1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
2 WEST PALM BEACH DIVISION
CASE NO. 16-CV-80655-ROSENBERG
3
4 **JAMES TRACY,** .
5 Plaintiff, .
6 vs. .
.
7 **FLORIDA ATLANTIC UNIVERSITY** . West Palm Beach, Florida
BOARD OF TRUSTEES,
8 November 29, 2017
9 Defendant. .
10 VOLUME 1
JURY TRIAL PROCEEDINGS
11 BEFORE THE HONORABLE ROBIN L. ROSENBERG
UNITED STATES DISTRICT JUDGE
12
APPEARANCES:
13
FOR THE PLAINTIFF: **LOUIS LEO, IV, ESQ.**
14 **JOEL MEDGEBOW, ESQ.**
MATTHEW BENZION, ESQ.
15 *Florida Civil Rights Coalition*, PLLC
4171 W. Hillsboro Boulevard
16 Suite 9
Coconut Creek, FL 33073
17 954-478-4223
18 **STEVEN M. BLICKENSDERFER, ESQ.**
Carlton Fields P.A.
19 100 S.E. Second Street
Suite 4200
20 Miami, Florida 33131
305-539-7340
21
22
23
24
25

1 FOR THE DEFENDANT: **G. JOSEPH CURLEY, ESQ.**
HOLLY L. GRIFFIN, ESQ.
2 **ROGER W. FEICHT, ESQ.**
SARA N. HUFF, ESQ.
3 *Gunster Yoakley & Stewart, P.A.*
777 S. Flagler Drive
4 Suite 500 East
West Palm Beach, FL 33401
5 561-655-1980

6 COURT REPORTER: Pauline A. Stipes
Official Federal Reporter
7 HON. ROBIN L. ROSENBERG
Fort Pierce/West Palm Beach
8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 *THE COURT:* Good morning, you may be seated.
2 *MR. CURLEY:* Good morning, Judge.
3 *THE COURT:* Okay, good morning, everyone. We are here
4 in the matter of James Tracy versus Florida Atlantic University
5 Board of Trustees, a/k/a Florida Atlantic University. The case
6 number is 16-CV-80655.
7 Let me have all counsel state their appearance for the
8 record. And let me just -- so I can see where everyone is
9 seated, go slowly and state everyone's name.
10 *MR. LEO:* Good morning, Louis Leo, IV and Matthew
11 Benzion, B-E-N-Z-I-O-N, to my left. To my right is the client,
12 James Tracy, and Joel Medgebow.
13 *THE COURT:* M --
14 *MR. LEO:* E-D-G-E-B-O-W.
15 *THE COURT:* Okay.
16 *MR. BLICKENSDERFER:* Stephen Blickensderfer.
17 *THE COURT:* That is a tough side of the room there.
18 *MR. BLICKENSDERFER:* B-L-I-C-K-E-N-S-D-E-R-F-E-R.
19 *THE COURT:* Okay. All right. That is on the
20 Plaintiff's side.
21 And from the Defense.
22 *MR. CURLEY:* Good morning, your Honor, on the Defense
23 side Joe Curley, I am with Gunster, Diane Alperin, Vice Provost
24 at FAU, Holly Griffin, also with Gunster, G-R-I, double F, I-N
25 and Daniel Jones, he is assistant general counsel.

1 *THE COURT:* Of FAU?
2 *MR. CURLEY:* Yes. Fred Owens, Gunster Yoakley, Roger
3 Feicht, and Sara Huff, also with Gunster.
4 *THE COURT:* Diane Alperin and Mr. Jones will remain
5 with you throughout the trial?
6 *MR. CURLEY:* They will, your Honor.
7 *THE COURT:* Okay. So, let's begin by talking about
8 what is going to happen in terms of the beginning portion of
9 the trial and jury selection.
10 The jurors are still arriving, they are coming into
11 the jury assembly room. We called up 50 for the trial to
12 hopefully get our six, plus two alternates. They have the
13 questionnaire which you have seen and agreed on the telephone
14 yesterday to the two minor modifications that attempted to
15 incorporate some of the suggested changes or suggested
16 questions that the parties jointly proposed.
17 The jurors are filling those out now. They will be
18 copied, and we are giving one side to the Plaintiff and one
19 side to the Defendant.
20 One set of the jury questionnaires, one of them will
21 go to Plaintiff's table, one to defense table, the Court will
22 get one as well.
23 We will bring our jurors in at that point. I will
24 announce the case. I will then introduce who is in the
25 courtroom, those members of our team here, our staff, and I

1 will turn it over to you. So, I will turn it over to
2 Plaintiff's counsel to introduce everybody at your table
3 slowly, because I will ask everyone if they know anyone at the
4 table or not by a show of hands.
5 If someone raises their hand I will not get into it,
6 how someone may know you, we will do that outside the hearing
7 of the rest of the jurors. There are a couple of things I will
8 do outside the rest of the jurors, and the same for the
9 Defense.
10 Go slowly, whether one identifies everyone or everyone
11 identifies themselves.
12 *MR. CURLEY:* Do you want us to stop after each name
13 and ask or do you want us to do the whole table and then ask?
14 *THE COURT:* You can do the whole table, but do it
15 slowly. You don't have to pause after each one, but state the
16 name slowly enough and I will let the jurors know, listen
17 carefully because I will ask whether you know anyone at counsel
18 table.
19 I explain the purpose of the voir dire examination. I
20 talk about the estimated length of the trial. I have inserted
21 into my notes that I am going to represent to them that, to the
22 best of the estimation by the parties through counsel, that it
23 is estimated to last ten days, which could take us to on or
24 about December 12th, with the understanding it could be shorter
25 or longer, and they need to be prepared to be available for the

1 duration of the time of the trial.
2 I am giving a ten-day estimate which I think is a fair
3 estimate, I don't think it should go beyond that. That brings
4 us to on or about December 12th. That is what I intend on
5 letting them know.
6 I will tell them the afternoon of December 8th, so you
7 know, we are not going to be in session, we'll conclude at
8 twelve o'clock on December 8th for matters that the Court has
9 to attend to. For all other purposes, at least for now, we
10 will be in session. If we have emergency matters or things of
11 that nature and the Court has to break, I will let you know.
12 On that end, many, many month ago the Court set a
13 fairness hearing for 11:00 o'clock today, something that can't
14 be changed because notification went out to all the potential
15 class members.
16 I will try to coordinate the break and take care of
17 that hearing. There does not seem to be opposition nor
18 objectors, it should not be lengthy, but I will try to
19 coordinate the break to do that. Otherwise, the calendar is
20 clear and we will move things around throughout the course of
21 the next ten days as necessary to accommodate the trial, to
22 give it -- each day a full day.
23 We would like to finish by 5:00, but if we have a
24 witness on the stand and if we can finish by 5:30, I will do
25 that. I would let the jurors know we may go later if necessary

1 to accommodate the witness' schedule. That will be important
2 for the attorneys to keep me posted.
3 As a general matter, after the lunch break, although I
4 generally initiate that conversation, anticipate who the
5 witnesses are, and we will talk about it every night so both
6 sides will know what the lineup is. If you see a witness is
7 going to finish at 5:30 or 6:00, is likely to finish up that
8 day rather than have him return for 20 minutes or half an hour
9 the next day, alert me to that so I can alert the jurors, so if
10 they need to make personal accommodations, they can do so.
11 I then go into the summary of the case. I said I
12 would put it in a paperless order so you'd have the written
13 text of what I read yesterday to get the viewpoint from the
14 Plaintiff and Defense as to the Court's additional statement.
15 I know there was the agreed-upon statement that was
16 filed at 386. I am going to delete the sentence that says
17 "Plaintiff seeks to be reinstated to the tenured professorship
18 at Florida Atlantic University and any and all further relief
19 just and permitted by law" because it is not necessary for the
20 purpose of the Court reading the statement, which is again to
21 give the jurors a general idea what the case is about so we can
22 find out if they know anything about the case.
23 I explained it is not evidence, it is just a summary.
24 I proposed yesterday additional comments which I put in the
25 order that was sent out, and I know Plaintiff had agreed, at

1 least based on what you heard me say orally yesterday, although
2 it was the first time you heard it, and you were appearing
3 telephonically.
4 I would like to get confirmation there is no objection
5 to the Court reading it, and the purpose for the Court reading
6 it is so I can take the initiative when I continue my colloquy
7 in the initial stages of, A, finding out whether there is
8 anything that anyone knows about the case, and if they know
9 anything about the case, I have a show of hands, and again, I
10 will take those matters up outside the hearing of the rest of
11 the jury. If someone knows something about the case through
12 the media or otherwise, I don't want any of the other jurors to
13 be exposed to that.
14 I ask multiple times, but after reading the statement
15 of the case, and then I explain how evidence comes in, I ask a
16 question about whether they can be fair and impartial and base
17 their verdict on the evidence.
18 So, that was the reason for me going a little bit more
19 in detail about some of the matters that they may hear about.
20 As we know, certain jurors maybe have certain feelings about
21 the case. We had a case last week, over the last several
22 weeks, involving police officers as Defendants and certain
23 jurors had strong feelings about police officers being
24 Defendants in excessive force cases.
25 It is not unusual, the Court tries to anticipate those

1 issues and get ahead of it. I thought it best if the Court
2 address the issue up front so we can get a baseline measure of
3 who might be fair and impartial in light of the subject matter
4 that might be covered in the case.
5 It doesn't preclude followup questions, but it does
6 minimize delving into the issues if the Court could adequately
7 cover it.
8 If I have a show of hands of people, after hearing
9 what I read, who maybe they can't be fair and impartial or they
10 know something about the case, I will bring them in privately
11 and at that point you can question them individually after I
12 question them.
13 So, that is sort of the procedure that I would follow
14 and then ultimately, once we clear out those people who have
15 issues, fair and impartiality issues and know something about
16 the case, with whom I will speak individually, we will have a
17 group as a whole. I will go through the questionnaire with
18 each and every juror, all the answers to the questions, I will
19 get them on the record.
20 If I see a certain answer lends itself to a followup
21 question, I will have my own followup questions based on my
22 answers to the questionnaire, and then I will turn it over to
23 counsel.
24 There hopefully won't be a lot that you need to ask.
25 Jury selection in State Court can go on much longer, but I have

1 seen, really, 15 minutes appears to be more than adequate
2 because of the procedure we utilize in trying to cover a lot of
3 ground before turning it over to counsel for counsel's
4 questioning.
5 Let me get each side's view, that is on the additional
6 comments that the Court had proposed, including when it reads
7 the statement of the case.
8 I will start with the Plaintiff. You addressed it
9 yesterday, let me get confirmation from the Plaintiff.
10 *MR. LEO:* We have no objection to the Court's
11 statement.
12 *THE COURT:* Okay. And from the Defendant?
13 *MS. HUFF:* Sara Huff for Florida Atlantic University.
14 We did confer with Plaintiff's counsel and we had some proposed
15 changes that they did not agree to.
16 I have a proposed red line. I could give them a copy.
17 *THE COURT:* Yes, if you could do that, that would be
18 helpful, thanks.
19 *MS. HUFF:* The first proposed change --
20 *THE COURT:* So we get it fully, it begins with "in
21 this case you will hear testimony about the specific speech
22 that Plaintiff contends was constitutionally protected,
23 however, this is not a case about whether you agree with
24 Plaintiff's beliefs", and you have deleted "or whether you
25 agree with Plaintiff's speech."

1 *MS. HUFF:* Yes, your Honor. There are certain parts
2 of Plaintiff's speech that we think the jury could disagree
3 with, so we don't want to state it so broadly. We believe
4 whether you believe with the Plaintiff's beliefs encapsulates
5 the idea, and the rest of the sentence could be redundant or
6 confusing later on.
7 *THE COURT:* Later on in this statement --
8 *MS. HUFF:* No, later on in the case. This is the
9 first time they are hearing about the speech.
10 *THE COURT:* Explain again. I understand redundancy.
11 What is the possible confusion?
12 *MS. HUFF:* The possible confusion is that the jury --
13 it doesn't matter whether you agree with the content of the
14 Plaintiff's speech, but they may disagree with the effect of
15 the Plaintiff's speech and the effect it had with the
16 university. We don't want -- it is a fine point, and we
17 believe it could be alleviated by talking about the Plaintiff's
18 beliefs.
19 *THE COURT:* Okay, let's keep going and maybe I will
20 understand it all in context.
21 Then, some of Plaintiff's speech which he contends is
22 protected under the First Amendment includes questions such as
23 school shootings -- the next sentence which you have proposed
24 to be deleted, that speech questions whether the United States
25 Government engaged in a conspiracy in connection with the mass

1 casualty events to prevent gun control and conspiracies in
2 general.
3 What was the reason for taking that out?
4 *MS. HUFF:* The reason for taking that out, it is a
5 specific modifier of the overall belief, but it is under
6 inclusive of the Plaintiff's belief that -- he does believe the
7 United States Government engaged in a conspiracy, but a lot of
8 other elements are also engaged in the conspiracy, and it is
9 under inclusive of his beliefs. It captures what the speech is
10 about.
11 *THE COURT:* And then, as I stated, you will not decide
12 whether Plaintiff's beliefs are correct. What you must do,
13 however, is judge this case impartially regardless of whether
14 you agree with the Plaintiff's views, and you took out the word
15 "personal".
16 *MS. HUFF:* Yes, we believe it is disputed whether the
17 views are personal or professional.
18 *THE COURT:* Okay, all right.
19 Is there anything objectionable to what the Defense is
20 proposing? You have conferred and didn't come to consensus,
21 but it may not necessarily be the same as you finding something
22 objectionable. You may prefer it the way the Court initially
23 proposed it. The Court wasn't wedded to it, it was to get the
24 conversation going because I felt at least the issue of the
25 content of the speech in some respect should be addressed by

1 the Court initially, and so that is why the Court took a stab
2 at it, but certainly doesn't have private authorship in terms
3 of how it has to be presented to the jury.
4 So, let me turn it over to the Plaintiff. Anything
5 objectionable, in other words, inconsistent or misstating
6 anything if the Court were to adopt the proposed red line
7 changes?
8 *MR. LEO:* Louis Leo for the Plaintiff. The Plaintiff
9 doesn't agree there is any grounds on which the jury could
10 disagree with the effect of the Plaintiff's speech at the
11 university. We also disagree that the second part that the
12 Defendants wish to delete from the Court's proposed statement
13 is included in the first part.
14 It is one thing to say Sandy Hook and other massacres
15 didn't happen. It is a different statement when you say the
16 Government was engaged in a conspiracy, which should be
17 addressed in the jury selection, disagreement with the
18 Plaintiff's speech. It is not about the Plaintiff's beliefs,
19 it is Plaintiff's speech, disagreement with that speech is
20 something we need to address in jury selection, your Honor.
21 *THE COURT:* Let me ask you this: Is there going to be
22 evidence that will be presented that will touch upon an aspect
23 of the Plaintiff's speech that concerned issues as to whether
24 the United States Government engaged in a conspiracy in
25 connection with mass casualty events to promote gun control and

1 conspiracies in general?
2 *MR. LEO:* Yes, your Honor.
3 *THE COURT:* Does Defense agree with that?
4 *MS. HUFF:* Yes, your Honor.
5 *THE COURT:* So, I believe that sentence should stay
6 in. It may be it is under inclusive. The statements are
7 brief, but what they are intended to do, at least my goal is to
8 try to touch upon certain hot button issues to see whether it
9 elicits any concerns on the part of jurors whether they could
10 be fair and impartial in that regard. I think it would be
11 helpful in serving that purpose to keep that sentence in.
12 As to the last change that the Defense proposed,
13 personal views, any objection to that coming out?
14 *MR. LEO:* No, your Honor.
15 *THE COURT:* That will come out, that will be adopted.
16 I will keep the sentence beginning with "that speech also
17 questions," again, Plaintiff's view on the phrase "or whether
18 you agree with Plaintiff's speech" following "whether you agree
19 with Plaintiff's beliefs or whether you agree with Plaintiff's
20 speech?"
21 *MR. LEO:* Your Honor, we would prefer speech if not
22 beliefs.
23 *THE COURT:* So --
24 *MR. LEO:* Or both. If it is not both, it should be
25 speech.

1 *THE COURT:* Okay. I am going to keep that in.
2 I am hearing from Defense it is potentially redundant.
3 I will err on the side of redundancy in that regard. I will go
4 with what I proposed other than take out the word "personal" in
5 the last statement and otherwise keep that statement.
6 Okay. So, that is the statement of the case. I also
7 read them the instruction regarding, you know, no researching,
8 viewing media, and things of that nature. So, that is when I
9 will give them instruction and I will give it to them again
10 during my preliminary instructions.
11 So, what the panel may have already viewed in the
12 media is obviously -- it is what it is, and we'll flush that
13 out so we know who has heard of the case and how, and I will
14 question each one of the jurors individually about that, but
15 you can be assured that once we get our panel and we have
16 identified those who have not been exposed to media coverage
17 and are not objectionable jurors to either side, what they
18 heard may have been so long ago, or they don't remember, things
19 of that nature, that the nature of the instructions that the
20 Court gives throughout the trial are -- the nature is clear and
21 unequivocal, unambiguous.
22 It is repeated probably three times a day, and at
23 least from the most recent experience with a fairly high
24 profile case that was covered daily in the newspaper we had not
25 one issue with any juror being exposed, reviewing any form of

1 media and it in no way interfered or tainted the trial.
2 I am hopeful and anticipate we will be able to proceed
3 in a similar manner once we get our panel.
4 *MR. CURLEY:* Your Honor, I don't know if you have seen
5 the paper this morning.
6 *THE COURT:* I think I did see the one this morning.
7 *MR. CURLEY:* Front page of the B Section, Palm Beach
8 Post.
9 I don't know how the Court intends to treat that. In
10 addition, I saw reporters out front attempting to interview
11 people on their way in. I want to make sure you are aware of
12 that and that that gets addressed.
13 *THE COURT:* It absolutely will get addressed.
14 *MR. CURLEY:* In terms of recency.
15 *THE COURT:* The same thing happened with the last
16 trial. I don't know if anybody followed the Brown trial.
17 *MR. CURLEY:* I did. I don't remember anything in
18 advance of the trial.
19 *THE COURT:* There was, beginning on the first day,
20 press outside. One of the very first things that I will do is
21 determine if anyone knows anything about the case, and
22 depending on the show of hands, it may be at that point I -- as
23 to those jurors who haven't raised their hands, we send them
24 outside, we have the jurors who raise their hands wait outside
25 the door. Depending on how many of them there are, I will know

1 what break to give the other jurors and bring them in one at a
2 time.
3 I say, I understand you raised your hand that you know
4 something about the case. Please tell us what you know, how
5 did you learn it, and I will ask whether they are able to put
6 what they learned aside and just base their verdict on the
7 evidence that is presented in the courtroom. I will allow each
8 counsel to ask any particular questions as relates to that
9 issue only because, again, you will have the opportunity to ask
10 more general questions during voir dire that you will have.
11 And then, after each one of those jurors has come in
12 and left we can have a discussion about whether you believe
13 they have been exposed to so much media and heard things that
14 would not be admissible in trial or otherwise formed views so
15 that we can make a decision right at that point that they
16 should be excused.
17 I won't let them know at that point, but at the
18 appropriate point we will excuse them as cause challenges
19 because they have been exposed to the case.
20 *MR. CURLEY:* Thank you. A couple of other
21 housekeeping things.
22 *THE COURT:* Yes.
23 *MR. CURLEY:* When your Honor finishes with the
24 questioning, will you ask the attorneys if they have other
25 questions that they want you to ask or will you just turn it

1 over?

