

EVIDENCE CHALLENGE

PLAINTIFF v. DEFENDANT

Plaintiff brings a slander action against Defendant. He claims that Defendant defamed him by telling a large audience, "Plaintiff is crooked, a liar, and has tiny, little hands."

Plaintiff calls Audience Member to testify.

- Q: Were you in the audience at the Civic Center the night that Defendant spoke?
- A: Yes. I was.
- Q: Do you recall whether Defendant said anything about Plaintiff?
- Defense counsel: OBJECTION. Hearsay.
- A: Yes, he said that Plaintiff was crooked, that he was a liar, and that he had tiny, little hands.

The judge should:

- A. OVERRULE the objection because the statement is not offered for its truth.
- B. OVERRULE the objection because the statement is admissible as an opposing party's statement.
- C. SUSTAIN the objection.

Defendant calls Victim to testify.

- Q: Did you have any business dealings with Plaintiff in the past five years?
- A: Yes. Plaintiff contacted me and asked me to invest in a real estate deal.
- Q: Did you invest?
- A: I did. I invested \$400,000.
- Q: What happened?
- A: I lost all \$400,000.

- Q: Why?
- Plaintiff's counsel: OBJECTION. Impermissible character evidence. Hearsay.
- A: Because Plaintiff lied about pretty much every key element of the deal. About the financing, about tenants he had already lined up, about environmental issues, about zoning issues. All lies.

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