

EXHIBIT FP-23 - Why the Court Was Manipulated Into Accepting Mr. Freedberg's Report as a Legitimate Option

(Submitted under C.R.E. 1006 in Support of C.R.C.P. 60(b) Final Paragraph Relief)

I. False Baseline At Trial

At the outset of trial (Exhibit AA File ID 1445DAA19E770 pp. 42–44), Co-Petitioner's counsel represented that only the joint expert, Jeremy Harkness, would offer expert testimony and that *"no report [was] serving as the necessary basis for anything up to now."* Ms. Glassman then characterized Jay Freedberg as *"just a regular witness."* The Court accepted that representation and permitted testimony without voir dire or Rule 26(a)(2)(B) foundation.

II. Hidden Pre-Trial Preparation

Unredacted billing (Exhibit III-UR, Filing ID 1445DAA19E770) shows Six Consulting and Jay Freedberg performing expert work from February through June 2023 months before the July 17 "rebuttal" disclosure. **Exhibit 70** (DORA response by Adam Weins, Esq.) confirms that Alyson Varvel and Carol Glassman retained Mr. Freedberg and Six Consulting in 2022, preceding the January 31 Joint-Expert Order. These records contradict any claim of a late, independent rebuttal.

III. Procedural Pivot Mid-Trial

After establishing the "regular witness" baseline, counsel pivoted mid-examination, asserting that the **JTMC** "stipulated that Mr. Freedberg is qualified as an expert to render opinions," then questioned him on Exhibits JJ and OO serve-only reports never authenticated under *C.R.E. 901 or Rule 26(a)(2)(B)*.

IV. Judicial Reliance on Unadmitted Reports

The Permanent Orders entered November 7 2023 (Filing ID ED7C9DA7C3D2F) list both Harkness and Freedberg as experts and adopt Freedberg's \$197,200 income finding as "highly credible and compelling." Those conclusions rest solely on the unadmitted July 17 2023 reports.

V. Filed Billing Concealment

The filed billing statement (**Exhibit III**, Filing ID FED53E8356F6C, Aug 21 2023) submitted less than 48 hours before trial deleted every reference to “Freedberg” Eric Six or “Six Consulting” present in **Exhibit III-UR** while leaving other names intact. This targeted redaction hid authorship and timing of Freedberg’s work and ensured the Court never saw that the “rebuttal” expert was actively working under Co-Petitioner’s direction. By filing it under her own name, Ms. Glassman circumvented disclosure rules and secured admission without foundation. This concealment produced the unsupported fee award later reversed and remanded for lack of findings (**Exhibit 51**).

In Exhibit III the redacted due to search and replace methods they missed two key redactions "SIX" and J. Freedberg"

VI. Resulting Manipulation

Through misrepresentation of Freedberg’s status, use of serve-only reports, and redacted billing, counsel prevented the Court from performing its gatekeeping duties under *C.R.E. 702 and C.R.C.P. 26(a)(2)(B)*. The Court’s reliance was procured through omission and misleading presentation, constituting fraud upon the Court within *C.R.C.P. 60(b) (final paragraph)*.

This timeline is submitted under *C.R.E. 1006* as a summary of voluminous records and is cross-referenced to *Exhibits III, III-UR, FP-16–FP-19*, and the appellate mandate 24CA0141.

ANTICIPATED DEFENSE

1. “Freedberg Was Properly Disclosed as Rebuttal.”

Exhibit 70 admits 2022 retention; Exhibit III-UR shows active work Feb–Jun 2023. He was a long-standing partisan expert re-labeled as “rebuttal.”

2. “July 17 Disclosure Was Timely Under Rule 16.2(G)(5).”

Timeliness is irrelevant where engagement was concealed. Rule 16.2 demands candor, not retroactive laundering of a pre-existing expert.

3. “Reports Were Stipulated and Admitted.”

Exhibit AA File ID 1445DAA19E770 pp. 42–44 shows the Court treated Freedberg as a regular witness; no voir dire or formal admission of Exhibits JJ/OO occurred.

4. “Petitioner’s Counsel Waived Objection.”

Ms. Goff appeared June 13 2023 and was misled by the June 16 disclosure listing Freedberg as Petitioner’s expert. Waiver requires knowledge; none existed.

5. “Redactions Were for Confidentiality.”

Only entries naming Freedberg or Six Consulting were removed; others remain. Selective pattern proves intent to conceal.

6. “Any Error Was Harmless; the Court Found Him Credible.”

Fraud on the Court is never harmless. Credibility cannot cure structural error when the tribunal is misled about witness status.

7. “The 2025 Freedberg Report Supersedes Prior Work.”

The 2025 report (Exhibit DD, Filing ID E9E2CFA7B9E13) expressly incorporates the July 17 2023 reports, carrying forward the same defects.

8. “There Was no Intent To Deceive.”

Sequential acts prove otherwise: 2022 retention → false June 16 disclosure → redacted Exhibit III → trial pivot → post-remand reuse. *The pattern is deliberate.*

Conclusion:

Because Mr. Freedberg's identity, timing, and authorship were systematically concealed, the record cannot support any finding that his opinions were properly admitted or considered. All findings derived from his reports should be vacated and reheard pursuant to *C.R.C.P. 60(b) (final paragraph)*.