

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-CV-80655-ROSENBERG/HOPKINS

JAMES TRACY,

Plaintiff,

v.

FLORIDA ATLANTIC UNIVERSITY
BOARD OF TRUSTEES a/k/a FLORIDA
ATLANTIC UNIVERSITY; et al.,

Defendants.

/

**NOTICE OF SERVING ANSWERS TO PLAINTIFF'S FIRST SET OF
INTERROGATORIES TO HEATHER COLTMAN**

Defendant, HEATHER COLTMAN ("Coltman"), pursuant to Rule 33 of the Federal Rule of Civil Procedure, hereby gives notice of service of Coltman's Answers to Plaintiff's First Set of Interrogatories served on July 22, 2016.

/s/ Keith E. Sonderling
G. Joseph Curley
Florida Bar No. 571873
Email: gcurley@gunster.com
Keith E. Sonderling
Florida Bar No. 57386
Email: ksonderling@gunster.com
Gunster, Yoakley & Stewart, P.A.
777 S. Flagler Drive, Suite 500 East
West Palm Beach, FL 33401
Telephone: 561-655-1980
Facsimile: 561-655-5677
Attorneys for FAU Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by email on this 10th day of February, 2017, on all counsel or parties of record on the below Service List.

/s/ Keith E. Sonderling
Keith E. Sonderling

SERVICE LIST

Tracy v. Florida Atlantic University Board of Trustees, *et al.* Case No. 16-cv-80655-ROSENBERG/HOPKINS

Louis Leo IV, Esq.
Email: louis@floridacivilrights.org
Florida Civil Rights Coalition, P.L.L.C.
4171 W. Hillsboro Blvd., Suite 9
Coconut Creek, FL 33073
Telephone: 954-478-4226
Facsimile: 954-239-7771
Attorney for Plaintiff, James Tracy

Robert F. McKee, Esq.
Email: yborlaw@gmail.com
Christopher T. Borzell, Esq.
Email: cborzell@gmail.com
Melissa C. Mihok, Esq.
Email: melissa@melissacmihokpa.com
1718 E. 7th Avenue, Suite 301
Tampa, FL 33605
Telephone: 813-248-6400
Facsimile: 813-248-4020
*Attorney for Florida Education Association,
United Faculty of Florida, Robert Zoeller, Jr.,
and Michael Moats*

Joel Medgebow, Esq.
Email: joel@medgebowlaw.com
Medgebow Law, P.A.
4171 W. Hillsboro Blvd., Suite 9
Coconut Creek, FL 33073
Telephone: 954-478-4226
Facsimile: 954-239-7771
Attorney for Plaintiff, James Tracy

G. Joseph Curley, Esq.
Florida Bar No. 571873
Email: gcurley@gunster.com
Keith E. Sonderling, Esq.
Florida Bar No. 57386
Email: ksonderling@gunste.com
Holly L. Griffin, Esq.
Florida Bar No. 93213
Email: hgriffin@gunster.com
Gunster, Yoakley & Stewart, P.A.
777 S. Flagler Drive, Suite 500 East
West Palm Beach, FL 33401
Telephone: 561-655-1980
Facsimile: 561-655-5677
Attorneys for FAU Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-CV-80655-ROSENBERG/HOPKINS

JAMES TRACY,

Plaintiff,

v.

FLORIDA ATLANTIC UNIVERSITY
BOARD OF TRUSTEES a/k/a FLORIDA
ATLANTIC UNIVERSITY; et al.,

Defendants.

/

RESPONSE TO PLAINTIFF'S FIRST SET OF INTERROGATORIES

Defendant, HEATHER COLTMAN (“Coltman”), pursuant to Rule 33 of the Federal Rule of Civil Procedure, hereby serves Coltman’s Response to Plaintiff’s First Set Interrogatories served on July 22, 2016.

Defendant, Heather Coltman is responding in her personal capacity, only with information of which she has personal knowledge.

INTERROGATORIES

1. Set forth your current present home address, any and all email addresses you have used, your employer’s name and business address, your job title and/or the capacity in which you are associated with any defendant named in the Complaint.