2 *THE COURT:* We can do it one of two ways; I can turn
3 it over and allow counsel the 15 minutes each to ask their
4 questions, or if you would prefer, after I have done an
5 exhaustive exposure to the case and all of those issues as to
6 whether they can be fair and impartial, the ten to 12 questions
7 on the questionnaire, including any followup questions that the
8 Court asked, if you believe there are followup questions you
9 want the Court to ask, we could have a brief break and I can
10 obtain those questions.

11 If I did that, that would be in lieu of asking the
12 questions and I will proceed that way.

13 *MR. CURLEY:* Okay.

14 *THE COURT:* Is that how you are -- how is that with
15 the Plaintiff?

16 *MR. LEO:* That is fine, your Honor.

17 *MR. CURLEY:* Personal question, if I bring a cup of
18 coffee in, is that okay?

19 *THE COURT:* That is fine, you can bring beverages. We
20 are told -- in criminal matters we are told not to bring hot
21 beverages in. This is not a criminal matter, I think it would
22 be fine to bring in a cup of coffee.

23 There is going to be no individual voir dire by
24 counsel. After my review of the questionnaire, I will inquire
25 of counsel as to any additional questions.

1 I would say maybe keep a list, hopefully not an overly
2 exhaustive one, but keep a list, and maybe I will have covered
3 it and you can cross it off your list. If you feel I haven't,
4 we can discuss it and we will see if it is an appropriate
5 question the Court can ask and I will entertain doing just
6 that.
7 *MR. CURLEY:* Maybe I misheard you or misspoke. I
8 don't mean to suggest at the end of when you are done -- I know
9 we still get 15 minutes.
10 *THE COURT:* I did misunderstand.
11 I was taking your question in lieu of you asking your
12 own questions.
13 *MR. CURLEY:* Not in lieu, I was thinking if you asked
14 questions, this is something the Court should ask as opposed to
15 counsel.
16 There may be none, and I haven't had a trial where you
17 ask the questions of the jurors so you may be have been
18 complete and it may be unnecessary for all I know. I am being
19 cautious.
20 *MR. LEO:* Your Honor, that was my understanding as
21 well. There may be subject matter here that may be better for
22 the Court to address.
23 *THE COURT:* Okay, understood. We will still have the
24 break so you let me know if there are additional questions, but
25 you still get your 15 minutes.

1 *MR. CURLEY:* Thank you.

2 *THE COURT:* Okay. So, we have a little bit of time
3 before our jury is pulled up, so why don't we begin with what
4 issues you believe would be important to address in the time we
5 have remaining until the jurors come up.

6 I will say, as I said yesterday, that no matter that I
7 have not ruled on should be brought up before the jury until
8 the Court has actually ruled, so that would include anything in
9 your voir dire questions. We know you are not going to give
10 your opening statements today.

11 We will leave whatever time is remaining at the end of
12 the day to go over any and all rulings to be made on the
13 multiple objections that remain as to exhibits and depo
14 designations, but it's not apparent to the Court, readily
15 apparent, I should say, in the 45 pages of the summary of the
16 deposition designations and exhibit list at Docket Entry 374,
17 which ones are still lingering out there, which ones lend a
18 ruling, and tomorrow are opening statements, and the Plaintiff,
19 and from the way the trial plan is outlined and particularly in
20 light of the fact I will let the Defense treat both cross and
21 direct, the issues will relate to Mr. Tracy.

22 Why don't we begin a discussion about what issues you
23 think by way of exhibits that would be introduced that you need
24 a ruling on. I know there was discussion of depo designations.
25 We can take those up and get priority issues, so when Mr.

1 Tracy comes on the stand, I prefer a trial with fewer
2 objections than more. Make the ones you need to.
3 I am not a big fan of sidebar, counsel, make your
4 objection, no speaking objections, only in the most urgent of
5 objections that you think warrants a sidebar because if
6 something went further it could result in irreversible error if
7 I allowed something to continue without having a discussion
8 sidebar. Certainly there are instances that arise, so we can
9 use sidebar for that purpose.
10 Otherwise, I don't want every objection to turn into a
11 sidebar and I would like to keep it to a minimum and only those
12 instances that are necessary.
13 With that, I know you have done meeting and
14 conferring.
15 What are the primary and paramount issues that we can
16 begin discussing and that you would like a ruling on that would
17 impact the proceedings beginning as soon as tomorrow?
18 *MR. BLICKENSDERFER:* Before we leave that last point,
19 I want to ask your Honor's preference on proffers. Say your
20 Honor excludes evidence, would you like to take that at the end
21 of the day, outside the presence of the jury, the evidence that
22 may have been excluded?
23 *THE COURT:* Yes. It is going to be up to counsel to
24 highlight for the Court that it would like to make a proffer.
25 The Court will allow the proffer and we will work it in during

1 a time that doesn't interfere with the jury's time. It will be
2 out of the hearing of the jury. The breaks are going to be
3 short and you want your down time. If it is a short proffer, a
4 five-minute proffer, that makes sense to do it then. Only you
5 will know when and what type of proffer you want to make.
6 *MR. BLICKENSDERFER:* I didn't want to interrupt the
7 proceedings. That is fine, thank you.
8 *THE COURT:* Okay.
9 *MR. LEO:* Your Honor, Louis Leo for the Plaintiff.
10 Given there is an objection to literally every single
11 exhibit on the Plaintiff's exhibit list, I don't know whether
12 it would be prudent to address exhibits first. With respect to
13 designations, there are many.
14 *THE COURT:* Okay, I have the Plaintiff's exhibit list
15 that goes up to 97, and I have the hard copies.
16 We are giving your discs back, I know you needed to
17 update them, and you will bring them back to us.
18 Ben, did you say we uploaded the Defense's or not?
19 *THE COURTROOM DEPUTY:* I have not.
20 *THE COURT:* Okay, but I have them here.
21 You've met and conferred and you are telling me that
22 of 97 exhibits, there is an objection to each and every exhibit
23 after meeting and conferring.
24 *MR. LEO:* Your Honor, regarding the objections to
25 Plaintiff's amended exhibit list, we haven't conferred on every

1 single one, but we did confer on this. A lot of the exhibits
2 were already listed. We did try to resolve some of the issues,
3 but it wasn't happening.
4 *THE COURT:* So, are we starting with Exhibit 1?
5 *MR. LEO:* Exhibit 1 was not objected to.
6 *THE COURT:* Okay, Exhibit 1 is not objected to.
7 What is the first one that there is an objection to?
8 *MR. LEO:* Exhibit 2. We can go one by one with the
9 Plaintiff's position if your Honor prefers.
10 *THE COURT:* Why don't you state what it is.
11 *MR. LEO:* Your Honor, these are notes recorded by the
12 former dean of the university who initiated discipline in 2013.
13 *THE COURT:* Who is -- who wrote this?
14 *MR. LEO:* Heather Coltman.
15 *THE COURT:* Heather Coltman wrote this note. You
16 anticipate getting it in through Heather Coltman?
17 *MR. LEO:* As well as the Plaintiff, your Honor, who
18 found these notes in his personnel file. Heather Coltman
19 admitted she wrote these notes in 2013, with top officials of
20 the university. These are admissions under 801(d)(2)(D), they
21 are not hearsay. That seems to be the basis for the objection,
22 although they did note it was all objections.
23 *THE COURT:* Your position is they are admissions
24 under --
25 *MR. LEO:* 801(d)(2)(D), these are statements offered

1 against an opposing party which were made by the parties' agent
2 or employee on a matter within the scope of the matter that
3 existed. Dean Coltman was writing notes concerning the
4 Plaintiff's blogging activities and the effect and impact on
5 the university. She also outlined objectives to look for
6 misconduct and find ethical means of discipline.
7 She outlines in there she was searching for metaphors
8 for the First Amendment, and these were in the Plaintiff's
9 publicly mailed personnel file and in response to the
10 Plaintiff's personnel file submitted to multiple media outlets.
11 If there is an objection to privilege or something to that
12 effect, which may also been an objection given that one of the
13 attorneys for FAU -- or former attorneys were in these
14 meetings, there was no privilege, and if it was, it was waived.
15 These were not in anticipation of litigation, and
16 furthermore, by putting them into the personnel file, releasing
17 them to the public, if there was a privilege, it is waived.
18 *THE COURT:* Okay. And from the Defense.
19 *MR. FEICHT:* Good morning, Roger Feicht. To clarify,
20 we did not raise an objection to every exhibit on the
21 Plaintiff's exhibit list.
22 If you look at the Plaintiff's seventh amended exhibit
23 list, you will note there are a lot that have an O by them and
24 in a lot of cases are to exhibits that were added after the
25 joint pretrial stipulation was submitted. So, we are at a

1 point in time we are preparing for trial and we get ten
2 exhibits added to the exhibit list, and we were at a point in
3 time we were preparing witnesses and doing other pretrial
4 preparations so we raised objections in an abundance of caution
5 because many of the exhibits were added at the last moment.
6 Turning to Exhibit Number 2, you note on the very
7 first page --
8 *THE COURT:* It is only a one-page document.
9 *MR. LEO:* No, your Honor.
10 *THE COURT:* It is not a one-page document? Let me
11 see. I see, it is a multiple-page document.
12 *MR. FEICHT:* On the top of page one there is a note at
13 the top that Larry Glick was attending, that was the former
14 in-house counsel of Florida Atlantic University. You will note
15 he is attending all of these meetings.
16 There is a privilege here regardless of whether it is
17 in anticipation of litigation. These are discussions between
18 FAU administrators and counsel, and the attorney/client
19 privilege here is a Federal privilege and applies here in
20 Federal Court.
21 These are privileged conversations. The discussions
22 are regarding how the university is going to respond to these
23 issues, and they are being made in the context of seeking
24 advise of legal counsel.
25 Additionally --

1 *THE COURT:* How did it get turned over if it is
2 privileged? Was it put on a privileged log?
3 *MS. GRIFFIN:* Holly Griffin with Gunster. They were
4 turned over as part of a public records request. Under Florida
5 Statute, they are public records unless they are work product.
6 I can pull the cases for your Honor, we cited them to Judge
7 Hopkins previously.
8 Under Federal law, they are privileged and state law
9 does not act as a waiver. We cited to Judge Hopkins -- I can
10 find those in a moment -- case law that says that should be
11 clawed back if it was produced pursuant to public records law,
12 but not as part of the discovery process and publication, and
13 privilege would apply under Federal law.
14 *THE COURT:* What about if it was turned over to the
15 media and in the Plaintiff's personnel file?
16 *MS. GRIFFIN:* The files turned over to the media were
17 a public records request, and they were more expansive than
18 Plaintiff's personnel file. The media request were all public
19 records related to Plaintiff's employment. It was not in a
20 personnel file, it was in a separate file maintained by Heather
21 Coltman.
22 *MR. FEICHT:* Roger Feicht. I have a Docket Entry and
23 page number in which we cited legal authority on this
24 distinction as to public records request and privilege, Docket
25 Entry 239, page 12.

1 *THE COURT:* All legal authority is cited there?
2 *MR. FEICHT:* Right, and it goes to page 13 as well.
3 Even though they were turned over, we have a duty under public
4 records law, now in Federal Court, we have a Federal Court law
5 privilege and these were privileged despite the fact that they
6 were produced.
7 *THE COURT:* Did the Plaintiff cite authority in
8 opposition to that?
9 *MR. LEO:* There was never a privilege log with this
10 item, it is not to be excluded in any way in this case. There
11 was an issue with privilege with respect to documents that the
12 Defendant university attempted to withhold from the Plaintiff
13 and that is what counsel is referring to when he talks about
14 this authority.
15 These notes were never objected to, these notes were
16 not produced during discovery which remains to be unclear. The
17 former Defendant Coltman testified she took these notes, these
18 were random notes taken. It is not clear whether Defendant's
19 counsel was present at all of these meetings, there were
20 multiple meetings. It is also not something that was raised by
21 the Defense during Coltman's deposition. When she was looking
22 at the notes, testifying about the notes, there were no
23 objections made to privilege, no attempt to stop any testimony
24 concerning meetings or what was recorded during these meetings.
25 Furthermore, your Honor, the privilege does not

1 protect these records which were created during the course and
2 scope of the Dean's employment and also, again, it hasn't been
3 raised until this moment that they are saying that there is a
4 privilege here. If there was a privilege, it was waived.
5 These were not reported in terms of litigation. This is 2013,
6 before any discipline. The first discipline was March 2013, no
7 lawsuit, no attempt to terminate Professor Tracy. There was no
8 litigation until December of 2015, three years later.
9 *THE COURT:* Do you have any page number where you
10 cited authority? It is fine if you don't.
11 *MR. BLICKENSDERFER:* Docket 222 is the motion to
12 compel which touches upon the privilege and how Florida law
13 applies under Federal law. We recognize that Judge Hopkins had
14 an order on this issue. There is other case law in this
15 district, so we are not going to shy away from the fact the
16 Southern District has orders on this. But we stand by --
17 *THE COURT:* You are not going to shy away from
18 Southern District case law that says what?
19 *MR. BLICKENSDERFER:* That says in this particular
20 case, that is on a Federal question, that Florida State
21 evidentiary rules will not apply in Federal Court.
22 *THE COURT:* If Florida law does not apply in Federal
23 Court, what is the remaining basis for your argument?
24 *MR. BLICKENSDERFER:* We didn't talk about these notes
25 or that response at Docket Entry 239. Frankly, I will defer to

1 co-counsel. Larry Glick appears on one page, these are several
2 days of meetings, I will defer to co-counsel on this.
3 I don't think we are responding on the basis that
4 these are public records and that is why they should come in,
5 because of that reason. These were not made in anticipation of
6 litigation, so even in the absence of it being a public record,
7 they should still come in.
8 That is part of the argument in response.
9 *THE COURT:* Okay, this is not a subject of an order by
10 Judge Hopkins, this particular document?
11 *MR. BLICKENSDERFER:* No, your Honor.
12 *THE COURT:* All right. So we will move on. I will
13 not make my ruling now. At least I have the benefit of your
14 arguments, so when we readdress it at the end of the day --
15 *MR. FEICHT:* Your Honor, I misspoke about the page
16 numbers.
17 *THE COURT:* Yes.
18 *MR. FEICHT:* This discussion, this was in FAU
19 Defendant's motion, Docket Entry 239, back in August, the
20 discussion begins on page 11 and goes through page 13. That is
21 when we were raising this issue precisely during this time.
22 *THE COURT:* Let's move along to the next exhibit.
23 *MR. LEO:* The next exhibit is Exhibit 4. We won't use
24 number 4.
25 *THE COURT:* Okay. So, you are not using Exhibit 4?

1 *MR. LEO:* I don't believe it will be introduced. If
2 anything, it would be used to refresh the witness'
3 recollection.
4 *THE COURT:* Next one.
5 *MR. LEO:* Exhibit 5 is a composite exhibit of multiple
6 faculty and administrators of the Defendant university, they
7 are screen shots of online activities.
8 *THE COURT:* Is this the one that starts with
9 progressive professor?
10 *MR. LEO:* That is one, it is a 16-page composite.
11 *THE COURT:* What is it?
12 *MR. LEO:* These are screen shots of multiple faculty
13 members. I could go through the names.
14 *THE COURT:* No. A summary of what it is and why it
15 should come in, what legal basis to come in.
16 *MR. LEO:* This is online speech of other faculty
17 members, much like the Plaintiff who has online activities.
18 They use their job titles in describing themselves, there is an
19 absence of disclaimers on their online profiles and Twitter and
20 Facebook pages, which shows how the Plaintiff was treated
21 differently, your Honor.
22 *THE COURT:* And who would you get this in through?
23 *MR. LEO:* This could be introduced through the
24 Plaintiff who has seen these, as well as Dean Coltman and Diane
25 Alperin, who in this case was asked to search for outside

1 activity reports for these activities and also to find
2 discipline records, letters of discipline or notices of
3 discipline.
4 *THE COURT:* What is the legal basis? What Rule of
5 Evidence would permit it to be admissible?
6 *MR. LEO:* It is not being offered for the truth, it is
7 relevant, rather, what the effect was on particularly the
8 university in enforcing its policies which they claim to be
9 neutral.
10 *THE COURT:* So, am I taking it to mean how you are
11 phrasing that, that you would consider these hearsay documents,
12 but are not seeking to have them admitted for the truth of the
13 matter, but the effect on the university enforcing its policy?
14 *MR. LEO:* Yes.
15 *THE COURT:* Why wouldn't you be able to ask the
16 persons who are called as witnesses, you know, the number of
17 university personnel questions that would elicit the same
18 information?
19 *MR. LEO:* Some of these witnesses -- some of these
20 employees are witnesses. I believe Coltman, Johnson, Williams,
21 Robe, Eason, it certainly can be sought with respect to those
22 individuals. This was an exhibit for the administrators who
23 were aware of these activities and either did or did not do
24 something that they should have or could have with respect to
25 these activities once they were discovered.

