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Attorneys for Defendants
IXL Learning, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

		Case No.: 3:17-cv-02979-VC
U.S. EQUAL EMPLOYMENT OPPORTUNITY	:	
COMMISSION,	:	Hon. Vince Chhabria
	:	Courtroom: 4, 17 th Floor
Plaintiff,	:	
	:	
and	:	
	:	NOTICE OF IXL OBJECTION TO
ADRIAN SCOTT DUANE,	:	PROPOSED DRAFT JURY INSTRUCTION
	:	(DE 132)
Plaintiff-Intervenor,	:	
	:	
v.	:	
	:	
IXL LEARNING, INC.,	:	
	:	
Defendant.	:	
	:	

Defendant IXL Learning, Inc, by and through its undersigned counsel, hereby submits its objection and proposed change to Jury Instruction No. 9 (ADA Retaliation – Elements) (proposed addition to element 3 highlighted):

3. Mr. Duane was fired because of his complaints about **disability** discrimination in the Glassdoor post. (The **disability** discrimination complaints need not be the only reason why IXL fired Mr. Duane, but the plaintiffs must prove by a preponderance of the evidence that IXL would not have fired Mr. Duane if he had not complained about **disability** discrimination in the Glassdoor post.)

IXL has no other objections.

Dated: October 26, 2018

Respectfully submitted,
**YOUNG BASILE HANLON &
MACFARLANE, P.C.**

By: /s/ Natasha R. Menezes
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PROOF OF SERVICE

STATE OF MICHIGAN, COUNTY OF OAKLAND
U.S. Equal Employment Opportunity Comm. v. IXL Learning, Inc.
Case No.: 3:17-CV-02979-VC

I am employed in the County of Oakland, State of Michigan; I am over the age of eighteen (18) and not a party to the within action; my business address is 3001 W. Big Beaver Road Suite 624, Troy, MI 48084. On October 26, 2018, I served the foregoing document(s) described as **Notice of IXL Objection to Proposed Draft Jury Instruction** on all interested parties to this action by delivering a copy thereof via electronic mail to each of said interested parties at the following address(es):

Ami Sanghvi Equal Employment Opportunity Commission 350 The Embarcadero, Suite 500 San Francisco, CA 94105 P: (415) 625-5640 F: (415) 625-5657 ami.sanghvi@eeoc.gov	Attorneys for Plaintiff US EEOC
David Marek The Marek Law Firm 228 Hamilton Avenue Palo Alto, CA 94301 P: (917) 721-5042 david@marekfirm.com	Attorneys for Proposed Plaintiff- Intervenor Adrian Scott Duane

- (BY MAIL)** I am readily familiar with the firm's business practice for collection and processing of correspondence for mailing with the United States Postal Service. This correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business at our firm's office address in Troy, Michigan. Service made pursuant to this paragraph, upon motion of a party served, shall be presumed invalid if the postal cancellation date of postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.
- (BY ELECTRONIC FILING)** I caused such document to be delivered via electronic filing and service of court via Notice of Electronic Filing ("NEF").
- (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the above is true and correct.

Executed on October 26, 2018 at Troy, Michigan.

/s/ Jeffrey D. Wilson
 Jeffrey D. Wilson