ANSWER: Defendant Coltman objects to this request to the extent it asks for irrelevant personal information regarding Defendant Coltman, including her personal address and personal email address. Without waiving this objection, Defendant Coltman may be reached care of Gunster, Yoakley & Stewart, P.A. at 777 South Flagler Drive, Suite

500 East, West Palm Beach, Florida 33401. Defendant Coltman's FAU email addressee is: coltman@fau.edu.

During the relevant period identified in the instructions, Defendant Coltman held the following positions with FAU: Interim Dean of the Dorothy F. Schmidt College of Arts and Letters; Dean of the Dorothy F. Schmidt College of Arts and Letters.

Defendant Coltman is associated with the Defendants named in the Second Amended Complaint as follows:

Defendant FAU is Defendant Coltman's employer;

Defendant Kelly is the President of Defendant Coltman's employer;

Defendant Alperin is a colleague;

Defendant Zoeller is a colleague; and

Defendant Coltman is not associated with UFF, FEA, or Defendant Moats.

2. Describe any and all documents, communications, notes or other records taken or made by you or on your behalf concerning the Plaintiff, or anything related to this action and events alleged in the Complaint.

ANSWER: Objection, this request is overbroad, and seeks discovery which is not proportional to the needs of the case. Plaintiff is seeking any and all communications, which would include email communications, which concern the Plaintiff "or anything related to this action and events alleged in the Complaint" for a period spanning more than 5 years. As the Dean of Plaintiff's former College, this Request could encompass a disproportionate number of documents which are not related to the claims raised by Plaintiff in this litigation.

With respect to Plaintiff's request to identify documents, communications, notes or other records made by Defendant Coltman or on her behalf related to this action and the events alleged in the Second Amended Complaint, pursuant to a public records request issued outside the scope of this litigation, Plaintiff has been provided with approximately 2800 pages of documents for September through December 2015, which encompass documents responsive to this request, to the extent that such documents exist. Finally, Defendant Coltman objects to this request to the extent that it seeks identification of documents, communications or notes which are protected by the attorney-client privilege or work product doctrine.

3. Set forth your duties and responsibilities at FAU, your relationship with FAU's Board of Trustees, and all powers and authority you possess over University faculty. If your official actions are subject to review and/or approval by any superior(s), please state that fact and provide the name of your superior(s), and describe the review and/or approval process.

ANSWER: As Dean of the Dorothy F. Schmidt College of Arts and Letters, Defendant Coltman is responsible for managing the academic, administrative and budgetary policies of the College; she is expected to lead the faculty as they deliver academic programs and to ensure faculty excellence through recruitment, faculty development, and evaluation of merit for promotion, tenure and salary increases; she serves as a liaison between the faculty and the Office of the Provost; she serves as the principal representative of the College to the community; she ensures the quality of all academic programs in the College; promotes both undergraduate and graduate degree programs to potential students; works with the Provost and Chief Academic Officer and other administrators to develop additional education programming at partner campuses in response to student demand; enhances student retention and graduation rates in the

College; works with the chairs, directors and faculty to increase scholarly productivity and external funding the College in support of the University’s Strategic Plan; she increases private donations to the College by participating directly in fundraising activities; enhances the reputation of the College at the state, national and international level; serves as a contributing member of the Provost’s academic leadership team.

In response to the request for Defendant Coltman to set forth her relationship with the FAU Board of Trustees, Defendant Coltman responds that she attends some meetings of the Board of Trustees and is an employee of FAU. Defendant Coltman is colleagues with the chair of the Faculty Senate, who sits on the Board of Trustees.

In response to the request for Defendant Coltman to set forth the powers and authority she possesses over University faculty, Defendant Coltman responds that her authority is limited to faculty members in her College.

In response to the request seeking whether Defendant Coltman’s decisions are subject to review and/or approval by a superior, Defendant Coltman responds that she reports to the Provost and Vice Provost, attending monthly meetings and receiving an annual performance review. The Provost and/or Vice Provost have authority to approve budgetary and personnel actions, including faculty hires and terminations.

4. Set forth FAU’s “Outside Activities/Conflict of Interest” Policy, and identify all documents and communications in your possession, custody or control, and set forth all procedures relating to FAU’s “Conflict of Interest/Outside Activities” Policy. This includes but is not limited to any and all documents and/or communications concerning instructions,

management, monitoring, oversight, disputes, complaints and changes to the Policy. If no such documents or communications exist, then state that fact.

