

A consumer has sued the manufacturer of a microwave oven for burn injuries allegedly caused by the manufacturer's negligent failure to warn purchasers of the dangers of heating foods in certain types of containers.

The consumer has offered into evidence three letters, all received by the manufacturer before the oven was shipped to the consumer, in which customers had complained of serious burns under circumstances similar to those in the consumer's case. The manufacturer has objected to the letters on the grounds of hearsay and, in the alternative, has asked for a limiting instruction directing that the letters be considered not for the truth of the assertions contained in them but only regarding the issue of notice.

How should the court respond?

- A. The court should overrule the objection and deny the request for a limiting instruction.
- B. The court should overrule the objection and give the limiting instruction.
- C. The court should overrule the objection but allow only that the letters be read to the jury, not received as exhibits.
- D. The court should sustain the objection and treat the request for a limiting instruction as moot.

Explanation:

An **out-of-court statement** is only **hearsay** if it is **offered for the truth** of the matter asserted therein. Therefore, an out-of-court statement offered for some **other relevant purpose** is **not barred** by the hearsay rule. However, upon a timely request by the opposing party, the **court must**:

limit the admissibility of that statement to its nonhearsay purpose *and*

instruct the jury accordingly—eg, "the evidence may be considered not for the truth of the assertions contained in them but only regarding the issue of notice."

Here, the consumer has offered three letters (out-of-court statements) in which customers complained of serious burns under circumstances like those in this negligent failure to warn case. Since the purpose of these letters is to show that the manufacturer had notice of the purported injuries—not to prove that it actually caused them (truth of the matter asserted)—the letters are *not* hearsay. Therefore, the manufacturer's hearsay objection should be overruled (**Choice D**). But the court must give the limiting instruction requested by the manufacturer (**Choice A**).

(**Choice C**) If the letters are admissible for a nonhearsay purpose, there is no rule limiting *how* they may be admitted—eg, through testimony, as exhibits.

Educational objective:

The hearsay rule does not apply to out-of-court statements offered for some relevant purpose other than proving the truth of the matter asserted therein. But the court, upon timely request, must limit the statement to its nonhearsay use and instruct the jury accordingly.

References

Fed. R. Evid. 801(c) (definition of hearsay).

Fed. R. Evid. 105 (limiting use of evidence to its admissible purposes).

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Admissibility of out-of-court statements

