

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
CIVIL COURT DEPARTMENT

JOHN DOE,)
)
)
Plaintiff,)
)
)
vs.) Case No. 12 C 168
) Div. No. 6
KIRK THOMPSON, DIRECTOR,)
et al.,)
)
Defendants.)

FILED BY CLERK
KS DISTRICT COURT
THIRD JUDICIAL DIST.
TOPEKA, KS

2012 DEC - 7 P 2:58

DEFENDANTS' MEMORANDUM IN SUPPORT OF JOINT MOTION TO STRIKE

Defendants Kirk Thompson, Director of the Kansas Bureau of Investigation ("KBI"), and Frank Denning, Sheriff of Johnson County, Kansas, (collectively, "Defendants") have moved to strike hearsay and other inadmissible testimony and text from Plaintiff's affidavits and other materials supporting his motion for summary judgment. In support of their motion to strike, Defendants provide this memorandum in support, which presents arguments and authority as well as three tables identifying in detail the material that should be stricken and the bases therefor. Defendants have attached hereto copies of the affidavits and excerpts of Plaintiff's memorandum in support containing objectionable material, with the specific testimony and text highlighted.

ARGUMENT

I. Introduction

Several portions of Plaintiff's memorandum supporting summary judgment and his supporting materials contain inadmissible material inappropriate for summary judgment proceedings. Plaintiff's motion relies heavily on affidavits from himself and his current spouse that are replete with testimony unsupported by specific material facts, personal knowledge or

both; inadmissible hearsay testimony, including double and triple hearsay; legal, psychological, and other technical and lay opinion testimony that lacks foundation and about which the affiant or the out-of-court declarant lacks the necessary competency. Thus, these objectionable portions of the affidavits and the corresponding portions of the supporting memorandum that quote or rely on those objectionable portions are improper. Plaintiff's motion also inappropriately attempts to use law journal articles and other publications in lieu of competent and admissible testimony to establish certain material facts. Further, Plaintiff's affidavits and motion refer to and depend on the content of documents without providing certified copies of the documents. All of this objectionable material violates K.S.A. §§60-256, 60-419, 60-456, 60-460, 60-467, and distorts the record in a way that unfairly prejudices Defendants. Additionally, in the Argument section of Plaintiff's supporting memorandum, he relies on contentions of fact that are not included in his Statement of Uncontroverted Facts, violating Supreme Court Rule 141(a)(1). He also relies on facts not supported by evidence in the record, violating Supreme Court Rule 141(a)(2).

Plaintiff's motion and supporting materials should be struck from the record, and Plaintiff should be directed to re-file his motion without the hearsay and other inadmissible material.

II. Legal Standard

K.S.A. §60-256(e)(1) sets out the requirements for affidavits offered in support of a motion for summary judgment:

(e) Affidavits or declarations; further testimony. (1) In general. A supporting or opposing affidavit or declaration must be made on personal knowledge, set out facts that would be admissible in evidence and show that the affiant or declarant is competent to testify on the matters stated. If a paper or part of a paper is referred to in an affidavit or declaration, a sworn or certified copy must be attached to or served with the affidavit or declaration. The court may permit an affidavit or declaration to be supplemented or opposed by depositions, answers to interrogatories or additional affidavits or declarations.

K.S.A. §60-419 requires, “[a]s a prerequisite for the testimony of a witness on a relevant or material matter, there must be evidence that he or she has personal knowledge thereof, or experience, training or education if such be required.”

K.S.A. §60-460 defines hearsay as “[e]vidence of a statement which is made other than by a witness while testifying at the hearing, offered to prove the truth of the matter stated.” Pursuant to K.S.A. §60-459, “[s]tatement” means not only an oral or written expression but also nonverbal conduct of a person intended by him or her as a substitute for words in expressing the matter stated.” This type of evidence is inadmissible unless it falls under a recognized hearsay exception. “The theory behind the hearsay rule is that when a statement is offered as evidence of the truth asserted in it, the credibility of the asserter is the basis for the inference, and therefore the asserter must be subject to cross-examination.” *State v. Harris*, 259 Kan. 689, 698, 915 P.2d 758 (1996) (citing 6 Wigmore on Evidence § 1766 (Chadbourn rev. 1976)).

K.S.A. §60-456(a) and (b) set forth the requirements for opinion testimony:

(a) If the witness is not testifying as an expert his or her testimony in the form of opinions or inferences is limited to such opinions or inferences as the judge finds (a) may be rationally based on the perception of the witness and (b) are helpful to a clearer understanding of his or her testimony.

(b) If the witness is testifying as an expert, testimony of the witness in the form of opinions or inferences is limited to such opinions as the judge finds are (1) based on facts or data perceived by or personally known or made known to the witness at the hearing and (2) within the scope of the special knowledge, skill, experience or training possessed by the witness.

K.S.A. §60-467 requires that, “[a]s tending to prove the content of a writing, no evidence other than the writing itself is admissible,” unless the court makes a finding that one of six exceptions has been satisfied.

III. Categories of Objectionable Material

Because of the volume of inadmissible material filed by Plaintiff, this brief first addresses the categories of objectionable material, providing several examples, and then provides three tables listing each instance of the objectionable material, and the bases for striking it from the record. The inappropriate and unfairly prejudicial testimony and text in Plaintiff's summary judgment materials fall into several categories.

First, the affidavits of Plaintiff John Doe and his spouse, Jane Doe, contain the following types of inadmissible testimony:

- testimony unsupported by personal knowledge;
- testimony unsupported by specific material facts, such as the identity of other persons and the timing or frequency of alleged events;
- hearsay, double hearsay, and triple hearsay that fails to satisfy any recognized exception to the hearsay rule;
- unsupported legal opinions and conclusions, which neither affiant is shown to be competent to provide;
- lay opinion testimony that is not rationally based on personal knowledge or perception;
- expert opinion testimony from a non-expert; and
- testimony about the contents of certain documents without attaching an original or certified copy of the documents.

Second, the text of Plaintiff's memorandum supporting summary judgment contains the following inappropriate text:

- quotations, paraphrasing, and other text relying on the inadmissible testimony contained in the affidavits of Plaintiff and his spouse, Jane Doe;

- references to writings without offering the original or a certified copy of the writing; and
- asserted facts that are unsupported by any evidence in the record and are instead supported by citations to journal articles, newspaper articles, and webpages, which neither are offered as evidence nor would be admissible even if offered.

Regarding the requirement that fact and opinion testimony offered be based on personal knowledge and contain sufficient supporting facts (*see K.S.A. §§60-256(e), 60-419, 60-456*), these statutory requirements ensure that trustworthy evidence is offered to the Court. *See Pullen v. West*, 278 Kan. 183, 210-13, 92 P.3d 584 (2004) (affirming trial court's exclusion of witness' opinion testimony about fireworks launcher because witness had not personally observed launcher in use and because witness was not designated as expert and no expert report had been prepared and submitted); *RAMA Operating Co., Inc. v. Barker*, 47 Kan. App. 2d 1020, 1031, 286 P.3d 1138, 1146 (2012) ("conclusory affidavits are insufficient to establish contested facts for summary judgment purposes"); *ORI, Inc. v. Lanewala*, 147 F. Supp. 2d 1069 (D. Kan. 2001) (on motion for summary judgment, applying parallel federal rules of evidence 602 and 701 to exclude witnesses' "conclusory assertions, unsubstantiated with any specific facts" where "absolutely no evidence that the two [witnesses] had first-hand knowledge" of alleged events).

As Judge Lungstrum has explained, "[w]hile it is true that 'personal knowledge' includes inferences and opinions, those inferences and opinions must be grounded in observation or other first-hand personal experience. They must not be flights of fancy, speculations, hunches, intuitions, or rumors about matters remote from that experience." *PAS Communications, Inc. v. Sprint Corp.*, 139 F. Supp. 2d 1149, 1181 (D. Kan. 2001) (on cross-motions for summary judgment, applying parallel federal rules of evidence 602 and 701 to exclude witness' statements

about other person's beliefs where no facts established witness' first-hand knowledge of the matter).

An example of this sort of improper evidence in this case is Plaintiff's testimony that the parents of other schoolchildren "know nothing about me except what they can view on the Offender Registry," and then call Plaintiff "a bad man" and other names in front of their children, who in turn "repeat[]" those names to Plaintiff's children. Plaintiff's Ex. 5, ¶6. In this instance, Plaintiff needs it to be true that the other parents "know nothing" more about Plaintiff besides what the parents allegedly learned from the registry information. This is so because it is the only way for Plaintiff to isolate his registration status as the sole cause for the other schoolchildren's parents' behavior and statements that he finds burdensome. Yet Plaintiff offers no basis for the Court to find that Plaintiff would have personal knowledge about the source or extent of parents' knowledge about Plaintiff, about the Kansas Offender Registration Act ("KORA"), about the KBI's sex offender registry, or about the Johnson County Sheriff's sex offender registry. In these instances, Plaintiff merely engages in speculation.

Regarding the hearsay rule (*see* K.S.A. §60-460), that rule is designed to place the declarant before the Court to ensure that there is a credible basis for the facts and inferences being asserted in the testimony. *See Harris*, 259 Kan. at 698.

