

**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION**

**U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

v.

RENT-A-CENTER EAST, INC.,

Defendant.

Case No. 16-cv-2222

Magistrate Judge Long

PLAINTIFF EEOC'S MOTION IN LIMINE NO. 2

**MOTION TO EXCLUDE EVIDENCE OF KERR'S UNRELATED CHARGE
ALLEGATIONS, AND CERTAIN OTHER LEGAL PROCEEDINGS**

The EEOC hereby moves for the entry of an order excluding all testimony, remarks and questions in the presence of the jury concerning: 1) Kerr's unrelated charge allegations; 2) Kerr's prior employment and educational history; 3) Kerr's divorce and child support proceeding; and 4) Kerr's unemployment application and benefits. This evidence should be barred as it has no probative value for the questions to be decided by the jury at the upcoming trial and would be offered solely for its prejudicial effect pursuant to rules 401 and 403.¹

BACKGROUND

Kerr's charge of discrimination against RAC alleged that she was harassed, demoted, and discharged because of her sex (gender identity). Ex. A, Charge of Discrimination (EEOC0023). The EEOC's letter of determination, which serves as the jurisdictional springboard for this litigation, only found reasonable cause regarding Kerr's discharge allegation. Ex. B, Letter of

¹ To the extent RAC intends to use documents to impeach Kerr regarding any of these issues, that is addressed in the EEOC's Motion in Limine No 9.

Determination (EEOC0018-0019).² The Commission’s complaint only alleges RAC violated Title VII when it discharged Kerr—and does not contain harassment or demotion allegations. Doc. 1. During various depositions RAC questioned witnesses at length regarding harassment and demotion. *See* Ex. C, Kerr Deposition at 101:1-107:22; Ex. D, Kasper Deposition at 11:1-12:19.

Kerr petitioned for a divorce on February 27, 2013—RAC produced Kerr’s divorce petition along with documents regarding various child support proceedings during discover. During the course of Kerr’s deposition, RAC asked questions concerning Kerr’s child support obligations and various court orders regarding these proceedings—including asking her if she understood the “whole purpose of [the child support hearings] is about the best interest of the child; you understand that, correct?” Ex. C, Kerr Deposition at 374:22-375:15.

Kerr testified in her deposition about several jobs she held before working for RAC, including Enzo’s Pizzeria, FX Game Exchange, and CGX Console Game X Change. Ex. C, Kerr Deposition at 177:23-178:22. Kerr testified at her deposition about Moraine Valley Community College and Grayson County College. Ex. C, Kerr Deposition at 164:6-13, 399:11-400:1. RAC subpoenaed records from these previous employers and educational institutions.

ARGUMENT

“‘Relevant evidence’ means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” F.R.E. 401. “Evidence which is not relevant is not admissible.” F.R.E. 402. “Although relevant, evidence may be excluded if its probative value is

² The Commission does not intend to offer its letter of determination as evidence during the trial, but discusses it here to demonstrate that the only allegation of discrimination in this lawsuit is whether RAC discriminatorily terminated Kerr.

substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.” F.R.E. 403.

A. Kerr’s allegations in her EEOC charge regarding harassment and demotion.

The Court should exclude evidence regarding Kerr’s unrelated charge allegations because they are not at issue in this lawsuit. Since the EEOC is not alleging that RAC discriminated against Kerr through either harassment or demotion, testimony regarding these allegations do not related to any fact that is of consequence pursuant to Rule 401. The EEOC’s only claim in this lawsuit is that RAC violated Title VII when it terminated Kerr. The other allegations Kerr made in her charge are not at issue at this trial and should therefore not be presented to the jury. *See e.g., Churney v. Village of Downers Grove*, 122 F.Supp.2d 921, 922 (N.D. Ill. 2000) (plaintiff’s sex discrimination charge against the defendant was not admissible in a subsequent and related retaliation action). Any discussion of Kerr’s other charge allegations could confuse the jury as to the issues in this trial. Moreover, if this court were to allow the jury to learn of the other allegations in Kerr’s charge, it would require the parties to spend time arguing to the jury about the significance and relevance of these collateral allegations and whether they were supported by evidence of wrongdoing.