ANSWER: Objection, this request is overbroad and not proportional to the needs of this case. The interrogatory asks Defendant Coltman to “identify all documents and communications in your possession, custody or control.” This is clearly overbroad, as it seeks all documents and communications in Defendant Coltman’s possession, custody or control for the last 5 years without qualification or relevance to this case or proceeding.

In response to this interrogatory’s request for Defendant Coltman to set forth FAU’s Conflict of Interest/Outside Activities Policy and the request for Defendant Coltman to set forth all procedures relating to FAU’s Conflict of Interest/Outside Activities Policy, and in compliance with Rule 33 of the Federal Rules of Civil Procedure, Defendant Coltman is producing copies of the following business records which are responsive to this Request: FAU’s Policies and Procedures, Policy Number 7.5 Personnel, Section 8: Employee Ethical Obligations and Conflict of Interest; Florida Atlantic University Guidelines on Conflict of Interest, Conflict of Commitment and Outside Activities, Including Financial Interests; and the Florida Atlantic University Board of Trustees and The United Faculty of Florida Collective Bargaining Agreement 2012-2015.

5. Identify all persons, including but not limited to FAU officials, employees, agents and University faculty members involved in the enforcement of FAU’s “Outside Activities/Conflict of Interest” Policy, and with respect to each individual identified pursuant to this interrogatory, set forth their responsibilities and duties relating to the Policy.

ANSWER: Defendant Coltman objects to this request on the grounds that it is overbroad and unduly burdensome. All FAU employees, including all faculty and staff, are required to comply with the Outside Activities/Conflict of Interest Policy and are therefore

involved, along with Supervisors, Department Chairs, Directors and Deans in the policy's "enforcement." Without waiving this objection, in response to this interrogatory and in compliance with Rule 33 of the Federal Rules of Civil Procedure, Defendant Coltman is producing copies of the following business records which are responsive to this Request: **FAU's Policies and Procedures, Policy Number 7.5 Personnel, Section 8: Employee Ethical Obligations and Conflict of Interest; Florida Atlantic University Guidelines on Conflict of Interest, Conflict of Commitment and Outside Activities, Including Financial Interests; and the Florida Atlantic University Board of Trustees and The United Faculty of Florida Collective Bargaining Agreement 2012-2015.**

6. Set forth the date of all meetings (including telephonic meetings) relating to the Plaintiff, FAU's "Conflict of Interest/Outside Activities" Policy, and any disciplinary action involving Plaintiff, or any University employee or faculty member for violations of the Policy; identify all persons who attended such meetings, and identify any and all persons involved in investigating or addressing any complaints relating to the Plaintiff, the Policy, and any disciplinary action sought against any other person pursuant to the Policy.

ANSWER: Objection, this request is overbroad and not proportional to the needs of this case. Plaintiff is requesting information regarding any meetings relating to: 1) Plaintiff; 2) FAU's Conflict of Interest/Outside Activities Policy; 3) disciplinary action taken involving Plaintiff; and 4) disciplinary action taken against any University employee or faculty member for violations of the Conflict of Interest/Outside Activities policy, spanning a five year period of time. It would be unduly burdensome for Defendant Coltman to identify "all meetings (including telephonic meetings)" which have occurred during this five year period with respect to these four categories of topics.

Further, to the extent this Request seeks disclosure of “any and all persons involved in investigating or addressing any complaints relating to the Plaintiff, the Policy, and any disciplinary action sought against any other person pursuant to the Policy, Defendant Coltman objects to the Request as overbroad, vague, and unduly burdensome. The Request is unclear as to the types of “complaints” the Request seeks information relating to.

7. Identify any allegation, inquiry, complaint, investigation, regulatory proceeding, official action, or litigation by any third party, including but not limited to any individual, non-governmental agency, advocacy group, municipal, state, or federal entity, relating to the Plaintiff, FAU’s “Conflict of Interest/Outside Activities” Policy, and/or the constitutional rights of any of FAU faculty members, including but not limited to freedom of speech, due process and academic freedom; identify all documents concerning, and set forth steps taken by FAU, you, and/or any person working at your direction to investigate the merits of any such allegation, inquiry, complaint, investigation, regulatory proceeding, official action, or litigation.

