

**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. 4**

**MOTION TO EXCLUDE STATING THAT  
"FALSUS IN UNO, FALSUS IN OMNIBUS" IS THE LAW**

The EEOC hereby moves for the entry of an order prohibiting Rent-A-Center ("RAC") from stating or implying that "falsus in uno, falsus in omnibus"<sup>1</sup> is the law. As the Seventh Circuit's pattern jury instructions make clear "defendant has [the] right only to [an] instruction that [the] jury should consider inconsistencies in witness testimony in determining witness credibility. Federal Civil Jury Instructions of the Seventh Circuit 3.01 cmt. c, *citing United States v. Monzon*, 869 F.2d 338, 346 (7th Cir. 1989). Therefore, RAC should be prohibited from making any remarks that state or imply that the law requires the jury to disregard a witness's testimony concerning any matter if the witness testified falsely concerning another matter. Of course, the jury can weigh the testimony in determining a witness's credibility, but it would be an inaccurate statement of the law to suggest either that the jury must disregard all areas of a

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<sup>1</sup> False in one thing, false in everything.

witness's testimony or that an inconsistent statement can establish the "truth of the matters contained in the prior statement." *See Monzon*, 869 F.2d at 346.

RAC has invoked the "falso in uno" argument during depositions during this case, and the EEOC anticipates it will outright state or imply that such an argument is required by the law:

Did you ever hear of the old saying -- and you probably heard this -- if someone is not telling the truth about this, they were probably not telling the truth of about that? Have you ever heard that saying?

A. I have heard that.

Q. And you ascribe to that, right?

A. Not necessarily, no.

Q. So you think if someone is telling a falsehood about this, they can still be truthful about this? Do you believe that?

A. Yes.

\* \* \*

Q. Before I ask you about that, again, I asked you earlier in the deposition if you ever heard the old saying if someone is not telling the truth about this, they are probably not telling the truth about that. Do you recall that, when I asked you about that old saying?

A. Yes.

Ex. A, Kerr Dep. at 76:4-76:15, 174:10-174:22. As the committee notes make clear, a "jury may reject all testimony of a witness shown to testify falsely regarding any material matter where [the] court 'told the jurors that they could find from inconsistencies in [the] testimony and failures of recollection as well from other facts that [the] testimony was totally unworthy of belief, but that they were not required to find that he was lying solely on the basis of differences in recollections over details.'" Federal Civil Jury Instructions of the Seventh Circuit 1.14, cmt. c *citing United States v. Baron*, 602 F.2d 1248, 1254 (7th Cir. 1979). For RAC to imply there is any requirement the jury automatically disregard all testimony from a witness based on an

inconsistency, or that the inconsistency can be used to prove the truth of the prior statement misstates the law and would confuse the issues and mislead the jury. According the Court should preclude this type of argument pursuant to F.R.E. 403.

**CONCLUSION**

WHEREFORE, EEOC requests an Order, *in limine*, prohibiting any remarks that state or imply that the jury is obligated to adhere to “*falsus in uno, falsus in omnibus.*”

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. 4 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

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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. And if it turns out that Zombie Fish  
2 Cycles never existed, then is it fair for  
3 someone -- strike that.

4 Did you ever hear of the old saying --  
5 and you probably heard this -- if someone is not  
6 telling the truth about this, they were probably  
7 not telling the truth of about that? Have you  
8 ever heard that saying?

9 A. I have heard that.

10 Q. And you ascribe to that, right?

11 A. Not necessarily, no.

12 Q. So you think if someone is telling a  
13 falsehood about this, they can still be truthful  
14 about this? Do you believe that?

15 A. Yes.

16 Q. Could I have tab number 4, please.

17 MR. SHULTZ: Andy, could we take a  
18 five-minute break? We have been going for a  
19 little over an hour, stretch our legs?

20 MR. TRUSEVICH: You bet.

21 MR. SHULTZ: Thanks.

22 THE VIDEOGRAPHER: We are going off the  
23 record. The time is 10:07 a.m.

24

1 MR. SHULTZ: Which exhibit is that?

2 MR. TRUSEVICH: It should be Exhibit 6.

3 MR. MULAIRE: Yes. Can I just look at that?

4 MR. TRUSEVICH: They may have stapled it  
5 wrong.

6 MR. MULAIRE: Six has 310 in the official  
7 exhibit.

8 MR. TRUSEVICH: Okay. Then that's correct.

9 BY MR. TRUSEVICH:

10 Q. Before I ask you about that, again, I  
11 asked you earlier in the deposition if you ever  
12 heard the old saying if someone is not telling  
13 the truth about this, they are probably not  
14 telling the truth about that. Do you recall  
15 that, when I asked you about that old saying?

16 A. Yes.

17 Q. And you have testified under oath today  
18 to the EEOC lawyers and the ladies and gentlemen  
19 of the jury and the judge that you owned FX/CGX  
20 Game. You owned Enzo's Pizza as a franchisee,  
21 correct?

22 A. Correct.

23 MR. SHULTZ: Objection. Form.  
24