Even if the Court were to conclude that Kerr’s allegations regarding harassment or demotion were relevant pursuant to Rule 401, the probative value of any such evidence regarding these allegations is substantially outweighed because it would serve to confuse the issues and mislead the jury. As the EEOC’s letter of determination and subsequent lawsuit make clear—the only issue in this trial is whether RAC discriminated against Kerr when it terminated her. Evidence regarding the strength or weakness of claims of discrimination not at issue in this case

would only confuse the issues and mislead the jury, and without such evidence, no inferences may be drawn by the mere existence of the allegations. Such evidence should therefore be excluded pursuant to Rule 403. Excluding these matters from presentation to the jury would also avoid “wasting time.” F.R.E. 403.

The EEOC also believes RAC will seek testimony regarding whether Kasper harassed Kerr. *See* Ex. C, Kerr Deposition at 101:1-102:6; Ex. D, Kasper Deposition at 11:1-12:19. However, the EEOC does not allege anyone harassed Kerr let alone Kasper. There is no dispute that Kasper was not involved in RAC’s decision to terminate Kerr. Therefore, any potential evidence under Rule 401 of an alleged harasser being a decision maker is simply not present. Allowing RAC to seek testimony from both Kasper and Kerr regarding harassment not at issue in this lawsuit would confuse the issues and mislead the jurors, and should be excluded pursuant to Rule 403. Again conducting a trial within a trial regarding an issue not in the case would needlessly prolonging the trial days and “wast[e] time.” F.R.E. 403.

B. Kerr’s child support proceedings.

The Commission believes RAC may attempt to use Kerr’s divorce and child support proceedings at trial. As Kerr’s child support obligations and proceedings are not relevant and prejudicial, the Court should prohibit RAC from using this information at trial for any purpose including impeachment.

Kerr’s child support obligations do not fall within the clear parameters of Rule 401. Whether or not Kerr has failed to properly pay his child support obligations or has child support arrearages is not relevant to this case because they do not make any pertinent fact more or less likely regarding the Commission’s claim. Additionally, even if evidence regarding Kerr’s divorce or child support proceedings were somehow construed as relevant to the Commission’s

claims in this lawsuit, the Commission believes that allowing such evidence to be presented to the jury would be unfairly prejudicial, confuse the issues, and mislead the jury pursuant to Rule 403.

The Court should exclude this evidence pursuant to Rule 403 on the grounds that its prejudicial effect substantially outweighs any probative value such evidence might have as to the issues in this case. Under Rule 403, the trial court has broad discretion to exclude even relevant evidence if its probative value is substantially outweighed by the danger of unfair prejudice. Evidence is unfairly prejudicial under Rule 403 not simply because it hurts a party's case; rather, evidence is unfairly prejudicial when it would influence the jury to decide the case on an improper basis. *United States v. Bonds*, 12 F.3d 540, 567 (6th Cir. 1993); *see also Doe v. Claiborne County, Tennessee*, 103 F.3d 495, 515 (6th Cir. 1996). Unfair prejudice in this context means "an undue tendency to suggest decision on an improper basis, commonly... an emotional one." *See* F.R.E. 403, Advisory Committee Note.

A jury could obviously be unduly prejudiced against Kerr, and the trial could become, in part about unrelated and irrelevant child support obligations. There is no reason to inflame the indignation and hostility of the jury by mentioning child support proceedings and issue where it has no bearing on any of the claims involving in the Commission's lawsuit. The critical issue in this employment discrimination case is whether an illegal basis of discrimination was a factor in the employment action at the moment it was made. *Price Waterhouse v. Hopkins*, 490 U.S. 228, 240-241 (1989). The fact that Kerr had court proceedings regarding her child support obligations has no relationship to the issue at hand. All of the previously mentioned evidence has no probative value for the material issues in this case and are not relevant.

