

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

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

Plaintiff,

v.

RENT-A-CENTER EAST, INC.,

Defendant.

No. 16-CV-2222

Magistrate Judge Eric I. Long

DEFENDANT RENT-A-CENTER EAST, INC.’S TRIAL BRIEF
ON THE APPLICABILITY OF FED. R. EVID. 801(D)(2)
TO THE EEOC’S INVESTIGATIVE NOTES

In accordance with the Court’s order at the Pretrial Conference, Defendant Rent-A-Center East, Inc. (“RAC”) files its briefing on the applicability of FED. R. EVID. 801(d)(2) to the EEOC’s investigative notes. The issue concerns statements made by Charging Party Megan Kerr to EEOC investigator Gloria Mayfield. The Court requested briefing as to whether Kerr is a “party” for purposes of FED. R. EVID. 801(d)(2), which excepts from the hearsay rule an “opposing party’s statement.” For the following reasons, Kerr qualifies as an opposing party for purposes of Rule 801(d)(2), and her statements in Mayfield’s investigative notes and elsewhere in the EEOC’s investigative file are admissible.

A. KERR IS AN “OPPOSING PARTY” FOR PURPOSES OF RULE 801(D)(2).

Though the EEOC contends that Kerr is not an “opposing party” because the EEOC itself is the plaintiff in this case, other courts have treated the Charging Party as an opposing party for purposes of Rule 801(d)(2). In *EEOC v. Placer ARC*, the EEOC made the same argument it makes here – that the charging party is not a “party” under the rule, and that the charging party’s out-of-court statements could not be considered statements against interest under Rule 801(d)(2).

No. 2:13-CV-0577-KJM-EFB, 2016 WL 74032 (E.D. Cal. Jan. 7, 2016). The district court rejected the EEOC's argument. Specifically, noting a dearth of authority on this specific issue, the court analyzed the traditional underpinnings of the hearsay rule. Citing Seventh Circuit precedent, the court explained that "[t]he standard justification of its admissibility is a kind of estoppel or waiver theory, that a party should be entitled to rely on his opponent's statements." *Id.* at *2 (quoting *United States v. DiDomenico*, 78 F.3d 294, 303 (7th Cir. 1996)). Based on the "the traditional justifications for the hearsay rules and its exclusions," the court concluded that the charging party was a "party" under Rule 801(d)(2): "The court found that although [charging party] Ms. Kazerounian is a witness, not a plaintiff, she is no ordinary witness but rather a 'witness plus' on whose statements [defendant] ARC should be entitled to rely as a practical matter." *Id.* Accordingly, the court found charging party's out-of-court statements to fall with the 801(d)(2) exception to the hearsay rule.¹

The court further noted that the EEOC has taken inconsistent positions on this issue. Specifically, the court noted that the EEOC had previously argued that a charging party was a "real party in interest" for purposes of intervention. *Id.* at *1 (citing *EEOC v. Merchants State Bank*, 554 F. Supp. 2d 959 (D.S.D. 2008)). Further, the court noted that the EEOC had treated the charging party as its client for purposes of the attorney-client privilege. *Id.* This is also the case here. At her deposition, the EEOC objected and instructed Kerr not to answer questions on the basis of the attorney-client privilege – acting in every way as if Kerr was the plaintiff in this case and the EEOC her counsel. *See* Ex. A, Kerr Depo., at 123:9-14; 197:6-10; 390:22-391:14. The EEOC does not get to have its cake and eat it too, treating Kerr as a party when it suits them

¹ The Court further noted that such statements may also fall within exceptions for present sense impression, excited utterance, or as a statement of her then-current mental or emotional state. *EEOC v. Placer ARC*, 2016 WL 74032, at *2. Moreover, inconsistent statements by Kerr or others may be used for impeachment. *See* FED. R. EVID. 613, 801(d)(1)(A).

but then seeking to exclude her out-of-court statements on the basis that she is not an “opposing party.”

Moreover, in a similar case, *EEOC v. Triangle Catering, LLC*, the district court specifically addressed the question of whether the charging party’s statements reflected in the EEOC’s *interview notes* fell within the Rule 801(d)(2) exception. No. 5:15-CV-00016-FL, 2017 WL 818261, at *3 (E.D.N.C. Mar. 1, 2017). Again, the court reasoned that the charging party should be treated as an “opposing party” under the hearsay rules and admitted the interview notes. *Id.* The same result is warranted here.

B. MAYFIELD’S INTERVIEW NOTES ARE OTHERWISE ADMISSIBLE.

In the *Triangle Catering* case, the court analyzed the EEOC’s interview notes under the double hearsay framework. The court found that the charging party’s statements qualified for the hearsay exception under Rule 801(d)(2). The court noted that there was another layer to the analysis – whether the notes as transcribed by the deputy director during his interview with the charging party qualified for a hearsay exception. The court found that the investigator’s notes were admissible as a business record maintained in the normal course of the EEOC’s investigation. *EEOC v. Triangle Catering, LLC*, 2017 WL 818261, at *3.

