

**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'S OBJECTIONS TO DEFENDANT'S DESIGNATION
OF DEPOSITION TESTIMONY**

Plaintiff objects to the deposition testimony designated by Defendant as set forth below.

January 26, 2018

Respectfully Submitted,

s/ Justin Mulaire
U.S. Equal Employment
Opportunity Commission
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New York, NY 10004
212-336-3744

Miles Shultz
Trial Attorney
U.S. Equal Employment Opportunity Commission
500 W. Madison St., Ste. 2000
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Marcie Bussman

Testimony (page:lines)	Objection
5:3-10	Relevance, wasting time — Deposition preliminaries not needed at trial
16:19 - 17:4 17:13-21	Relevance
17:22 - 19:4	Relevance — Bussman's duties and medical condition have no bearing on this case
34:14	Attorney comment should be omitted
36:15-21	Relevance
36:22 - 37:3	Relevance, non-responsive answer
42:24 - 43:6	Lack of foundation — Witness has no opinion
50:12 - 51:2	Relevance, confuses the issues, refers to facts not in evidence, violates EEOC MIL No. 7 — There is no allegation that Ms. Bussman was involved in Kerr's discharge
51:11-13	Relevance, confuses the issues
52:13 - 53:3	Relevance, confuses the issues, speculative
53:12-14	Relevance, confuses the issues

Maria Clatterbuck

Testimony (page:lines)	Objection
4:9-13	Relevance, wasting time — Deposition preliminaries not needed at trial
10:15-25	Relevance, lack of personal knowledge, hearsay
14:14-25	Relevance, lack of foundation — Witness states she does not have knowledge/recollection of these matters
19:15 - 20:3	Leading
21:3 - 23:9 24:2 - 25:1 25:18 - 32:22 66:1 - 69:7	<p>These questions are leading and highly argumentative. They are essentially attorney commentary more suitable for closing argument. To the extent they ask the witness's opinion about purported allegations or testimony in the case, they also lack relevance.</p> <p>The questions also call for speculation, frequently refer to facts not in evidence, and concern matters about which the witness has stated she has no knowledge or recollection and can only answer by reading from the documents.</p>

Mary Ann Kelly

Testimony	Objection
7:16-20 8:3-16	Relevance, wasting time - deposition preliminaries
10:5-8	Relevance, Wasting Time
11:3-23	Relevance, Wasting Time, Confuses the Issues, Misleads the Jury, and Unfairly Prejudicial, Improper Impeachment of Kerr (Rule 608(b), EEOC MIL 9)
12:2-22	Relevance, Wasting Time, Confuses the Issues, Misleads the Jury, and Unfairly Prejudicial, Inadmissible character evidence
15:23-16:5	Relevance Wasting Time, Confuses the Issues, Misleads the Jury, and Unfairly Prejudicial
16:21-17:3	Hearsay, Lack of Personal Knowledge, Non-Responsive
18:5-19:1	Relevance, Non-Responsive, Wasting Time, Confuses the Issues, Misleads the Jury, and Unfairly Prejudicial, Hearsay, and Lack of Personal Knowledge
20:8-10	Relevance, Unfairly Prejudicial
20:17-21:20	Relevance, Wasting Time, Confuses the Issues, Misleads the Jury, and Unfairly Prejudicial, Inadmissible character evidence
21:22-22:16	Relevance, Wasting Time, Confuses the Issues, Misleads the Jury, and Unfairly Prejudicial, Inadmissible character evidence
23:4-7	Relevance, Confuses the Issues, Misleads the Jury, EEOC MIL No. 7
23:22-24:5	Relevance, Lack of Foundation, Confuses the Issues, Unfairly Prejudicial
29:2-13	Relevance, Confuses the Issues, Misleads the Jury, Inadmissible character evidence
32:6-13	Relevance, Unfairly Prejudicial, Confuses the Issues, Misleads the Jury, Hearsay and Lack of Personal Knowledge
37:3-38:2	Relevance, Wasting Time, Confuses the Issues, Unfairly Prejudicial, Inadmissible character evidence, and Improper Impeachment of Kerr (Rule 608(b), EEOC MIL 9)
38:22-39:7	Relevance, Confuses the Issues, Unfairly Prejudicial, Inadmissible character evidence