C. Kerr's past employment.

Pursuant to Rule 401 the Court should exclude evidence of Kerr's employment prior to RAC. Kerr's compensation during late 1990s and early 2000s (from the pizzeria and video game stores in Texas) is irrelevant to a claim for backpay that spans July 2014 through July 2016. Further, the issue of backpay is for the Court and not the jury to decide.³

EEOC has no intention of introducing evidence about Kerr's academic achievements or employment from the 1990s and early 2000s. The Commission expects RAC will seek testimony regarding these employers and her educational history to try and attack Kerr's "credibility" by pointing to various instances in which Kerr has inaccurately represented some aspect of her life to someone, somewhere. Defendant, then, will be seeking to introduce testimony that irrelevant to the merits of the case solely for the purpose of hoping to be able to impeach Kerr. Such hopes cannot convey relevance to testimony that, standing alone, has nothing to do with the case. The primary issue in this suit is whether Defendant discharged Kerr because of sex or not; her work history and school records have nothing to do with that.

Rule 608(b) permits the cross examination of a witness regarding specific instances of conduct only if that conduct is probative of the witness' character for truthfulness or untruthfulness. The notes to Rule 608 specifically warn of the substantial potential for abuse during cross examination regarding specific acts. F.R.E. 608(b) 1972 Advisory Committee Notes. The Committee Notes emphasize that any evidence admissible under this rule also must satisfy the standards of Rule 403 regarding unfair prejudice, confusion of the issues and misleading of the jury. *Id.* Furthermore, Rule 405(b) states that "when the character of a person is an essential element of a charge, claim, or defense, proof may also be made of specific instances of that person's conduct." However, "A plaintiff's character is not an essential element

³ Which is the subject of the EEOC's Motion in Limine #10.

of any claim or defense in an employment discrimination case.” *Zubulake v. UBS Warburg LLC*, 382 F.Supp.2d 536, 540 (S.D.N.Y. 2005); *see also EEOC v. HBE Corp.*, 135 F.3d 543, 553 (8th Cir. 1998). Thus, any evidence regarding Kerr’s past employers are not admissible under rule 405.

D. Kerr’s unemployment.

This Court should exclude all evidence of Kerr’s application for or receipt of unemployment compensation pursuant to the “collateral source rule” and Rule 402 and 403. Courts have widely adopted the position that a plaintiff’s receipt of unemployment compensation should not reduce her damages in an employment discrimination case. *See Tzoumis v. Tempel Steel Co.*, 168 F. Supp. 2d 871, 874 (N.D. Ill. 2001) (granting plaintiff’s motion in limine to exclude evidence of unemployment compensation); *Perry v. Larson*, 794 F.2d 279, 286 (7th Cir. 1986) (“Unemployment compensation is a source of funds independent of the transaction giving rise to the claim and thus is collateral”); *Gaworski v. ITT Commercial Finance Corp.*, 17 F.3d 1104, 1113 (8th Cir. 1994) (collecting cases).

CONCLUSION

WHEREFORE, EEOC requests an Order, *in limine*, barring testimony, remarks and/or questions concerning: 1) unrelated charge allegations; 2) prior employment and educational; 3) child support; and 4) Kerr’s unemployment application.

December 15, 2017

Respectfully Submitted,

s/ Miles Shultz

Miles Shultz

Trial Attorney

U.S. Equal Employment Opportunity Commission

500 W. Madison St., Ste. 2000

Chicago, IL 60661

CERTIFICATE OF SERVICE

I hereby certify that on today's date, I caused the EEOC'S MOTION IN LIMINE NO. 2 to be served upon counsel to Defendant via the court's Electronic Case Filing system, pursuant to Local Rule 5.3(A).