RAC maintains that the same analysis applies here – but notes that it will need investigator Gloria Mayfield, a former EEOC employee, to authenticate the notes as EEOC business records. (A typed copy of notes made by Ms. Mayfield from the EEOC’s investigative file is attached hereto as Exhibit B.) While RAC has attempted to subpoena Ms. Mayfield to appear at trial, Ms. Mayfield has consistently attempted to thwart RAC’s efforts. RAC’s process server offers the following account of efforts to serve Ms. Mayfield on January 24, 2018:

I began surveillance of the subject's unit at 4:20PM. At 6:30PM, a woman matching the photograph I was provided rounded the hallway corner with an item of rolling luggage. I asked if she was

Ms. Mayfield. She stated she is not, and further stated she was calling the police. I informed her that I had a photograph of Ms. Mayfield, and she matches the photo. She replied that she did not care what I had. I informed her that I have legal documents for her, and that she is served. I set the documents at her feet. She turned around, and began to walk away stating "I am not served."

Ex. C, Affidavit of Special Process Server. RAC brings these events to the Court's attention in the event that RAC is forced to seek Court intervention to compel Ms. Mayfield to appear for trial in this matter.

C. CONCLUSION.

For the foregoing reasons, Megan Kerr is an "opposing party" for purposes of FED. R. EVID. 801(d)(2), and the EEOC's investigative notes are admissible evidence in this case.

Respectfully submitted,

/s/ J. Bradley Spalding

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Dated: January 26, 2018

CERTIFICATE OF SERVICE

I, **J. Bradley Spalding**, an attorney, certify that I served the attorney of record named below with a copy of **Defendant's Trial Brief on the Applicability of Fed. R. Evid. 801(d)(2) to the EEOC's Investigative Notes** via ECF (*Electronic Case Filing*) on January 26, 2018:

Miles Shultz
Justin Mulaire
James L. Lee
Gwendolyn Young Reams
Gregory M. Gochanour

U.S. Equal Employment Opportunity Commission
500 West Madison Street, Suite 2000
Chicago, IL 60661
(312) 869-8045
miles.shultz@eeoc.gov

U.S. Equal Employment Opportunity Commission
131 M. Street, N.E.
Washington, DC 20507

J. Bradley Spalding

J. Bradley Spalding

Exhibit A

Megan Vanna
January 17, 2017

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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

Megan Vanna
January 17, 2017

2

1 APPEARANCES:

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26 RENT-A-CENTER, INC., by
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30 (972) 801-1465
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32 Representing the Defendant.

33 Also Present: Mr. Jason Morris
34 Ms. Christine Nikolich,
35 Videographer

36

Megan Vanna
January 17, 2017

4

1 THE VIDEOGRAPHER: Good morning. We are on
2 the record.

3 This is the videotaped deposition of
4 Megan Kerr in the matter of U.S. Equal
5 Employment Opportunity Commission versus
6 Rent-A-Center. This deposition is taking place
7 at 321 North Clark Street in Chicago, Illinois,
8 on January 17, 2017, at 9:01 a.m.

9 My name is Christine Nikolich. I'm the
10 videographer with U.S. Legal Support located at
11 200 West Jackson Chicago, Illinois.

12 Video and audio will be taking place
13 unless all counsel have agreed to go off the
14 record.

15 Would all present please identify
16 themselves beginning with the witness.

17 THE WITNESS: Megan Vanna.

18 MR. SHULTZ: Miles Shultz for the EEOC.

19 MR. MULAIRE: Justin Mulaire for the EEOC.

20 MR. TRUSEVICH: Andy Trusevich for
21 Rent-A-Center.

22 MR. MORRIS: Jason Morris for Rent-A-Center.

23 MR. SPALDING: Brad Spalding for
24 Rent-A-Center.

1 THE WITNESS: Not directly, no.

2 BY MR. TRUSEVICH:

3 Q. Do you know that he is a witness in
4 this case?

5 A. I do now.

6 Q. Okay. But not before just now?

7 A. Correct.

8 Q. No one has told you that?

9 MR. SHULTZ: Objection. Form. Foundation.

10 I will also object on the basis of the
11 attorney-client privilege to the extent that it
12 calls for an answer regarding communications
13 between Megan and the EEOC's attorneys.

14 BY MR. TRUSEVICH:

15 Q. So after you were terminated from
16 Rent-A-Center, did you look for work?

17 A. Yes.

18 Q. And between -- and when were you
19 terminated from Rent-A-Center?

20 A. August 14th.

21 Q. All right. So in August 2014,
22 according to you, when you were terminated from
23 Rent-A-Center, until now, how many places have
24 you applied for work?

