

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

JAMES TRACY,)
)
 Plaintiff,)
) Case No. 9:16-cv-80655-RLR-JMH
 v.)
)
 FLORIDA ATLANTIC UNIVERSITY)
 BOARD OF TRUSTEES, a/k/a FLORIDA)
 ATLANTIC UNIVERSITY, et al.)
)
)
 Defendants.)

**NOTICE OF SERVING PLAINTIFF'S ANSWERS TO DEFENDANT UFF'S
SECOND SET OF INTERROGATORIES DIRECTED TO PLAINTIFF**

COMES NOW the Plaintiff, JAMES TRACY, by and through the undersigned attorney, hereby give notice of service of Plaintiff's Answers to Defendant United Faculty of Florida's Second Set of Interrogatories Directed to Plaintiff.

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was emailed to all counsel of record this 16th day of March, 2017.

Dated: March 16, 2017

FLORIDA CIVIL RIGHTS
COALITION, P.L.L.C.

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**PLAINTIFF'S RESPONSES AND OBJECTIONS
TO DEFENDANT UFF'S FIRST SET OF INTERROGATORIES**

Comes now Plaintiff, JAMES TRACY, by and through the undersigned counsel pursuant to Rule 33 of the Federal Rules of Civil Procedure, responds to Defendant United Faculty of Florida's Second Set of Interrogatories Directed to Plaintiff ("Interrogatories") as follows:

GENERAL STATEMENT

All responses are made without, in any way, waiving or intending to waive:

- A. All questions as to competency, relevancy, materiality, privilege, and admissibility as evidence for any purpose and in any preliminary or subsequent proceeding or in the trial of this or any other action;
- B. The right to object to the use of any of these responses, or the subject matter thereof, in any preliminary or subsequent proceeding or in the trial of this or any other action;
- C. The right to elicit appropriate evidence, beyond the discovery responses themselves, regarding the subjects referred to in or in response to any discovery request; and
- D. The right at any time to supplement, amend, correct or modify any of the responses set forth below.

GENERAL OBJECTIONS

1. Plaintiff objects to the Interrogatories to the extent they seek discovery of information and production of documents beyond that which is permitted by the Federal Rules of Civil Procedure.
2. Plaintiff objects to the Interrogatories to the extent they seek discovery of information or documents protected by the attorney-client, attorney work product or any other applicable privilege.

3. Plaintiff objects to the Interrogatories to the extent they seek information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

4. Plaintiff objects to the Interrogatories and each instruction and definition therein to the extent they are vague, ambiguous, overly broad, or unduly burdensome.

5. Plaintiff objects to the Interrogatories to the extent that they seek information that is not within the Plaintiff's possession, custody, or control.

6. Plaintiff objects to the Interrogatories to the extent that they require the Plaintiff to analyze or organize factual evidence already known to the Plaintiff.

7. Plaintiff objects to the Interrogatories to the extent that they are not limited to requests for information regarding the subject matter of this litigation.

8. Plaintiff may be omitting from its Responses and Objections the identification of individuals whose knowledge of relevant facts the Plaintiff has not yet been able to establish. The Plaintiff does not waive his right to call as witnesses at trial those persons who are not being individually identified at this time, nor does the Plaintiff waive his right to rely upon or use at trial facts and documents that are not being produced or individually identified at this time. Plaintiff will identify for the Defendant in advance of trial those persons the Plaintiff plans to call as witnesses at trial and the documents the Plaintiff plans to introduce as exhibits at trial.

9. Plaintiff objects to the Interrogatories to the extent they seek information that is already known to Defendant or its counsel, or in the possession, custody, or that can be obtained from some other source that is more convenient to Defendant, less burdensome to the Plaintiff and less expensive for both parties.