December 15, 2017

Respectfully Submitted,

s/ Miles Shultz

Miles Shultz

Trial Attorney

U.S. Equal Employment Opportunity Commission

500 W. Madison St., Ste. 2000

Chicago, IL 60661

EEOC Form 5 (11/09)

<p align="center">CHARGE OF DISCRIMINATION</p> <p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>	<p>Charge Presented To: Agency(ies) Charge No(s):</p> <p><input type="checkbox"/> FEPA</p> <p><input checked="" type="checkbox"/> EEOC 440-2015-01054</p>
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Illinois Department Of Human Rights and EEOC

State or local Agency, if any

Name (indicate Mr., Ms., Mrs.) Ms. Megan L. Kerr	Home Phone (Incl. Area Code) REDACTED	Date of Birth REDACTED
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Street Address: REDACTED City, State and ZIP Code: _____

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name RENT-A-CAR	No. Employees, Members 500 or More	Phone No. (Include Area Code) REDACTED
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Street Address: **1404 E. Grove, Rantoul, IL 61866** City, State and ZIP Code: _____

Name	No. Employees, Members	Phone No. (Include Area Code)
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Street Address: _____ City, State and ZIP Code: _____

<p>DISCRIMINATION BASED ON (Check appropriate box(es).)</p> <p><input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN</p> <p><input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> GENETIC INFORMATION</p> <p><input type="checkbox"/> OTHER (Specify) _____</p>	<p>DATE(S) DISCRIMINATION TOOK PLACE</p> <p>Earliest Latest</p> <p align="right">03-04-2014</p> <p><input type="checkbox"/> CONTINUING ACTION</p>
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THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I was hired by the above named Respondent on or about September 2005. My last position was Assistant Manager (Sales). During my employment, I was harassed, demoted, and discharged.

I believe that I was discriminated against under Title VII of the Civil Rights Act of 1964, as amended, on the basis of my sex, female, in that my employer took my gender into account and discharged me for gender non-conforming appearance and behavior, and for transitioning from one gender to another and for being a transgender individual.

RECEIVED EEOC

NOV 25 2014

CHICAGO DISTRICT OFFICE

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

REDACTED

X 11/23/14 X

Date Charging Party Signature

NOTARY – When necessary for State and Local Agency Requirements

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)

EXHIBIT B



U.S. EQU

EMPLOYMENT OPPORTUNITY
Chicago District Office

500 West Madison Street, Suite 2000
Chicago, IL 60661
(800) 669-4000
TTY (312) 869-8001
FAX (312) 869-8220

EEOC Charge Number: 440-2015-01054 (Amended)

Megan L. Kerr
REDACTED

Charging Party

vs.

Rent-A-Center, Inc.
1404 East Grove Avenue
Rantoul, Illinois 61866

Respondent

DETERMINATION

Under the authority vested in me by the Commission's Procedural Regulations, I issue the following determination on the merits of the subject charge filed under Title VII of the Civil Rights Act of 1964, as amended (Title VII).

The Respondent is an employer within the meaning of Title VII and all requirements for coverage have been met.

Charging Party alleged Respondent discriminated against her based on her sex, female (gender identity), in that she was harassed, demoted, and discharged, in violation of Title VII.

I have determined that the evidence obtained in the investigation establishes reasonable cause to believe that Respondent discriminated against Charging Party because of her sex, by discharging her because she is transgender, in violation of Title VII.

This determination is final. When the Commission finds that violations have occurred, it attempts to eliminate unlawful practices by informal methods of conciliation. Therefore, I invite the parties to join with the Commission in reaching a just resolution of this matter. Disclosure of information obtained during the conciliation process will be made only in accordance with the Commission's Procedural Regulations (29 CFR Part 1601.26).

If the Respondent wishes to accept this invitation to participate in conciliation efforts, it may do so at this time by proposing terms for a conciliation agreement; that proposal should be provided to the Commission representative within 14 days of the date of determination. The remedies for violations of the statutes we enforce are designed to make the identified victims whole and to provide corrective and preventive relief. These remedies may include, as appropriate, an

EEOC Charge No. 440-2015-01054 (Amended)

Page 2 of 2

agreement by the Respondent not to engage in unlawful employment practices, placement of identified victims in positions they would have held but for discriminatory actions, back pay, restoration of lost benefits, injunctive relief, compensatory and/or punitive damages, and notice to employees of the violation and the resolution of the claim.