1 *THE COURT:* Okay, from Defense.
2 *MR. FEICHT:* Roger Feicht on behalf of the Defense.
3 We briefed this issue, this is a hot button issue.
4 *THE COURT:* Where did you brief it?
5 *MR. FEICHT:* Docket 292, page six through page nine.
6 *THE COURT:* Okay. A summary would be what?
7 *MR. FEICHT:* A summary would be this, what Plaintiff
8 is trying to do, these other six, approximately, professors are
9 similarly situated but not disciplined, that is the argument.
10 The Plaintiff is trying to say these other professors had
11 online activities and were not disciplined, therefore Plaintiff
12 must be disciplined for the content of his activities.
13 *THE COURT:* Why wouldn't that be cross-examination of
14 the witnesses?
15 *MR. FEICHT:* Eleventh Circuit law, when you are
16 addressing an employee similarly situated they must be
17 similarly situated in all respects, quality and quantity,
18 conduct must be identical to the Plaintiff's in order -- here,
19 these are not similar to the Plaintiff's activities at all.
20 These are professors in most instances that have an online
21 resume' that say I am a professor at FAU, this is what I do as
22 part of my job.
23 *THE COURT:* Is it a similarly situated objection or is
24 it an evidentiary objection?
25 *MR. FEICHT:* Unfairly prejudicial and creates a trial

1 within a trial. We need to explain -- Plaintiff was blogging
2 three times a week, researching and writing, and contended it
3 was not having to do with his professional activity. They are
4 promoting their professional activity. Plaintiff, in contrary,
5 when faced with discipline, says this is not part of my
6 professional activity.
7 *THE COURT:* Okay.
8 *MR. FEICHT:* More importantly, this is going to
9 require us to explain why the other six professors were not
10 disciplined because they did not have similar activity.
11 Additionally, Plaintiff has not produced any evidence
12 that FAU had knowledge of these activities when they were
13 addressing Plaintiff's discipline, because what makes the
14 Plaintiff unique, he was the only professor at FAU who refused
15 to check an online acknowledgment box when he submitted his
16 assignment. That is why that was brought to the
17 university's --
18 *THE COURT:* Is this encompassed in Docket Entry 292,
19 page six through nine, these arguments?
20 *MR. FEICHT:* Let me check quickly, your Honor.
21 Yes. The only thing I would add that is not mentioned
22 in the briefing is these are not blogs with written articles
23 that are being posted. If you look at --
24 *THE COURT:* I don't want to spend too much time, I
25 want to get a preview of a few of them. I think I have a good

1 enough sense of it right now.
2 Let's move on so I find out which ones are truly
3 contested.
4 *MR. LEO:* If I could respond.
5 *THE COURT:* No, unless you give me a Docket Entry.
6 *MR. LEO:* 298 is in response to the filing.
7 *THE COURT:* 298, what page?
8 *MR. LEO:* Three through four.
9 *THE COURT:* What is the next one objected to?
10 *MR. LEO:* 5-A, B, C, D, E, F, G are part of the
11 composite, those are the next exhibits, they fall within that
12 category.
13 *THE COURT:* Okay.
14 *MR. LEO:* There is an objection to Exhibit 6, which is
15 the Plaintiff's response to Heather Coltman's January 28th
16 memorandum, which was Exhibit 1, which was not objected to by
17 the Plaintiff.
18 *THE COURT:* Plaintiff's response to Heather Coltman --
19 *MR. LEO:* Memorandum to Exhibit 1.
20 *THE COURT:* Okay.
21 *MR. LEO:* The Plaintiff has no problem with Exhibit 1
22 coming in, but doesn't want the jury to see number 6, which is
23 in response to that memorandum.
24 *THE COURT:* The basis of the objection?
25 *MR. FEICHT:* The objection is not to the Plaintiff's

1 response letter, it is what is attached to the letter.
2 *THE COURT:* A two-page letter of 6?
3 *MR. LEO:* 6-A, we added it, that is the attachment.
4 *THE COURT:* I don't have that. That is what you are
5 supplementing your record with?
6 *MR. LEO:* This is an email attached to the letter that
7 Professor Tracy wrote to Heather Coltman in response to the
8 memorandum.
9 *THE COURT:* Who is it from and to?
10 *MR. LEO:* To Heather Coltman from Professor Tracy with
11 respect to the disclaimer that he didn't have on his blog, in
12 that email was a disclaimer which the university claimed he did
13 not have.
14 *THE COURT:* The objection is to the attachment?
15 *MR. FEICHT:* Yes, 6-A, that is hearsay.
16 *THE COURT:* Response.
17 *MR. LEO:* Not offered for the truth, your Honor, it is
18 offered for the effect on the university and the Plaintiff's
19 state of mind at the time, which is offered for the truth, your
20 Honor.
21 *THE COURT:* Are there docket entries or page numbers
22 that you briefed this issue?
23 *MR. LEO:* I don't believe so.
24 *THE COURT:* Okay, no problem.
25 What is the next one?

1 *MR. LEO:* Exhibit 9. This is an article that was
2 published in the newspaper by a faculty member who was a former
3 administrator at the university by the name of Jeffrey Morton,
4 who is also a witness in this case.
5 The article was not only published, it was put into
6 Professor Tracy's mailbox, as well as the other mailboxes of
7 the faculty members.
8 *THE COURT:* And the legal basis to admit it?
9 *MR. LEO:* This is evidence of selective enforcement of
10 the university's policy.
11 *THE COURT:* Is it hearsay?
12 *MR. LEO:* It is not offered for its truth.
13 *THE COURT:* So it is hearsay.
14 *MR. LEO:* It would be, your Honor, however, it is not
15 offered for its truth. It is offered for the effect not only
16 on the university, but the effect on Professor Tracy and goes
17 to his state of mind as well.
18 *THE COURT:* Defense?
19 *MR. FEICHT:* If you look at the article, it is
20 published by other professors that had no involvement
21 whatsoever in the decision-making process, and it is a public
22 article. What the Plaintiff is trying to do is prejudice the
23 jury against FAU based on personal opinions of non decision
24 makers. We briefed this issue, I don't believe your Honor had
25 a chance to see it. We were researching it last night. If I

1 may approach?

2 *THE COURT:* If you would tell me -- do you know the

3 Docket Entry?

4 *MR. FEICHT:* Yes, 413.

5 *THE COURT:* What page? All of 413 goes to this?

6 *MR. FEICHT:* No, in particular pages -- as far as

7 whether nor not somebody is a decision maker, and therefore --

8 *THE COURT:* Just generally.

9 *MR. FEICHT:* It begins on page five of seven.

10 *THE COURT:* You don't need to elaborate, I will read

11 it, just in the interest of time.

12 What is the next one?

13 *MR. LEO:* 10-A, this is a letter from the American

14 Association of University Professors sent -- it was a cease and

15 desist letter sent to the university, to Dean Coltman, in an

16 attempt to discipline Professor Tracy for his blogging.

17 *THE COURT:* The basis for the admissibility?

18 *MR. LEO:* These fall into the same category of

19 evidence of the rights groups.

20 These are not being offered for the truth, but for

21 Professor Tracy's state of mind. It had an impact on him in

22 the way he conducted himself at the university and it had an

23 affect on the university which is not hearsay.

24 *THE COURT:* Response from Defense.

25 *MR. FEICHT:* These are hearsay letters. What these

1 letters are, are from civil rights groups that Plaintiff
2 contacted and asked that they write letters in support of his
3 position. These letters were sent to the university, they are
4 hearsay. The Plaintiff is trying to admit the letters in
5 support of his position based on the civil rights groups and
6 conclusions.
7 *THE COURT:* Is the issue briefed anywhere?
8 *MR. FEICHT:* No, they are not.
9 *THE COURT:* No problem.
10 *MR. LEO:* If I may briefly respond about Professor
11 Tracy solicited these letters, that is not in evidence. I
12 would ask counsel to please stick to the record.
13 *THE COURT:* That is 10-A and 10-B.
14 What is the next one objected to?
15 *MR. LEO:* 11-A.
16 *THE COURT:* Can you give me a preview?
17 *MR. LEO:* There are a dozen of these exhibits that
18 weren't objected to in the seventh amended exhibit list. It is
19 extensive, I am prepared to argue every single one.
20 *THE COURT:* We are not going to argue every single
21 one. We are going to use what time we have before the jury
22 comes in and we'll break.
23 What is 11-A?
24 *MR. LEO:* 11-A is an email from Joshua Glanzer to Lulu
25 Ramadan, she is a journalist, and also it is a composite, two

1 emails, another email from Glanzer to Rachel Hollingsworth.
2 These were two requests for the Plaintiff's personnel file in
3 2016.
4 The Defendant had at some point contended that the
5 request for his personnel file were not just for the personnel
6 file, but something more than the personnel file, and all these
7 other records, because the Defendant wanted to claim that the
8 reason why the notice of discipline that was supposed to be
9 removed from the Plaintiff's personnel file pursuant to a
10 settlement agreement entered into in 2013, it had not been
11 removed, just got into the public records request, had nothing
12 to do with the request for the personnel file.
13 *THE COURT:* Is this a hearsay document?
14 *MR. LEO:* These are admissions, 801(d)(2)(D). These
15 are statements by an administrator of the university.
16 *THE COURT:* These are statements of Glanzer, an
17 administrator of the university?
18 *MR. LEO:* Yes. 801(d)(2) for Glanzer's statements, a
19 request from the media would be hearsay. It is for the effect
20 on the university.
21 *THE COURT:* So, the requests from the media are
22 hearsay, not for truth of the matter, but the effect on the
23 university.
24 *MR. LEO:* Yes, your Honor.
25 *THE COURT:* Okay, briefed anywhere?

1 *MR. LEO:* I don't believe so.
2 *THE COURT:* Response.
3 *MR. FEICHT:* This will create a trial within a trial.
4 Multiple members of the media made public requests. As part of
5 the grievance settlement between the Plaintiff and the
6 university a particular document was to be removed from the
7 personnel file. This shows one media asked for records from a
8 personnel file, a different media asked for all of his
9 employment records. The documents that were supposed to be
10 removed from his personnel file weren't removed from the
11 broader request.
12 This is the more narrow request. They are trying to
13 disprove the fact that the other media members had broader
14 public records requests by relying on the separate one --
15 *THE COURT:* Relevancy objections, taking issue with
16 the position it is 801(d)(2)(D) as relates to Glanzer's email?
17 *MR. FEICHT:* None of the statements are admissions.
18 We are not admitting anything, because in this instance, it is
19 simply the more narrow public records requests that are being
20 responded to. This might be in the scope of the employment, it
21 is not an admission against interest.
22 Moreover, what they are trying to admit here is an
23 email by the media, and that is hearsay.
24 *THE COURT:* All right. Thanks.
25 I will pause for a moment.

1 Are the jurors ready?
2 *THE COURTROOM DEPUTY:* When you are.
3 *THE COURT:* We will take a five-minute recess. We
4 will take a brief recess and come back in in five minutes and
5 we will get started.
6 *(Thereupon, a short recess was taken.)*
7 *THE COURT:* Okay, before we bring the jury in, each
8 side has a lot of attorneys, so I am going to task during the
9 jury selection each of you with designating an attorney from
10 each of your teams to go over the exhibits.
11 I need an email as soon as possible to the Court email
12 which would be joint that indicates each and every exhibit from
13 the Plaintiff, we will start with the Plaintiff, that is going
14 to -- that you intend to introduce and to which there is an
15 objection that has not and cannot be resolved.
16 Conferral must continue while I am going through jury
17 selection so the email is sent immediately, as soon as
18 possible, on a rolling basis so I can continue to understand
19 the positions and legal arguments that, you know, that are
20 being raised.
21 I am not going to be able to go through 97 exhibits,
22 we won't go home tonight, we will be here through tomorrow
23 morning.
24 I need a meet and conferral beginning now to try to
25 work out as many as you can.

1 I have never been in a trial where 97 exhibits have
2 been objected to. That is highly unusual. There are many
3 attorneys at the table, very competent. Have a department, one
4 from each side is going to go out, meet and confer, and on an
5 ongoing basis email to the Court's email, you know, pause every
6 15 minutes or so, so I can be working back in chambers with the
7 support staff that I have to know which ones Plaintiff
8 anticipates seeking to admit and whether there is an objection.
9 I don't care about the ones you are not going to admit
10 and I don't care about the ones you are not objecting to. The
11 ones you are going to admit and the ones you are going to
12 object to, I want them in the priority that they will come in
13 tomorrow. Presumably some won't come in until the next day.
14 There should be a statement about what exhibits you
15 anticipate will be coming in through Mr. Tracy tomorrow,
16 through his testimony, and focus on those, which ones you seek
17 to admit and whether there is an objection, so when we have our
18 conference at the end of the day we at least know we will be
19 addressing those.
20 But I want the conferral to continue to cover all 97,
21 or however many Plaintiff's exhibits there are, but I want it
22 to be designated in the email these are the exhibits that we
23 will be seeking to come in tomorrow.
24 So, who is going to be the designated person on each
25 side?

1 *MR. LEO:* Matthew Benzion for the Plaintiff.
2 *MR. FEICHT:* Roger Feicht on behalf of the Defendant.
3 *THE COURT:* Do you have a computer so that you could
4 email it back to chambers, a regular update email back to
5 chambers? They get the emails and I get it here. We can
6 monitor it on an ongoing basis. Research will be conducted
7 during the day so when we have our conference it will be
8 productive at the end of the day.
9 If there is legal argument made on an existing
10 document, when you refer to that exhibit put Docket Entry and
11 page number. Don't send the emails back with legal argument, I
12 want to know which exhibit you are seeking to have in by
13 priority, and if there is anything written on any exhibit by
14 something Judge Hopkins has done, put the Docket Entry and page
15 number, no argument.
16 Okay?
17 *MR. CURLEY:* Your Honor, one other thing.
18 *THE COURT:* Do both sides have the questionnaires?
19 Plaintiff?
20 *MR. LEO:* Yes.
21 *THE COURT:* Defense?
22 *MR. CURLEY:* Yes. One thing on the exhibits, what I
23 heard was that there might be a time that Mr. Tracy is going to
24 testify and give testimony about all of the other exhibits
25 created by other people that he is not the author of or the

1 recipient, and that he is going to go through some sort of
2 narrative of what they are and what they mean.
3 We have and we will continue to raise objections
4 regarding his ability to do that, to authenticate them and talk
5 about them, et cetera.
6 It might be one of the reasons why he intends on being
7 on the stand so long. I want to bring that to the Court's
8 attention.
9 *THE COURT:* All right. The jury is outside.
10 Counsel who are going to meet and confer stay for a
11 moment so you can introduce yourself and slip on out and use
12 one of the break rooms.
13 *(Thereupon, the jury was duly selected and sworn.)XX*
14 *(Thereupon, a short recess was taken.)*
15 *THE COURT:* Okay, you may be seated.
16 Okay, we are going to take up a few matters now and we
17 are going to proceed as follows: Before we get started on
18 specific objections to specific exhibits, I want to explain how
19 I plan to proceed.
20 Upon my review of the totality of objections before
21 the Court, I have identified what I think are three large
22 issues that permeate many of the relevancy objections before
23 the Court. Those pertain to evidence of Plaintiff's beliefs,
24 evidence pertaining to Plaintiff's failure to grieve, and
25 evidence pertaining to faculty members at FAU being confused

1 about FAU policies, complaining about FAU policies, or being
2 subjected to different treatment than Plaintiff under those
3 policies.
4 What I am going to do is rule upon these general
5 relevancy objections that fall under those categories, and in
6 so ruling I will explain my reasoning. What I hope will happen
7 is that this will then render further argument on these points
8 unnecessary, and while objections may be noted for the record,
9 I am hoping that after noting those objections we will be able
10 to proceed through the remaining relevancy objections quickly.
11 After I issue these rulings, I will rule on certain
12 categorical objections the parties have briefed in the court
13 file, followed by the parties arguing specific objections to
14 specific exhibits, prioritizing exhibits that will be offered
15 tomorrow.
16 There is one matter I want to briefly address,
17 however, on the issue of damages.
18 Based upon the Court's prior rulings, I think the
19 parties are clear that no evidence of damages will be
20 introduced at trial. Plaintiff's Exhibits 84, 89 and 90, all
21 of which pertain to damages, are therefore excluded.
22 One large area of dispute is whether Defendant may
23 introduce evidence of Plaintiff's failure to grieve his notice
24 of termination. On this issue, Plaintiff makes repeated
25 references to the fact that Defendant's "failure to grieve"

1 defense is no longer applicable. It is true that failure to
2 grieve, as a legal defense, does not preclude Plaintiff's claim
3 for retaliation. That defense was relevant to Plaintiff's
4 contractual claims, premised on Plaintiff's collective
5 bargaining agreement, and the Court's ruling on summary
6 judgment dismissed several of the Plaintiff's counts due to
7 Plaintiff's failure to grieve.
8 Plaintiff's failure to grieve does not preclude him
9 from bringing his retaliation claim before the jury. The
10 Defendant conceded this point on summary judgment. But the
11 mere fact that Plaintiff's failure to grieve does not preclude
12 his claim does not mean that, as a factual matter, Plaintiff's
13 failure to grieve is entirely relevant.
14 It is Defendant's position that Plaintiff was
15 terminated because of his willful insubordination and because
16 of his failure to comply with FAU policies. The Court does
17 conclude that Plaintiff's failure to grieve is not a core issue
18 in this case. The core issue is why was Plaintiff terminated.
19 Plaintiff's failure to grieve could not form a basis for why
20 Defendant issued a notice of termination to Plaintiff.
21 That said, Plaintiff's failure to grieve did occur
22 prior to Defendant's final termination of Plaintiff.
23 Therefore, there is some relevance to evidence to the
24 fact that Plaintiff was advised to grieve, which he did not
25 take, and to the fact that Plaintiff did not grieve during the