1 BY MR. TRUSEVICH:

2 Q. Okay. So if you feel that you didn't
3 work at a place long enough and it was just
4 minimal money, you don't tell the EEOC lawyers
5 about it?

6 MR. SHULTZ: Objection. Form. Foundation.
7 And I'm going to instruct you not to answer on
8 the basis of attorney-client privilege, any
9 conversations you have had with the EEOC
10 attorneys.

11 BY MR. TRUSEVICH:

12 Q. All right. And are you going to refuse
13 to answer that question?

14 MR. SHULTZ: I'm instructing her not to
15 answer.

16 BY MR. TRUSEVICH:

17 Q. And are you going to follow the EEOC's
18 lawyer's instruction not to answer that
19 question?

20 A. Yes.

21 Q. Are there any other places that you
22 feel you made minimal amounts of money that the
23 EEOC has not told us about in their sworn
24 interrogatory answers --

1 that Ms. Mayfield took?

2 MR. SHULTZ: Objection. Form and foundation.

3 THE WITNESS: It was not listed.

4 BY MR. TRUSEVICH:

5 Q. Do you have any idea what the EEOC is
6 talking about in that paragraph?

7 MR. SHULTZ: Objection. Form.

8 THE WITNESS: They were just talking about a
9 dislocated family in which the masons helped.

10 BY MR. TRUSEVICH:

11 Q. But you have no personal knowledge of
12 whatever that is, correct?

13 MR. SHULTZ: Objection. Form.

14 BY MR. TRUSEVICH:

15 Q. Isn't that true?

16 MR. SHULTZ: Same objection.

17 THE WITNESS: Again, given the information,
18 it sounds a lot like the story that I'm giving.

19 BY MR. TRUSEVICH:

20 Q. You know that -- that didn't come from
21 you that she was dislocated, correct?

22 MR. SHULTZ: Objection. Form and foundation.
23 And to the extent you're asking her regarding
24 conversations she has had with the EEOC

1 attorneys, I'm asserting attorney-client
2 privilege and instructing her not to answer.

3 BY MR. TRUSEVICH:

4 Q. Megan, did you ever tell anyone --
5 don't tell me what you -- by the way, just so we
6 are clear, you look at them as your lawyers,
7 correct?

8 A. Yes.

9 Q. And they look at you as their client,
10 correct?

11 MR. SHULTZ: Objection. Form and foundation.

12 BY MR. TRUSEVICH:

13 Q. Correct?

14 A. Yes.

15 Q. And just so you know, anybody that has
16 -- is looking at you as their client with an
17 attorney-client relationship owes you a
18 fiduciary duty. Do you understand that too?

19 MR. SHULTZ: Objection. Form and foundation.

20 BY MR. TRUSEVICH:

21 Q. Do you understand that?

22 MR. SHULTZ: Same objection.

23 THE WITNESS: I'm not sure what that means.

24

Exhibit B

T.C. With Megan Kerr

T.C. with Megan Kerr

2/9/2016

Hasn't been able to work since termination. She has applied for positions. Sometimes hears back.

Has worked for 1-1/2 year. July 2014.

She made \$13.75 per hour. \$750 per week. 50 hour work week.

Increases were year, about 25¢ per year.

Meeting w/CP, Megan Kerr

12/22/2015

CP stated that she started taking hormonal treatment to transition to female. At this time in 2013, CP advised her Store Manager, Russell Kasper [sp?] and Eleena Reeves [sp?], Assistant Store Manager, that she transitioned to female and produced documentation to show the identity change from male to female. Subsequently, after CP's name changed to female, she made a verbal complaint to the D.M., Jason Carnahan [sp?] that Russell Kasper made comments to R's customers that CP changed her identity to female. This was her only complaint to respondent regarding harassment. Russell discontinued from making comments. CP said Russell Kasper was discharged in Dec 2013 for reasons unknown. CP said that Jason Morris [sp?] replaced Kasper at R's facility. The first week Morris was transferred to R's store, he transferred her to R's Champaign store w/o a job title. CP reported to Marci Busman at this store. CP was assigned delivery duties only. The ee at R's Champaign store did not do deliveries. CP told Morris that she was not going back to R's Champaign store. No one else at R's store was reassigned to another store. CP did deliveries alone at R's Champaign store.

Then CP stated that Morris then reassigned her to perform the job of Credit Manager which had previously been done by Eleena Reeves, Assistant Store Manager. As a Credit Manager, she was assigned to work in the office, performing calls past do.