Plaintiff's approach consistently evades this requirement by having Plaintiff and his spouse, Jane Doe, testify to out-of-court statements by numerous declarants, most if not all being unidentified, while asking this Court to rely on those declarant's statements for the truth of the matter asserted. Specifically, Plaintiff asserts that there are or have been negative effects on Plaintiff as a result of his registration. To show certain of these asserted negative effects, Plaintiff alleged that other people have communicated, out of court, what they actually believe or think

about the Plaintiff and his family, or what they experienced outside of Plaintiff's presence and the reasons for those experiences. To connect the dots in support of Plaintiff's theory of the case, these out-of-court communications must be evidence of the truth of the matter asserted. For the objectionable material listed in detail below, it is insufficient for Plaintiff to offer the out-of-court statements made to Plaintiff or his spouse to show only what words were uttered regardless of whether the words represent the truth. Instead, Plaintiff needs the unnamed declarants' statements as substantial credible evidence proving that the declarants' believe, think or feel certain things, or have done, witnessed or experienced certain things outside of Plaintiff's presence. This is exactly what the hearsay rule prohibits.

As an example, Plaintiff testifies in his affidavit that "children at school" have "told" Plaintiff's children that "their father is a 'bad man,' 'pervert,' or 'pedophile,'" and that this is solely the result of Plaintiff's registration status. Plaintiff's Ex. 5, ¶6. These statements are only relevant to Plaintiff's theory of the case if his children's recounting of events at school is true. If what the "children at school" said to Plaintiff's children, and the asserted reasons why they said it, are not true, then what Plaintiff's children claimed happened at school has no bearing on whether Plaintiff suffers an unconstitutional burden as a result of his registration status. (There is an additional, non-hearsay problem with this testimony, which is that Plaintiff presents no admissible evidence that the alleged names used by the schoolchildren can be attributed to Plaintiff's status as a registering offender rather than the public fact of Plaintiff's conviction for a sex crime. Thus, even if admissible, the testimony does not establish any material fact because it does not help show that there is a causal link between KORA and any alleged burden suffered by Plaintiff.)

Regarding expert opinion testimony (*see* K.S.A. §60-456), in this case, Plaintiff did not designate any experts, and no expert reports have been provided to Defendants. Thus, Plaintiff is precluded from offering any expert opinion in support of his claim.

As for legal opinions and conclusions in affidavits (*see* K.S.A. §§60-456, 26-256(e)), they are not proper to establish material facts to support summary judgment. *See Estate of Belden v. Brown County*, 46 Kan. App. 2d 247, 285-86, 261 P.3d 943 (2011) (applying K.S.A. §60-256(e) and holding that affidavit containing opinions expressed as legal conclusions were inadmissible at trial and thus may not be submitted in support of or opposition to summary judgment). As an example of this improper testimony, Plaintiff's affidavit repeatedly characterizes offender registration and notification as “punishment” and “shaming.” E.g., Ex. 5, ¶¶3, 22. One of the ultimate issues presented by this case is whether the offender registration and notification regime established by KORA can be construed as punishment. It is improper for Plaintiff or his spouse to testify to these legal conclusions as if they were uncontested or admissible facts or opinion.

Regarding documents, K.S.A. §60-256(e) requires affidavits referring to writings to include the writings, and K.S.A. §60-467 requires that an original writing – or certified copy where appropriate – be offered into evidence to prove the content of the writing unless the Court makes a finding that an exception is satisfied. Plaintiff's affidavits refer to several documents that are not provided. For example, Plaintiff testifies that “[i]nformation on the Offender Registry is now disseminated by services, such as <http://www.sexoffenderin.com>. ” Plaintiff's Ex. 5, ¶24. In addition, Plaintiff's supporting memorandum – without any citation to the record, in violation of Supreme Court Rule 141(a)(2) – refers to the content of other documents such as cellular phone applications, the online version of a newspaper, and alleged “comment” sections

on different websites. *See* Plaintiff's Memorandum in Support of Summary Judgment, pp. 57-58. None of these documents have been submitted as evidence to the Court, and no justification has been given for failing to satisfy the statutory requirements.

IV. Specific Objections and Material to Strike

Plaintiff's affidavit is replete with the admissibility problems described above, and as detailed in the three tables that follow. The objectionable and prejudicial material is listed below for (1) Plaintiff's Summary Judgment Exhibit 5, Plaintiff's affidavit (*see* Defendants' Ex. A, Plaintiff's affidavit with highlighted material to strike, appended hereto); (2) Plaintiff's Summary Judgment Exhibit 29, Jane Doe's affidavit (*see* Defendants' Ex. B, Jane Doe affidavit with highlighted material to strike, appended hereto); and (3) Plaintiff's Memorandum in Support of Summary Judgment (*see* Defendants' Ex. C, excerpts of supporting memorandum with highlighted material to strike, appended hereto).