David Leavengood

Testimony	Objection
16:17-17:24	Relevance
36:3-23	Relevance, Wasting Time, Confuses the Issues — This involves an alleged incident of harassment by Kasper, who is not a decisionmaker for Kerr's termination
37:3-11	Relevance, unfairly prejudicial — If the EEOC is not permitted to introduce evidence or argument about the reason for Kasper's termination, then in fairness RAC should not be permitted to do so, either
46:19-48:14	Relevance
51:22-52:7	Relevance, Violates EEOC MIL No. 6
56:6-17 57:4-9	Argumentative, Leading
58:9-19	Argumentative, Attorney Comment, Leading
63:13-20	Relevance, Argumentative, Speculative, Refers to Facts Not in Evidence
64:12-21	Calls for Hearsay, Lack of Foundation, Argumentative, Refers to Facts Not in Evidence
66:15-67:1	Relevance, Speculative, Answer Contains Legal Conclusions
68:2-12	Calls for hearsay
69:20-70:1	Relevance, Confuses the Issues, Lack of Personal Knowledge, Attorney Comment
70:17-22	Relevance, Leading, Confuses the Issues, Calls for Hearsay
71:14-22	Relevance, Unfairly Prejudicial — If the EEOC is not permitted to introduce evidence or argument about the reason for Kasper's termination, then in fairness RAC should not be permitted to do so, either
73:16-18 73:21-22 73:24-74:1 74:3-4	Relevance, Wasting Time, Confuses the Issues, Argumentative, Calls for Opinion Testimony The phrasing of the question (part of which is omitted) is also confusing and vague
74:15-19	Best evidence rule (FRE 1001)
74:20-75:6 75:8-9	Relevance, Argumentative, Attorney Comment, Speculative — The content of the question is more appropriate for closing argument than witness examination
77:16-24	Relevance, Confuses the Issues, Argumentative

78:5-7 78:9-16	Relevance, Unfairly Prejudicial, Confuses the Issues, Lack of Foundation — RAC's charitable work is not relevance and this unfairly seeks to curry favor with the jury
79:7-12 79:14:00 80:3-8	Attorney Comment, Argumentative, Leading, Calls for Hearsay, Lack of Foundation (witness says he has no knowledge)

Daniel Roling

Testimony (page:lines)	Objection
4:5-22 6:6-21 8:5-14	Relevance, wasting time — Deposition preliminaries not needed at trial
9:19 - 10:8	Relevance, confuses the issues — This pertains to an allegation of demotion not at issue in this trial
12:11-25	Relevance, lack of foundation — The witness oversaw the Rantoul store (and thus Kasper) in 2012 (see p. 9:13-18) years before the events in question in this case
12:14-16	Leading
13:1-4	Relevance, speculation
13:5-21	Relevance, lack of foundation, confuses the issues — The witness did not supervise Kerr in 2014 (see p. 9:13-18)
14:21 - 15:5	Improper character evidence — Testimony does not comply with F.R.E. 608(a) (permitting only reputation or opinion evidence, and such evidence to prove truthfulness only after character for truthfulness has been attacked) or F.R.E. 608(b) (inquiry into specific instances permitted only on cross-examination)
20:3-7	Hearsay, lack of foundation, refers to facts not in evidence
20:23 - 13:1	Attorney comment, leading
21:11-13	Improper character evidence, violates EEOC MIL No. 7
22:6-15	Lack of foundation/speculation as to what Carnahan was thinking
23:15-17	Relevance, lack of foundation — Witness oversaw Rantoul store in 2012, not 2014
39:12-16 39:22 - 40:19	Hearsay
43:15-22 44:3-10	Relevance
46:9-14	Lack of personal knowledge (FRE 602), hearsay — The witness explains at 46:15-16 that the reputation information the witness provides at 46:9-14 came from Carnahan.