Fox said CP wn

Accounts ... and Brock Duncan Fox [sp?] - Account Customer Service would perform other jobs instead of deliveries. Eleena Reeves did CP's job, but no deliveries. CP said that the only time she did deliveries were when Morris did not have any choice but to select her. CP had to do deliveries alone and at times the delivery job required 2 people. CP felt that this was a demotion even though no lost of pay and no promotion potentials. CP said that when Morris began working at R's store, he would not communicate with her and he told Brock + Reeves to communicate job duties he wanted done. The only time Morris talked w/her is when the other ee's were unavailable. Morris treated her like a plague. *No other ee's had been transferred to R's store(s). Moreover, when CP did do deliveries and come back to the office, Morris, Reeves and Brock would be in Morris' office and when they saw her, they stopped talking CP said she knew they were talking about her based on their facial expressions & gestures.

(Note: CP did 50% phone – 50% face to face when she was reassigned to Credit Manager.)

CP then stated that she brought in legal documents regarding her identity change to female and presented it to the DM, Carnahan at the end of 2013. Carnahan would converse with her when she identified as a male. However, as a female when Carnahan came to R's store (once month), he would not speak and would look at her in a disgusting manner

Carnahan, DM never made any comments when she changed her identity.

CP said that Eleena Reeves, Assistant Store Manager, told her that Morris referred to her as "it."

CP then said she remembered an incident where she returned from a delivery that CP overheard Morris telling Brock in Reeves' office that she used to be male and changed to female.

On July 19, 2014, CP was given permission to use R's vehicle on 7/20/14 (Sunday) to deliver furniture to a customer who had purchased furniture and placed it in storage. CP has no witnesses that she was given permission to use R's vehicle.

On July 20, 2014, CP was discharged for using R's vehicle w/o permission. CP identified Brock Duncan Fox – CSR, who have been given permission to move his personal items on a Sunday and not discharged. CP disputed R's position that deliveries were not done on a Sunday. CP identified Bible Baptist Church – Brian and Chuck can testify that they received deliveries on a Sunday (217) 893-3888.

CP also agreed to provide the 1 yr lease Feb 2014 – Feb 2015 to show that she did not move her tattoo shop. CP will also provide receipt for July 2014 to show she had not been evicted.

12/17/15

Meeting w/CP, Justine Muliane [sp?] & Investigator.

CP agreed to provide bank statements that she withdrew \$400.00 for rent – July __, 2014 and Aug. 2014.

Contact info for Shelly Shaffer (CP's ex-wife).

Telecom w/CP

9/9/15

Credit Manager takes payments. Resolved customer complaints. Also can be sent out deliveries: anytime.

Assistant Manager: Will call customers to come – direct interaction/payment: Phone time 30%, face-face 80%.

Credit Manager is not supposed to leave the store unless filling in for a delivery person.

CP then said that Morris then assigned – Champaign store – as a delivery for one week. However, when CP reported to this store, she only performed deliveries. CP said R had a delivery person at this store. This happened when Jason Morris was transferred to R's facility. CP was the only ee transferred to the R's Champaign store. CP reported to Marci at R's Champaign store. CP stated that Jason Carnahan would conversation with her about family matters but when she transitioned to female, Jason Carnahan stopped conversing with her. Jason Carnahan stopped speaking to her when she changed to female.

CP stated that Jason Morris would have Fox & Reeves to give her duties to perform. The only time Morris would talk to her is when Fox and/or Reeves were unavailable.

CP stated that when she reported back to work from deliveries, Morris & Reeves & Fox would be in Reeves' office talking about her. CP overheard Morris telling Fox that he did not like CP lifestyle. (Date/unknown.)

CP said it was her interpretation from speaking w/Reeves that Morris did not want to work with her because she transitioned to female.

CP was discharged for using R's truck without permission. CP has no witnesses to support her allegations that she was given permission to use R's truck Sunday. CP admitted R is not open Sunday.

CP believes she was discharged due to transgender.

CP stated that she overheard Fox tell Jason Morris that Fox was using R's truck/Sunday to move out of his girlfriend's house. Morris approved the above. No one else may have heard the above.

CP disputed R's position that she was evicted in July 2014.

12-17-2015

Telecom with CP, Megan Kerr

In 2012 CP held the position of Assistant Manager in Rantoul and reported to Russell Kasper, Store Manager and Jason Carnahan, District Manager.

In 2013 CP worked at several R's facilities as Assistant Manager; Sales Assistant Manager.

CP stated that she has never been disciplined by anyone during her employment.

CP denies that she previously had taken the Respondent's vehicle for personal reason and she was coached by her previous supervisor, Russell Kasper. (Note: A review of CP's personnel file does not show that she was previously coached for using the Respondent's vehicle on a Sunday prior to her discharge.)

There was an incident by another employee, J. Harding regarding using the Respondent's vehicle for personal usage.