A. Defendants' Objections to Exhibit 5, Affidavit of Plaintiff John Doe

**Table A – Defendants' Objections to Exhibit 5
Affidavit of Plaintiff John Doe**

¶	Objectionable language	Basis for objection
2	"As a result of my felony conviction, I understand that I will face discrimination on that basis alone, that I must forego certain civil rights, and that the jobs I can hold will be restricted."	Inadmissible evidence not based on personal knowledge and lacking specific supporting facts. - Conclusory allegations and speculation as to whether he "will face discrimination" for being a felon, his potential jobs "will be restricted," or whether and what civil rights he might have to "forego" in the future.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectable language	Basis for objection
3	“However, the effects of registering as a sex offender extend far beyond the collateral effects associated with being a felon. The persistent and daily effects of my registration feel more akin to a continuation of punishment for my crime than merely collateral consequences.”	<p>Impermissible legal conclusion as to what constitutes “punishment.”</p> <p>Inadmissible evidence not based on personal knowledge and lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Vague and conclusory allegation about “persistent and daily effects” because insufficient specific facts about what Plaintiff alleges occurs “persistently” and “daily.” - No admissible facts provided elsewhere that amount to “persistent” or “daily” experiences related to KORA. Examples are nearly all hearsay, not based on personal knowledge, and speculation.
4	“When local police come to my home to conduct compliance checks, my children become confused and anxious.”	<p>Plaintiff is not competent to testify as to feelings of children:</p> <ul style="list-style-type: none"> - No specific facts provided to establish foundation or basis for opinion testimony about another person’s state of mind. - Plaintiff lacks personal knowledge of what other people feel. - No specific facts provided to establish any basis to assert observed “confusion.” <p>Hearsay if children’s statements about feelings are offered for truth of children’s feelings.</p>
4	“They ask me why the police need to come to the house when I have not done anything wrong.”	Hearsay if children’s statements that Plaintiff has not done anything wrong are offered for either (1) the truth of Plaintiff not having done anything wrong, or (2) the truth of children believing that Plaintiff has not done anything wrong.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶	Objectionable language	Basis for objection
5	<p>“Because of my inclusion on the registry, my children have been teased by their schoolmates and prevented from forming lasting relationships with other children whose parents instruct them not to associate with my family.”</p>	<p>Plaintiff is not competent to testify to psychological state of children “forming lasting relationships” or to testify to the cause of being “prevented from forming lasting relationships”:</p> <ul style="list-style-type: none"> - No specific facts provided to establish foundation or basis for opinion testimony about another person’s state of mind or the causes for that state. - Plaintiff lacks personal knowledge of other people’s state of mind. - No basis provided for expert psychological opinion about Plaintiff’s children. <p>Improper conclusory allegation about the cause of Plaintiff’s children’s psychological condition.</p> <p>No basis provided to establish how Plaintiff would have personal knowledge of (1) any “instructions” given by other schoolchildren’s parents; (2) any statements by other schoolchildren to “tease” Plaintiff’s children.</p> <p>Hearsay if Plaintiff’s children’s statements are offered for truth of (1) being teased at school; (2) what the teasing is about; (3) teasing on this subject affecting Plaintiff’s children’s relationships with other students.</p> <p>Double hearsay if schoolchildren’s statements to Plaintiff’s children about schoolchildren’s parents’ instructions are offered for truth of schoolchildren receiving parents’ instructions.</p> <p>Triple hearsay if parents’ instructions made to schoolchildren that schoolchildren then tell Plaintiff’s children are offered for truth of parents’ beliefs about Plaintiff’s family or the truth of parents’ reasons for not allowing schoolchildren to “associate with” Plaintiff’s family.</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶	Objectionable language	Basis for objection
6	“My children have come home from school crying because children at school told them their father is a ‘bad man,’ ‘pervert,’ or ‘pedophile.’”	No basis provided to establish how Plaintiff would have personal knowledge of any statements by other schoolchildren to Plaintiff’s children. Hearsay if Plaintiff’s children’s statements about (1) what they are told at school; (2) why they are crying are offered for truth of (1) what they are told at school; or (2) why they are crying. Double hearsay if schoolchildren’s statements to Plaintiff’s children are offered for truth of schoolchildren’s belief that Plaintiff is bad.
6	“My children’s schoolmates are repeating what they hear from their own parents, people who know nothing about me except what they can view on the Offender Registry.”	No basis provided to establish how Plaintiff would have personal knowledge of (1) any statements by other schoolchildren to Plaintiff’s children; (2) any statements by parents of other schoolchildren to those other schoolchildren; (3) what parents of other schoolchildren know or don’t know. Hearsay if Plaintiff’s children’s statements about what schoolchildren said at school are offered for truth of what schoolchildren said. Double hearsay if schoolchildren’s statements to Plaintiff’s children about what their parents’ said are offered for truth of what parents’ said.
		Triple hearsay if schoolchildren’s parents’ statements to schoolchildren that are then told to Plaintiff’s children are offered for truth of what parents know about Plaintiff.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
7	<p>“Unfortunately, due to the popular belief that the Kansas Offender Registry is for ‘violent sex offenders’ and ‘sexual predators,’ I am rarely afforded such an opportunity.”</p>	<p>Vague and speculative as to identity of specific persons that hold this “belief.”</p> <p>Plaintiff is not competent to testify as to “popular belief” or to reasons why parents won’t give “opportunity” to have discussions with Plaintiff:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about popular beliefs. - Plaintiff lacks personal knowledge of what other people believe. <p>If Plaintiff is basing this on statements of other people, then hearsay if people’s statements about beliefs offered for truth of what other people believe.</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
8	<p>“But they [Plaintiff’s children] are paying a huge price that will have lasting negative emotional and social outcomes throughout their lives.”</p>	<p>Plaintiff is not competent to testify as to any “price” (psychological effects) experienced by Plaintiff’s children:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about psychological effects on children. - Plaintiff lacks personal knowledge of what other people believe. - No basis provided for expert psychological opinion about Plaintiff’s children. <p>Plaintiff is not competent to testify as to “lasting emotional and social outcomes”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about future psychological and social effects on children’s lives. <p>Inadmissible evidence not based on personal knowledge and lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegations and speculation as to current effects (“price”) or future effects (“lasting . . . outcomes”). - Conclusory allocations and speculation about whether any psychological effects are attributable to registration rather than underlying conviction. <p>If Plaintiff is basing this on statements of his children, then hearsay if children’s statements about feelings offered for truth of what children feel.</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶	Objectionable language	Basis for objection
9	“However, I was terminated once my presence on the Offender Registry was brought to the attention of my employer.”	<p>Inadmissible evidence not based on personal knowledge and lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegations about the reason for employer’s decision to fire Plaintiff. - No basis established for personal knowledge of whether any information was “brought to the attention” of employer before being fired. - No basis established for personal knowledge of details of employer’s decision-making on Plaintiff’s employment.
10	“Someone who saw my profile on the registry website informed my manager that I was listed as a sex offender. I was then summoned to my manager’s office, terminated, and escorted from the building.”	<p>Vague and speculative as to identity of “someone” that allegedly informed manager.</p> <p>Plaintiff is not competent to testify to the events described:</p> <ul style="list-style-type: none"> - Lack of foundation for how Plaintiff could know about the observations and actions of “someone.” - Plaintiff lacks personal knowledge of “someone” observing registry. - Plaintiff lacks personal knowledge of “someone” informing manager. <p>Hearsay if statements of “someone” are offered for truth of “someone” observing registry.</p>
		Hearsay if statements of manager are offered for truth of “someone” informing manager of registry information.
		Double hearsay if statements of manager are offered for truth of statements by “someone” to manager that “someone” observed registry.
10	“My manager told me that other employees working for the company had felony convictions.”	Hearsay if statements of manager are offered for truth that company employed other felons.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
10	“However, he said that my listing on the Offender Registry would expose the company to public relations liabilities and issues related to employees’ concerns for workplace safety.”	Hearsay if statements of manager are offered for truth that Plaintiff’s status would expose company to public relations and safety issues.
11	“Subsequently, I attempted to gain employment commensurate with my education, skills and abilities, but I was rejected as soon as I disclosed my registration status to prospective employers.”	Inadmissible evidence lacking specific supporting facts. <ul style="list-style-type: none"> - No details of attempts to find jobs, such as how many attempts, over what period of time, and which employers.
11	“I was told several times that I would only be able to find low-paying, temporary labor jobs. Some prospective employers even told me to come back when I was ‘off the list.’”	Vague and speculative as to identity of who told him about temporary jobs and identity of “some prospective employers.” Hearsay if statements of are offered for truth that Plaintiff would only find certain jobs or would be allowed to reapply after not being on registry.
12	“With no place to turn in the job market . . .”	Inadmissible evidence lacking specific supporting facts. <ul style="list-style-type: none"> - Based only on conclusory allegations about no job opportunities.
12	“I have spoken with other registered offenders who have also turned to self-employment when public disclosure of their registration precluded other job opportunities.”	Vague and speculative as to identity of “other registered offenders.” Hearsay if statements of “other registered offenders” are offered for truth of “other registered offenders” job situation and job decisions.
13	“My registration has a limiting effect on my business.”	Inadmissible evidence lacking specific supporting facts. <ul style="list-style-type: none"> - Conclusory allegations about effect of registration.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
15	<p>“attorneys representing the townhome complex where my family and I lived sent me a letter stating that my lease would not be renewed. They provided no reasons”</p>	<p>Testimony about content of letter not admissible without judicial finding of an exception to K.S.A. §60-467 (Original document required as evidence):</p> <ul style="list-style-type: none"> - Content of writing must be proved with writing itself, unless judicial finding that exceptions satisfied. - No justification for any exceptions provided. <p>K.S.A. §60-256(e) requires that affidavits describing contents of a writing attach a certified copy of the writing.</p> <p>Hearsay if statements in attorneys’ letter are offered for truth of attorneys not providing any reasons for terminating lease.</p>
15	<p>“Moreover, this was not systematic. That is, only my lease was terminated; none of my neighbors experienced the same.”</p>	<p>Plaintiff is not competent to testify to these events:</p> <ul style="list-style-type: none"> - No foundation for how Plaintiff could know about whether townhome complex terminated any other leases at the same time as Plaintiff’s. - Plaintiff lacks personal knowledge of townhome complex management’s leasing decisions. - Plaintiff lacks personal knowledge of whether every other neighbor’s lease was renewed. - Plaintiff lacks personal knowledge of what neighbors “experienced.”