1 period between his notice of termination and his final
2 determination.
3 This is evidence that is relevant and it goes to how
4 Plaintiff governed himself during the time period at issue in
5 this case. The probative value of this evidence, however, has
6 a limit. Actions that Plaintiff undertook after his receipt of
7 the notice of termination are less relevant than actions that
8 Plaintiff undertook prior to receiving his notice of
9 termination.
10 Defendant should be mindful, therefore, of introducing
11 evidence on this point that is overly cumulative. At this time
12 the Court will not draw a line as to what evidence is
13 cumulative, but the Court does want to put Defendant on notice
14 of the Court's concern on this matter.
15 Similarly, Plaintiff is cautioned from overly
16 introducing evidence on this issue, Plaintiff's response should
17 be proportional to the evidence introduced by Defendant and
18 also should not be overly cumulative. For example, it is the
19 Court's understanding that the Plaintiff may attempt to attack
20 the credibility and training of those who advised him to grieve
21 his notice of termination. The Plaintiff is cautioned, and the
22 Defendant is too, that this should not turn into a trial of
23 Plaintiff's failure to grieve. This is a trial why the
24 Plaintiff was terminated. So, while the Court is not drawing a
25 line today as to what evidence will be overly cumulative as to

1 Plaintiff's counter evidence on Plaintiff's failure to grieve,
2 the Plaintiff is on notice, too, of the Court's concerns on
3 this issue.
4 For the foregoing reasons, Plaintiff's objections to
5 Defendant's exhibits pertaining to Plaintiff's failure to
6 grieve are overruled. The Court's ruling, however, is not
7 directly tied to specific exhibits for the following reasons:
8 On this issue, Plaintiff has objected to Defendant's
9 Exhibit 27, 31, 45, 47, 48, 51, 52, 53, 54, 102, 103, 104, 105,
10 107, 108, 109, 111, 113, 120 and 121.
11 Relatedly, Plaintiff has also objected to exhibits
12 pertaining to communications with his former counsel that
13 concern grievance advice and communications in connection with
14 Plaintiff's decision on his grievance. Those objections,
15 premised upon the contention that Defendant should not be able
16 to discuss Plaintiff's failure to grieve are also overruled.
17 These objections go to Defendant's Exhibit 120, 216,
18 216-A, 216-C, 216-D, 216-F, 216-G, 217, 217-A, 217-D, 217-H,
19 217-I, 217-M, 217-N, 217-I, and 217-Q. The number of exhibits
20 here is simply too great for the Court to review in a timely
21 fashion and some of the exhibits, such as Exhibit 27, are not
22 included in the flash drive provided to the Court.
23 The Court therefore expects the parties to review the
24 exhibits and to appropriately apply the Court's ruling on this
25 issue. The Court's ruling, however, is limited at this time

1 solely to the issue of whether the Defendant may present
2 evidence of Plaintiff's failure to grieve. If Plaintiff has
3 additional objections, such as hearsay or privilege, those
4 arguments may be raised when the Court opens the floor for
5 evidentiary argument.
6 Finally, the Court notes Plaintiff's objection that if
7 the jury hears that an attorney advised Plaintiff to grieve,
8 this may be unfairly prejudicial to the Plaintiff because the
9 advice came from an attorney.
10 The Court is willing to entertain a limiting
11 instruction on this issue so as to alleviate concerns Plaintiff
12 may have as to unfair prejudice and such limiting instruction
13 shall be provided to the Court in a timely fashion when that is
14 being requested to be given.
15 Another area of dispute is whether Plaintiff may
16 introduce evidence that he and other faculty members were
17 confused about FAU policies. The Court agrees with Plaintiff
18 that this evidence is relevant; however, the Court wants to
19 explain that there is a limit to the probative value of this
20 evidence.
21 The Court has already ruled on summary judgment that
22 the manner in which Plaintiff governed himself in this case and
23 the manner in which Plaintiff refused to comply with FAU
24 policies, formed a lawful basis for Defendant to terminate him.
25 There is simply a jury question as to whether that was the

1 actual reason Plaintiff was terminated, but because Plaintiff
2 provided Defendant with a lawful basis to terminate him, it is
3 less relevant why Plaintiff provided Defendant a reason to
4 terminate him.
5 That said, the Court does acknowledge that the
6 gravamen of the Defendant's basis for termination was that the
7 Plaintiff was insubordinate, and Plaintiff's evidence of
8 confusion about FAU policies does serve to explain why
9 Plaintiff acted as he did and to offer to the jury the
10 contention that his actions were a logical result of a policy
11 that was confusing in terms of how a faculty member could
12 comply with it, effectively providing a basis to argue that he
13 was not insubordinate, he was simply confused.
14 Evidence from other faculty members is similarly
15 relevant, but as the Court previously noted, the probative
16 value of this evidence is limited. It is limited because the
17 Plaintiff provided the Defendant with a lawful basis to
18 terminate him, and the reasons why Plaintiff did so are not
19 core issues. The core issue in this case is why Defendant
20 terminated Plaintiff - was it because of his speech or because
21 of his alleged insubordination.
22 So the Court will permit evidence of confusion about
23 FAU policies both from Plaintiff and from other witnesses, but
24 the Plaintiff is cautioned that overly cumulative evidence on
25 this point will not be permitted.

1 Somewhat related to this issue is evidence that other
2 faculty members at FAU had blogs and either were not
3 disciplined or were otherwise treated differently.
4 The Court has heard argument from Defendant as to why
5 this evidence should not be admitted, with Defendant taking the
6 position these are not valid comparators. The Court concludes
7 that type of argument is more appropriate for
8 cross-examination than for total exclusion. While Defendant
9 has cited general law for comparators and the Court has
10 analyzed the same, the Court is past the stage of evaluating
11 Plaintiff's evidence through the lens of whether or not he has
12 valid comparators or through the lens of the *McDonnel Douglas*
13 framework for comparators on summary judgment.
14 We have proceeded past that stage, citing to *Gehring*,
15 G-E-H-R-I-N-G, *versus Case Corporation*, 43 F.3d 340, at 343,
16 1994, quoting, "the burden shifting model of *McDonnel Douglas*
17 applies to pretrial proceedings, not to the jury's evaluation
18 of evidence at trial."
19 It is for the jury now to evaluate Plaintiff's
20 evidence of others being treated differently so that the jury
21 can decide whether or not the Defendant's basis for termination
22 was pretextual, but there will be a limit. There will be a
23 limit how many witnesses Plaintiff may call who were not
24 closely situated to Plaintiff insofar as they did not willfully
25 refuse to comply with FAU policies, followed by Defendant's

1 cross-examination as to the lack of similarity. Plaintiff is
2 cautioned as to this point.
3 There was substantial argument in the court file as to
4 whether evidence of Plaintiff's subjective beliefs may be
5 introduced as evidence. This may no longer be an area of
6 contention between the parties because as best as the Court can
7 discern, the Defendant wanted to admit this evidence to show
8 that Plaintiff damaged his own reputation.
9 Regardless, the Court will exclude evidence of
10 Plaintiff's subjective beliefs about his own speech. What
11 Plaintiff believes is not relevant to why he was terminated.
12 What the Plaintiff said, the actual context of the
13 speech, is relevant and that evidence may come in subject to a
14 cumulative exception. The Court will not permit evidence about
15 what Plaintiff believes.
16 The Defendant has filed a trial brief/motion at docket
17 Entry 413 arguing that three different types of evidence should
18 be excluded. The first is evidence pertaining to Plaintiff's
19 subjective beliefs as to why he was terminated. The second is
20 evidence of Plaintiff's confusion. The third is evidence of an
21 FAU senate faculty meeting. The Court addresses each in turn.
22 A to Plaintiff's subjective belief as to why he was
23 terminated, Plaintiff can only testify as to matters for which
24 he has personal knowledge. The core issue in this case is why
25 Plaintiff was terminated. Plaintiff may not speculate. The

1 operative inquiry in this case is about the "employer's
2 beliefs, and not the employee's own perception of his
3 performance." *Brown versus Sybase*, S-Y-B-A-S-E, Inc., 287 F.
4 Supp. 2d 1330, at 1340, Southern District of Florida, 2003.
5 Plaintiff's subjective beliefs as to why he was fired are not
6 relevant to a determination of what Defendant's beliefs are.
7 Also citing to *Avril Village South, Inc*., 934 F. Supp.
8 412, Southern District of Florida, 1996, quoting, "the fact
9 that Plaintiff claims that her performance was adequate and
10 that she believes that she was not responsible for the errors
11 in question is irrelevant to whether Defendant held those
12 beliefs."
13 Defendant's motion is therefore granted insofar as
14 Plaintiff may only testify as to matters to which he has
15 personal knowledge, and he may not testify as to his subjective
16 belief about why he was terminated. This ruling applies to the
17 subjective beliefs of other witnesses who lack personal
18 knowledge as well.
19 As to Plaintiff's testimony about confusion over FAU's
20 policies, the Court has already ruled that this evidence is
21 relevant, subject to exceptions pertaining to overly cumulative
22 evidence.
23 In its motion, Defendant argues that Plaintiff's
24 testimony about his confusion simply quarrels with the
25 reasonableness of Defendant's decision-making process. In

1 essence, Defendant argues that when Plaintiff talks about his
2 confusion, he would simply be arguing that he should not have
3 been terminated because of that confusion. The Court does not
4 agree.
5   Plaintiff's evidence is not limited to the scope that
6 Defendant defines. First of all, Plaintiff's evidence of
7 confusion is evidence that he could not comply with the demands
8 that FAU made of him. Defendant's basis for termination was
9 Plaintiff's insubordination, but Plaintiff's testimony on
10 confusion goes to whether he was insubordinate.
11   Secondly, and most importantly, Plaintiff has evidence
12 that his termination was pretextual - this evidence was
13 discussed in detail in the Court's order on summary judgment.
14 Plaintiff also has evidence that others were confused by the
15 FAU policy at issue, that his alleged confusion was not an
16 isolated event. When Plaintiff's evidence of confusion is
17 taken as a whole with all of this other evidence, this evidence
18 goes to whether Defendant's basis for termination should be
19 believed.
20   In other words, Plaintiff's theory that Defendant used
21 a confusing policy as a pretextual basis for his termination
22 will not be excluded by this Court, and the Court will
23 therefore not exclude Plaintiff from testifying to his
24 confusion on the same. Defendant's motion is denied as to
25 evidence of Plaintiff's confusion and the confusion of others,

1 subject to a cumulative exception as previously stated.
2 Finally, Defendant argues that hearsay testimony about
3 what FAU professors said at a certain senate faculty meeting
4 should be excluded. The Court agrees with Defendant that any
5 such evidence would be hearsay. The Court has reviewed the
6 audio recording of the faculty senate meeting. It is clear
7 that the relevant subject matter of that meeting was that,
8 generally, FAU policies were confusing, that FAU was improperly
9 applying that policy to the faculty, and that the faculty
10 thought that FAU should cease and desist from its
11 administration of that policy.
12 The Court is unable to discern how that evidence could
13 be offered in any way other than to prove the truth of the
14 matter and, as a result, Plaintiff would have to proffer a
15 hearsay exception for this evidence to be admitted.
16 Plaintiff argues that faculty member statements were
17 admissions by a party opponent. The mere fact that some of the
18 faculty members had administrative duties does not mean that
19 the faculty members are empowered in the course of their duties
20 to determine whether a policy is confusing, whether it is being
21 applied correctly, and whether the policy should continue to be
22 applied.
23 The operative inquiry for this Court is whether the
24 hearsay declarants were speaking within the scope of his or her
25 agency or employment. *City of Tuscaloosa versus Harcross*

1 *Chemicals, Inc.*, 158 F.3d 548, at 557, Eleventh Circuit, 1998.
2 For example, in *Staheli versus University of*
3 *Mississippi*, 854 F.2d 121, 127 Fifth Circuit, 1988, statements
4 made to a Plaintiff professor by a professor that was a member
5 of the faculty senate were not admissions of a party opponent
6 because the senate professor "had nothing to do with
7 Plaintiff's tenure decision" and "did not concern a matter
8 within the scope of his agency."
9 The Defendant's motion on this point is therefore
10 granted. For Plaintiff to be able to admit this hearsay
11 evidence, Plaintiff would have to proffer to the Court evidence
12 that the faculty members' duties included the administration of
13 the FAU policy, such that their comments were within the
14 capacity of their relationship with FAU. See *Wilkinson versus*
15 *Carnival Cruise Lines*, *Inc*. 920 F.2d 1560, 1565, Eleventh
16 Circuit, 1991.
17 This is quoting, "it is necessary, in order to support
18 admissibility, that the content of the declarant's statement
19 concerned a matter within the scope of the agency."
20 At present, the Court is unable to discern any
21 evidentiary basis for which the comments at the senate faculty
22 meeting, helpful and relevant to Plaintiff, would be within the
23 agency and scope of the declarant's duties. Although the Court
24 acknowledges that theoretically, perhaps, Plaintiff could
25 proffer additional evidence such that certain statements at the

1 senate faculty meeting could qualify as admissions of a party
2 opponent, the Court's granting of Defendant's motion on this
3 point is not without prejudice, it is with prejudice for the
4 following reasons:
5 The Court notes that the majority of the faculty
6 senate meeting recording is not relevant. Much of that
7 recording concerns the university's efforts at outside
8 community activities, and frustrations that various faculty
9 members had about specific communications from FAU that have no
10 bearing on this case.
11 The Court excludes all such evidence as irrelevant.
12 To the extent that Plaintiff would attempt to admit
13 the audio recording or otherwise elicit testimony about the
14 statements at the senate faculty meeting on relevant matters,
15 the Court concludes the probative value of that evidence is
16 outweighed by danger of confusion of the issues and unfair
17 prejudice.
18 As to the probative value, the Court has already noted
19 and ruled that the probative value of confusion about FAU
20 policies is limited. In connection therewith, Plaintiff has
21 ample grounds through various witnesses to elicit testimony
22 about faculty confusion about the policy. In contrast, the
23 unfair prejudice and danger of confusion is substantial.
24 The faculty members at the senate meeting were angry.
25 Much frustration can be heard in the recording. That

1 frustration and anger, and the faculty members' reactions and
2 discussion of the FAU policy, were framed by issues and
3 communications entirely irrelevant to this case. For example,
4 one faculty member was upset that he had received an email
5 pertaining to his outside speech, and other faculty members at
6 the meeting tried to support him. Thus, to the extent the
7 faculty meeting did discuss matters somewhat relevant to this
8 case, the FAU policy for outside activity disclosures, that
9 discussion was framed and developed in an emotional, heated
10 context completely irrelevant to this case.
11 The Court concludes that this evidence, even if
12 otherwise admissible, is unfairly prejudicial to Defendant and
13 could confuse the jury. For this reason and all of the
14 foregoing reasons, Defendant's motion is granted insofar as
15 Plaintiff is excluded from introducing testimony pertaining to
16 the FAU senate faculty meeting or from introducing the audio
17 recording of the senate faculty meeting, Plaintiff's Exhibit
18 67. Plaintiff's exhibits related to the audio recording,
19 Exhibits 27, 28 and 106 are also excluded.
20 Defendant objects to Plaintiff's Exhibits 65, 73, 74,
21 75, 78, 79, 80 and 82 on the grounds that the Court's ruling on
22 summary judgment renders this evidence as irrelevant because
23 Plaintiff's conspiracy claim is no longer before the Court.
24 Upon review of the exhibits, Defendant's objections
25 are overruled. The Court's order on summary judgment does not

1 have the effect of excluding this evidence. This evidence all
2 pertains to Plaintiff's defense to Defendant's evidence that
3 Plaintiff failed to grieve his notice of termination.
4 Defendant argues that all exhibits pertaining to
5 changes to FAU's policies that occurred after Plaintiff's
6 termination are no longer relevant. The Court disagrees. The
7 Court has ruled that Plaintiff will be permitted to introduce
8 evidence of confusion surrounding FAU policies. That is
9 evidence Plaintiff can use to argue that Defendant's stated
10 reason for Plaintiff's termination should not be believed.
11 Revisions that Defendant made to its policies after Plaintiff's
12 termination are relevant for the same reason.
13 Furthermore, Plaintiff represents to the Court that
14 many of the exhibits subject to Defendant's objections, and
15 perhaps all of them, were drafted prior to Plaintiff's
16 termination, but only provided to faculty after that
17 termination. The Defendant's objections on these grounds to
18 Plaintiff's Exhibits 14, 21, 22, 23, 26, and 64 are overruled.
19 Defendant argues that all exhibits related to
20 dismissed individuals should be excluded. The Court already
21 addressed this argument in a written order, Docket Entry 380,
22 just because the individual Defendants were dismissed does not
23 mean evidence is automatically irrelevant. This was premised
24 on the issue as to Plaintiff's Exhibits 41, 52, 76 and 83.
25 Although the Court cannot facially determine at this

1 juncture the relevance of Exhibit 52, a W-2 form, the Court
2 sustains the Defendant's objection to Plaintiff's Exhibit 40.
3 The exhibit is an email communication from the university
4 president and discussed that exhibit together with related
5 deposition testimony on the order of summary judgment.
6 For all of the reasons set forth in the Court's order
7 on summary judgment, it may not be introduced at trial.
8 I have reviewed Plaintiff's Exhibit 2 and have
9 reviewed the case docket, including those portions of Docket
10 Entry 239 referenced by the Defendant this morning, and I don't
11 see a basis for a privilege objection to Plaintiff's Exhibit 2.
12 From a review of the available case file, Exhibit 2 does not
13 appear on any privilege log that has been filed with the Court.
14 Moreover, both parties have used the document during this case,
15 apparently without objection from the Defendant until now.
16 The document was used at Dr. Coltman's deposition.
17 Plaintiff relied on and attached it to his statement of
18 material facts in support of his motion for summary judgment,
19 Docket Entry 248 and 250, without any apparent objection from
20 Defendant. More significantly, Defendant used Exhibit 2 in its
21 own statement of disputed facts in opposition to Plaintiff's
22 statement of material facts at Docket Entry 270. See 270,
23 Exhibit N as in Nancy, at paragraph eight.
24 Thus, Defendant has waived any claim of privilege
25 regarding Exhibit 2 by affirmatively using the document in this