CP stated that Russell Kasper made the comment to her that he was a religious individual and that he had to accept her change to female. Kasper would also refer to her former name as Jason Kerr instead of Megan Kerr in front of customers.

CP also stated she shared with Eleena Reeves (co-worker) and friend her identity of being a female.

To File

From Gloria M. Mayfield

Date: Dec 17, 2015

Re: Meeting with CP, Investigator & Atty, Justin Muloire [sp?]

CP agreed to provide the following info/documents:

- Bank statements – 2014
- Contact CP's ex-wife Kelly Shaffer

Information for _____

708-800-5341

Rent \$400.00/residence

Lease/Tattoo =

CP signed her release Feb 1, 2014 until Feb 1, 2015. The address for the tattoo shop: 101 S. Century, Rantoul, IL. (Note: The tattoo shop closed in Sept 2014. In Sept 2014, CP moved to Chicago.)

CP has to pay \$400.00 month for the tattoo shop.

On Jan 8, 2015, CP stated that she drove by R's facility and the van was parked in R's lot, but the delivery truck was missing. This was at 8:30 a.m. There was a silver car that belong to Jason Morris & a white SUV which belong to Eleena Reeves. The R's store was locked at 8:30 a.m. and both of these cars were in R's lot. R's store open at 10:00 a.m. – 8:00 p.m. (Monday-Saturday). R stopped delivery to 8:00 p.m. Deliveries starts are at 1:00 p.m.

CP took a picture of the above:

CP's salary:

CP has been off from work since July 2014 (1-1/2 yrs).

CP's annual salary:

W2 =

Back wages 1-1/2 yrs. \$32,065.00 annual salary.

Favorable letter of recommendation.

CP wants to settle:

Take out.

\$55,000.00 (back wages). CP has not worked since Sept 2014. Since Sept 2014 CP has applied for.

CP stated that when she lost her job the landlord at the tattoo shop found out that she transgender and she terminated the lease in Sept 2014.

Several positions (30) and not selected.

09/11/15

Telecom w/CP.

CP stated that technically she was demoted – no promotional opportunities.

CP's salary not reduced when this alleged demotion occurred.

In mid Aug 2014, CP moved to her new residence. CP will produce documents/evidence.

CP did not complete paperwork when she made deliveries.

On July 19, 2014, Jason Morris handed her the keys to do the delivery on July 20, 2014. CP is not sure if anyone witness Jason giving her the keys to do the personal delivery on a Sunday, July 20th.

CP stated that a customer had purchased items and it was delivered by R's ee's to storage. This customer was advised that when she was ready to get items purchased from R to contact CP and/or the manager. This customer contacted CP to get items she purchased from R out of storage. CP removed only furniture customer purchased from R.

CP also stated that Jason Morris was transferred to R's store in July 2014. Morris told CP that he did not want to do any charitable for Masons or other entities, including churches – free deliveries.

CP's Witnesses

Russell Weidman

C3-1

CP: Megan Kerr12/10/2015

Telecom w/Russell Wiedman (witness) for CP: (815) 342-2541, 149-1/2 Market Street, Paxton, IL 60957

Wiedman stated that he is unable to testify on CP's behalf due to severe health issue: congestive heart failure unable to remember incidents, etc.

Wiedman confirmed he is a Mason.

Wiedman never been employed w/R.

Wiedman said that he dated CP for 5 months in 2013. They did not live together. When Russell dated CP, she lived in Paxton, IL. In 2014, Wiedman and CP discontinued their relationship and CP still lived in Paxton, IL.

Wiedman said that Amber Wilkerson (calls his daughter) went to R's store (date unknown) and purchased some furniture. Wiedman does not know if the furniture was placed in storage and when it was delivered to Amber's residence. Wiedman does not know if CP delivered this furniture to Amber's residence. CP made deliveries for R. CP used to be a manager at R's store. They had a tattoo shop in Paxton, IL (timeframe unknown). Wiedman said that when he stopped working at the tattoo shop he picked up his belongings and to his knowledge CP did not relocate from this residence. Wiedman stated that to his knowledge CP had not been evicted from the tattoo shop or her residence when they dated for 5 months.

Wiedman said that his mind is fuzzie and he just did not remember a lot of things due to his health issues.

Wiedman said that the 5 months he dated CP she would make deliveries for Masons but don't recall what dates, such as Sat/Sundays.

C3-2

CP's Witness

Amber Shumate

CP: Megan Kerr

9/17/2015

Telecom with witness, Andre Shumate: 105 N. Olive St., Royal, IL 61871, (217) 840-0915.

On August 7, 2015, Andre got married and her name changed from Andre Wilkerson to Andre Shumate.