Plaintiff's investigation of the facts and preparation for trial is incomplete. Plaintiff reserves the right to supplement, amend, and/or correct all or any part of the responses provided

herein without waiver of any of the foregoing objections. Plaintiff asserts each of these general objections to each of the requests herein. The failure to assert a general objection or the assertion of a specific objection in response to a particular request does not constitute a waiver of any general objection. Subject to and without waiving the above general objections to all paragraphs of the requests, Plaintiff responds to the individual requests as follows:

RESPONSES AND OBJECTIONS

1. State all facts supporting Plaintiff's contention that ROBERT ZOELLER, MICHAEL MOATS, FLORIDA EDUCATION ASSOCIATION, and/or UNITED FACULTY OF FLORIDA, conspired to violate Plaintiff's Civil Rights.

Plaintiff objects to this request to the extent it requires Plaintiff to analyze or organize factual evidence already known to the Defendant, and further objects to the extent that it seeks information that has been publicly filed and is readily available to the Defendant, was already produced to the Defendant, or is already in the possession, custody, or control of the Defendant, including but not limited to Plaintiff's pleadings and any attachments thereto, Defendant's pleadings, and federal statutes.

Subject to and without waiving the foregoing and general objections, Plaintiff further states that during the months of October 2015 through January 2016, in furtherance of the conspiracy to interfere with Plaintiff's civil rights, Defendants Zoeller, Moats, United Faculty of Florida and Florida Education Association (collectively hereinafter "Union Defendants") directed Plaintiff to comply with the FAU Defendants' unlawful directives relating to FAU's unconstitutional "Conflict of Interest/Outside Activities" Policy, aiding and abetting FAU Defendant's use of the Policy as a false pretext to terminate Plaintiff's tenured employment. Instead of defending Plaintiff from unlawful termination by contesting Defendant University's wrongful disciplining, or timely initiating the grievance process as promised by the Union Defendants, like Defendants Moats, United Faculty of Florida and Florida Education Association

had done in 2013 (when Plaintiff was faced with identical discipline), the Union Defendants purposefully failed to act, causing Plaintiff's employment to be terminated by default on January 6, 2016. Union Defendants further conspired to violate Plaintiff's civil rights by attempting to coerce Plaintiff into forfeiting his constitutionally protected tenure, by discouraging Plaintiff from taking legal action and encouraging Plaintiff to resign and accept a paltry severance package. See Sec. Am. Compl.¶¶ 61-67; 83-121; Exhibits F, G, H; N-AI.

2. Please state how you came to learn about the alleged meetings that took place in November and December 2015 identified in paragraphs 110, 116, and 149 of the Second Amended Complaint. Please include the names of any persons and their last known address from whom you received any information regarding these meetings and when it is you came to learn about these alleged meetings.

Subject to and without waiving the foregoing general objections, Plaintiff responds as follows: During telephone conversations in December 2015, Defendant Zoeller admitted to Plaintiff that he was in personal contact with FAU General Counsel Larry Glick. In February of 2016, Shane Eason, an Assistant Professor of Multimedia Studies at FAU, and a UFF-FAU Executive Committee Member, informed Plaintiff that Defendant Zoeller admitted to Eason that Defendant Zoeller met with FAU General Counsel Larry Glick on or about December 17, 2015 and reached an understanding and agreement that the Union Defendants would sabotage Plaintiff's defense and secure Professor Tracy's termination or resignation in lieu of termination.

3. Please identify the date, times, and locations of these alleged meetings identified in 110, 116, and 149 of the Second Amended Complaint.

Plaintiff objects to this request to the extent it requires Plaintiff to analyze or organize factual evidence already known to the Defendant, and further objects to the extent that it seeks information that has been publicly filed and is readily available to the Defendant, was already produced to the Defendant, or is already in the possession, custody, or control of the Defendant, including but not limited to Plaintiff's pleadings and any attachments thereto, Defendant's

pleadings, and federal statutes. Subject to and without waiving the foregoing and general objections, Plaintiff further responds as follows: Plaintiff's investigation is ongoing, however, any additional dates, times and/or locations of meetings held between the Defendants, which have not already been produced to Defendant by Plaintiff, will be disclosed accordingly upon discovery.