1 case. See *Sperling versus City of Kennesaw Department*, 202
2 F.R.D. 325, 328, Northern District of Georgia, 2001, standing
3 for the proposition the Plaintiff's use of a privileged
4 document during her deposition waived any attorney/client
5 privilege as to that document.
6 The Defendant also objects to Plaintiff's Exhibit 2 as
7 hearsay. Plaintiff argues that Exhibit 2 is admissible as a
8 party admission pursuant to Federal Rule of Evidence
9 801(d)(2)(D).
10 Plaintiff is instructed to submit a trial brief
11 addressing each statement contained within Exhibit 2, and for
12 each such statement, state whether and how the content of that
13 statement concerns a matter within the scope of the speaker's
14 employment or agency. Pursuant to Federal Rule of Evidence
15 801(d)(2)(D); *City of Tuscaloosa versus Harcross Chemicals,*
16 *Inc*., 158 F.3d 548, 557, Eleventh Circuit, 1998, under the
17 Federal Rules of Evidence, it is not necessary to show that an
18 employee or agent declarant possesses "speaking authority"
19 tested by the usual standards of agency law, before a statement
20 can be admitted against the principal; instead, it is necessary
21 that the content of the declarant's statement concern a matter
22 within the scope of his employment or agency.
23 The Plaintiff should think about when Plaintiff
24 intends to try to admit Exhibit 2 and have a brief at least a
25 day in advance of the day of the witness through which the

1 Plaintiff would seek to have Exhibit 2 admitted so the Court --
2 or portions of it, so that the Court can review that trial
3 brief.
4 It has to be submitted a full 24 hours in advance of
5 when that witness is going to take the stand so the Court has
6 the opportunity to review it and hear any response from the
7 Defendant.
8 Today, at Docket Entry 412, the Defendants filed a
9 memorandum of law in support of admission of testimony and
10 statements made by Plaintiff's agent.
11 I would request that the Plaintiff respond to this
12 memorandum, and to do so very quickly, so the Court has the
13 Plaintiff's position on that memorandum and I would say --
14 trying to be realistic about a date. When is the first witness
15 that would be impacted by this issue raised?
16 *MR. LEO:* Tomorrow, your Honor.
17 *THE COURT:* Tomorrow?
18 *MR. LEO:* Assuming there may be cross of the
19 Plaintiff -- assuming the Defense intends to introduce
20 statements in cross-examination or in their direct.
21 I don't know if that would be tomorrow or Friday.
22 *THE COURT:* Well, I suppose you want to be heard on
23 the issue, you should be filing something right away.
24 *MR. LEO:* The brief was filed last night.
25 *THE COURT:* Right. 11/28/2017. I want to give you an

1 opportunity to be heard on it is the bottom line.
2 I don't approve necessarily how any of this is going
3 down in terms of the late-breaking matters. A case that has
4 been pending this long should be able to sail into trial with
5 all of these matters resolved.
6 So, it still confounds me how we find ourselves in
7 this position, and I will conclude by going over the emails
8 that were sent to us throughout the day today while I was here
9 picking a jury, and we were attempting in chambers to see which
10 ones you could agree to and which ones you were not agreeing to
11 and what they were. I will take those on now, this is the last
12 time I am doing it.
13 Counsel for both sides are perfectly adept and
14 competent and capable and know the case better than I do, I am
15 sure. You need to work these issues out, these objections need
16 to be worked out and I have given you now very large rulings on
17 key issues, and you need to extrapolate from the rulings and go
18 back to the drawing board with respect to the exhibits and
19 designations and anything else you object to, extrapolate from
20 those rulings what the Court has just pronounced as it would
21 apply to individual exhibits and designations. And only if
22 there is some additional objection that the Court didn't
23 address within its pronouncement that could be heard in a very
24 concise and simple way should the Court been entertaining any
25 further objections.

1 We are in trial now, evidence should be presented.
2 The Court should be paying attention to what is happening in
3 court and not making rulings on things that we -- you know,
4 should have been flushed out well in advance of this late stage
5 of trial. So, I am going to turn my attention to the emails
6 and I understand that there remains standing objections to
7 11-A, 11-B, and 11-C.
8 Is that still the case?
9 *MR. FEICHT:* Roger Feicht. To the extent your ruling
10 on Exhibit 2 that we just heard, Plaintiff's Exhibit 2 that is,
11 that does impact parts of 11-C, which is a compilation, that
12 doesn't include that. We will use your Honor's ruling to
13 impact 11-C.
14 *THE COURT:* So, 11-A. 11-A is an email from Joshua
15 Glanzer to Lulu Ramadan, and then there is a response from Lulu
16 Ramadan to Joshua Glanzer.
17 Is it -- I mean, this document is either hearsay in
18 its entirety or hearsay in part. To my knowledge, Lulu Ramadan
19 is who? Is it somebody from the a media, from the Post?
20 *MR. LEO:* She is a reporter from the Palm Beach Post.
21 *THE COURT:* That seems to me it is hearsay.
22 If the argument is the first portion of the email
23 should come in, Glanzer to Ramadan, under 801(d)(2)(1), I
24 suppose Plaintiff is going to need to proffer that what is
25 contained within this email falls within the scope of what

1 Joshua Glanzer is charged with doing at FAU, and unless
2 Defendant sort of acknowledges -- I don't understand how it can
3 be a contested issue.
4 If it is something that he does, you know, when he is
5 speaking on behalf of the university, because it falls within
6 the scope, it is 801(d)(2)(1), and that portion of the email
7 would be hearsay.
8 I am not sure what the dispute is.
9 *MR. LEO:* Your Honor, if I may summarize briefly, this
10 is regarding removal of a notice of discipline that was the
11 entire basis for a settlement agreement between these parties
12 in 2013. The evidence will show it was never removed.
13 *THE COURT:* I want to focus -- it is 20 of 7:00 -- on,
14 11-A, talking about the rules of evidence.
15 I view this as -- the bottom part of it as hearsay and
16 the top part is possibly not hearsay under 801(d)(2)(D), but
17 you would need to proffer if the Defense doesn't concede that
18 what Glanzer wrote is within the scope of what Glanzer was
19 charged with doing at FAU. Have you talked about this with
20 each other?
21 *MR. LEO:* We did discuss 11-A, B, and C, and where it
22 was left off is where they had objections.
23 *THE COURT:* Is this what Joshua Glanzer is charged
24 with doing, responding to an inquiry by somebody from the Palm
25 Beach Post?

1 *MR. FEICHT:* Your Honor, sort of is the answer. If
2 you can see the email, he refers to a different department,
3 that is a public records email address, that is what it says
4 specifically, public records can -- I cc'd him on that.
5 *THE COURT:* Did he write it within the scope of his
6 employment at FAU?
7 *MR. FEICHT:* Yes.
8 *THE COURT:* Would it not be 801(d)(2) --
9 *MR. FEICHT:* I don't see how it is an admission of
10 anything relevant or against his interest to say -- a public
11 records person should be the one --
12 *THE COURT:* Does it have to be against his interest,
13 801(d)(2)?
14 *MR. BENZION:* Not from my reading of the rule. The
15 rule provides if the evidence is offered against a party,
16 against an opposing party, and then is made by an agent or
17 employee within the scope of their employment.
18 *THE COURT:* Yes.
19 *MR. BENZION:* There is a second statement by Glanzer.
20 *THE COURT:* We are going to take one at a time.
21 801(d)(2)(D), statements that meet the following conditions are
22 not hearsay: Made by the party's agent or employee on a matter
23 in the scope of the relationship.
24 Was that statement made within the scope of his
25 relationship with FAU?

1 *MR. FEICHT:* Yes, it was.
2 *THE COURT:* 11-A, the top portion can come in, the
3 bottom portion is hearsay.
4 *MR. BENZION:* There are two emails, 11-A -- I
5 understand the ruling, basically what Glanzer says comes in,
6 people that wrote to Glanzer is hearsay, and that second email
7 of 11-A, what Glanzer says is admissible and the bottom part is
8 hearsay.
9 *THE COURT:* Correct. Glanzer's email at 8:36 a.m.
10 comes in, Romadan's email on at February 23, 2016, at 6:22 a.m.
11 does not come in. Glanzer's email to Hollingsworth on
12 April 26, 2016, at 11:29 comes in under 801(d)(2)(D). I assume
13 same answer from the Defense, within the scope of his job?
14 *MR. FEICHT:* Yes, your Honor, that email as well is
15 within the scope. There is a relevance objection in that it is
16 a response to this lawsuit.
17 *THE COURT:* Richard Perez Pena's April 26, 2016 email
18 to Glanzer does not come in as hearsay.
19 I understand there is still a relevancy objection. I
20 will overrule that objection. If the Plaintiff wants to bring
21 in those two emails, they come in as non-hearsay.
22 11-B, estimated cost invoice, that is a hearsay
23 document, is it not? It is from Rachel Hollingsworth. Are you
24 calling Rachel Hollingsworth? Is she going to testify she
25 prepared it and keeps it in the normal course of her business

1 so it might be a hearsay exception?
2 *MR. LEO:* This was an invoice provided to the
3 Plaintiff by the university.
4 *THE COURT:* I am trying to stick with the rules of
5 evidence. What is the basis -- he received it, that doesn't
6 make it admissible.
7 *MR. LEO:* It is not offered for the truth, also, your
8 Honor, it is a business record.
9 *THE COURT:* The person who would have to testify about
10 the business record would be Rachel Hollingsworth.
11 *MR. BENZION:* The business record exception provides
12 another qualified witness can testify that it is a business
13 record and Plaintiff would be able to testify that he ordered
14 his personnel file from FAU. They keep his personnel file in
15 the regular course of the business, and it is in the regular
16 course of business to keep a business file of an employee at
17 FAU, and he went there and paid for it.
18 He can meet all of the elements of the business
19 records exception, and there is law -- the rule itself provides
20 it doesn't have the to be a records custodian, and there is law
21 that provides it could be the Plaintiff, the person who went
22 and obtained the records was.
23 *THE COURT:* If you can lay a predicate of this coming
24 in through tracing it as a business record, you can attempt to
25 do that. If there is still an objection at that point to the

1 foundation for the hearsay exception under the business record,
2 that would just be the document, and the question would be
3 whether there is any hearsay contained within the document.
4 So, how far have both sides gotten in terms of
5 discussing it?
6 *MR. FEICHT:* As far as that particular exhibit, it was
7 discussed that we still objected based on hearsay, and they
8 stated they still did -- we did not get into discussing
9 whether -- this is the first I heard that Tracy has sufficient
10 knowledge to get over the business records exception. We did
11 not get into whether they would get past that hearsay within
12 hearsay.
13 *THE COURT:* Well, I would say Plaintiff's counsel take
14 a close look at the rule. If you seek to admit it, I expect
15 that you will follow the required foundation, I will see how it
16 goes, and you do that before it is shown to the jury and
17 mentioned to the jury.
18 And now that I know where you are going with it, I can
19 do a little more research. At first blush it did not appear
20 that Mr. Tracy would be the person to testify as to business
21 record, so the Court was not fully advised or informed as to
22 how you were attempting to get it in. So I will reserve on
23 that and let you make your later foundation if you still pursue
24 that tomorrow, or whenever you seek to admit it.
25 11-C, who wrote this document?

1 *MR. LEO:* 11-C is a compilation of records that were
2 produced to the Plaintiff in that personnel request requested
3 in 11-B, personnel FIU request, and these are -- it is actually
4 Exhibit 2, the notice, as well as the March 28th notice of
5 discipline which is an exhibit that has not been objected to.
6 *THE COURT:* I do see part of 11-C is what we are
7 talking about as 2. I have instructed you what you need to do
8 for 2.
9 I suspect that you -- so, 11-C can't come in in its
10 entirety until I receive from you what the Court has ordered
11 with respect to Exhibit 2, which is 1/8/13, a note that Heather
12 Coltman wrote to which the Court has made the partial ruling,
13 but left open the remaining portion of it, and as to the first
14 part of 11-C, I think you are going to need to do the same
15 thing. You will need to walk through with the Court what
16 portions and how they come in.
17 *MR. BENZION:* We need to lay the predicate how these
18 are admissions under 801(d)(2)(D).
19 *THE COURT:* Yes. I will defer on 11-C.
20 *MR. LEO:* Page nine and ten --
21 *THE COURT:* I don't see the pages nine and ten.
22 *MR. LEO:* A composite of C is Exhibit 8, the
23 March 28th notice of discipline, which is Exhibit 8, which
24 there is no objection to.
25 Part of this 11-C is not at issue between the parties.

1 *THE COURT:* You know, if it is not an issue, it
2 shouldn't be an issue. I am going to move off of 11-C now.
3 I will move on to number 14. The Court has already
4 dealt with that issue.
5 I would imagine that you may want to request, if
6 Mrs. Stipes is willing to do it, to get the transcript at a
7 minimum from this past ruling that the Court just made so you
8 know exactly what the ruling is with respect to the larger
9 issues, and some of the particular exhibits that the Court
10 covered.
11 Exhibit 14 was covered by the portion of what the
12 Court read when it talked about the Defendant's objection to
13 evidence created after the Plaintiff's termination, so I
14 addressed 14 already in my pronouncement on the record, and the
15 Defendant's objections were overruled for all of the reasons
16 stated on the record.
17 Similarly, I have addressed exhibits -- again, I am
18 going off the email that you sent to us that told us you still
19 had standing objections, I am going off that. This is the
20 email that was sent at 12:18 p.m.
21 Exhibits 27, 28, 28-A, 67 and 106 also have already
22 been addressed by the Court's ruling.
23 Then we get to 29. I don't understand, 29 appears to
24 be a -- who prepared Exhibit 29?
25 *MR. LEO:* 29 are academic evaluations by Coltman, and

1 she is going to testify.
2 *THE COURT:* I am not talking about relevancy. Who are
3 you trying to get these in through?
4 *MR. LEO:* They can be put in through the Plaintiff who
5 received them in his personal file --
6 *THE COURT:* How can they come in because he received
7 them? He can testify that he received something, but it is an
8 out-of-court statement.
9 *MR. LEO:* These are admissions by the university that
10 Tracy had no conflict with the time --
11 *THE COURT:* How is it an admission by the university?
12 *MR. LEO:* They were created during the scope of
13 Heather Coltman's relationship. While she was dean, she signed
14 these and the evaluations were put in the personnel file and
15 given to the Plaintiff.
16 *THE COURT:* So an evaluation signed -- you are saying
17 it is an evaluation signed by Coltman, this is what Coltman
18 does in the scope of her employment, in her position, and so
19 you are saying, what, that it is an 801(d)(2) document, it is
20 not hearsay?
21 *MR. LEO:* Yes, 801(d)(2), I believe.
22 *THE COURT:* Defense.
23 *MR. FEICHT:* If you look at page -- the faculty
24 evaluations go back to 2011. Dean Coltman did sign it as the
25 dean of the school, but she supervises hundreds of faculty

1 members. These evaluations would be prepared by the immediate
2 supervisor. It would be within her scope to approve a
3 submitted evaluation as dean of the college, she is not the one
4 who has direct knowledge of how Professor Tracy did in 2011 in
5 his classes.
6 *THE COURT:* Well, I suggest, then, that you are going
7 to have to -- that if you want to get this in, it would have to
8 come in through Heather Coltman and you would need to lay a
9 foundation first because clearly Defense is not agreeing that
10 this would have fallen within the scope of her -- a matter
11 within the scope of that relationship as relates to the
12 document. So you would need to call her and I suppose the
13 Court would need to hear what she has to say about it.
14 I am being asked to make a ruling in a vacuum on
15 documents that I haven't heard, you know, the testimony about.
16 So it is signed by Coltman, I need to make sure that it meets
17 all of the 801(d)(2)(D) elements.
18 So, it would seem Coltman would be the appropriate
19 person to bring it in, and you may be able to establish that.
20 It is being contested right now.
21 So, we either can have her called outside the jury's
22 hearing to hear it -- she is going to be called anyway, why not
23 get it in through her?
24 *MR. LEO:* We intended to.
25 *THE COURT:* I thought you were trying to get it in

1 through --

2 *MR. LEO:* It is our position that the Plaintiff who

3 received these academic evaluation could also admit them and

4 rebuts the allegation by the Defendant university that he was

5 failing to honor a time commitment.

6 *THE COURT:* I am not focusing on relevancy, I am

7 focusing on the basic rules of evidence and the exact way it

8 should come in.

9 You don't need to make the relevancy argument to me at

10 this juncture. Unless I am missing something, just because Mr.

11 Tracy receives something doesn't make it admissible.

12 *MR. LEO:* No, but he received them from the university

13 who fired him because of time commitments, and the dean signed

14 the evaluations, she found no conflict of interest.

15 *THE COURT:* Okay, I think it has to be from Dean

16 Coltman, and lay the proper predicate, follow the rule and make

17 your argument. If there is still an objection, I think that,

18 you know, that is the way -- you heard what Defense's objection

19 is to it, so if you think you can work around that objection

20 through your questioning of her, but certainly, I think she

21 would be the appropriate person. If it were to come in, it

22 would be from her, through her.