ANSWER: Objection, this request is overbroad and not proportional to the needs of this case. This request asks Defendant Coltman to identify any allegation, inquiry, complaint, investigation, regulatory proceeding, official action, or litigation by any third party relating to: 1) Plaintiff; 2) FAU’s Conflict of Interest/Outside Activities Policy; and 3) the constitutional rights of any FAU faculty members, including but not limited to freedom of speech, due process and academic freedom. As Plaintiff is aware from documents produced pursuant to a public records request issued to FAU, FAU received hundreds of complaints relating to Plaintiff within the last five years. It is unduly burdensome for Defendant Coltman to identify each individual complaint received herein. Additionally, complaints related to “the constitutional rights of any FAU faculty members, including but

not limited to freedom of speech, due process and academic freedom,” if any, are not relevant to this proceeding and would not be proportional to the needs of this case.

8. Explain why FAU withdrew threatened disciplinary action against Plaintiff in 2013.

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts.

9. Explain why FAU did not remove the Notice of Discipline dated March 28, 2013 from Plaintiff's personnel file pursuant to its September 26, 2013 Settlement.

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts.

10. Explain why, in 2013, you did not request “Outside Activities/Conflict of Interest” forms for Plaintiff's personal blogging for the 2013-2014 school year.

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts.

11. Explain why, in 2014, you did not request “Outside Activities/Conflict of Interest” forms for Plaintiff's personal blogging.

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts.

12. Set forth any and all conduct of Plaintiff which you believe violated FAU's policies, describing for each alleged action or omission which policy was violated by Plaintiff, when each policy was violated and how.

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts.

13. Describe any and all potential, actual or perceived conflicts of commitment or interest you believe existed, or otherwise resulted from Plaintiff's personal blogging and online speech, and set forth the basis for your beliefs.

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts.

14. Identify any and all blogs of University personnel (including but not limited to officers, employees, agents and faculty members) which have been disclosed, monitored, or otherwise subjected to the University's "Outside Activities/Conflict of Interest" Policy, and identify all persons responsible for monitoring or reviewing the blogs.

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts.

15. Describe the University's "progressive" disciplinary process.

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts.

16. Explain why Plaintiff was terminated after submitting "Outside Activities/Conflict of Interest" forms for his personal blogging

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts.

17. Identify all persons involved in the decision to discipline and/or terminate the Plaintiff.

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts.

18. Set forth any and all arrangements or agreements concerning the Plaintiff, including any agreements that were made concerning the discipline and/or termination of Professor Tracy; identify all persons involved in, and identify all documents concerning such arrangements or agreements, including but not limited to any communications, correspondence, e-mails, text messages or notes of conversations.

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts. Further, the request is vague, as it fails to define “arrangements or agreements” for which Plaintiff seeks disclosure.

19. Describe when and how you first learned about Plaintiff’s personal blogging, and set forth any and all actions, official or otherwise, undertaken after you learned about the blog.

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts. Additionally, the request is vague, as it fails to define “actions, official or otherwise” for which Plaintiff seeks disclosure.

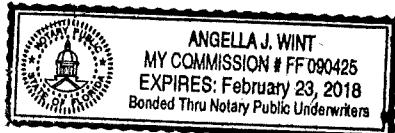
20. Set forth any and all meetings with UFF, FEA, and/or UFF-FAU officers, agents, representatives and employees, telephonic or otherwise, which you participated in since January of 2013, and identify the subject of each meeting, and all persons who participated in such meetings, and any documents or communications concerning the meetings.

ANSWER: Objection, Plaintiff has exceeded the limitations of Rule 33, Federal Rules of Civil Procedure, as his requests for interrogatories exceed 25 written interrogatories, including all discrete subparts. Additional, the request is overbroad, requesting identification of meetings with UFF, FEA, and/or UFF-FAU officers, agents, representatives and employees on any subject spanning a four year period.

Heather Coltman
Heather Coltman

STATE OF FLORIDA)
COUNTY OF Palm Beach) ss:

Before me, the undersigned authority, appeared Heather Coltman, who is personally known to me or _____ as identification executed the foregoing and who did/did not take an oath on this 10th day of February, 2017.



(Notary Seal)

NOTARY PUBLIC
State of Florida
My Commission Expires: _____