

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

|                           |   |                          |
|---------------------------|---|--------------------------|
| AMGAD ELGOWAINY,          | ) |                          |
|                           | ) |                          |
| Plaintiff,                | ) |                          |
|                           | ) |                          |
| v.                        | ) | CAUSE NO.: 2:03CV-161-JM |
|                           | ) |                          |
| PURDUE UNIVERSITY CALUMET | ) |                          |
|                           | ) |                          |
| Defendant.                | ) |                          |

**DEFENDANT’S OBJECTIONS TO PLAINTIFF’S TRIAL EXHIBITS**

Comes now Defendant Purdue University, by counsel, and submits its objections to Plaintiff’s trial exhibits, as follows<sup>1</sup>:

1. Plaintiff’s Exhibit #1 - Verified Declaration of Amgad Elgowainy. Purdue objects to this exhibit. Plaintiff and the witnesses to whom he ascribes various statements in his Declaration are available to testify at trial. The Declaration is not evidence. Affidavits that include legal conclusions, hearsay, irrelevant or immaterial matter, and opinions without an underlying factual basis should be excluded from consideration. *Bradley v. Work*, 154 F.3d 704, 707 (7<sup>th</sup> Cir. 1998) (holding district court was correct in deciding to strike inadmissible hearsay, lay opinions, speculations and conclusion); *Drake v. Minnesota Mining & Mfg. Co.*, 134 F.3d 878, 886 (7<sup>th</sup> Cir. 1998) (affidavit testimony containing inferences and opinions without factual basis, bald assertions and conclusory assertions should be disregarded).

Federal Rule of Evidence 602 provides that a witness “may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of

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<sup>1</sup> For purposes of this motion, Defendant refers to the proposed set of exhibits provided to it by Plaintiff’s counsel on September 9, 2004.

the matter.” FED. R. EVID. 602. Federal Rule of Evidence 801(c) defines “hearsay” as “a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted. As a general rule, hearsay is not admissible. FED. R. EVID. 802.

Also, the Declaration is cumulative.

2. Plaintiff’s Exhibit #2 - Curriculum Vitae of Amgad Elgowainy. Purdue objects to this purported resume of Amgad Elgowainy. The resume is irrelevant. The resume is materially different than the resume that he provided as application for the job at issue in the present case.

3. Plaintiff’s Exhibit #4 - Recommendation letter by Dave Kozel. Purdue objects to this letter as an unauthenticated record which is clearly outside Plaintiff’s personal knowledge and inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

4. Plaintiff’s Exhibits 5, 6 and 7 - ‘Engineering Faculty Position Needs,’ ‘Peer Institutions,’ and ‘Handwritten notes.’ Purdue objects to these documents as unauthenticated records which are clearly outside Plaintiff’s personal knowledge and inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

5. Plaintiff’s Exhibit 8 - Cafeteria Instructor Reports 01/21/00. These exhibits are cumulative and included within Exhibit 9 below.

6. Plaintiff’s Exhibit 9 - Cafeteria Instructor Reports w/ attachments. This exhibit attaches handwritten student reports which are clearly outside Plaintiff’s personal knowledge and inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

7. Plaintiff’s Exhibit 11 - Letter from student. Purdue objects to this letter as an unauthenticated record which is clearly outside Plaintiff’s personal knowledge and inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

8. Plaintiff's Exhibit 12 - Letter from students. Purdue objects to this letter as an unauthenticated record which is clearly outside Plaintiff's personal knowledge and inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

9. Plaintiff's Exhibit 15 - Offer letter from Dunaghey College. Purdue objects to this letter as an unauthenticated record which is clearly outside Plaintiff's personal knowledge and inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

10. Plaintiff's Exhibit 16 - Letter from University of Bahrain. Purdue objects to this document as an unauthenticated and untranslated document. Inadmissible under F.R.E. 402, 602, 802, 901.

11. Plaintiff's Exhibit 17 - 10/30/00 Letter from Rheem Manufacturing. Purdue objects to this letter as an unauthenticated record which is inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

12. Plaintiff's Exhibit 18 - 2/22/01 Letter from Ashrae. Purdue objects to this letter as an unauthenticated record which is inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

13. Plaintiff's Exhibit 21 - Unsigned, untitled, undated spreadsheet. Purdue objects to these documents as unauthenticated records which are clearly outside Plaintiff's personal knowledge and inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

14. Plaintiff's Exhibit 23 - E-mail dated 1/18/02 from Mary Beth Rincon. Purdue objects to these documents as unauthenticated records which are clearly outside Plaintiff's personal knowledge and inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

15. Plaintiff's Exhibit 25 - Minority Data Sheets. Purdue objects to this document on the grounds that the Exhibit is incomplete. Defendant's Exhibit X comprises Purdue's complete Affirmative Action Plan for the relevant period of time, of which Plaintiff's Exhibit 25 is a small part.

16. Plaintiff's Exhibit 26 - E-mail message dated 8/26/02 to Amgad Elgowainy from Kaliappan Gopalan. Purdue objects to this letter as an unauthenticated record which is clearly outside Plaintiff's personal knowledge and inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

17. Plaintiff's Exhibit 27 - 3/25/02 Nnanna letter w/ attachments.. Purdue objects to this document on the grounds that the Exhibit is incomplete. Defendant's Exhibit V comprises the Dr. Nnanna's complete submission to the Search Committee.

18. Plaintiff's Exhibits 36 & 37 - Recommendation letters by Masoud Mojtahed and Yulian Kin. Purdue objects to these letters as unauthenticated records which are clearly outside Plaintiff's personal knowledge and inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

19. Plaintiff's Exhibit 38 - Unidentified evaluation documents. Purdue objects to this letter as an unauthenticated record which is clearly outside Plaintiff's personal knowledge and inadmissible hearsay. Inadmissible under F.R.E. 602, 802, and 901.

20. Plaintiff's Exhibit 39 - 5/17/02 Zhou email to Hentea w/ attachments. Purdue objects to this document on the grounds that the Exhibit is incomplete. Defendant's Exhibit O comprises the Search Committee's complete report as submitted to Dr. Hentea, of which Plaintiff's Exhibit 39 is a part.

21. Plaintiff's Exhibit 40 - Deposition of Harvey Abramowitz. Purdue objects to the admissibility of Abramowitz's deposition. Depositions are not admitted in evidence as exhibits; this Court's final Pre-Trial Order regarding conduct of trial contains a separate procedure for designating testimony to be offered via deposition. This deposition is not a proper exhibit.

22. Plaintiff's Exhibit 41 - Deposition of Masoud Mojtahed. Purdue objects to the admissibility of Mojtahed's deposition. Depositions are not admitted in evidence as exhibits; this Court's final Pre-Trial Order regarding conduct of trial contains a separate procedure for designating testimony to be offered via deposition. This deposition is not a proper exhibit.

23. Plaintiff's Exhibit 42 - Excerpts of Deposition of Michael Gealt. Purdue objects to the admissibility of Gealt's deposition. Depositions are not admitted in evidence as exhibits; this Court's final Pre-Trial Order regarding conduct of trial contains a separate procedure for designating testimony to be offered via deposition. This deposition is not a proper exhibit.

24. Plaintiff's Exhibit 43 - Excerpts of Deposition of David Kozel. Purdue objects to the admissibility of Kozel's deposition. Depositions are not admitted in evidence as exhibits; this Court's final Pre-Trial Order regarding conduct of trial contains a separate procedure for designating testimony to be offered via deposition. This deposition is not a proper exhibit.

25. Plaintiff's Exhibit 44 - Excerpts of Deposition of Amgad Elgowainy. Purdue objects to the admissibility of Plaintiff's deposition. Depositions are not admitted in evidence as exhibits; this Court's final Pre-Trial Order regarding conduct of trial contains a separate procedure for designating testimony to be offered via deposition. This deposition is not a proper exhibit.

/s/ Trenten D. Klingerman

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**CERTIFICATE OF SERVICE**

I certify that on the 17<sup>th</sup> day of September, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Nathaniel Ruff  
Attorney at Law  
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Merrillville, IN 46401

/s/ Trenten D. Klingerman

**TRENTEN D. KLINGERMAN**

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