23 So, right now I am going to reserve on 29, but I am

24 going to say it is not appropriate to come in through the

25 Plaintiff.

1 With respect to 32, David Williams, remind me, David
2 Williams is the --
3 *MR. BENZION:* Supervisor of the Plaintiff, direct
4 supervisor.
5 *THE COURT:* Okay. So, why, from the Defense, isn't at
6 least the email from -- emails to Linda Johnson regarding
7 annual assignment, dated October 27, 2015, 801(d)(2)(D)? Is
8 this within the scope of what David Williams does?
9 *MR. FEICHT:* Your Honor, this document was objected to
10 on the basis of privilege because Professor Williams is asking
11 someone else within FAU to ask in-house counsel on this, and
12 given the Court's ruling on the privilege issue, we understand
13 that ruling, it will be withdrawn.
14 *THE COURT:* So the email from Williams to Johnson,
15 Exhibit 32, can come in as non-hearsay under 801(d)(2)(D), but
16 the email from Tracy to Shoenmakers (phon) would be an
17 out-of-court statement.
18 *MR. BENZION:* That is the state of mind of the
19 declarant, your Honor, he is expressing that the instructional
20 email he received from his supervisor inaccurately states the
21 policy and he also is raising other concerns about academic
22 freedom and asking for clarification on what is deemed a
23 conflict of interest.
24 *THE COURT:* Where is the state of mind, which section?
25 *MR. BENZION:* 803(3), then existing emotional or --

1 his intent, your Honor, which the Defendants put at issue,
2 calling the Plaintiff willfully insubordinate and willfully
3 refusing to comply with policies.
4 *THE COURT:* What is the state of mind that you are
5 seeking to have it presented for?
6 *MR. BENZION:* The instructions that he was receiving
7 confused him because they do not mirror what the actual policy
8 says and then that he is saying he needed clarification at this
9 time and the additional evidence that follows these emails will
10 show that he didn't get the clarification.
11 *THE COURT:* What is the Defendant's response?
12 *MR. FEICHT:* That is a broad reading of state of mind.
13 That email could be state of mind. Professor Tracy's emails
14 would constitute hearsay, they are not being offered against
15 him, they are trying to be used by him to bolster his
16 testimony. He is going to be testifying to this orally, which
17 would be the best evidence of his recollection of his purported
18 confusion.
19 *MR. BENZION:* A chance to respond, your Honor.
20 *THE COURT:* Yes, you may respond.
21 *MR. BENZION:* While Dr. Tracy's testimony is good
22 evidence how he was feeling at the time, the best evidence is
23 these writings, especially when the Defendant is contesting
24 that he was confused or he was seeking clarification which they
25 have made a great issue about in this case.

1 *THE COURT:* So, again, the state of mind that you are
2 seeking to have it come in for is what exactly?
3 *MR. BENZION:* To prove that he was confused about the
4 directives he was given and they did not actually mirror the
5 policy and that was creating confusion and asking for
6 clarification. Confusion and clarification essentially.
7 *THE COURT:* All right. Now I have a better idea how
8 you are trying to get it in. I will look into it further so I
9 can give you a ruling on that tomorrow. You don't need to do
10 any further briefing on that. I will take a closer look at
11 803(3). That is 32. And then --
12 *MR. BENZION:* 36 is the next exhibit in that email,
13 your Honor.
14 *THE COURT:* 36, there is no objection to the letters
15 as I understand it from -- the letter is --
16 *MR. FEICHT:* I will wait, it is very limited.
17 *THE COURT:* Is it my understanding the Dear Dean
18 Coltman letter from Mr. Tracy is not being objected to, but is
19 it the attachment?
20 *MR. FEICHT:* Yes, your Honor, there are several
21 attachments, approximately ten attachments to the letter. One
22 of the attachments is hearsay, the letter from FIRE, a civil
23 rights group that Plaintiff asked to write a letter on his
24 behalf. The Plaintiff asked for this letter to be sent on his
25 behalf, that is reflected in Defendant's 196 that shows that he

1 asked the civil rights organization, F-I-R-E --
2 *THE COURT:* The whole document, 36, what you object to
3 is Exhibit F, attachment F?
4 *MR. FEICHT:* I will try to scroll down. That is
5 correct.
6 *THE COURT:* Everything else you are not objecting to.
7 *MR. FEICHT:* Correct.
8 *THE COURT:* Response from the Plaintiff. It seems to
9 me that is hearsay. It is a letter written to Dear President
10 Saunders, who was then the president of FAU, April 23, 2013,
11 and it is signed by Will Creden (phon), Director of Legal and
12 Public Advocacy.
13 What is the evidentiary basis to have that come in?
14 *MR. BENZION:* The letters from FIRE are not being
15 offered for their truth, but for the effect on the listener.
16 FIRE are letters that will come up, 10-A and 10-B, 10-B being
17 in Exhibit 36. These letters are written by constitutional
18 rights groups in response to the discipline on the Plaintiff in
19 2013, and subsequent to receiving these letters, the Defendant
20 university backed down from their discipline and entered into a
21 settlement agreement with the Plaintiff.
22 *THE COURT:* Okay, I understand. I am not going to
23 allow it, it is hearsay. I understand you don't want it for
24 the truth of the matter, but it seems to me you can accomplish
25 the same goal by questioning whoever the witness is whom you

1 would question about, you know, did you receive a letter from
2 such and such on such and such date, you know, what action did
3 you take as a result of that letter.
4 So, there would be a way to accomplish what you need
5 to accomplish without bringing in a letter which, although you
6 are representing that it is not being offered for the truth of
7 the matter, that is always a hard thing when you are giving a
8 limiting instruction to a jury that, and it is absolutely a
9 hearsay document, the prejudicial effect is outweighing the
10 probative value when considering that the same goal can be
11 accomplished by the Plaintiff through proper questioning of
12 proper witnesses as to when and what witnesses received and how
13 they responded as a result of receiving certain things.
14 So, I will allow all of 36 to come in without any
15 objection except for the Exhibit 10-B. That will have to be --
16 it is called 10-B, but it is attachment F to 36, so that would
17 have to be redacted and that would come out.
18 *MR. BENZION:* Yes, your Honor.
19 *THE COURT:* That takes up that first email that you
20 all sent, and then the second email that you all sent.
21 *MR. BENZION:* May I make one more point about Exhibit
22 36, your Honor?
23 *THE COURT:* No, it is too late, it is late, it is
24 late. I mean, it has been a long day.
25 You sent a second email at 2:42 p.m. today, you said

1 conferral was ongoing on Exhibits 58 and 61. Did you reach
2 agreement on those two?
3 *MR. BENZION:* Let me take a second to review my notes,
4 please. Maybe I am wrong, I don't have an indication that we
5 resolved 58 and 61.
6 *THE COURT:* Do you understand where the Court is
7 coming from? With 58, I will tell you in a nutshell, it came
8 from somebody who was writing it within the scope and course of
9 his or her employment, I. Can't even see who the top one is
10 from on Exhibit 56, so I am not sure -- it is from Jim Tracy to
11 Diane Alperin, so that is a an out-of-court statement. If the
12 Plaintiff is trying to offer it, it would be hearsay.
13 The similarly at the bottom of the page from James
14 Tracy to Naomi Marin is hearsay.
15 The next page -- these are all emails from James
16 Tracy, these are out-of-court statements of James Tracy that
17 the Plaintiff is seeking to introduce that are hearsay
18 statements.
19 *MR. BENZION:* We are offering them for his state of
20 mind, he is being harassed and bullied at work.
21 *THE COURT:* He can testify to that. I am not going to
22 open up the floodgates of otherwise hearsay documents to come
23 in not for the truth of the matter, for the state of mind. I
24 think there has to be a proper balance, and I think in making
25 these kinds of requests of the Court, it shouldn't be a, you

1 know, try to get it all in and see what the judge does.
2 It should be a very selective approach that truly you
3 believe can't otherwise be brought out by way of testimony when
4 it would otherwise be hearsay.
5 If you are saying this is state of mind, this entire
6 slew of emails, is the argument going to be made that every
7 email James Tracy wrote should come in under 803(3)? If that
8 is the case, I may ask you to do a memo for me on 803(3), and
9 explain why each and every email, because this is -- you know,
10 this is a lot of work on the Court's part at 7:10 at night
11 after a day of jury selection when I am hearing the arguments
12 for the first time.
13 I want it to be laid out for the Court.803(3) is
14 pretty specific, not just a general state of mind. If there is
15 a series of elements that need to be met regarding state of
16 mind, intent, the question is, do we do the research or do you
17 do the research and make the case why all of the emails come
18 in?
19 I will defer on that one. If state of mind is your
20 basis, then I would suggest somebody -- you know, it would be
21 helpful to the Court to provide the Court with legal authority
22 on why these types of documents come in, and specifically the
23 ones that you are attempting to bring in. I will make a note
24 that this one also falls under the state of mind, as to how
25 this meets the state of mind exception under the hearsay.

1 The next one is 61. 61 is an article, it says
2 conferral ongoing. Has the conferral ended? Did you resolve
3 it?
4 *MR. FEICHT:* We resolved that, the Defendant's
5 objection to Plaintiff's Exhibit 61 has been withdrawn.
6 *THE COURT:* Okay, Plaintiff's objections are
7 withdrawn, so 61 is not coming in. Is that what we are saying?
8 *MR. FEICHT:* Defendant's objections to Plaintiff's 61,
9 our objection has been withdrawn.
10 *THE COURT:* So 61 is not being objected to. Okay. So
11 it is not objected to.
12 What about 62?
13 *MR. FEICHT:* That one is objected to. If you note,
14 look at the bottom, page numbers, it shows that it goes through
15 page 17, but this version only includes page one through eight.
16 *THE COURT:* So is it because it is not complete? You
17 wouldn't object to it if it is complete?
18 *MR. FEICHT:* It is Professor Tracy's article, it would
19 be hearsay.
20 *MR. BENZION:* I don't think we'll offer 62, your
21 Honor.
22 *THE COURT:* Okay, 62 is withdrawn as an exhibit,
23 therefore it is resolved.
24 *MR. BENZION:* With respect to 58, there is no hearsay
25 objection raised to 58. That is my fault, I should have

1 noticed that.

2 *THE COURT:* So maybe there is no objection to 56. Is

3 it not a string of emails?

4 *MR. FEICHT:* These are additional emails on this

5 subject.

6 *THE COURT:* Can you gather the remainder of the

7 emails?

8 *MR. BENZION:* We contend there are no additional

9 emails, and we have testimony from Diane Alperin that she did

10 not respond to the email from Dr. Tracy to her, and we

11 requested all emails -- any emails that would have been

12 included in the train should have been produced through

13 discovery, they were not, and he reported workplace bullying

14 and not a lot was done with it other than what was contained in

15 the emails.

16 *MR. FEICHT:* Are we talking about 62?

17 *THE COURT:* No, we are back to 58. There was a

18 completeness objection, not a hearsay one.

19 Plaintiff is saying that is complete, it is everything

20 that they received, and there is nothing more.

21 *MR. FEICHT:* Right, the completeness objection for

22 this one is regarding the top of the email where it is cut off

23 at the top, if you see that.

24 *THE COURT:* Does anybody have the top of the email?

25 *MR. BENZION:* We'll look for it, but the email is

1 signed by James Tracy just below the first --

2 *THE COURT:* Is that the only basis for the objection?

3 *MR. FEICHT:* Completeness, hearsay objection.

4 *THE COURT:* You didn't raise a hearsay objection.

5 So, I think then try to find the top of it. That

6 would seem to me, if we are really talking about two lines at

7 the top of the email, that that doesn't go to the substance of

8 it and render it prejudicial in the way one would think of a

9 completeness issue.

10 So, I will overrule the objection as to 58, and that

11 would come in, and if you could try to find the top of it, that

12 would be helpful.

13 We've taken up 61. You are withdrawing 62. The Court

14 has already ruled on 65 in one of its earlier rulings when the

15 Court made the ruling on the conspiracy issue. And 66 is --

16 *MR. BENZION:* We'll not offer 66.

17 *THE COURT:* Okay, 66 is being withdrawn, not sought to

18 be admitted. 71 and 72.

19 I already ruled on 79, so that has already been ruled

20 on.

21 Can you try to work out 71, 72, 95, 96, 97, 111-A, and

22 199-B?

23 *MR. BENZION:* 95, 96, 97 we have partially resolved.

24 The 70's, those seem to be relevance. The Court's ruling will

25 be instructive on those emails.

1 *MR. FEICHT:* That is as to the relevance objection,
2 what the Court ruled on. We are objecting based on hearsay.
3 If you look at the objections raised on these particular
4 documents, these people are no longer parties. Mr. Soler
5 (phon) was dismissed, FAU dismissed him.
6 *THE COURT:* Was Robert Soler an employee at the time
7 he wrote the email? Was he a party acting -- an employee
8 speaking on a matter in the scope of his relationship?
9 *MR. FEICHT:* In this instance, it was the role in the
10 union you had, he is a former defendant in this case. That is
11 not in the employment of FAU, they are in the scope of the
12 union, and they were represented by separate counsel in this
13 litigation.
14 *THE COURT:* And the union is no longer a party.
15 *MR. BENZION:* There is a bit of imbalance with respect
16 to the union emails, each side has an interest getting in
17 emails in relation to the union advice and discussions that are
18 helpful to their case, and these are emails that demonstrate
19 the actual advice and thoughts of the union officials, the
20 state of mind of those officials at the time the Plaintiff was
21 being disciplined and terminated.
22 And the Defendant admittedly is trying to get in
23 emails that Plaintiff failed to grieve or was counseled to
24 comply and then grieve, things of that nature, and these emails
25 go to those topics.

1 *THE COURT:* We'll look at that. I will reserve on 71,
2 72, and you will work out 95 through 97, and 111-A and B.
3 *MR. BENZION:* I don't think we will be offering 111-A
4 and B, your Honor.
5 *THE COURT:* Okay.
6 With respect to 95, those are all answers and
7 responses to interrogatories and requests for admissions. I am
8 not sure what is going on there. There is a special
9 instruction that the Court can read if you want to offer an
10 interrogatory that should be straightforward in coming to
11 agreement on how that is handled.
12 That will be it for tonight. We will not have another
13 night like this. Do what you need to do to plow through your
14 disagreements and work them out, and work them out.
15 The case will go smoothly, I won't be having sidebars.
16 I don't want objections to every question, to every exhibit. I
17 am assuming everything now has been ruled on. There may have
18 been one or two -- I will look at 71 and 72 on the conspiracy
19 or the union emails and I will take a look at -- I think there
20 was one I said I would reserve on with respect to present state
21 of mind, but other than that, I think all of the rulings have
22 been made pursuant to the two emails you sent me, which
23 presumably were the emails that were projecting -- predicting
24 which exhibits were going to come in through Mr. Tracy
25 tomorrow, and if you anticipate any others, then you all should

1 talk about them and work it out.
2 *MS. HUFF:* Sarah Huff. The parties were able to
3 reach -- we conferred on an additional proposed instruction on
4 the three witnesses that we will be combining cross and direct.
5 If I could pass that to you.
6 *THE COURT:* Yes. When would you want that to be read,
7 right before Mr. Tracy begins to testify? Because it
8 applies --
9 *MS. HUFF:* The way we word it, it goes before each
10 witness. It says: The witness you are about to hear is a
11 witness called by both parties.
12 *MS. GRIFFIN:* Holly Griffin for FAU. One housekeeping
13 point before we break for the evening, we want to ensure that
14 nothing changed in the trial plan. Two subpoenas were served
15 on two individuals who are not on the trial plan and who we
16 previously accepted service for. We want to confirm there is
17 nothing changed for Anthony Barber or Caroline Kelley.
18 *MR. LEO:* Nothing changed. I don't know who served
19 those subpoenas, they were not from my office.
20 *THE COURT:* Okay. For purposes of tomorrow, you are
21 going to be calling Mr. Tracy and you are anticipating he will
22 be on the stand for a better part of the day, if not all day.
23 We will start tomorrow, I will read preliminary
24 instructions and turn it over to opening statements.
25 You have given me the amount of time you want. I will

1 let you know when your time is up.
2 I might ask counsel, I have the instruction you
3 prepared for me right here, in an abundance of caution, remind
4 me to read the instruction before the witness takes the stand.
5 I should remember, it is right there, but I have a lot of
6 things here, and I will try to get you an answer on the two
7 left I reserved on -- three. I will make the rulings tomorrow
8 on those.
9 And anything else, again, that you anticipate coming
10 in, talk with each other so that it can be resolved. Really,
11 in all honesty, it is better. I know you have fundamental
12 disagreements on different things, and that is why I took great
13 lengths to give the larger pronouncements that you can apply to
14 more than just the immediate exhibits that I referenced, so
15 that should be guidance for opening up the dialogue.
16 You don't want to be contentious in front of the jury,
17 it never serves either side to be disruptive and contentious
18 and delay. While I was willing to do it tonight, on the part
19 of Mrs. Stipes, who does transcripts and comes back at 7:00 in
20 the morning, this is not how we are going to be doing trial day
21 in and day out and not how you want to do it.
22 We will start at 9:00 a.m. I will ask you all to be
23 here at 8:30 to take up some of the housekeeping matters.
24 *(Thereupon, the court was recessed.)*
25 * * *

1 I certify that the foregoing is a correct transcript
2 from the record of proceedings in the above matter.
3
4 Date: December 22, 2017
5 /s/ Pauline A. Stipes, Official Federal Reporter
6 Signature of Court Reporter
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. BENZION: [26] 66/13 66/18 67/3 68/10 70/16 75/2 75/17 75/24 76/5 76/18 76/20 77/2 77/11 78/13 79/17 79/20 80/2 80/18 82/19 82/23 83/7 83/24 84/15 84/22 85/14 86/2
MR. BLICKENSDERFER: [8] 3/15 3/17 21/17 22/5 28/10 28/18 28/23 29/10
MR. CURLEY: [18] 3/1 3/21 4/1 4/5 5/11 16/3 16/6 16/13 16/16 17/19 17/22 18/12 18/16 19/6 19/12 19/25 43/16 43/21
MR. FEICHT: [48] 24/18 25/11 26/21 27/1 29/14 29/17 32/1 32/4 32/6 32/14 32/24 33/7 33/19 34/24 35/14 36/18 37/3 37/5 37/8 37/24 38/7 40/2 40/16 43/1 64/8 65/25 66/6 66/8 66/25 67/13 69/5 72/22 75/8 76/11 77/15 77/19 78/3 78/6 82/3 82/7 82/12 82/17 83/3 83/15 83/20 84/2 84/25 85/8
MR. LEO: [78] 3/9 3/13 10/9 13/7 14/1 14/13 14/20 14/23 18/15 19/19 22/8 22/23 23/4 23/7 23/10 23/13 23/16 23/24 25/8 27/8 29/22 29/25 30/4 30/9 30/11 30/15 30/22 31/5 31/13 31/18 34/3 34/5 34/7 34/9 34/13 34/18 34/20 35/2 35/5 35/9 35/16 35/22 35/25 36/8 36/11 36/13 37/12 37/17 38/9 38/14 38/16 38/23 39/13 39/17 39/23 39/25 42/25 43/19 62/15 62/17 62/23 64/19 65/8 65/20 68/1 68/6 69/25 70/19 70/21 71/24 72/3 72/8 72/11 72/20 73/23 74/1 74/11 87/17
MS. GRIFFIN: [3] 26/2 26/15 87/11
MS. HUFF: [10] 10/12 10/18 10/25 11/7 11/11 12/3 12/15 14/3 87/1 87/8
THE COURT: [186]
THE COURTROOM DEPUTY: [2] 22/18 41/1