Since four/five years ago (Aug 2011) to the present, Mr. Weidman was like a father figure to her. Mr. Weidman is not her biological father, but she considers him her father because she never had a father. Mr. Weidman also considers her children – his grandchildren. Andre has four children.

Shumate stated that Wilkerson & her went to R's store to purchase furniture, sofa & bedroom set. CP assisted her in purchasing the above items. This was in early summer in 2014.

Shumate used her husband's credit card to purchase the furniture.

Amber Shumate

Shumate stated that she believes that Weidman is a Mason.

The R's store delivered the furniture to her mother-in-law's house and it did not fit. Therefore, this furniture was placed in storage by R's ee's.

Shumate was given CP's business card when she purchased the merchandise.

Shumate contacted CP when her residence was ready to be moved in and asked CP to deliver the furniture in storage she purchased at R's store. The furniture in storage was just maybe 1 to 2 months. Shumate said that Weidman contacted some Masonites (names unknown) to assist her with moving the furniture in storage. Shumate was pregnant at this time and was unable to more anything.

Shumate stated that CP delivered the furniture she purchased and placed in the storage only. Shumate knows this because CP told her that she was unable to deliver any other items in R's vehicle. CP was provided the storage info by her and CP delivered the items she purchased from R's store. CP was in R's vehicle which had a logo and she wore a polo shirt w/R's logo. CP did not assist the other individuals whom moved her other items out of storage. Shumate was unable to provide any contact info for the other individuals who moved her the summer of 2014 to her new residence.

Shumate did not remember if this delivery was made by CP on a Sat or Sunday. This was the only time CP had delivered furniture to her residence. Shumate stated that to her knowledge CP and Weidman may have been friends, but no relationship. Shumate said that she thought they had a working relationship because Weidman worked at CP's tattoo shop (dates unknown).

Shumate did not know where this tattoo shop was located and/or if it closed.

Shumate is not related to the CP.

Shumate said that Weidman has been sick and did not wish to talk about Weidman's health.
CP was a Manager. This is what CP's business card reflected.

C3-3

**CP's Witness contacted
to no avail, 12/22/15**

Bible Baptist Church 217-893-3888

Christian Life Church (Brian)

No #

12/22/15

Left voice mail for Bible Baptist Church. 217-893-3888.

D7

Witnesses Identified by

EEOC's Investigator

Brock Duncan Fox

Nov 17, 2015

To File

From Gloria M. Mayfield

Telecom with Brock Duncan-Fox – Witness

738 Cantonment
Rantoul, IL 61866
(618) 803-0525

Sex: Male

DOH: March 25, 2014

Position at hire: Customer Service Representative at Store 319, Rantoul, IL.

Duncan was hired by Jason Morris, Store Manager, male. Responsible for home deliveries & set up.

Duncan resigned in Oct 2015 for better employment/career movement. At the time of his resignation only EE in his job classification. Duncan was not disciplined during his employment.

At the time of his resignation there were two female ee's, both of them resigned:

- Lafa Turner – Date of resignation: unknown
- Other female name unknown. Date of resignation: unknown

Both of the above ee's reported to Jason Morris.

Jason Morris reported to the District Manager, Jason Carnahan for R's store – 319.

Fox worked with CP at Store 319 when he was hired: 3/25/14. CP worked in the position of Assistant Manager. Fox was not aware if CP's job title was changed or if CP was transferred to another store.

Fox then said CP was the Credit Manager and performed the duties of Credit Manager and performed the duties of Credit Manager. Fox was unable to remember the duties of Credit Manager. Fox said that when he was hired, CP held this position: Credit Manager until CP was separated from the R's facility.

Fox does not know if CP was demoted. Fox was unable to identify any ee's demoted.

See pg 1 ???

Fox said CP was never transferred to another store while he was employed.

Fox said when he was hired CP was a female. No one told him that CP transitioned from male to female.

Fox never heard or overheard customers make derogatory comments about CP.

Fox was asked to clarify if CP was a Store Manager or Credit Manager. Fox stated that CP was responsible for deliveries at R's facility.

Fox then said CP may have done both jobs at R's store: Store Manager Deliveries, Credit Manager, dealt w/customers accounts.

Fox believes that CP was assigned to both jobs when Jason Morris became R's store Rantoul IL – 319.

Fox stated no paperwork to sign/for the R's vehicles. The keys for R's vans – Store Manager's office since June/July 2015. Prior to this time R's keys (2) were left in the R's loading area.

Procedures to use the R's vehicles – to let the Store Manager aware of the deliveries.

Fox said Eleena Reeves and Jason Morris did not perform deliveries.

Fox said – no posting that it would do deliveries for Mason, etc. when he was hired.