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
16	“landlords that reviewed my applications told me that they had no issues with my felony conviction. They said they did not want to rent to me because of my registration. Many explained that, when the map on the Offender Registry website indicates that a sex offender lives on their property, current tenants will leave and potential tenants will avoid the area.”	Hearsay if landlords’ statements are offered for truth of: <ol style="list-style-type: none"> 1. Landlords had “no issues” with Plaintiff’s felony conviction; 2. Landlords not wanting to rent to Plaintiff “because of [Plaintiff’s] registration; 3. Landlords belief that “current tenants will leave and potential tenants will avoid the area.”
17	“It was the only way I found to circumvent the rental discrimination I faced.”	Inadmissible evidence lacking specific supporting facts. <ul style="list-style-type: none"> - Conclusory allegations about “discrimination” because the supporting testimony in ¶¶ 15-17 is inadmissible hearsay.
18	“my neighbors have told me they fear they are less likely to sell their homes for true market value because the close proximity of a registered sex offender (me) will make their houses less desirable to prospective buyers.”	Hearsay if neighbors’ statements are offered for truth of neighbors’ “fear” about market value and prospective buyers’ reactions. Neighbor’s generalized fear is speculative, and therefore improper for summary judgment proceedings. Neither Plaintiff nor the unidentified neighbors he refers to are competent to testify as to property valuation: <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about how real estate is valued, what current property value is, and what future property value might be.
19	“interest of preserving value in my own property”	Plaintiff is not competent to testify as to property valuation: <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about how real estate is valued, what current property value is, and what future property value might be.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
19	<p>“I have been advised to establish residency and register at my new address prior to listing my home for sale.”</p>	<p>Vague and speculative as to identity of specific persons that “advised” Plaintiff.</p> <p>Hearsay if statements of unidentified persons offered for truth of what those persons believe that Plaintiff should do regarding his registration or for truth of what those persons believe is good real estate advice.</p>
21	<p>“Over the past nine years since my conviction, I have worked diligently to ensure that the behaviors that led to my crime were addressed and that I could be fully rehabilitated.”</p>	<p>Improper expert opinion about mental health of Plaintiff. Plaintiff is not competent to testify as to a mental health evaluation that he has been “fully rehabilitated”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about mental health evaluations or rehabilitation. <p>Plaintiff is not competent to testify to lay opinion about Plaintiff’s being “fully rehabilitated”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about Plaintiff’s rehabilitation. - No specific facts provided to support opinion about Plaintiff’s rehabilitation.
21	<p>“My success in addressing those behaviors provides me with confidence that I do not pose a threat to the community.”</p>	<p>Improper expert opinion about mental health of Plaintiff. Plaintiff is not competent to testify as to a mental health evaluation that he is not “a threat to the community” and has been fully rehabilitated:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about mental health evaluations or rehabilitation. <p>Plaintiff is not competent to testify to lay opinion about Plaintiff’s being “threat to the community”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about Plaintiff’s threat. - No specific facts provided to support opinion about Plaintiff’s threat.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶	Objectionable language	Basis for objection
21	<p>“encountering people who know me only by the information displayed on the Offender Registry”</p> <p>and</p> <p>“I was required to register and be faced with the shaming of notification for 10 years.”</p> <p>and</p> <p>“I was on notice that I would be penalized for my crime in that manner.”</p> <p>and</p> <p>“extend my punishment”</p> <p>and</p> <p>“enduring this public shaming”</p>	<p>Vague and speculative as to identity of “people.”</p> <p>Plaintiff is not competent to testify to what “people” know:</p> <ul style="list-style-type: none"> - Lack of foundation for what “people” know. - Plaintiff lacks personal knowledge of what other persons know. <p>Hearsay if statements of “people” offered for truth of what “people” know.</p>
22	<p>“I was required by the State of Kansas to follow the KSORA as punishment for my crime.”</p> <p>and</p> <p>“I was not on notice that the State would arbitrarily extend my punishment an additional 15 years.”</p>	<p>Impermissible legal conclusion as to what constitutes “punishment,” “shaming of notification,” being “penalized,” or “public shaming.”</p> <p>Impermissible legal conclusion as to whether change in duration of registration period was “arbitrary.”</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶	Objectionable language	Basis for objection
22	“no regard for my actual risk to the community”	Impermissible legal conclusion as to whether existing statutory classifications account for “actual risk.”
23	“I question the zealousness of the police department in pursing justice against the perpetrator of the crime against my home.”	Improper speculative, conclusory allegations that lack specific supporting facts about the “zealousness” of the police.
24	“Information on the Offender Registry is now disseminated by services, such as http://www.sexoffenderin.com .”	<p>Testimony about content of webpages not admissible without judicial finding of an exception to K.S.A. §60-467 (Original document required as evidence):</p> <ul style="list-style-type: none"> - Content of writing must be proved with writing itself, unless judicial finding that exceptions satisfied. - No justification for any exceptions provided. <p>K.S.A. §60-256(e) requires that affidavits describing contents of a writing attach a certified copy of the writing.</p> <p>Hearsay if statements on website about the information coming from offender registries are offered for truth of the source of the website information.</p>
24	“[websites] have no obligation to warn users that seeking vigilante justice against registrants is criminal”	<p>Plaintiff is not competent to testify to legal opinion about the legal obligations of “services, such as http://www.sexoffenderin.com” :</p> <ul style="list-style-type: none"> - Lack of foundation or basis for legal opinion testimony.
24	“This increases the chance that someone may believe it is permissible to harm me or my family, and, in turn, increases my anxiety about my family’s vulnerability.”	Improper speculative, conclusory allegations that lack specific supporting facts about “the chance that someone may believe it is permissible” to violate the law and harm another person.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
25	“my discussions with the local police, these compliance checks are performed at the request of the Johnson County Sheriff’s Office.”	Hearsay if statements of “local police” offered for truth that the Johnson County Sheriff’s Office has requested “compliance checks.”
26	“The police visits have a chilling effect on my neighbors and my children.”	<p>Vague and speculative as to what a “chilling effect” is, and the identity of “neighbors”</p> <p>Plaintiff is not competent to testify as to feelings of other people:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Plaintiff lacks personal knowledge of what other people feel. <p>Hearsay if “neighbors” and Plaintiff’s children’s statements about feelings are offered for truth of feelings.</p> <p>Impermissible legal conclusion as what is a “chilling effect.”</p> <p>Plaintiff is not competent to testify to legal opinion about “chilling effect”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for legal opinion testimony.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
26	“my neighbors question the trust I have been working to build with them.”	Vague and speculative as to identity of “neighbors.” Plaintiff is not competent to testify as to thoughts of other people: <ul style="list-style-type: none">- Lack of foundation or basis for opinion testimony about state of mind.- Plaintiff lacks personal knowledge of what other people think. Hearsay if “neighbors” statements about feelings are offered for truth of any “question[ing]” of trust.
26	“The community naturally perceives police visits as indicators that something is wrong.”	Inadmissible evidence lacking specific supporting facts. <ul style="list-style-type: none">- Conclusory allegations and speculation as to neighbors’ thoughts. Vague and speculative as to identity of “community,” and no specific facts as to any specific persons that ever observed a “police visit.” Plaintiff is not competent to testify as to perceptions of other people: <ul style="list-style-type: none">- Lack of foundation or basis for opinion testimony about state of mind.- Plaintiff lacks personal knowledge of what other people perceive. Hearsay if statements by “community” about perceptions are offered for truth of perceptions.
27	“The Lieutenant was positive that Kansas’s registration statutes authorized police visits to my home.”	Vague and speculative as to identity of “Lieutenant.” Hearsay if statements of “Lieutenant” are offered for truth of what the “Lieutenant” believed.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
27	<p>“He was corrected later by the Assistant City Attorney, who advised him that there is no statutory authority to conduct these visits.”</p>	<p>Vague and speculative as to identity of “Lieutenant” and “Assistant City Attorney.”</p> <p>Hearsay if statements of “Lieutenant” are offered for truth of what the “Assistant City Attorney” told the “Lieutenant.”</p> <p>Double hearsay if statements to “Lieutenant” by “Assistant City Attorney” are offered for the truth of “no statutory authority.”</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
27	<p>“The Assistant City Attorney told him that they are being conducted under the Supreme Court’s ruling that a ‘knock and talk’ using access available to the public is authorized.”</p>	<p>Vague and speculative as to identity of “Lieutenant” and “Assistant City Attorney.”</p> <p>Hearsay if statements of “Lieutenant” are offered for truth of what the “Assistant City Attorney” told the “Lieutenant.”</p> <p>Double hearsay if statements to “Lieutenant” by “Assistant City Attorney” are offered for the truth of which procedures are “authorized.”</p> <p>Plaintiff is not competent to testify to policies of “local police”:</p> <ul style="list-style-type: none"> - No foundation for how Plaintiff could know local police policies. - Plaintiff not authorized to testify on behalf of local police as to policies and procedures. - Plaintiff lacks personal knowledge of local police policy decisions. <p>Testimony about content of local police policies and procedures, if written, not admissible without judicial finding of an exception to K.S.A. §60-467 (Original document required as evidence):</p> <ul style="list-style-type: none"> - Content of writing must be proved with writing itself, unless judicial finding that exceptions satisfied. - No justification for any exceptions provided.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
29	<p>“These policies apply only because I am a registered offender; they are not applicable to all individuals with felony convictions.”</p>	<p>Vague and speculative as to identity of “school.”</p> <p>Plaintiff is not competent to testify to policies of unidentified “school”:</p> <ul style="list-style-type: none"> - No foundation for how Plaintiff could know school policies. - Plaintiff not authorized to testify on behalf of school as to policies and procedures. - Plaintiff lacks personal knowledge of school policy decisions. <p>Testimony about content of school policies and procedures, if written, not admissible without judicial finding of an exception to K.S.A. §60-467 (Original document required as evidence):</p> <ul style="list-style-type: none"> - Content of writing must be proved with writing itself, unless judicial finding that exceptions satisfied. - No justification for any exceptions provided.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶	Objectionable language	Basis for objection
29	<p>“The school principal told me that I will no longer be required to take these steps when my registration period expires.”</p>	<p>Vague and speculative as to identity of “school principal.”</p> <p>Plaintiff is not competent to testify to policies of unidentified “school”:</p> <ul style="list-style-type: none"> - No foundation for how Plaintiff could know school policies. - Plaintiff not authorized to testify on behalf of school as to policies and procedures. - Plaintiff lacks personal knowledge of school policy decisions. <p>Testimony about content of school policies and procedures, if written, not admissible without judicial finding of an exception to K.S.A. §60-467 (Original document required as evidence):</p> <ul style="list-style-type: none"> - Content of writing must be proved with writing itself, unless judicial finding that exceptions satisfied. - No justification for any exceptions provided. <p>Hearsay if statements of “school principal” are offered for the truth of what the school or school principal will do after Plaintiff’s registration period ends.</p>
30	<p>“the new principal contacted me and requested that I serve on the school’s site council.”</p>	<p>Vague and speculative as to identity of “new principal.”</p> <p>Hearsay if statements of “new principal” are offered for the truth of the “new principal” requesting Plaintiff serve on the site council.</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
30	<p>“Based on conversations with several people who informed him of the work I do with various charitable organizations, he thought I would be a valuable addition to the council.”</p>	<p>Vague and speculative as to identity of “new principal” and “several people.”</p> <p>Plaintiff is not competent to testify as to thoughts of other people:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Plaintiff lacks personal knowledge of what “new principal” thought about adding Plaintiff to council. <p>Hearsay if statements of “new principal” are offered for the truth of what “new principal” thought.</p>
		<p>Hearsay if statements of “new principal” about what unidentified “other people” said to “new principal” are offered for the truth about what unidentified “other people” said.</p> <p>Double hearsay if statements of unidentified “other people” to “new principal” are being offered for the truth about unidentified “other people” having information about “the work I do with various charitable organizations.”</p>
31	<p>“At the meeting, he informed me that several parents objected to my inclusion on the site council.”</p>	<p>Vague and speculative as to identity of “new principal” and “several parents.”</p> <p>Hearsay if statements of “new principal” are offered for the truth of “several parents” objecting.</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶	Objectionable language	Basis for objection
31	“He said they demanded my removal and threatened to make the entire school community aware that a school official had invited a registered sex offender to serve if I was permitted to remain on the council.”	Vague and speculative as to identity of “new principal” and “parents.” Hearsay if statements of “new principal” about what unidentified “parents” said to “new principal” are offered for the truth about what unidentified “several parents” said. Double hearsay if statements of unidentified “parents” to “new principal” are being offered for the truth about unidentified “several parents” intentions to “make the entire school community aware” of Plaintiff being on council.
31	“He asked the parents to provide me the opportunity to address their concerns,”	Vague and speculative as to identity of “new principal” and “parents.” Hearsay if statements of “new principal” about what he asked unidentified “parents” are offered for the truth about what “new principal” actually asked.
31	“but they all refused”	Vague and speculative as to identity of “new principal” and “parents.” Hearsay if statements of “new principal” about what unidentified “parents” said to “new principal” are offered for the truth about unidentified “parents” refusing.