Should the Respondent have further questions regarding the conciliation process or the conciliation terms it would like to propose, we encourage it to contact the assigned Commission representative. Should there be no response from the Respondent within 14 days, we may conclude that further conciliation efforts would be futile or nonproductive.

On Behalf of the Commission,

REDACTED

Juliann Bowman
District Director

2/18/2016
Date

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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff, No. 16-CV-2222

vs.

RENT-A-CENTER EAST, INC.,

Defendant.

The videotaped deposition of MEGAN VANNA,
called for examination pursuant to the Rules of
Civil Procedure for the United States District
Courts pertaining to the taking of depositions,
taken before CHERYL L. SANDECKI, Certified
Shorthand Reporter for the State of Illinois, at
321 North Clark Street, Chicago, Illinois, on
January 17, 2017, at the hour of 9:00 a.m.

REPORTED BY: CHERYL L. SANDECKI, CSR, RPR
LICENSE NO.: 084-03710
JOB NO.: 548721

1 Q. The number at the bottom there, yeah,
2 thanks. Exhibit Number 5. And I asked you
3 about what you meant by harassed and you said
4 public embarrassment by Russell Kasper. That
5 was the only person you gave me under that one,
6 correct?

7 A. Correct.

8 Q. Have we talked about everything -- let
9 me go back to number one. Misuse of pronouns
10 after your transgender status and you named Russ
11 Kasper, Jason Morris, and Jason Carnahan,
12 correct?

13 A. Correct.

14 Q. So I'm going to go back to that one in
15 a minute. Number two, public embarrassment, you
16 talked about using the wrong pronouns,
17 disparaging remarks by Russ Kasper at least two
18 to three times a day over a 19-month period.

19 Have we talked about everything Russell
20 did -- Russell Kasper did under the public
21 embarrassment? Have you told me everything you
22 can recall about that?

23 A. Yes, sir.

24 Q. Okay. Anything about during my

1 employment I was harassed? We have the misuse
2 of pronoun by Kasper, Morris, and Carnahan. We
3 have the public embarrassment by Russell Kasper.
4 Anything else under that heading that you can
5 recall?

6 A. Not that I recall.

7 Q. All right. Let's take the next word.

8 "I was demoted." Tell me about that.

9 A. When Morris took store manager of the
10 Rantoul store, shortly after, we were -- Elena
11 and I had switched positions, so from credit
12 manager to store manager or sales manager.

13 Q. When was that, do you recall?

14 A. I do not remember the specific date.

15 Q. But you remember -- was it the same
16 month that Jason Morris took over as store
17 manager of the Rantoul, Illinois, store?

18 A. I do not remember the specific date.

19 Q. Do you recall whether it was in the
20 first 90 days?

21 A. Perhaps, yes.

22 Q. Okay. And how did that happen? How
23 were you notified that -- first of all, what was
24 your position at the time?

1 A. Sales manager.

2 Q. So you were the sales manager?

3 A. Yes.

4 Q. And who was the credit manager?

5 A. Elena.

6 Q. And then you all switched?

7 A. Yes.

8 Q. All right. Tell me about that. What
9 happened?

10 A. Mr. Morris explained to anyone to
11 switch Elena and I. And so it happened.

12 Q. Okay. And you're saying that was a
13 demotion?

14 A. Technically, yes.

15 Q. All right. Well, are you saying it was
16 a demotion?

17 A. Yes.

18 Q. Okay. So -- and that's what your sworn
19 charge says under penalty of perjury that you
20 signed on November 23, 2014, correct?