Fox never did deliveries – Sunday. Fox did deliveries M-S 10:00 a.m. - 7:00 p.m. (Sat) – M-F 10:00 – 6:00 p.m. R's store closes: 7:00 p.m. but at times Fox worked past 8:00 p.m. to do paperwork.

Fox was not aware if CP was given permission to use R's vehicle on Sunday.

Fox not aware of any ee's who used R's vehicle for personal usage(s), non-personal usages on Sun and not disciplined.

Fox said that on July 19, 2014, he and Jason Morris agreed to have breakfast at 7:30 a.m. on July 20, 2014. Jason Morris lives in Champaign, IL – about 20-25 minutes away from his house. Jason & Fox are friends (outside of work). Fox said that on July 20, 2013, Jason picked him up to go to breakfast. Investigator asked him what time did Morris pick him up? Fox said – none of my business. Investigator asked Fox where did they have breakfast? Fox said what he did on his personal time and day off was none of the investigator's business. Fox said he was not going to answer any questions about his day off, Sunday.

Investigator told Fox the EEOC was conducting an investigation and asked that he cooperate in answering questions. Fox said again he was not going to answer questions re: his day off. But, he stated that Jason Morris has attended several affairs with him which were none work related.

In March 2014, Fox & Morris became friends.

Fox said R may have a policy – no fraternization ... Fox said again that Jason Morris – is his friend.

On July 20, 2014 Fox stated that they (Morris) passed the R's store (which is 2 minutes from his house) and noticed the R's van missing and CP's car parked on R's premises. This was on the way to the restaurant. Jason Morris noticed the R's van was gone. Jason Morris then contacted Jason Carnahan, DM to tell him that CP had taken R-s van w/o permission. Jason Morris took a picture of CP's truck in R's lot to have proof that CP's car was on R's premises. While Morris was on the phone with Carnahan he believed they said they were going to discharge CP. Fox said they did not go looking for CP and R's missing truck. They proceeded to go to the restaurant. Fox said Morris did not contact CP – on his cell phone. Jason told him that the R's van is not insured on Sundays. Fox was not sure if Carnahan knew he was in the _____. Fox reported to work that Monday and he did not see CP.

*R's vehicle with Jason Morris.

Fox was never informed of CP discharged.

Fox not aware of any other ee's discharged for violating R's work rules.

D8

Witness Identified by

EEOC's Investigator

Russell Kasper

To File

From Gloria M. Mayfield

Date 12-15-2015

Russell Kasper Interview (witness identified by EEOC)

503 E. Grove Ave.
Rantoul, IL 61866-2428
(217) 714-3289 (cell)

Date of hire: June 2005

Position at hire: Sales Rep

Promotion: Dec 2005 – Sales Manager; 2006 – Assistant Manager; June 2000 – Executive Assistant to the Store Manager/Champaign, IL – 2007 – Dec 2013 Store Manager

In Dec 2013, Russell was discharged by the District Manager for lack of sales. Russell said that his sales were low due to the economy.* (Note: Russell said for 3 months economy slow – prior to discharge – District Manager – Jason Carnahan.) Jason Morris, Store Manager replaced Russell when he was discharged. Morris was employed at R's Champaign, IL store in various positions. Executive Assistant and promoted to Store Manager (date unknown) at R's store in Rantoul, IL.

*Prior to his discharge, Russell received documents that his sales were low by the DM.

Kasper was the only ee in his job classification. CP transferred from R. Texas store to R's store in Rantoul, IL in the position of Assistant Manager. CP's name was Jason Kerr when he transferred to R's store/Rantoul. While CP had been employed at R's store she had not been promoted or demoted.

CP reported to Kasper. R's store did not have an Executive Assistant.* Other ee's who had reported to Kasper: Eleena Reeves: Sales Rep – 3 yrs.

*Only R's larger stores had an Executive Assistant such as Champaign. R consolidated 3 stores in one building/Champaign. Marci Busman is the Manager of the Champaign store.

The District Manager at times would reassign CP to Eleena Reeves' position and Reeves would be reassigned to CP's position. When CP was reassigned to Reeves duties – this was not a demotion. This meant CP would not perform deliveries duties.

CP was never transferred to R's Champaign office while Russell was employed. Russell stated that R's Champaign store is a larger store and there was no reason for CP to be transferred to this store.

Russell said that at the end of his employment CP was unable to do deliveries for 1-2 weeks due to taking hormonal treatments to transition to female. CP then started dressing like a female, women clothes, make-up, including wearing a bra.

CP was very up front with Russell about her transitional charges to female.

Kasper said that R has a hotline where complaints from customers about CP's transition to female. These complaints went to the District Manager, Jason Carnahan. These complaints not discussed w/him.

The customers said they did not want Rantoul to be a rainbow community.