/

/s [1] 89/5

1

1/8/13 [1] 70/11
10-A [3] 37/13 38/13 78/16
10-B [5] 38/13 78/16 78/16 79/15 79/16
100 [1] 1/19
102 [1] 48/9
103 [1] 48/9
104 [1] 48/9
105 [1] 48/9
106 [2] 58/19 71/21
107 [1] 48/10
108 [1] 48/10
109 [1] 48/10
11 [1] 29/20
11-A [11] 38/15 38/23 38/24 64/7 64/14 64/14 65/14 65/21 67/2 67/4 67/7
11-B [3] 64/7 67/22 70/3
11-C [11] 64/7 64/11 64/13 69/25 70/1 70/6 70/9 70/14 70/19 70/25 71/2
11/28/2017 [1] 62/25
111 [1] 48/10
111-A [3] 84/21 86/2 86/3
113 [1] 48/10
11:00 o'clock [1] 6/13
11:29 [1] 67/12
12 [2] 18/6 26/25
120 [2] 48/10 48/17
121 [2] 48/10 56/3
127 [1] 56/3
12:18 p.m [1] 71/20
12th [2] 5/24 6/4
13 [3] 27/2 29/20 70/11
1330 [1] 53/4
1340 [1] 53/4
14 [4] 59/18 71/3 71/11 71/14
15 [5] 10/1 18/3 19/9 19/25 42/6
1560 [1] 56/15
1565 [1] 56/15
158 [2] 56/1 61/16
16-CV-80655 [1] 3/6
16-CV-80655-ROSENBERG [1] 1/2
16-page [1] 30/10
17 [1] 82/15
196 [1] 77/25
1980 [1] 2/5
1988 [1] 56/3
199-B [1] 84/22
1991 [1] 56/16
1994 [1] 51/16
1996 [1] 53/8
1998 [2] 56/1 61/16

2

20 [2] 7/8 65/13
2001 [1] 61/2
2003 [1] 53/4
2011 [2] 72/24 73/4
2013 [8] 23/12 23/19 28/5 28/6 39/10 65/12 78/10 78/19
2015 [2] 28/8 75/7
2016 [4] 39/3 67/10 67/12 67/17
2017 [3] 1/8 62/25 89/4
202 [1] 61/1
21 [1] 59/18
216 [1] 48/17
216-A [1] 48/18
216-C [1] 48/18
216-D [1] 48/18
216-F [1] 48/18
216-G [1] 48/18
217 [1] 48/18
217-A [1] 48/18
217-D [1] 48/18
217-H [1] 48/18
217-I [2] 48/19 48/19
217-M [1] 48/19
217-N [1] 48/19
217-Q [1] 48/19
22 [2] 59/18 89/4
222 [1] 28/11
23 [3] 59/18 67/10 78/10
239 [4] 26/25 28/25 29/19 60/10
24 [1] 62/4
248 [1] 60/19
250 [1] 60/19
26 [3] 59/18 67/12 67/17
27 [5] 48/9 48/21 58/19 71/21 75/7
270 [2] 60/22 60/22
28 [2] 58/19 71/21
28-A [1] 71/21
287 [1] 53/3
28th [3] 34/15 70/4 70/23
29 [6] 1/8 71/23 71/23 71/24 71/25 74/23
292 [2] 32/5 33/18
298 [2] 34/6 34/7
2:42 p.m [1] 79/25
2d [1] 53/4

3

305-539-7340 [1] 1/20
31 [1] 48/9
32 [3] 75/1 75/15 77/11
325 [1] 61/2
328 [1] 61/2
33073 [1] 1/16
33131 [1] 1/20
33401 [1] 2/4
340 [1] 51/15
343 [1] 51/15
36 [7] 77/12 77/14 78/2 78/17 79/14 79/16 79/22
374 [1] 20/16
380 [1] 59/21
386 [1] 7/16

4

40 [1] 60/2
41 [1] 59/24
412 [2] 53/8 62/8
413 [3] 37/4 37/5 52/17
4171 [1] 1/15
4200 [1] 1/19
4223 [1] 1/17
43 [1] 51/15
45 [2] 20/15 48/9
47 [1] 48/9
48 [1] 48/9

5

5-A [1] 34/10
50 [1] 4/11
500 [1] 2/4
51 [1] 48/9
52 [3] 48/9 59/24 60/1
53 [1] 48/9
54 [1] 48/9
548 [2] 56/1 61/16
557 [2] 56/1 61/16

5

56 [2] 80/10 83/2
561-655-1980 [1] 2/5
58 [7] 80/1 80/5 80/7 82/24 82/25 83/17 84/10
5:00 [1] 6/23
5:30 [2] 6/24 7/7

6

6-A [2] 35/3 35/15
61 [9] 80/1 80/5 82/1 82/1 82/5 82/7 82/8 82/10 84/13
62 [5] 82/12 82/20 82/22 83/16 84/13
64 [1] 59/18
65 [2] 58/20 84/14
66 [3] 84/15 84/16 84/17
67 [2] 58/18 71/21
6:00 [1] 7/7
6:22 [1] 67/10

7

70's [1] 84/24
71 [4] 84/18 84/21 86/1 86/18
72 [4] 84/18 84/21 86/2 86/18
73 [1] 58/20
7340 [1] 1/20
74 [1] 58/20
75 [1] 58/21
76 [1] 59/24
777 [1] 2/3
78 [1] 58/21
79 [2] 58/21 84/19
7:00 [2] 65/13 88/19
7:10 [1] 81/10

8

80 [1] 58/21
801 [20] 23/20 23/25 39/14 39/18 40/16 61/9 61/15 64/23 65/6 65/16 66/8 66/13 66/21 67/12 70/18 72/19 72/21 73/17 75/7 75/15
803 [4] 75/25 77/11 81/7 81/8
80655 [1] 3/6
82 [1] 58/21
83 [1] 59/24
84 [1] 45/20
854 [1] 56/3
89 [1] 45/20
8:30 [1] 88/23
8:36 [1] 67/9
8th [2] 6/6 6/8

9

90 [1] 45/20
920 [1] 56/15
934 [1] 53/7
95 [4] 84/21 84/23 86/2 86/6
954-478-4223 [1] 1/17
96 [2] 84/21 84/23
97 [8] 22/15 22/22 41/21 42/1 42/20 84/21 84/23 86/2
9:00 [1] 88/22

A

a.m [3] 67/9 67/10 88/22
a/k/a [1] 3/5
ability [1] 44/4
able [11] 16/2 17/5 31/15 41/21 45/9 48/15 56/10 63/4 68/13 73/19 87/2
about [77] 4/7 5/20 5/24 6/4 7/5 7/21 7/22 8/8 8/9 8/11 8/16 8/19 8/19 8/20 8/23 9/10 9/15 10/21 10/23 11/9 11/17 12/10 13/18 15/14 16/21 17/4 17/12 20/22 26/14 27/13 27/22 28/24 29/15 38/10 42/9 42/10 42/14 43/24 44/5 45/1 45/1 49/17 50/8 50/22 52/10 52/14 53/1 53/16 53/19 53/24 54/1 55/2 57/9 57/13 57/19 57/22 57/22 61/23 62/14 65/14 65/19 68/9 70/7 71/12 72/2 73/13 73/15 75/21 76/25 77/3 79/1 79/21 82/12 83/16 84/6 87/1 87/10
above [1] 89/2
absence [2] 29/6 30/19
absolutely [2] 16/13 79/8
abundance [2] 25/4 88/3
academic [3] 71/25 74/3 75/21
accepted [1] 87/16
accommodate [2] 6/21 7/1
accommodations [1] 7/10
accomplish [3] 78/24 79/4 79/5
accomplished [1] 79/11
acknowledge [1] 50/5
acknowledges [2] 56/24 65/2
acknowledgment [1] 33/15
act [1] 26/9
acted [1] 50/9
acting [1] 85/7
action [1] 79/2
actions [3] 47/6 47/7 50/10
activities [11] 24/4 30/7 30/17 31/1 31/23 31/25 32/11 32/12 32/19 33/12 57/8
activity [6] 31/1 33/3 33/4 33/6 33/10 58/8
actual [4] 50/1 52/12 76/7 85/19
actually [3] 20/8 70/3 77/4
add [1] 33/21
added [4] 24/24 25/2 25/5 35/3
addition [1] 16/10
additional [12] 7/14 7/24 10/5 18/25 19/24 49/3 56/25 63/22 76/9 83/4 83/8 87/3
Additionally [2] 25/25 33/11
address [8] 9/2 13/20 19/22 20/4 22/12 45/16 63/23 66/3
addressed [9] 10/8 12/25 13/17 16/12 16/13 59/21 71/14 71/17 71/22
addresses [1] 52/21
addressing [4] 32/16 33/13 42/19 61/11
adept [1] 63/13
adequate [2] 10/1 53/9
adequately [1] 9/6
administration [2] 55/11 56/12
administrative [1] 55/18
administrator [3] 36/3 39/15 39/17
administrators [3] 25/18 30/6 31/22
admissibility [2] 37/17 56/18
admissible [7] 17/14 31/5 58/12 61/7 67/7 68/6 74/11
admission [5] 40/21 61/8 62/9 66/9 72/11
admissions [10] 23/20 23/23 39/14 40/17 55/17 56/5 57/1 70/18 72/9 86/7
admit [14] 36/8 38/4 40/22 42/8 42/9 42/11 42/17 52/7 56/10 57/12 61/24 69/14 69/24 74/3
admitted [7] 23/19 31/12 51/5 55/15 61/20 62/1 84/18
admittedly [1] 85/22
admitting [1] 40/18
adopt [1] 13/6
adopted [1] 14/15
advance [4] 16/18 61/25 62/4 64/4
advice [4] 48/13 49/9 85/17 85/19
advise [1] 25/24
advised [4] 46/24 47/20 49/7 69/21
Advocacy [1] 78/12
affect [1] 37/23
affirmatively [1] 60/25
after [19] 5/12 5/15 7/3 8/14 9/8 9/11 17/11 18/4 18/24 22/23 24/24 45/9 45/11 47/6 59/5 59/11 59/16 71/13 81/11
afternoon [1] 6/6
again [10] 7/20 8/9 11/10 14/17 15/9 17/9 28/2 71/17 77/1 88/9
against [9] 24/1 36/23 40/21 61/20 66/10 66/12 66/15 66/16 76/14
agency [7] 55/25 56/8 56/19 56/23 61/14 61/19 61/22
agent [5] 24/1 61/18 62/10 66/16 66/22
ago [2] 6/12 15/18
agree [12] 10/15 10/23 10/25 11/13 12/14 13/9 14/3 14/18 14/18 14/19 54/4 63/10
agreed [3] 4/13 7/15 7/25
agreed-upon [1] 7/15
agreeing [2] 63/10 73/9
agreement [6] 39/10 46/5 65/11 78/21 80/2 86/11
agrees [2] 49/17 55/4
ahead [1] 9/1
alert [2] 7/9 7/9
all [54] 3/7 3/19 6/9 6/14

A

all... [50] 7/18 9/18 11/20 12/18 18/5 19/18 20/12 23/22 25/15 26/18 27/1 27/19 29/12 32/17 32/19 37/5 39/6 40/8 40/24 42/20 43/24 44/9 45/20 54/6 54/17 57/11 58/13 59/1 59/4 59/15 59/19 60/6 63/5 68/18 71/15 73/17 77/7 79/14 79/20 79/20 80/15 81/1 81/17 83/11 86/6 86/21 86/25 87/22 88/11 88/22
allegation [1] 74/4
alleged [2] 50/21 54/15
alleviate [1] 49/11
alleviated [1] 11/17
allow [5] 17/7 18/3 21/25 78/23 79/14
allowed [1] 21/7
along [1] 29/22
Alperin [5] 3/23 4/4 30/25 80/11 83/9
already [12] 15/11 23/2 49/21 53/20 57/18 59/20 71/3 71/14 71/21 84/14 84/19 84/19
also [25] 3/24 4/3 12/8 13/11 14/16 15/6 24/5 24/12 27/20 28/2 31/1 36/4 38/25 47/18 48/11 48/16 53/7 54/14 58/19 61/6 68/7 71/21 74/3 75/21 81/24
alternates [1] 4/12
although [6] 7/3 8/1 23/22 56/23 59/25 79/5
always [1] 79/7
am [39] 3/23 5/21 6/2 7/16 15/1 15/2 16/2 19/18 21/3 31/10 32/21 38/19 41/8 41/16 41/21 45/4 45/9 63/12 63/14 64/5 65/8 68/4 71/2 71/17 71/19 72/2 73/14 74/6 74/6 74/10 74/23 74/23 78/22 80/4 80/10 80/21 81/11 86/7 86/17
amended [3] 22/25 24/22 38/18
Amendment [2] 11/22 24/8
American [1] 37/13
amount [1] 87/25
ample [1] 57/21
analyzed [1] 51/10
anger [1] 58/1
angry [1] 57/24
announce [1] 4/24
annual [1] 75/7
another [4] 39/1 49/15 68/12 86/12
answer [4] 9/20 66/1 67/13 88/6
answer on [1] 88/6
answers [3] 9/18 9/22 86/6
Anthony [1] 87/17
anticipate [7] 7/4 8/25 16/2 23/16 42/15 86/25 88/9
anticipates [1] 42/8
anticipating [1] 87/21
anticipation [3] 24/15 25/17 29/5
any [32] 7/18 8/12 13/9 14/9 14/13 15/25 15/25 17/8 18/7 18/25 20/12 27/10 27/23 28/6 28/9 33/11 43/13 55/4 55/13 56/20 60/13 60/19 60/24 61/4 62/6 63/2 63/24 69/3 77/10 79/14 83/11 86/25
anybody [2] 16/16 83/24
anyone [4] 5/3 5/17 8/8 16/21
anything [15] 7/22 8/8 8/9 12/19 13/4 13/6 16/17 16/21 20/8 30/2 40/18 43/13 63/19 66/10 88/9
anyway [1] 73/22
anywhere [2] 38/7 39/25
apparent [3] 20/14 20/15 60/19
apparently [1] 60/15
appear [2] 60/13 69/19
appearance [1] 3/7
APPEARANCES [1] 1/12
appearing [1] 8/2
appears [3] 10/1 29/1 71/23
applicable [1] 46/1
applied [2] 55/21 55/22
applies [5] 25/19 28/13 51/17 53/16 87/8
apply [6] 26/13 28/21 28/22 48/24 63/21 88/13
applying [1] 55/9
approach [2] 37/1 81/2
appropriate [6] 17/18 19/4 51/7 73/18 74/21 74/24
appropriately [1] 48/24
approve [2] 63/2 73/2
approximately [2] 32/8 77/21
April [3] 67/12 67/17 78/10
April 23 [1] 78/10
April 26 [2] 67/12 67/17
are [182]
area [3] 45/22 49/15 52/5
argue [4] 38/19 38/20 50/12 59/9
argues [7] 53/23 54/1 55/2 55/16 59/4 59/19 61/7
arguing [3] 45/13 52/17 54/2
argument [16] 28/23 29/8 32/9 43/9 43/11 43/15 45/7 49/5 51/4 51/7 52/3 59/21 64/22 74/9 74/17 81/6
arguments [5] 29/14 33/19 41/19 49/4 81/11
arise [1] 21/8
around [2] 6/20 74/19
arriving [1] 4/10
article [6] 36/1 36/5 36/19 36/22 82/1 82/18
articles [1] 33/22
as [119]
aside [1] 17/6
ask [25] 5/3 5/13 5/13 5/17 8/14 8/15 9/24 13/21 17/5 17/8 17/9 17/24 17/25 18/3 18/9 19/5 19/14 19/17 21/19 31/15 38/12 75/11 81/8 88/2 88/22
asked [10] 18/8 19/13 30/25 38/2 40/7 40/8 73/14 77/23 77/24 78/1
asking [5] 18/11 19/11 75/10 75/22 77/5
aspect [1] 13/22
assembly [1] 4/11
assignment [2] 33/16 75/7
assistant [1] 3/25
Association [1] 37/14
assume [1] 67/12
assuming [3] 62/18 62/19 86/17
assured [1] 15/15
ATLANTIC [6] 1/7 3/4 3/5 7/18 10/13 25/14
attached [3] 35/1 35/6 60/17
attachment [5] 35/3 35/14 77/19 78/3 79/16
attachments [3] 77/21 77/21 77/22
attack [1] 47/19
attempt [6] 27/23 28/7 37/16 47/19 57/12 68/24
attempted [2] 4/14 27/12
attempting [4] 16/10 63/9 69/22 81/23
attend [1] 6/9
attending [2] 25/13 25/15
attention [3] 44/8 64/2 64/5
attorney [5] 25/18 41/9 49/7 49/9 61/4
attorney/client [2] 25/18 61/4
attorneys [6] 7/2 17/24 24/13 24/13 41/8 42/3
audio [4] 55/6 57/13 58/16 58/18
August [1] 29/19
authenticate [1] 44/4
author [1] 43/25
authority [7] 26/23 27/1 27/7 27/14 28/10 61/18 81/21
authorship [1] 13/2
automatically [1] 59/23
available [2] 5/25 60/12
Avril [1] 53/7
aware [2] 16/11 31/23
away [3] 28/15 28/17 62/23