Marissa Torres

Testimony (page:lines)	Objection
60:21 - 61:6 61:9 61:13-14	The question principally consists of attorney commentary, and there is a lack of personal knowledge (the witness stated she does not know).
73:22 - 74:17	Leading

Russell Wiedemann

Testimony	Objection
5:8-20 6:15 - 7:1 7:20 - 8:2	Relevance, Wasting Time — deposition preliminaries and conversation
10:17 - 12:5 12:23 - 13:20	Relevance, Wasting Time, Confuses the Issues
13:19-20 13:22 - 14:5	Attorney Comment, Relevance, Confuses the Issues, Assumes Facts Not in Evidence, Collateral Evidence Rule — This is an attempt to impeach Ms. Kerr (based on a statement she did not actually make) through Wiedeman's testimony which is extrinsic evidence
14:18-25 15:3-23	Relevance, Wasting Time, Confuses the Issues
17:5-18 17:24 - 18:18	Relevance, Confuses the Issues, Improper impeachment of Ms. Kerr (extrinsic evidence about collateral matter), Violates EEOC MIL No. 7
17:16-18 18:24 - 19:10	Relevance, Confuses the Issues, Violates EEOC MIL No. 7
19:17-22	Relevance, Lack of Foundation, Speculation — Witness states that he does not know
20:13-18 20:20-25 21:2-4	Relevance, Lack of Foundation, Speculation — The witness stated previously (19:19-22) that he lacks knowledge, insufficient foundation was laid as to how much he actually knows Also, Violates EEOC MIL No. 7
21:12-19 21:24 - 22:1	Relevance, Lack of Foundation, Misleads the Jury, Attorney Comment
22:8 - 23:8	Relevance, Unfairly Prejudicial
23:12-14 23:16-18	Relevance, Confuses the Issues, Improper Impeachment of Ms. Kerr (extrinsic evidence about collateral matter), Violates EEOC MIL No. 7
23:25 - 24:4 24:7-10	Argumentative, Attorney Comment, Calls for Speculation, Violates EEOC MIL No. 7
24:11-15	Relevance, Impeachment of Kerr by Extrinsic Evidence of a Collateral Matter
26:20 - 27:4 27:8 - 28:8	Relevance, Violates EEOC MIL No. 7, Improper Impeachment of Kerr by Extrinsic Evidence of a Collateral Matter, Waste of Time

27:16 - 28:8	Calls for narrative testimony
28:9-29:1	Relevance, Improper Impeachment of Kerr by Extrinsic Evidence of a Collateral Matter, Waste of Time
32:1-3 32:5-14	Relevance, Confuses the Issues, Lack of Foundation
32:24-33:3 33:5-34:2	Relevance, Wasting Time, Confuses the Issues, Testimony is Narrative and Nonresponsive
34:8-19	Relevance, Improper Impeachment of Kerr by Extrinsic Evidence of a Collateral Matter, Waste of Time
34:17-22	Speculation, Lack of Foundation
36:18 - 37:3	Relevance, Assumes Facts Not in Evidence, Argumentative, Improper Opinion Testimony
37:4-5	No answer designated, Violates EEOC MIL No. 7
37:12-40:16 41:9-12 41:14-24	Relevance, Confuses the Issues, Wasting Time, Improper Impeachment of Shumate by Extrinsic Evidence, Violates EEOC MIL No. 7
46:20-47:5	Relevance, Wasting Time, Confuses the Issues, Improper Opinion Evidence
50:11-52:2	Relevance, Hearsay, Wasting Time, Unfairly Prejudicial Confuses the Issues, Misleads the Jury, Violates EEOC MIL No. 7

CERTIFICATE OF SERVICE

I hereby certify that on today's date, I caused the PLAINTIFF'S OBJECTIONS TO DEFENDANT'S DESIGNATION OF DEPOSITION TESTIMONY to be served upon counsel to Defendant via the court's Electronic Case Filing system, pursuant to Local Rule 5.3(A).

January 26, 2018

Respectfully Submitted,

s/ Justin Mulaire
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