21 A. Yes.

22 Q. Tell the jury how much pay were you
23 reduced by switching to credit -- from sales
24 manager to credit manager?

1 A. Sorry.

2 Q. How much pay was reduced in the
3 demotion. Your pay was cut. How much -- how
4 much was your pay cut?

5 MR. SHULTZ: Objection. Form.

6 THE WITNESS: Not all demotions change in
7 pay, so my pay was not reduced.

8 BY MR. TRUSEVICH:

9 Q. All right. So that would be zero?

10 A. Correct.

11 Q. All right. Did you lose any money?

12 A. No.

13 Q. Did you lose any benefits?

14 A. No.

15 Q. Were your hours different?

16 A. Yes.

17 Q. Okay. What hours were different?

18 A. Days off were different.

19 Q. Okay. What were your days off as the
20 sales manager?

21 A. I do not remember.

22 Q. What was your days off as the credit
23 manager?

24 A. Sundays and Tuesdays.

1 Q. Well, Sundays everybody is off, right,
2 because the store is closed?

3 A. Correct.

4 Q. Except for, apparently, out of all of
5 Rent-A-Center, you and Calvin -- what was his
6 name? Calvin Davis -- by the way, you are aware
7 that Calvin Davis still works for Rent-A-Center,
8 correct?

9 A. Yes.

10 Q. When was the last time you talked to
11 Calvin Davis?

12 A. Years ago.

13 Q. And -- but you are positive Calvin
14 Davis will tell this jury that he did --
15 routinely did deliveries or pickups on Sundays,
16 correct?

17 MR. SHULTZ: Objection. Form. Foundation.

18 THE WITNESS: Not routinely.

19 BY MR. TRUSEVICH:

20 Q. But at least once that you're aware of?

21 A. Yes.

22 Q. But you don't remember the date or the
23 specifics on that, correct?

24 A. I do not.

1 Q. And then you, right, because you did
2 pickups on Sunday according to you?

3 A. Yes.

4 Q. Out of the 21,000 Rent-A-Center
5 coworkers, do you know of any other coworkers
6 that you can name today that have done pickups
7 or deliveries on a Sunday?

8 MR. SHULTZ: Objection. Foundation.

9 THE WITNESS: Not that I can name.

10 BY MR. TRUSEVICH:

11 Q. All right. So your days off were
12 Sundays and Tuesdays --

13 A. Yes.

14 Q. -- as the credit manager?

15 A. Correct.

16 Q. But you don't recall what days you were
17 off as the sales manager?

18 A. No.

19 Q. But it bothered you enough to include
20 it in the charge, right?

21 A. Yes.

22 Q. All right. But you don't remember the
23 day that you were off that bothered you?

24 A. Correct.

1 Q. All right. How else did the changing
2 from sales manager to credit manager affect you?

3 A. From a promotional standpoint, it's
4 very difficult to get promoted from a credit
5 position into a store manager position.

6 Q. Okay. And what's your basis for that?

7 A. Ten years of experience.

8 Q. So this really bothered you when this
9 happened, right?

10 A. Yes.

11 Q. You opposed this, correct?

12 A. I was not applicable to it, no.

13 Q. You weren't applicable to it?

14 A. I wasn't happy with it or satisfied.

15 Q. Okay. So you weren't happy with it.

16 Did you complain to anybody?

17 A. Elena.

18 Q. Okay. But Elena is your peer, right?

19 A. Correct.

20 Q. You are both assistant managers,
21 correct?

22 A. Correct.

23 Q. Did you complain to Jason Morris, the
24 store manager, saying, look, I don't want this

1 THE WITNESS: Not officially, no.

2 BY MR. TRUSEVICH:

3 Q. Franchisee at Enzo's, '94 to '96. Do
4 you see that?

5 A. Yes.

6 Q. Okay. Then it says under education,
7 Moraine Valley Community College, bachelor of
8 arts, BA, grade 4.0. Do you see that?

9 A. Yes.

10 Q. You do not have a BA degree?

11 MR. SHULTZ: Objection. Foundation.

12 THE WITNESS: I do not. It is just something
13 I was working on.

14 BY MR. TRUSEVICH:

15 Q. Let's go to 310. And, by the way, you
16 don't have any objection with us asking for your
17 military records about that E -- to corroborate
18 that you were ever an E6? You have no objection
19 to that, do you?