4. Please identify all persons believed to be in attendance of the meetings identified in 110, 116, and 149 of the Second Amended Complaint.

Subject to and without waiving the foregoing general objections, Plaintiff responds as follows: Defendant Robert Zoeller, Jr. and FAU General Counsel Larry Glick are the only persons known at this time by Plaintiff to be in attendance of the meetings identified in Sec. Am. Compl. ¶¶ 110, 116 and 149. Plaintiff's investigation is ongoing, however, any additional attendees of meetings held between the Defendants, who have not yet been identified by Plaintiff, will be disclosed accordingly upon discovery.

5. Please state all other facts not identified in the responses to the interrogatories above regarding the alleged meetings identified in 110, 116, and 149 of the Second Amended Complaint.

Plaintiff objects to this request to the extent it requires Plaintiff to analyze or organize factual evidence already known to the Defendant, and further objects to the extent that it seeks information that has been publicly filed and is readily available to the Defendant, was already produced to the Defendant, or is already in the possession, custody, or control of the Defendant, including but not limited to Plaintiff's pleadings and any attachments thereto, Defendant's pleadings, and federal statutes. See Sec. Am. Compl. ¶¶ 61-67; 83-121; Exhibits F, G, H; N-AI. Plaintiff's investigation is ongoing, however, any additional facts or information regarding meetings held between the Defendants, which have not yet been discovered by Plaintiff, will be disclosed accordingly upon discovery.

6. **Please state how you came to learn about the alleged agreement identified in paragraph 150 of the Second Amended Complaint in which it is alleged that “UFF and FEA agreed not to file a grievance or respond to Defendant University’s notices of discipline on Professor Tracy’s behalf, while actively deceiving Professor Tracy into believing that a timely response and grievance would be filed by Defendants UFF and FEA”. Please include the names of any persons and their last known address from whom you received any information regarding these meetings and the dates on which you received any information regarding these meetings.**

Subject to and without waiving the foregoing general objections, Plaintiff responds as follows: Defendant Moats informed Plaintiff that a timely response to the FAU Defendants’ Notice of Proposed Discipline would be filed on Plaintiff’s behalf. During a telephone conversation on or about December 23, 2015, Plaintiff was also informed by the attorney appointed by the Union Defendants that a timely response to above-referenced Notice of Proposed Discipline would be filed, and that Plaintiff should “relax” and “enjoy the holidays”. Plaintiff only learned about the Union Defendants’ true intentions, from his union-appointed attorney, after the Union Defendants purposefully missed Plaintiff’s response deadline, resulting in Plaintiff’s termination by default. See Sec. Am. Compl. ¶¶ 61-67 and 83-121, Exhibits F, G, H, N-AI. Plaintiff’s investigation is ongoing, however, any additional facts or information regarding meetings held between the Defendants, not yet discovered by Plaintiff, will be disclosed upon discovery.

7. **Please state all other material facts supporting Plaintiff’s Count II against the Union Defendants.**

Plaintiff objects to this request to the extent it requires Plaintiff to analyze or organize factual evidence already known to the Defendant, and further objects to the extent that it seeks information that has been publicly filed and is readily available to the Defendant, was already produced to the Defendant, or is already in the possession, custody, or control of the Defendant, including but not limited to Plaintiff’s pleadings and any attachments thereto, Defendant’s

pleadings, and federal statutes. Plaintiff's investigation is ongoing, however, any additional material facts supporting Plaintiff's claims against the Union Defendants, which has not yet been discovered, will be disclosed accordingly upon discovery.

VERIFICATION

I, _____, do hereby attest that the answers to Defendant United Faculty of Florida's Second Set of Interrogatories are true and correct to the best of my knowledge and belief.

JAMES TRACY

STATE OF FLORIDA)
)
COUNTY OF _____)

SWORN TO AND SUBSCRIBED before me by _____, to me personally known, or
who has shown _____
as identification, on this _____ day of _____, 2017.

NOTARY PUBLIC, STATE OF

My Commission Expires: