

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
LEWIS T. BABCOCK, JUDGE**

Civil Case No. 07-cv-01277-LTB-KMT
(Consolidated w/Civil Case No. 08-cv-02487-REB-MJW)

MARY BARONE,

Plaintiff,

v.

UNITED AIRLINES, INC.,

Defendant.

ORDER

THIS MATTER is before the me on Defendant United Air Lines, Inc.'s Motion for Ruling in Advance of Trial Regarding Sufficiency of Plaintiff Foundation Evidence For Admission of Highly Prejudicial Stray Remarks, filed November 11, 2010 (docket # 127). In that motion, Defendant requests that I require Plaintiff to make an offer of proof prior to trial on the foundational condition to admissibility of any testimony concerning discriminatory comments made by Kevin Mortimer, and that I make a firm ruling on the admissibility of this testimony.

In the Final Trial Preparation Conference held on November 12, 2010, I ordered Plaintiff to submit an offer of proof and set a hearing on said offer of proof to make a firm ruling on the admissibility of this testimony before trial. Therefore, Defendant United Air Lines, Inc.'s Motion for Ruling in Advance of Trial Regarding Sufficiency of Plaintiff Foundation Evidence For Admission of Highly Prejudicial Stray Remarks, filed November 11, 2010 (docket # 127) is **GRANTED**.

On November 26, 2010, Plaintiff filed an Offer of Proof Regarding: Kevin Mortimer's Role and Influence in Discriminatory and Retaliatory Action Against Plaintiff (docket #136). Defendant filed its Response on November 30, 2010 (docket #139). On December 1, 2010, I held a hearing addressing Plaintiff's Offer of Proof.

For the reasons stated on the record, I update my May 12, 2010 Order (docket #115) and HEREBY ORDER Defendant's Motion in Limine, filed March 9, 2010 (docket #101) is **GRANTED** as to Debra Benjamin, DeeDee Dalvit, Jennifer McInerney, Denise Ambrose Van-Dyke, Larry Everett, and Rhonda Patterson-Eachus. It is

FURTHER ORDERED that I **REVERSE** the May 12, 2010 Order (docket #115) and **GRANT** Defendant's Motion in Limine as to Kevin Mortimer's "stray comments," specifically including any comments made by Mortimer illustrating his alleged discriminatory or retaliatory animus.

Dated: December 1, 2010.

BY THE COURT:

s/Lewis T. Babcock
Lewis T. Babcock, Judge