20 MR. SHULTZ: Objection. Form.

21 THE WITNESS: I do, actually.

22 BY MR. TRUSEVICH:

23 Q. What would your objection be?

24 MR. SHULTZ: Objection.

1 BY MR. TRUSEVICH:

2 Q. So as a franchisee, you would have been
3 on the all the paperwork of the state,
4 correct --

5 MR. SHULTZ: Objection. Foundation.

6 BY MR. TRUSEVICH:

7 Q. -- as a co-owner?

8 A. As a co-owner?

9 Q. Uh-huh.

10 A. Again, I assume so, yes.

11 Q. Okay. And how long were you the
12 co-owner or franchisee of FX/CGX Games?

13 A. A couple months.

14 Q. Only a couple months?

15 A. Yes.

16 Q. And why is that?

17 A. I ended up leaving that business.

18 Q. And how long were you a co-owner and
19 franchisee of a -- of Enzo's Pizza?

20 A. About six months.

21 Q. So as co-owner, did you hire and fire?

22 A. Of which company?

23 Q. Any of -- let's take Enzo's Pizza, as
24 co-owner and franchisee, did you do all the

1 hiring and firing for that location?

2 A. I didn't need to. The staff was
3 already there.

4 Q. So did you have to buy in?

5 A. I was working on that, yes.

6 Q. Well, in order to become a franchisee,
7 don't you have to plop money down to become a
8 franchisee?

9 A. Sure.

10 MR. SHULTZ: Objection. Foundation.

11 THE WITNESS: You do.

12 BY MR. TRUSEVICH:

13 Q. And how much money did you plop down?

14 A. Again, it was portions of my paycheck I
15 was paying in.

16 Q. And that was your agreement with Vinny?

17 A. With Joe.

18 Q. Joe what?

19 A. I don't remember his last name.

20 Q. Okay. So Joe, who you can't remember,
21 but you were his business partner, right?

22 A. Yes.

23 Q. Is there a single document on the face
24 of this planet that you have in your possession

1 BY MR. TRUSEVICH:

2 Q. Okay. By the way, I want to go back to
3 Demon Dogs for a minute. You said you were
4 employed for about two weeks, right?

5 A. Several weeks.

6 Q. All right. So more than two?

7 A. Several weeks.

8 Q. Several, how many is that?

9 A. I don't have a specific number.

10 Q. More than ten or less than ten?

11 A. Less than ten.

12 Q. All right. And just so we're clear,
13 the reason you left employment of Demon Dogs,
14 according to you under oath, is that the judge
15 told you that was not a good enough job,
16 correct?

17 MR. SHULTZ: Objection. Form and foundation.

18 THE WITNESS: Correct.

19 BY MR. TRUSEVICH:

20 Q. And did you have another job to go to?

21 A. No.

22 Q. All right. Then help me out with this,
23 Megan, I just want to make sure I'm
24 understanding this. You have got a state judge,

1 a family judge, correct?

2 A. Correct.

3 MR. SHULTZ: Objection. Form and foundation.

4 BY MR. TRUSEVICH:

5 Q. You were in family court, correct?

6 A. Correct.

7 Q. And you have a family judge and the
8 issue is about child support, right?

9 MR. SHULTZ: Objection. Foundation.

10 THE WITNESS: Correct.

11 BY MR. TRUSEVICH:

12 Q. And you understand that the whole
13 purpose of that hearing is about the whole best
14 interests of the child; you understand that,
15 correct?

16 MR. SHULTZ: Objection. Form and foundation.

17 THE WITNESS: Correct.

18 BY MR. TRUSEVICH:

19 Q. And it's your testimony to the EEOC
20 lawyers, to everybody in this room, to the
21 ladies and gentlemen of the judge -- the federal
22 judge and the ladies and gentlemen of the jury,
23 that a state judge told you to quit Demon Dogs
24 without having another job, correct?

1 MR. SHULTZ: Same objection.

2 THE WITNESS: Given that I ran a spellcheck
3 through this and they didn't pick them up, no, I
4 would not agree with you.