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶	Objectionable language	Basis for objection
31	<p>“He stated he was unprepared for the intense anger the parents expressed, and it made him fearful for the safety and welfare of my children. He also stated that he was surprised that people with no information other than my registry listing had such a strong desire to harm me.”</p>	<p>Vague and speculative as to identity of “new principal” and “parents.”</p> <p>Plaintiff is not competent to testify as to thoughts of other people:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Plaintiff lacks personal knowledge of “new principal” being “unprepared,” “fearful,” or “surprised.” <p>Hearsay if statements of “new principal” about what unidentified “parents” said to “new principal” are offered for the truth about what the unidentified “parents” stated they knew about Plaintiff.</p> <p>Double hearsay if statements of unidentified “parents” to “new principal” are being offered for the truth about unidentified “parents” having “no information.”</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶	Objectionable language	Basis for objection
31	<p>“He relayed that they had no inclination to listen his positive experiences with me and seemed to have no desire to learn what risk I actually pose.” [sic]</p>	<p>Vague and speculative as to identity of “new principal” and “parents.”</p> <p>Plaintiff is not competent to testify as to thoughts of other people:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Plaintiff lacks personal knowledge of whether unidentified “parents” have “no inclination to listen” or “no desire to learn.” - Plaintiff lacks personal knowledge of what unidentified “parents” know about Plaintiff’s risk. <p>Hearsay if statements of “new principal” about what unidentified “parents” said to “new principal” are offered for the truth about what the unidentified “parents” stated about feelings and knowledge.</p> <p>Double hearsay if statements of unidentified “parents” to “new principal” are being offered for the truth about what unidentified “parents” actually felt and knew.</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectible language	Basis for objection
32	<p>“The principal said he was sick that he had to submit to the hysterics of a few people whose only information came from the registry website.”</p>	<p>Vague and speculative as to identity of “new principal” and “few people.”</p> <p>Plaintiff is not competent to testify as to thoughts of other people:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Plaintiff lacks personal knowledge of whether “new principal” was “sick.” - Plaintiff lacks personal knowledge of what unidentified “parents” know about Plaintiff or the registry. <p>Hearsay if statements of “new principal” are offered for the truth about unidentified “people” having “hysterics” or about what unidentified “people” said.</p> <p>Double hearsay if statements of unidentified “people” to “new principal” are being offered for the truth about the unidentified “people” having certain information.</p>
32	<p>“He informed me that, to ensure the safety and welfare of my family, I would no longer be permitted to serve on the site council.”</p>	<p>Vague and speculative as to identity of “new principal.”</p> <p>Plaintiff is not competent to testify as to beliefs of other people:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Plaintiff lacks personal knowledge of whether “new principal” believed “safety and welfare” needed to be protected. <p>Hearsay if statements of “new principal” about not permitting Plaintiff to serve on council are offered for the truth about why Plaintiff was not being permitted to serve.</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
32	“Once again, the Offender Registry caused me to be ostracized from my community.”	<p>Plaintiff is not competent to testify as to status in community based on objectionable testimony in ¶¶28-32:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about being “ostracized.” - This testimony is based entirely on the objectionable testimony in ¶¶28-32, and therefore is conclusory and speculative.
33	“Last year, my neighbors’ three-month-old baby girl died due to SIDS.”	<p>Vague and speculative as to identity of “neighbors.”</p> <p>Hearsay if statements of “neighbors” about death of baby girl are offered for the truth about the cause of death.</p>
33	“During their time of grief, my neighbors requested that my wife and I come to the hospital.”	<p>Vague and speculative as to identity of “neighbors.”</p> <p>Hearsay if statements of “neighbors” about requesting Plaintiff come to hospital are offered for the truth about neighbors actually requesting Plaintiff’s presence.</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
33	<p>“The guard said that, because I was a registered sex offender, the hospital could not accommodate my visit.”</p>	<p>Vague and speculative as to identity of “guard.”</p> <p>Plaintiff is not competent to testify to policies of Children’s Mercy Hospital:</p> <ul style="list-style-type: none"> - No foundation for how Plaintiff could know hospital policies. - Plaintiff not authorized to testify on behalf of hospital as to policies and procedures. - Plaintiff lacks personal knowledge of hospital policy decisions. <p>Testimony about content of hospital policies and procedures, if written, not admissible without judicial finding of an exception to K.S.A. §60-467 (Original document required as evidence):</p> <ul style="list-style-type: none"> - Content of writing must be proved with writing itself, unless judicial finding that exceptions satisfied. - No justification for any exceptions provided. <p>Hearsay if statements of “guard” are offered for the truth of hospital’s basis for not allowing Plaintiff’s visit.</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶¶	Objectionable language	Basis for objection
33	“I was only barred from entering because I was listed on the Offender Registry, not because of my crime.”	<p>Plaintiff is not competent to testify to policies of Children’s Mercy Hospital:</p> <ul style="list-style-type: none"> - No foundation for how Plaintiff could know hospital policies. - Plaintiff not authorized to testify on behalf of hospital as to policies and procedures. - Plaintiff lacks personal knowledge of hospital policy decisions. <p>Plaintiff is not competent to testify as to an alleged sole reason for being barred from the hospital based on objectionable testimony in ¶33:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about basis for being barred from hospital. - This testimony is based entirely on the objectionable testimony in ¶33, and therefore is conclusory and speculative.
35	“Each May, I receive a letter from the DMV stating that I am required to get a new driver's license.”	<p>Testimony about content of DMV letter not admissible without judicial finding of an exception to K.S.A. §60-467 (Original document required as evidence):</p> <ul style="list-style-type: none"> - Content of writing must be proved with writing itself, unless judicial finding that exceptions satisfied. - No justification for any exceptions provided. <p>K.S.A. §60-256(e) requires that affidavits describing contents of a writing attach a certified copy of the writing.</p> <p>Hearsay if statements in letter are offered for truth of licensing requirements.</p>

Table A – Defendants’ Objections to Exhibit 5
Affidavit of Plaintiff John Doe

¶	Objectionable language	Basis for objection
37	<p>I provide my driver’s license often during the course of my daily life. I present it at banks, stores, hotels, restaurants, airports, and many other places that require government-issued identification.”</p> <p>and</p> <p>“Whenever I present my ID, I am concerned that people who view the registered offender number on it will deny me services and discriminate against me.”</p>	<p>Inadmissible evidence lacking specific supporting facts.</p> <ul style="list-style-type: none"> - No details provided about alleged “daily” use of driver’s license, which is unsupported by the Plaintiff’s other testimony. - By Plaintiff’s own admission, he is self-employed and works out of his own home. - No supporting facts for idea that Plaintiff is denied services or discriminated against as a customer. - Conclusory allegations and speculation as to possible future denial of services or discrimination.
43	<p>“If I had known that the registration period would increase to 25 years and include the more burdensome current requirements, I would likely not have agreed to plead as charged.”</p>	<p>Inadmissible evidence lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Plaintiff voluntarily visited police station to admit his crime to a detective (<i>see</i> Defendant’s Summary Judgment Exhibit D, Olathe Police Department file, page 3 of 5 (first paragraph of Narrative Report)), and Plaintiff has never claimed this was not voluntary. - Plaintiff’s admission of the crime occurred before he was charged, virtually guaranteeing conviction. - In any event, it is mere speculation as to what Plaintiff might have decided under different circumstances.
44	<p>“and be faced with the shame of registration and notification”</p>	<p>Impermissible legal conclusion as to whether registration and notification constitutes “shame.”</p>

B. Defendants' Objections to Exhibit 29, Affidavit of Jane Doe, Plaintiff's Spouse

**Table B – Defendants' Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff's Spouse**

¶¶	Objectionable language	Basis for objection
1	<p>"The registration and notification requirements with which my husband must comply have substantial recurring consequences for the rest of his family."</p>	<p>Inadmissible evidence not based on personal knowledge and lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about "substantial recurring consequences." - No admissible facts provided elsewhere that amount to "persistent" or "daily" experiences related to KORA. Examples are nearly all hearsay, not based on personal knowledge, and speculation.
2	<p>"Because I believe it is important to understand the context of my statements, I want to note that, from the very beginning of our relationship, my husband has been forthcoming about his crime and has taken full accountability and responsibility for his actions."</p>	<p>Inadmissible evidence lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about Plaintiff being "forthcoming" and taking "accountability and responsibility" over an unspecified period of time. (Jane Doe provided no testimony about how long she has known Plaintiff.) - No specific details provided to support exactly how Plaintiff's has behaved "from the beginning" of relationship with Jane Doe to present.

Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse

¶¶	Objectionable language	Basis for objection
4	<p>“I witnessed and was a part of many aspects of my husband’s restoration over the years since his crime.”</p>	<p>Jane Doe is not competent to testify as to psychological state of other people:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Jane Doe lacks personal knowledge of Plaintiff’s mental state. <p>Improper expert opinion about mental health of Plaintiff. Jane Doe is not competent to testify as to a mental health evaluation about Plaintiff’s “restoration”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about mental health evaluations or rehabilitation. <p>Jane Doe is not competent to testify to lay opinion about Plaintiff’s “restoration”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about Plaintiff’s “restoration.” - No specific facts provided to support opinion about Plaintiff’s “restoration.”

Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse

¶¶	Objectionable language	Basis for objection
4	<p>“As a result of this with confirmation from mental health professionals who have evaluated my husband, I firmly believe that my husband does not present a safety danger to anyone in the community.”</p>	<p>Vague and speculative as to identity of “mental health professionals.”</p> <p>Improper expert opinion about mental health of Plaintiff. Jane Doe is not competent to testify to a mental health evaluation that Plaintiff “does not present a safety danger”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about mental health evaluations or rehabilitation.
		<p>Jane Doe is not competent to testify to lay opinion about Plaintiff’s “danger”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about Plaintiff’s “danger.” - No specific facts provided to support opinion about Plaintiff’s “danger.”
		<p>Hearsay if statements of unidentified “mental health professionals” about Plaintiff are offered for truth of Plaintiff not presenting “a safety danger.”</p>
		<p>Jane Doe is not competent to testify as to thoughts and opinions of unidentified “mental health professionals” about danger to community presented by Plaintiff:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Jane Doe lacks personal knowledge of thoughts and opinions of others.

Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse

¶¶	Objectionable language	Basis for objection
6	“Because we are confident that he does not pose a risk to anyone”	<p>Improper expert opinion about mental health of Plaintiff. Jane Doe is not competent to testify to a mental health evaluation that Plaintiff “does not pose a risk”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about mental health evaluations or rehabilitation. <p>Jane Doe is not competent to testify to lay opinion about Plaintiff’s “risk”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about Plaintiff’s rehabilitation. - No specific facts provided to support opinion about Plaintiff’s rehabilitation.
7	“The issues my family faces because of my husband’s registration”	<p>Inadmissible evidence not based on personal knowledge and lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about “issues.” - No admissible facts elsewhere that provide any detailed explanation of “issues” related to KORA. Examples are all hearsay, not based on personal knowledge, and speculation.
7	“this frightening circumstance is what people think of when they hear that my husband is a registered sex offender.”	<p>Vague and speculative as to identity of “people.”</p> <p>Jane Doe is not competent to testify to thoughts of unidentified “people” about Plaintiff:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Jane Doe lacks personal knowledge of what other people think. <p>Hearsay if statements of unidentified “people” are offered for truth of what “people” think about when they are told about Plaintiff.</p>

Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse

¶¶	Objectionable language	Basis for objection
8	<p>“Many people are so filled with fear by stories of these tragic events that any rational discussion of my husband’s risk is impossible.”</p>	<p>Vague and speculative as to identity of “many people.”</p> <p>Jane Doe is not competent to testify to fears, thoughts, and state of mind of unidentified “people”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Jane Doe lacks personal knowledge of what other people fear or think, or the ability of unidentified “people” to have “rational discussion.” <p>Hearsay if statements of unidentified “people” are offered for truth of what “people” fear or their ability to have “rational discussion.”</p> <p>Inadmissible evidence lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about “fear” felt by “many people.” - No detailed explanation of when, where, or with whom Jane Doe attempted “rational discussion.”

Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse

¶¶	Objectionable language	Basis for objection
8	<p>“In my experience, a vast majority of people believe that the registry list is based on risk and that people on the list pose a risk to the community.”</p>	<p>Vague and speculative as to identity of “a vast majority of people.”</p> <p>Jane Doe is not competent to testify to beliefs and state of mind of unidentified “people”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Jane Doe lacks personal knowledge of what other people believe. <p>Hearsay if statements of unidentified “people” are offered for truth of what “people” actually believe.</p> <p>Inadmissible evidence lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about what “a vast majority of people believe.” - No details provided for how Jane Doe would acquire personal knowledge about the belief of these unidentified persons.

Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse

¶¶	Objectionable language	Basis for objection
9	<p>“Because members of the community have emotionally-charged and fearful responses to my husband’s presence on the Sex Offender Registry, I am repeatedly refused the opportunity to address their concerns.”</p>	<p>Vague and speculative as to identity of “members of the community.”</p> <p>Jane Doe is not competent to testify to beliefs and state of mind of unidentified “members of the community”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Jane Doe lacks personal knowledge of the basis for other people’s responses to Jane Doe. <p>Hearsay if statements of unidentified “members of the community” are offered for truth of what “members of the community” actually feel or the truth of the reasons the “members of the community” refuse to talk with Jane Doe.</p> <p>Inadmissible evidence lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about unidentified “community members” feelings and Jane Doe being “refused” opportunities. - No details provided for how Jane Doe would acquire personal knowledge about the feelings of these unidentified persons. - No details provided for when, where, and with whom Jane Doe is “refused.”
10	<p>“My family is shunned by members of our community.”</p>	<p>Vague and speculative as to identity of “members of our community.”</p> <p>Inadmissible evidence lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about actions of unidentified “community members.” - No details provided for who in Plaintiff’s family is shunned. - No details provided for when, where, and by whom anyone in Plaintiff’s family is shunned.

Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse

¶¶	Objectionable language	Basis for objection
10	“Regardless of our attempts to provide meaningful information on the person my husband is today,”	Vague and speculative as to identity of persons that Jane Doe spoke with. Inadmissible evidence lacking specific supporting facts. <ul style="list-style-type: none"> - Conclusory allegation about “attempts.” - No details provided for when, where, and with whom Jane Doe “attempts” to discuss Plaintiff.
10	“my entire family lives under the ‘sex offender’ label.”	Inadmissible evidence lacking specific supporting facts. <ul style="list-style-type: none"> - Conclusory allegations and argument about a “label” applied to entire family. - No details provided for who is applying “label” and circumstances describing those events. - No details provided for how Jane Doe would acquire personal knowledge about whether unidentified persons applying “label” did so based solely on Plaintiff’s registration rather than conviction.
11	“Because of others’ emotionally charged reactions to my husband’s registration”	Vague and speculative as to identity of persons that Jane Doe observed. Inadmissible evidence lacking specific supporting facts. <ul style="list-style-type: none"> - Conclusory allegation about feelings of unidentified persons. - No details provided for when and where people are having reactions to Plaintiff and who these people are. - No details provided for how Jane Doe would acquire personal knowledge about whether unidentified persons’ reaction was based solely on Plaintiff’s registration rather than conviction.

Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse

¶	Objectionable language	Basis for objection
12	“My husband’s registration impacts and punishes my children in ways that will undoubtedly have lasting emotional consequences.”	<p>Jane Doe is not competent to testify as to “lasting emotional consequences” on her children:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about future psychological effects on children’s lives. <p>Speculative as to future outcomes throughout other people’s lives; Plaintiff lacks personal knowledge for this testimony.</p>
13	“On multiple occasions, parents who have seen my husband’s information on the Sex Offender Registry have instructed their children to not associate with our children.”	<p>Vague and speculative as to identity of “parents.”</p> <p>Hearsay if statements of unidentified “parents” are offered for truth of whether “parents” have seen Plaintiff’s information on registry.</p>
13	“Often this is done [by parents] in a way such that the child has an opportunity to use the information against our children.”	<p>Vague and speculative as to identity of parents and children.</p> <p>Inadmissible evidence not based on personal knowledge and lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about what unidentified parents do. - No details provided for when, where, and who is doing instructing. - No details provided for how Jane Doe would acquire personal knowledge about whether parents’ knowledge of Plaintiff is based solely on offender registry or about how those parents “instruct” their children.

Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse

¶¶	Objectionable language	Basis for objection
13	“Our children have been told that their father is a ‘pervert’ and a ‘pedophile’ by children who do not have the intellectual capacity to understand those words.”	<p>Vague and speculative as to identity of “children” talking to Jane Doe’s children.</p> <p>Hearsay if statements of Jane Doe’s children are offered for the truth of what they are told by others about Plaintiff.</p> <p>Jane Doe is not competent to testify to the understanding and “intellectual capacity” of unidentified “children” talking to Jane Doe’s children:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about state of mind. - Jane Doe lacks personal knowledge of other people’s understanding.
13	“Our children have come home from school very upset from being teased about their father.”	Hearsay if statements of Jane Doe’s children are offered for truth of why they are upset and whether they are being “teased” and the basis for being “teased.”
14	“In other cases, children have excluded our children from social activities, making them feel isolated.”	<p>Vague and speculative as to identity of children.</p> <p>Inadmissible evidence not based on personal knowledge and lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about what other children do. - No details provided for when, where, how, and why excluding is occurring and by whom. - No details provided for how Jane Doe would acquire personal knowledge about why other children are excluding Plaintiff’s children.

Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse

¶¶	Objectionable language	Basis for objection
14	“The fears and anxiety that these interactions cause are a constant part of their therapy sessions.”	<p>Jane Doe is not competent to testify as to the cause of any “fears and anxiety” by her children:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about psychological effects of certain her children’s interactions. <p>Hearsay if statements of Jane Doe’s children or their therapist are offered for truth of what happens in therapy sessions or the truth of what the children feel.</p>
16	“The public’s reaction to my husband’s presence on the Offender Registry”	<p>Vague and speculative as to identity of “public.”</p> <p>Inadmissible evidence not based on personal knowledge and lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about public reaction. - No details provided for any alleged “reaction.” - No details provided for how Jane Doe would acquire personal knowledge about why certain unidentified persons are reacting to Plaintiff.

Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse

¶¶	Objectionable language	Basis for objection
16	<p>“Without any regard for my husband’s actual risk, the notification process not only stigmatizes him; it also casts a wide net over our entire family.”</p>	<p>Impermissible legal conclusion as to whether notification process accounts for Plaintiff’s risk based on his offense.</p> <p>Improper expert opinion about mental health of Plaintiff. Jane Doe is not competent to testify to a mental health evaluation about Plaintiff’s “actual risk”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about mental health evaluations. <p>Jane Doe is not competent to testify to lay opinion about Plaintiff’s “risk”:</p> <ul style="list-style-type: none"> - Lack of foundation or basis for opinion testimony about Plaintiff’s risk or rehabilitation. - No specific facts provided to support opinion about Plaintiff’s risk or rehabilitation. <p>Inadmissible evidence not based on personal knowledge and lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about “stigma” on Plaintiff or his family. - No admissible facts provided elsewhere that amount to “stigma” related to KORA. Examples are nearly all hearsay, not based on personal knowledge, and speculation.

Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse

¶¶	Objectionable language	Basis for objection
18	<p>“I have witnessed the enormous relief of wives whose husbands’ registration periods have expired. They no longer have to deal with the retribution associated with registration. They no longer have to deal with the despair and depression suffered by their husbands as they prepare to re-register at the Sheriff’s office or renew their drivers’ licenses. They no longer have to deal with the fear of or actual damage to property. They no longer have to deal with the police coming to their homes and asking unprofessional and intrusive questions. They no longer have to deal with others’ children, neighbors, and strangers emboldened to speak in any manner they desire.”</p>	<p>Vague and speculative as to identity of “wives whose husbands’ registration periods have ended.”</p> <p>Hearsay if statements of unidentified “wives” are offered for the truth of what wives “no longer have to deal with.”</p> <p>Inadmissible evidence lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about unidentified wives’ lives. - No details provided for how Jane Doe would acquire personal knowledge about the experiences of these unidentified persons.

**Table B – Defendants’ Objections to Exhibit 29
Affidavit of Jane Doe, Plaintiff’s Spouse**

¶¶	Objectionable language	Basis for objection
19	<p>“I know families whose lives and opportunities were restored to them by completing the registration requirements and being removed from the registration system.”</p>	<p>Vague and speculative as to identity of “families.”</p> <p>Hearsay if statements of unidentified “families” are offered for the truth of “families” having “lives and opportunities” “restored.”</p> <p>Inadmissible evidence lacking specific supporting facts.</p> <ul style="list-style-type: none"> - Conclusory allegation about unidentified families lives. - No details provided for how Jane Doe would acquire personal knowledge about the experiences of these unidentified persons.

C. Defendants’ Objections to Text in Plaintiff’s Supporting Memorandum

Table C – Defendants’ Objections to Supporting Memorandum Text

Page(s)	Objectionable text in Memorandum	Basis for objection
34	Facts, ¶41	Contains inadmissible and unsupported factual assertions based on objectionable material from ¶¶10-11 of Plaintiff’s affidavit.
35	Facts, ¶42	Contains inadmissible and unsupported factual assertions based on objectionable material from ¶¶15-16 of Plaintiff’s affidavit.
36	Facts, ¶45	Contains inadmissible and unsupported factual assertions based on objectionable material from ¶¶31-32 of Plaintiff’s affidavit.
36	Facts, ¶46	Relyes on inadmissible and unsupported factual assertions based on objectionable material from ¶33 of Plaintiff’s affidavit.

Table C – Defendants’ Objections to Supporting Memorandum Text

Page(s)	Objectionable text in Memorandum	Basis for objection
36	Facts, ¶47	Relies on inadmissible and unsupported factual assertions based on objectionable material from ¶¶25-27 of Plaintiff’s affidavit.
37	Facts, ¶48	Relies on inadmissible and unsupported factual assertions based on objectionable material from ¶21 of Plaintiff’s affidavit.
37	Facts, ¶49	No precise references to portion of the record relied upon, in violation of SCR 141(a)(2).
		Relies on inadmissible and unsupported factual assertions based on objectionable material throughout Ex. 29, Jane Doe’s affidavit.
37	Facts, ¶50	Relies on inadmissible and unsupported factual assertions based on objectionable material from ¶¶9-10 of Jane Doe’s affidavit.
37	Facts, ¶51	Relies on inadmissible and unsupported factual assertions based on objectionable material from ¶¶11 of Jane Doe’s affidavit.
37-38	Facts, ¶52	Relies on inadmissible and unsupported factual assertions based on objectionable material from ¶¶4-8 of Plaintiff’s affidavit and ¶¶12-14, 16 of Jane Doe’s affidavit.

Table C – Defendants’ Objections to Supporting Memorandum Text

Page(s)	Objectionable text in Memorandum	Basis for objection
47-48	<p>“For example, on July 23, 2012, the Topeka Capital Journal Online published a slideshow of all registered offenders in Shawnee County. <i>Registered Sex Offenders in Shawnee County</i>, Topeka Capital Journal Online, July 23, 2012, available at http://cjonline.com/sliders/registered-sex-offenders-shawnee-county%2523slide %3DOslide=0. The slideshow included a link to the Capital Journal’s own searchable database of offenders. Immediately underneath the offenders’ information, the Journal offered readers the opportunity to comment. Some readers expressed concern that public disclosure of this information was unnecessary or unhelpful, but many maligned the registrants-some simply criticizing their looks and addresses and others vociferously insisting that the list was primarily composed of dangerous pedophiles likely to reoffend. <i>Id.</i>”</p>	<p>Testimony about content of webpages not admissible without judicial finding of an exception to K.S.A. §60-467 (Original document required as evidence):</p> <ul style="list-style-type: none"> - Content of writing must be proved with writing itself, unless judicial finding that exceptions satisfied. - No justification for any exceptions provided. <p>Hearsay if comment section on newspaper website offered for truth of what commenters think or believe about the “primar[y] compos[ition]” of the offender registry.</p>
48	<p>“A myriad of web sites operated by private entities are now dedicated to promulgating registry information originally published by the Defendants and their counterparts in other states. <i>See, e.g.</i>, www.sexoffenderin.com, www.offendex.com, www.familywatchdog.us.”</p>	<p>Testimony about content of webpages not admissible without judicial finding of an exception to K.S.A. §60-467 (Original document required as evidence):</p> <ul style="list-style-type: none"> - Content of writing must be proved with writing itself, unless judicial finding that exceptions satisfied. - No justification for any exceptions provided.

Table C – Defendants’ Objections to Supporting Memorandum Text

Page(s)	Objectionable text in Memorandum	Basis for objection
48-49	<p>“The effects of such unrestricted dissemination are substantial. In fact, the adverse collateral effects experienced by registered sex offenders are ‘greater and more intense’ than those suffered by felons generally. Richard Tewksbury & Matthew Lees, <i>Consequences of Sex Offender Registration: Collateral Consequences and Community Experiences</i>, 26 Soc. Spectrum 309, 309 (2006), attached as Appendix A. In a study of registered sex offenders located in Kansas and Oklahoma, the most commonly reported collateral consequences were employment difficulties, challenges to obtaining housing, and social stigmatization. Richard Tewksbury & Elizabeth Ehrhardt Mustaine, <i>Stress and Collateral Consequences for Registered Sex Offenders</i>, 15(2) J. Pub. Mgmt. & Soc. Pol'y 215, 226 (2009), attached as Appendix B.”</p>	<p>No admissible evidence submitted as support for these statements. Journal articles are not competent evidence of the “effects” that unidentified “registered sex offenders” experience.</p> <p>No expert opinion testimony has been offered to support the opinions that “effects of such unrestricted dissemination are substantial” or that any “effects” are “greater or more intense” than those experienced by unidentified other persons.</p>
49	<p>“Obtaining and maintaining employment is more difficult for registered sex offenders than for other felons. See Tewksbury & Lees, <i>supra</i>, at 319-21.”</p>	<p>No admissible evidence submitted as support for these statements. Journal articles are not competent evidence of the “effects” that unidentified “registered sex offenders” experience.</p> <p>No expert opinion testimony has been offered to support the opinions that “[o]btaining and maintaining employment is more difficult for registered sex offenders than for other felons.”</p>

Table C – Defendants’ Objections to Supporting Memorandum Text

Page(s)	Objectionable text in Memorandum	Basis for objection
49	<p>“Mr. Doe has personally experienced employment discrimination as a result of his registration. After Mr. Doe’s employer was informed that Mr. Doe had a profile on the Offender Registry website, Mr. Doe was promptly terminated. While his employer acknowledged that other employees had felony convictions, Mr. Doe’s employer informed him that his offender registration was a public relations liability and a cause of workplace safety concern for other employees. Attempts to secure employment after registration were unavailing; Mr. Doe was repeatedly refused employment whenever prospective employers learned of his registration status.”</p>	<p>Relies on inadmissible and unsupported factual assertions based on objectionable material from ¶¶9-13 of Plaintiff’s affidavit.</p>
49	<p>“In addition, registered sex offenders like Mr. Doe experience difficulty obtaining housing. <i>See Tewksbury & Mustaine, supra.</i>”</p>	<p>No admissible evidence submitted as support for this statement. Journal articles are not competent evidence of the experiences of unidentified “registered sex offenders.”</p>
		<p>No expert opinion testimony has been offered to support the opinions about the experiences of unidentified “registered sex offenders.”</p>

