduct since the opinions cited above were issued, it is clear that the imposition of modest sanctions has failed to act as a deterrent.

Davis v. Marion Cnty. Superior Ct. Juv. Det. Ctr., No. 1:24-CV-01918-JRS-MJD, 2025 WL 2502308, at *4 (S.D. Ind. Sept. 2, 2025) (recommending the imposition of a $7,500 sanction); see also United States v. McGee, No. 1:24-CR-112-TFM, 2025 WL 2888065, at *1 (S.D. Ala. Oct. 10, 2025) ($5,000 sanction); Wadsworth v. Walmart Inc., 348 F.R.D. 489, 498 (D. Wyo. 2025) ($3,000 sanction).

Having considered the range of monetary sanctions imposed by courts in similar cases, the Court finds it appropriate to impose a monetary sanction on Mr. Harris in the amount of $2,000. The Court reaches this figure by considering, among other things, 1) the number of false statements of law in Mr. Harris' filings; 2) Mr. Harris' access to legal research resources; and 3) the fact that attorneys have been on notice of generative AI's issues in hallucinating cases for some time. A mitigating factor warranting a sanction on the lower end of the range is the candor and remorse exhibited by Mr. Harris and observed by the Court at the show cause hearing. Therefore, it is ordered that Mr. Harris is sanctioned two thousand dollars ($2,000.00) in the form of a fine. Mr. Harris shall satisfy this obligation by paying two thousand dollars ($2,000.00) into the Clerk of the District Court in this case by no later than the close of business on November 25, 2025.

4. Report to Counsel for Discipline

***10** It is the obligation of a judge to report to the appropriate disciplinary authority any known misconduct under the Nebraska Rules of Professional Conduct. See Neb. Rev. Code of Judicial Conduct § 5-302.15. The Court may not shy away from this duty as ignoring known misconduct by a member of the legal profession undermines a judge's responsibility to participate in efforts to ensure public respect for the justice system. See Neb. Rev. Code of Judicial Conduct § 5-302.15, cmt. 1. Accordingly, the Court shall forward a copy of this Order for Sanctions to the Counsel for Discipline for review and investigation.

THEREFORE, IT IS ORDERED:

1) The Court strikes any Plaintiffs' motions filed on or after July 28, 2025, that have not yet been ruled upon by the Court. Plaintiffs may refile said motions and said motions will be deemed timely filed if the previously stricken motions were timely filed in accordance with the deadlines contained in the Third Amended Scheduling Order filed on May 14, 2025. In addition, the Court strikes Plaintiffs' briefs filed on or after July 28, 2025, pertaining to any Plaintiffs' motions that have not yet been ruled upon by the Court.

2) Henceforth, all pleadings, motions, and briefs filed in this case by Mr. Harris shall contain a written certification stating a) that no generative artificial intelligence program was used in drafting the document, or b) that to the extent such a program was used, Mr. Harris manually verified the accuracy of all generated text, including all citations, quotations, and legal authority.

3) Mr. Harris is sanctioned two thousand dollars ($2,000.00) in the form of a fine. Mr. Harris shall satisfy this obligation by paying two thousand dollars ($2,000.00) into the Clerk of the District Court in this case by no later than the close of business on November 25, 2025.

4) The Court shall forward a copy of this Order for Sanctions to the Counsel for Discipline for review and investigation

DATED this 17th day of October, 2025.

BY THE COURT:

<<signature>>

Hon. James M. Masteller

District Judge

Footnotes

1 Plaintiffs' counsel cited to Controlled Environments Constr., Inc. v. Key Indus., 2018 WL 1911384 (D. Neb.) which appears to not exist. Defendant provides the correct citation which is Controlled Environment Construction, Inc. v. Key Industrial Refrigeration Co., 266 Neb. 927, 670 N.W.2d 771 (2003).

2 Defendant is referring to the case Lewy v. Remington Arms Co., 836 F.2d 1104.

3 Plaintiffs' counsel cited to Hogan v. Norfleet, 191 Neb. 123 which appears to not exist.

4 Plaintiffs' counsel cited to Schiavone Construction Co. v. Time Equipment Rental, Inc., 205 Neb. 442, 287 N.W.2d 814 which appears not to exist.

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