5 BY MR. TRUSEVICH:

6 Q. By the way, on the second page, you
7 testified this morning numerous times that you
8 have an EMT certificate. That is not -- that is
9 not true, isn't it?

10 A. That's absolutely true.

11 Q. And so your records from Grayson County
12 College in Denison would show that you have an
13 EMT certificate, correct?

14 A. Correct.

15 MR. SHULTZ: Objection. Foundation.

16 BY MR. TRUSEVICH:

17 Q. And you are as positive about that as
18 you are as to everything else you testified
19 today, correct?

20 MR. SHULTZ: Objection. Form.

21 THE WITNESS: Absolutely.

22 BY MR. TRUSEVICH:

23 Q. And where is your EMT certificate?

24 A. Right now?

1 Q. Uh-huh.

2 A. It's at home.

3 Q. So you can give us a copy of that?

4 A. If it's absolutely needed.

5 Q. And so it's not true that you started
6 that EMT program at Grayson County College and
7 dropped out after five days?

8 A. No.

9 Q. That would be just incorrect?

10 MR. SHULTZ: Objection. Form and foundation.

11 THE WITNESS: Totally.

12 BY MR. TRUSEVICH:

13 Q. Let's go on the second -- EEOC 301.

14 Let me know when you are there.

15 A. I'm there.

16 Q. I'm not going through every one. But
17 would you agree if there is one, two, three,
18 four, five, six, seven, eight -- eight
19 misspellings just on the top, again, do you
20 think that that's a possibility of when someone
21 is looking at your resumé, that they mean they
22 move on to the next resumé?

23 MR. SHULTZ: Objection. Form and foundation.

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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS

U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff,

vs.

RENT-A-CENTER EAST, INC.,

Defendants.

No. 16-CV-2222
Judge Colin Stirling
Bruce

Magistrate Judge
Eric I. Long

DEPOSITION OF RUSSELL KASPER
January 19, 2017
I Hotel and Conference Center
1900 South First Street
Champaign, Illinois
10:00 a.m.

Barbara A. Glover: CSR #084-001223

1 Q. Did you ever make harassing,
2 discriminatory, or embarrassing comments in front
3 of her or to her intentionally?

4 A. No.

5 Q. Are you aware that two days ago Megan
6 Kerr gave a deposition?

7 A. No.

8 Q. In that deposition Megan Kerr, I'll
9 represent to you, testified at least three times
10 that you, sir, as her supervisor would
11 intentionally make embarrassing, discriminatory,
12 harassing comments towards her at least two to
13 three times a day. Would that be truthful or
14 untruthful?

15 MR. MULAIRE: Object to form.

16 THE WITNESS: Untruthful.

17 BY MR. TRUSEVICH:

18 Q. I'm sorry. What was your answer?

19 A. Untruthful.

20 Q. And you're positive about that?

21 A. Yes.

22 Q. Did Jason Carnahan ever have to talk
23 to you and say, hey, quit telling customers that
24 Megan Kerr used to be a male?

25 MR. MULAIRE: Object to form. You

1 should still answer.

2 THE WITNESS: The answer to that
3 question was it was brought up once. It was
4 explained, and he concurred at that time. Jason
5 Carnahan concurred.

6 BY MR. TRUSEVICH:

7 Q. And that was the end of it. Correct?

8 A. That is correct.

9 Q. If Megan Kerr testified under oath
10 under penalty of perjury just two days ago in
11 front of these two lawyers and Brad and I and the
12 court reporter and a videographer that even after
13 Jason Carnahan talked to you that you continued
14 to make embarrassing, discriminatory, harassing
15 comments at least two to three times a day
16 against her, would that be truthful or
17 untruthful, Mr. Kasper?

18 MR. MULAIRE: Object to form.

19 THE WITNESS: Untruthful.

20 BY MR. TRUSEVICH:

21 Q. Sir, while you were working for
22 Rent-A-Center how many deliveries did you ever do
23 on a Sunday?

24 A. Deliveries on a Sunday, we did none.

25 Q. What about pick ups on a Sunday?