98 JAN -5 AM 8:5

1 2

3

4

5 6

7

14

15

16

17

18

19

20

21

22

23

24

25

26

8

IN THE CIRCUIT COURT FOR THE STATE OF OREGON

9 IN THE COUNTY OF WASHINGTON

C973456CR No: C-962556 CR 10 STATE OF OREGON. PLAINTIFF, 11 **DEFENDANT'S RULE 412 MOTION** VS. 12 BILLY LEE OATNEY, 13 DEFENDANT.

COMES NOW, the defendant by and through his attorneys, John Manning and William Brennan, and respectfully moves this court for an order allowing the defense to introduce evidence of specific instances of past behavior of the victim in this case that that show she was at least a person of a promiscuous nature. This is pursuant to ORE 412(2). As required by ORE 412(3)(a) this motion is made more than fifteen (15) days prior to the date of the trial (at least the empaneling of the jury) of this case is to begin and two (2) duplicate Certified true copies have been served upon the prosecution so that one may be delivered to the alleged victim, (or in this case to the family)

The evidence of specific instances of the alleged victim's past flirtations or relations with Greg Welchel, and other male friends other than her fiance, are set forth in the attached written offer of proof, detailed by approximate date and description of the specific instance as required by ORE 412(3)(b), and is relevant and the probative value of such evidence outweighs any danger of unfair prejudice, pursuant to ORE 412(3)(c).

OATNEY

1 This evidence of past promiscuous behavior relates a possible reason for the victim 2 to be at the apartment of defendant on the night of the incident complained of in this 3 case. It is necessary to explain scientific and other evidence anticipated, or is otherwise 4 constitutionally required to be admitted and is therefore within the terms of ORE 412(2)(b) and admissible. 5 Dated this ____ day of January, 1998. 6 7 William S. Brennan, OSB 79019 8 Of Attorneys for Defendant / Oatney 9 Points and Authorities: 10 ORE 412 11 /// 12 /// 13 /// 14 /// 15 /// 16 /// 17 /// 18 /// 19 /// 20 /// 21 /// 22 /// 23 /// 24 /// 25 /// 26 ///

OATNEY