R has a lot of loyal customers and they knew CP before she transitioned to female. These customers would come in the store and ask Russell if CP used to be male. Russell would say "yes." The customers would refer to CP as weird & query. R lost some customers when CP transitioned to female.* Rantoul is a small town and CP was the first transgender and a lot of people/customers had religious beliefs. Being gay. A lot of "red necks" did not accept CP – as female/transgender.

*These customers would make comments to R's ee's & customers about CP – females.

The customers also made jokes about the CP – (wearing a bra) female and R's ee's would try to be extremely polite about the criticism CP endured when she transitioned to female. The CP did not have make any comments when customers made fun of her. CP & Eleena Reeves were real good friends. Eleena would show CP how to wear make-up & dress like a woman.

Russell said that the District Manager told him that CP had to produce documents regarding CP's name change in Oct 2013. However, Carnahan was advised before Oct 2013, that CP was transitioning to female by him in March 2013. When CP produced the document for her legal name change, Carnahan came to R's stores to get this document. Russell believes that CP provided the document to Carnahan – Russell said he communicated things to Carnahan when CP transitioned to female when he learned them.

Russell said that after CP's transition to female, DM, Carnahan told him that he did not approve of having someone like that in the store, including the way CP was dressing, wearing a bra, make-up. Carnahan believed CP's transition to female was hurting sales. Russell said R lost a couple of customers because of CP's transition to female. Carnahan told Russell to do whatever it took to get rid of CP or try to make CP quit. Carnahan told him to find infractions to document to create a reason to discharge CP, and Carnahan asked Russell roughly every week about the state of Russell's efforts to get rid of CP.

Russell believes that this was one of the reasons he felt that he was discharged – failure to get rid of CP. Russell would meet weekly w/him to find way to improve sale before his discharge. Carnahan wanted the ees to go from door to door to get sales. Kasper did not want to do this because most of the customers in Rantoul already had an account.

Russell denied making derogatory comments about CP's transition from male to female. Russell said that in one of his meeting w/Carnahan – he told him that it was unlawful to discriminate

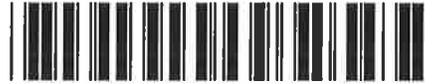
against CP because of her gender transition. Russell believes he was discharged for not discharging CP. After Russell was discharged him & his wife ran into Eleena Reeves at Walmart. Eleena told him that CP was discharged and that Carnahan had said not to talk about it.

Russell said that he was never disciplined for making any comments about CP's transition. No one's made derogatory comments about CP's transition to female.

When CP transferred to R's facility from Texas, CP's wife worked at Walmart with his wife. CP's wife had 2 children. CP's wife divorced according to his wife.

CP or Russell's wife told Russell that CP had been evicted.

Exhibit C



185974

Law firm ref#:

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF ILLINOIS

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

Case No.: 16 cv 2222

Plaintiff(s), vs.



RENT-A-CENTER EAST, INC.,

Defendant(s).

AFFIDAVIT OF SPECIAL PROCESS SERVER

Caroline Rzempowska, Being first duly sworn on oath, deposes and states the following:

I am over the age of 18 and not a party to this action. I am an employee of ATG LegalServe, Inc., Illinois Department of Financial and Professional Regulation number 117.001494.

INDIVIDUAL TO BE SERVED: Gloria M. Mayfield

I, Served the within named INDIVIDUAL on January 24, 2018 @ 6:30 PM

INDIVIDUAL SERVICE: By delivering to the within named INDIVIDUAL a copy of this process personally.

TYPE OF PROCESS: Witness Fee Check in the amount of \$214.40; Cover Letter; Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

ADDRESS WHERE SERVED: 3525 Cass Court, Unit 511, Oak Brook, IL60523

The sex, race and approximate age of the INDIVIDUAL with whom the copy of this process was left is as follows:

Sex: Female - Race: African American - Hair: Black - Approx. Age: 60 - Height: 5ft 03in - Weight: 175

Service Comments: I began surveillance of the subject's unit at 4:20PM. At 6:30PM, a woman matching the photograph I was provided rounded the hallway corner with an item of rolling luggage. I asked if she was Ms. Mayfield. She stated she is not, and further stated she was calling the police. I informed her that I had a photograph of Ms. Mayfield, and she matches the photo. She replied that she did not care what I had. I informed her that I have legal documents for her, and that she is served. I set the documents at her feet. She turned around, and began to walk away stating "I am not served."

The undersigned verifies that the statements set forth in this Affidavit of Service are true and correct.

State of Illinois

Signature of Caroline Rzempowska, Process Server

County of Cook

Dated 1-25-18

This instrument was subscribed and sworn to before me on 1/25/18 (date) By Caroline Rzempowska (name/s of person/s)



Signature of Notary Public

ATG LegalServe Inc 105 W. Adams Street, Suite 1350 Chicago, IL60603 312.855.0303