Table C – Defendants’ Objections to Supporting Memorandum Text

Page(s)	Objectionable text in Memorandum	Basis for objection
49-50	<p>“Thereafter, several landlords from whom Mr. Doe sought to obtain housing rejected him because of his registration status. They acknowledged that his felony conviction was not the issue; landlords are primarily concerned that they will lose other tenants who will avoid the area once they discover the proximity of a registered sex offender by searching one of the numerous registry web sites at their disposal. Ex. 5, John Doe Affidavit, at ¶ 15-17.”</p>	<p>Relyes on inadmissible and unsupported factual assertions based on objectionable material from ¶¶15-16 of Plaintiff’s affidavit.</p>
50	<p>“Mr. Doe’s experiences are not uncommon. <i>See, e.g.</i>, Richard G. Zevitz & Mary Ann Farkas, <i>Sex Offender Community Notification: Assessing the Impact in Wisconsin</i>, U.S. Dept. of Justice, National Institute of Justice, Research in Brief 10 (2000), attached as Appendix C (“Expanded notification has created enormous obstacles in locating housing resources for returning sex offenders.”).”</p>	<p>No admissible evidence submitted as support for this statement. Journal articles are not competent evidence of the experiences of unidentified “registered sex offenders.”</p>
		<p>No expert opinion testimony has been offered to support the opinions about the experiences of unidentified “registered sex offenders.”</p>

Table C – Defendants’ Objections to Supporting Memorandum Text

Page(s)	Objectionable text in Memorandum	Basis for objection
50	<p>“Unrestricted public access to registry information subjects registered offenders, including Mr. Doe, to considerable public stigma and ostracism. <i>See Tewksbury & Lees, supra</i>, at 325-30; Jill S. Levenson & Leo P. Cotter, <i>The Effect of Megan’s Law on Sex Offender Reintegration</i>, 21 J. Contemp. Crim. Just. 49, 52 (2005), attached as Appendix D. In addition to the persistent feeling that they are unaccepted by the public, registered sex offenders report that they are harassed when community members find their information on the registry. <i>Id.</i>”</p>	<p>No admissible evidence submitted as support for this statement. Journal articles are not competent evidence of the experiences of unidentified “registered sex offenders” such as stigma, ostracism, or harassment. Journal articles also not competent evidence of what Plaintiff experiences.</p> <p>No expert opinion testimony has been offered to support the opinions about the experiences of unidentified “registered sex offenders.”</p> <p>Additionally, no competent evidence has been offered to support what unidentified “registered sex offenders” feel.</p>
50-51	<p>“The stigma affects Mr. Doe’s family on a daily basis, as Mr. Doe’s children’s peers are often prevented from associating with Mr. Doe’s children when their parents learn of his registration. Ex. 5, John Doe Affidavit, at ¶5.”</p>	<p>All evidence cited to support “stigma” in this sentence is objectionable testimony in ¶5 of Plaintiff’s affidavit.</p>
51	<p>“Community members aware of Mr. Doe’s registration rarely afford him the opportunity to explain his situation and the steps he has taken to ensure that he will not re-offend. Ex.5, John Doe Affidavit, at ¶7.”</p>	<p>Relies on inadmissible and unsupported factual assertions based on objectionable material from ¶7 of Plaintiff’s affidavit.</p> <p>Furthermore, text in motion that certain “community members [are] aware of Mr. Doe’s registration” does not even refer to ¶7 material, and is unsupported hearsay and speculation about what unidentified “community members” know about Plaintiff and the reasons for not talking with Plaintiff.</p>

Table C – Defendants’ Objections to Supporting Memorandum Text

Page(s)	Objectionable text in Memorandum	Basis for objection
51	<p>“Rather, they actively work to prevent him from participating in the community. <i>See</i> Ex. 5, John Doe Affidavit, at ¶¶30-32.”</p>	<p>Relies on inadmissible and unsupported factual assertions based on objectionable material from ¶¶30-32 of Plaintiff’s affidavit.</p>
57	<p>“While not necessarily endorsed by the Defendants, there are ‘applications’ for cellular phones and tablets, including Apple’s iPhone and iPad, which allow access to Kansas registry information in an interactive format. <i>See</i> http://techcrunch.com/2009/07/25/the-iphones-latest-hit-app-a-sex-offender-locator. Anyone can buy the ‘Sex Offender Tracker’ from Apple’s web site at http://itunes.apple.com/us/app/sexf-offender-tracker/id396745515?mt=8.”</p>	<p>No admissible evidence submitted as support for this statement about the availability and functionality of the electronic “applications.”</p> <p>Testimony about content of webpages not admissible without judicial finding of an exception to K.S.A. §60-467 (Original document required as evidence):</p> <ul style="list-style-type: none"> - Content of writing must be proved with writing itself, unless judicial finding that exceptions satisfied. - No justification for any exceptions provided.
57-58	<p>“There are now a number of websites that encourage users to post comments about offenders. For example, on www.sexoffenderin.com a user may comment on mug shots by filling out a ‘comment’ section, providing ‘your name or nickname,’ and listing an email address that is not verified. The web site www.offendex.com requests comments on individual offenders, saying the following: . . . If your record is not removed your application fee will be refunded.” (entire passage from beginning to end)</p>	<p>No admissible evidence submitted as support for this statement about the availability and functionality of the “websites.”</p> <p>Testimony about content of webpages not admissible without judicial finding of an exception to K.S.A. §60-467 (Original document required as evidence):</p> <ul style="list-style-type: none"> - Content of writing must be proved with writing itself, unless judicial finding that exceptions satisfied. - No justification for any exceptions provided.

Table C – Defendants’ Objections to Supporting Memorandum Text

Page(s)	Objectionable text in Memorandum	Basis for objection
58	<p>“As previously described, the local newspaper, the Topeka Capital Journal, recently published a slideshow of all registered offenders in Shawnee County and allowed readers to comment underneath the offenders’ information. <i>Registered Sex Offenders in Shawnee County</i>, Topeka Capital Journal Online, July 23, 2012, available at http://cjonline.com/sliders/registered-sex-offenders-shawnee-county%2523slide%3DOslide=0. While these sites are not maintained by the Defendants, they function only with information supplied by the Defendants.”</p>	<p>No admissible evidence submitted as support for this statement about the availability and functionality of the “websites.”</p> <p>Testimony about content of webpages not admissible without judicial finding of an exception to K.S.A. §60-467 (Original document required as evidence):</p> <ul style="list-style-type: none"> - Content of writing must be proved with writing itself, unless judicial finding that exceptions satisfied. - No justification for any exceptions provided.
59	<p>“The Plaintiff presents evidence that clearly demonstrates, both with respect to Mr. Doe and other registered offenders, that the law leads to substantial occupational, housing, and social disadvantages that would not otherwise occur. <i>See supra</i> III.A.; <i>see generally</i> Ex 5, John Doe Affidavit.”</p>	<p>Improperly asserts that objectionable material listed above (journal articles) and objectionable material from Plaintiff’s affidavit is competent evidence to support this statement.</p>
61	<p>“In fact, most sex offenders do not recidivate . . . Recidivism rates are conspicuously linked to identifiable risk factors like the gender of the victim, past sexual history of the perpetrator, and the age of the offender. Harris & Hanson, <i>supra</i>.² (entire passage from beginning to end)</p>	<p>No admissible evidence submitted as support for this statement of “fact.” Journal articles are not competent evidence.</p> <p>No expert opinion testimony has been offered to support the opinions about recidivism.</p>

Table C – Defendants’ Objections to Supporting Memorandum Text

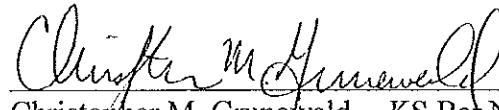
Page(s)	Objectionable text in Memorandum	Basis for objection
84	“and despite the fact that mental health professionals consider him to be no threat to the community,”	Violates SCR 141 by asserting facts not supported by evidence in the record. No expert opinion testimony has been offered to support any mental health evaluation of Plaintiff as to his “threat.” Relies on inadmissible and unsupported factual assertions based on objectionable material regarding unidentified “mental health professionals” and unspecified mental health assessments from ¶21 of Plaintiff’s affidavit and ¶4 of Jane Doe’s affidavit.

CONCLUSION

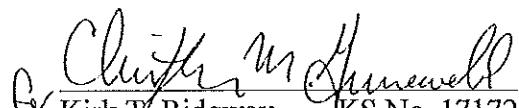
For the reasons stated above, Defendants respectfully request that the Court strike the hearsay and other inadmissible testimony and text from Plaintiff’s summary judgment materials, and order Plaintiff to re-submit materials that comply with the controlling statutes and court rules.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Defendants' Memorandum in Support of Joint Motion to Strike was sent by U.S. mail, postage prepaid, this 7th day of December, 2012 addressed to:

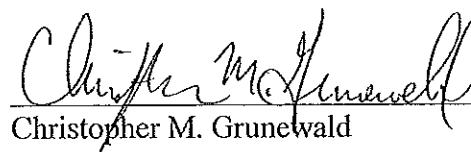
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