

EXAMPLE #2

Attorneys for Defendants Eli Lilly and Company and Camille Myers

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

,
Plaintiff,

v.

Defendants.

Case No.

**DEFENDANTS' OBJECTIONS TO
PLAINTIFF'S EXHIBITS**

Defendants, Eli Lilly and Company ("Lilly") and Camille Myers ("Myers") (collectively referred to as "Defendants") respectfully object to the following exhibits offered by Plaintiff, Arlette Schuett ("Schuett"). As required by the Jury Trial Management Order, these objections are grouped by type of objection.

Exhibit Nos.	Description	Objection(s) Hearsay/Relevance/Prejudice
4	Screen shot in the top portion of the first page (Lilly-Schuett00000130) listing Schuett's calls to HR in October and November 2008	As explained more fully in Defendants' Motion in Limine, Defendants object to the introduction of evidence of regarding any prior complaints made by Schuett about her manager, including complaints that her manager was (allegedly) treating Schuett differently due to pregnancy. First, to the extent that those complaints are being offered to prove the underlying allegations and/or Schuett's report of pregnancy, they are inadmissible as hearsay under Fed. R. Evid. 801(c). They do not fall into one of the hearsay exceptions. <i>See Chao v. Westside Drywall, Inc.</i> , 709 F.Supp. 2d 1037, 1048 (D. Or. 2010). Aside from the improper hearsay evidence, the fact that Schuett complained and the nature of the Human Resources investigation lacks relevance given the Court's entry granting summary judgment on Schuett's retaliation claim. Alternatively, given that the hearsay evidence bears on a critical issue (timing of Schuett's alleged report of pregnancy), the evidence of the HR investigation is more prejudicial than probative and likely to confuse the jury. <i>See Fed. R. Civ. P. 403.</i>
8	Email string to Karyn O'Donnell (HR) related to investigation into Schuett's concerns about Myers.	
17	November 13, 2008 emails to and attachments to O'Donnell related to investigation into Schuett's concerns about Myers.	
31	O'Donnell's November 13 and 24, 2008 remedy notes related to investigation into Schuett's concerns about Myers.	
33	Mascelia Miranda (HR) October 28, 2008 and Susan Burleigh (HR) October 29, 2008 remedy notes related to Schuett's call to HR related to concerns about Myers following alleged announcement of pregnancy.	
32	Records of former co-worker Michael Lipshultz's statements to HR related to Myers, contained in HR remedy notes.	Any complaints reflected in these exhibits are hearsay. Furthermore, complaints by a male co-worker are irrelevant or their probative value is outweighed by the danger of unfair confusion. <i>See Fed. R. Civ. P. 401, 403; Tennison v. Circus Circus Enterprises, Inc.</i> , 244 F.3d 684, 689 (9 th Cir. 2001) (upholding exclusion of co-

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		workers' testimony of claimed harassment by the alleged offending actor years earlier as having little probative value).
34	Record of Lipshultz's resignation letter, contained in HR remedy notes.	<p>Similar to the objection above, the record of Lipshultz's resignation is hearsay. Furthermore, complaints by a male co-worker are irrelevant or their probative value is outweighed by the danger of unfair confusion. <i>See</i> Fed. R. Civ. P. 401, 403; <i>Tennison v. Circus Circus Enterprises, Inc.</i>, 244 F.3d 684, 689 (9th Cir. 2001) (upholding exclusion of co-workers' testimony of claimed harassment by the alleged offending actor years earlier as having little probative value). Inadmissible as hearsay under Fed. R. Evid. 801(c) and does not fall into one of the hearsay exceptions.</p> <p>Lacks relevance. <i>See Tennison v. Circus Circus Enterprises, Inc.</i>, 244 F.3d 684, 689 (9th Cir. 2001) (upholding exclusion of co-workers' testimony of claimed harassment by the alleged offending actor years earlier as having little probative value)</p>

Exhibit Nos.	Description	Objection(s) Hearsay
24	Advances: April 2008 meetings	To the extent that the statements in this summary are being offered to prove the truth of the matters asserted (i.e., Schuett's performance), they are inadmissible as hearsay under Fed. R. Evid. 801(c). They do not fall into

		one of the hearsay exceptions. <i>See Chao v. Westside Drywall, Inc.</i> , 709 F.Supp. 2d 1037, 1048 (D. Or. 2010)
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Exhibit Nos.	Description	Objection(s) Hearsay/Not Previously Produced
41	Arlette Schuett Loss Analysis	The calculation reflected in this exhibit is hearsay. Furthermore, this exhibit was not previously produced in discovery. <i>See Davis v. Maryland Bank</i> , No. 00-04191, 2002 WL 32713429, at *16 n.9 (N.D. Cal. Jun. 19, 2002) (excluding document not previously produced during discovery).

Exhibit Nos.	Description	Objection(s) Incomplete
6	Miles Houze's interview notes from meeting with Schuett and Myers on February 11, 2009	Defendants object on the grounds that these exhibits are incomplete. <i>See Thomas v. Stainer</i> , No. 102CV05550OWWJLOP, 2006 WL 707141, at *2 (E.D. Cal., Mar. 17, 2006 (excluding exhibit as incomplete version may not be used at trial). sion may not be used at trial).
30	Slide of the 2009 Execution Excellence Framework	
40	Excerpt of Lilly U.S. Employee Handbook.	

DATED this 9th day of January, 2012.

Respectfully submitted,