B

B-E-N-Z-I-O-N [1] 3/11
B-L-I-C-K-E-N-S-D-E-R-F-E-R [1] 3/18
back [13] 22/16 22/17 26/11 29/19 41/4 42/6 43/4 43/4 43/11 63/18 72/24 83/17 88/19
backed [1] 78/20
balance [1] 80/24
Barber [1] 87/17
bargaining [1] 46/5
base [2] 8/16 17/6
based [7] 8/1 9/21 36/23 38/5 45/18 69/7 85/2
baseline [1] 9/2
basic [1] 74/7
basically [1] 67/5

B

basis [29] 23/21 28/23 29/3 30/15 31/4 34/24 36/8 37/17 41/18 42/5 43/6 46/19 49/24 50/2 50/6 50/12 50/17 51/21 54/8 54/18 54/21 56/21 60/11 65/11 68/5 75/10 78/13 81/20 84/2
be [208]
BEACH [7] 1/2 1/7 2/4 2/7 16/7 64/20 65/25
bearing [1] 57/10
because [37] 5/3 5/17 6/14 7/19 10/2 12/24 17/9 17/19 21/5 25/5 29/5 33/10 33/13 39/7 40/18 46/15 46/15 49/8 50/1 50/16 50/20 50/20 52/6 54/3 56/6 58/22 59/22 65/5 72/6 73/9 74/10 74/13 75/10 76/7 81/9 82/16 87/7
been [27] 15/16 15/18 17/13 17/19 19/17 21/22 24/12 28/2 39/10 42/1 42/2 54/3 60/13 63/4 63/24 64/4 70/5 71/22 79/24 82/5 82/9 83/11 83/12 84/19 86/17 86/18 86/22
before [19] 1/11 10/3 20/3 20/7 21/18 28/6 38/21 41/7 44/17 44/20 44/22 46/9 58/23 61/19 69/16 87/7 87/9 87/13 88/4
begin [4] 4/7 20/3 20/22 21/16
beginning [5] 4/8 14/16 16/19 21/17 41/24
begins [4] 10/20 29/20 37/9 87/7
behalf [5] 32/2 43/2 65/5 77/24 77/25
being [27] 8/23 15/25 19/18 25/23 29/6 31/6 33/23 37/20 40/19 41/20 44/6 44/25 45/1 49/14 51/20 55/20 73/14 73/20 76/14 77/18 78/14 78/16 79/6 80/20 82/10 84/17 85/21
belief [4] 12/5 12/6 52/22 53/16
beliefs [17] 10/24 11/4 11/18 12/9 12/12 13/18 14/19 14/22 44/23 52/4 52/10 52/19 53/2 53/5 53/6 53/12 53/17
believe [16] 11/3 11/4 11/17 12/6 12/16 14/5 17/12 18/8 20/4 30/1 31/20 35/23 36/24 40/1 72/21 81/3
believed [2] 54/19 59/10
believes [3] 52/11 52/15 53/10
below [1] 84/1
Ben [1] 22/18
benefit [1] 29/13
BENZION [3] 1/14 3/11 43/1
best [5] 5/22 9/1 52/6 76/17 76/22
better [5] 19/21 63/14 77/7 87/22 88/11
between [6] 25/17 40/5 47/1 52/6 65/11 70/25
beverages [2] 18/19 18/21
beyond [1] 6/3
big [1] 21/3
bit [3] 8/18 20/2 85/15
BLICKENSDERFER [2] 1/18 3/16
blog [1] 35/11
blogging [3] 24/4 33/1 37/16
blogs [2] 33/22 51/2
blush [1] 69/19
board [3] 1/7 3/5 63/18
bolster [1] 76/15
both [10] 7/5 14/24 14/24 20/20 43/18 50/23 60/14 63/13 69/4 87/11
bottom [6] 63/1 65/15 67/3 67/7 80/13 82/14
Boulevard [1] 1/15
box [1] 33/15
break [10] 6/11 6/16 6/19 7/3 17/1 18/9 19/24 38/22 44/12 87/13
breaking [1] 63/3
breaks [1] 22/2
brief [9] 14/7 18/9 32/4 41/4 52/16 61/10 61/24 62/3 62/24
brief at [1] 61/24
brief/motion [1] 52/16
briefed [6] 32/3 35/22 36/24 38/7 39/25 45/12
briefing [2] 33/22 77/10
briefly [3] 38/10 45/16 65/9
bring [13] 4/23 9/10 17/1 18/17 18/19 18/20 18/22 22/17 41/7 44/7 67/20 73/19 81/23
bringing [2] 46/9 79/5
brings [1] 6/3
broad [1] 76/12
broader [2] 40/11 40/13
broadly [1] 11/3
brought [3] 20/7 33/16 81/3
Brown [2] 16/16 53/3
bullied [1] 80/20
bullying [1] 83/13
burden [1] 51/16
business [13] 67/25 68/8 68/10 68/11 68/12 68/15 68/16 68/16 68/18 68/24 69/1 69/10 69/20
button [2] 14/8 32/3

C

calendar [1] 6/19
call [2] 51/23 73/12
called [6] 4/11 31/16 73/21 73/22 79/16 87/11
calling [3] 67/24 76/2 87/21
came [2] 49/9 80/7
can [66] 3/8 5/14 6/24 7/9 7/10 7/21 8/6 8/16 9/2 9/11 9/25 15/15 17/12 17/15 18/2 18/2 18/6 18/9 18/19 19/3 19/4 19/5 20/25 21/8 21/15 23/8 26/6 26/9 31/21 38/16 41/18 41/25 42/6 43/5 44/11 51/21 52/6 52/23 57/25 59/9 61/20 62/2 65/2 66/2 66/4 67/2 68/12 68/18 68/23 68/24 69/18 72/4 72/6 72/7 73/21 74/19 75/15 77/9 78/24 79/10 80/21 83/6 84/21 86/9 88/10 88/13
can't [5] 6/13 9/9 70/9 80/9 81/3
cannot [2] 41/15 59/25
capable [1] 63/14
capacity [1] 56/14
captures [1] 12/9
care [3] 6/16 42/9 42/10
carefully [1] 5/17
Carlton [1] 1/18
Carnival [1] 56/15
Caroline [1] 87/17
case [58] 1/2 3/5 4/24 7/11 7/21 7/22 8/8 8/9 8/11 8/15 8/21 8/21 9/4 9/10 9/16 10/7 10/21 10/23 11/8 12/13 15/6 15/13 15/24 16/21 17/4 17/19 18/5 26/10 27/10 28/14 28/18 28/20 30/25 36/4 46/18 47/5 49/22 50/19 51/15 52/24 53/1 57/10 58/3 58/8 58/10 60/9 60/12 60/14 61/1 63/3 63/14 64/8 76/25 81/8 81/17 85/10 85/18 86/15
cases [3] 8/24 24/24 26/6
casualty [2] 12/1 13/25
categorical [1] 45/12
categories [1] 45/5
category [2] 34/12 37/18
cause [1] 17/18
caution [2] 25/4 88/3
cautioned [4] 47/15 47/21 50/24 52/2
cautious [1] 19/19
cc'd [1] 66/4
cease [2] 37/14 55/10
certain [10] 8/20 8/20 8/22 9/20 11/1 14/8 45/11 55/3 56/25 79/13
certainly [4] 13/2 21/8 31/21 74/20
certify [1] 89/1
cetera [1] 44/5
challenges [1] 17/18
chambers [4] 42/6 43/4 43/5 63/9
chance [2] 36/25 76/19
change [2] 10/19 14/12
changed [4] 6/14 87/14 87/17 87/18
changes [4] 4/15 10/15 13/7 59/5
charged [3] 65/1 65/19 65/23
check [2] 33/15 33/20
Chemicals [2] 56/1 61/15
Circuit [5] 32/15 56/1 56/3 56/16 61/16
cite [1] 27/7
cited [6] 26/6 26/9 26/23 27/1 28/10 51/9
citing [2] 51/14 53/7
City [3] 55/25 61/1 61/15

C

civil [5] 1/15 38/1 38/5 77/22 78/1
claim [7] 31/8 39/7 46/2 46/9 46/12 58/23 60/24
claimed [1] 35/12
claims [2] 46/4 53/9
clarification [6] 75/22 76/8 76/10 76/24 77/6 77/6
clarify [1] 24/19
class [1] 6/15
classes [1] 73/5
clawed [1] 26/11
clear [6] 6/20 9/14 15/20 27/18 45/19 55/6
clearly [1] 73/9
client [3] 3/11 25/18 61/4
close [1] 69/14
closely [1] 51/24
closer [1] 77/10
co [2] 29/1 29/2
co-counsel [2] 29/1 29/2
Coalition [1] 1/15
Coconut [1] 1/16
coffee [2] 18/18 18/22
collective [1] 46/4
college [1] 73/3
colloquy [1] 8/6
Coltman [23] 23/14 23/15 23/16 23/18 24/3 26/21 27/17 30/24 31/20 34/18 35/7 35/10 37/15 70/12 71/25 72/17 72/17 72/24 73/8 73/16 73/18 74/16 77/18
Coltman's [4] 27/21 34/15 60/16 72/13
combining [1] 87/4
come [37] 12/20 14/15 17/11 20/5 29/4 29/7 30/15 30/15 41/4 42/12 42/13 42/23 52/13 64/23 67/2 67/11 67/18 67/21 70/9 70/16 72/6 73/8 74/8 74/21 74/24 75/15 77/2 78/13 78/16 79/14 79/17 80/22 81/7 81/17 81/22 84/11 86/24
comes [7] 8/15 21/1 38/22 67/5 67/10 67/12 88/19
coming [9] 4/10 14/13 34/22 42/15 68/23 80/7 82/7 86/10 88/9
comments [4] 7/24 10/6 56/13 56/21
commitment [1] 74/5
commitments [1] 74/13
communication [1] 60/3
communications [4] 48/12 48/13 57/9 58/3
community [1] 57/8
comparators [4] 51/6 51/9 51/12 51/13
compel [1] 28/12
competent [2] 42/3 63/14
compilation [2] 64/11 70/1
complaining [1] 45/1
complete [4] 19/18 82/16 82/17 83/19
completely [1] 58/10
completeness [4] 83/18 83/21 84/3 84/9
comply [7] 46/16 49/23 50/12 51/25 54/7 76/3 85/24
composite [5] 30/5 30/10 34/11 38/25 70/22
computer [1] 43/3
concede [1] 65/17
conceded [1] 46/10
concern [4] 47/14 48/13 56/7 61/21
concerned [2] 13/23 56/19
concerning [2] 24/3 27/24
concerns [6] 14/9 48/2 49/11 57/7 61/13 75/21
concise [1] 63/24
conclude [3] 6/7 46/17 63/7
concludes [3] 51/6 57/15 58/11
conclusions [1] 38/6
conditions [1] 66/21
conduct [1] 32/18
conducted [2] 37/22 43/6
confer [4] 10/14 23/1 42/4 44/10
conference [2] 42/18 43/7
conferral [6] 41/16 41/24 42/20 80/1 82/2 82/2
conferred [4] 12/20 22/21 22/25 87/3
conferring [2] 21/14 22/23
confirm [1] 87/16
confirmation [2] 8/4 10/9
conflict [3] 72/10 74/14 75/23
confounds [1] 63/6
confuse [1] 58/13
confused [7] 44/25 49/17 50/13 54/14 76/7 76/24 77/3
confusing [5] 11/6 50/11 54/21 55/8 55/20
confusion [24] 11/11 11/12 50/8 50/22 52/20 53/19 53/24 54/2 54/3 54/7 54/10 54/15 54/16 54/24 54/25 54/25 57/16 57/19 57/22 57/23 59/8 76/18 77/5 77/6
confusion on [1] 54/24
connection [4] 11/25 13/25 48/13 57/20
consensus [1] 12/20
consider [1] 31/11
considering [1] 79/10
conspiracies [2] 12/1 14/1
conspiracy [8] 11/25 12/7 12/8 13/16 13/24 58/23 84/15 86/18
constitute [1] 76/14
constitutional [1] 78/17
constitutionally [1] 10/22
contacted [1] 38/2
contained [4] 61/11 64/25 69/3 83/14
contend [1] 83/8
contended [2] 33/2 39/4
contends [2] 10/22 11/21
content [6] 11/13 12/25 32/12 56/18 61/12 61/21
contention [3] 48/15 50/10 52/6
contentious [2] 88/16 88/17
contested [3] 34/3 65/3 73/20
contesting [1] 76/23
context [4] 11/20 25/23 52/12 58/10
continue [7] 8/6 21/7 41/16 41/18 42/20 44/3 55/21
contractual [1] 46/4
contrary [1] 33/4
contrast [1] 57/22
control [2] 12/1 13/25
conversation [2] 7/4 12/24
conversations [1] 25/21
coordinate [2] 6/16 6/19
copied [1] 4/18
copies [1] 22/15
copy [1] 10/16
core [5] 46/17 46/18 50/19 50/19 52/24
Corporation [1] 51/15
correct [5] 12/12 67/9 78/5 78/7 89/1
correctly [1] 55/21
cost [1] 67/22
could [31] 5/23 5/24 9/6 10/16 10/17 11/2 11/5 11/17 13/9 14/9 18/9 21/6 30/13 30/23 31/24 34/4 43/3 46/19 50/11 54/7 55/12 56/24 57/1 58/13 63/10 63/23 68/21 74/3 76/13 84/11 87/5
counsel [30] 3/7 3/25 5/2 5/17 5/22 9/23 10/3 10/14 17/8 18/3 18/24 18/25 19/15 21/3 21/23 25/14 25/18 25/24 27/13 27/19 29/1 29/2 38/12 44/10 48/12 63/13 69/13 75/11 85/12 88/2
counsel's [1] 10/3
counseled [1] 85/23
counter [1] 48/1
counts [1] 46/6
couple [2] 5/7 17/20
course [7] 6/20 28/1 55/19 67/25 68/15 68/16 80/8
court [121]
Court's [22] 7/14 10/10 13/12 42/5 44/7 45/18 46/5 47/14 47/19 48/2 48/6 48/24 48/25 54/13 57/2 58/21 58/25 60/6 71/22 75/12 81/10 84/24
Court.803 [1] 81/13
courtroom [2] 4/25 17/7
cover [3] 9/7 10/2 42/20
coverage [1] 15/16
covered [5] 9/4 15/24 19/2 71/10 71/11
create [1] 40/3
created [4] 28/1 43/25 71/13 72/12
creates [1] 32/25
creating [1] 77/5
Creden [1] 78/11
credibility [1] 47/20
Creek [1] 1/16

C

criminal [2] 18/20 18/21
cross [8] 19/3 20/20 32/13 51/8 52/1 62/18 62/20 87/4
cross-examination [3] 32/13 52/1 62/20
cross-examination than [1] 51/8
Cruise [1] 56/15
cumulative [8] 47/11 47/13 47/18 47/25 50/24 52/14 53/21 55/1
cup [2] 18/17 18/22
CURLEY [2] 2/1 3/23
custodian [1] 68/20
cut [1] 83/22
CV [2] 1/2 3/6

D

daily [1] 15/24
damaged [1] 52/8
damages [3] 45/17 45/19 45/21
danger [2] 57/16 57/23
Daniel [1] 3/25
date [3] 62/14 79/2 89/4
dated [1] 75/7
David [3] 75/1 75/1 75/8
day [23] 6/2 6/22 6/22 7/8 7/9 15/22 16/19 20/12 21/21 29/14 42/13 42/18 43/7 43/8 61/25 61/25 63/8 79/24 81/11 87/22 87/22 88/20 88/21
days [3] 5/23 6/21 29/2
dealt [1] 71/4
dean [11] 23/12 24/3 30/24 37/15 72/13 72/24 72/25 73/3 74/13 74/15 77/17
Dean's [1] 28/2
Dear [2] 77/17 78/9
December [6] 5/24 6/4 6/6 6/8 28/8 89/4
December 12th [2] 5/24 6/4
December 8th [2] 6/6 6/8
decide [2] 12/11 51/21
decision [7] 17/15 36/21 36/23 37/7 48/14 53/25 56/7
decision-making [2] 36/21 53/25
declarant [2] 61/18 75/19
declarant's [3] 56/18 56/23 61/21
declarants [1] 55/24
deemed [1] 75/22
defendant [54] 1/9 2/1 4/19 10/12 27/12 27/17 30/6 39/4 39/7 43/2 45/22 46/10 46/20 47/10 47/13 47/17 47/22 48/15 49/1 49/24 50/2 50/3 50/17 50/19 51/4 51/5 51/8 52/7 52/16 53/11 53/23 54/1 54/6 54/20 55/2 55/4 58/12 58/20 59/4 59/11 59/19 60/10 60/15 60/20 60/20 60/24 61/6 62/7 65/2 74/4 76/23 78/19 85/10 85/22
Defendant's [32] 27/18 29/19 45/25 46/14 46/22 48/5 48/8 48/17 50/6 51/21 51/25 53/6 53/13 53/25 54/8 54/18 54/24 56/9 57/2 58/14 58/24 59/2 59/9 59/14 59/17 60/2 71/12 71/15 76/11 77/25 82/4 82/8
Defendants [6] 8/22 8/24 13/12 59/22 62/8 76/1
defense [27] 3/21 3/22 4/21 5/9 7/14 12/19 14/3 14/12 15/2 20/20 24/18 27/21 32/1 32/2 36/18 37/24 43/21 46/1 46/2 46/3 59/2 62/19 65/17 67/13 72/22 73/9 75/5
Defense's [2] 22/18 74/18
defer [4] 28/25 29/2 70/19 81/19
defines [1] 54/6
delay [1] 88/18
delete [2] 7/16 13/12
deleted [2] 10/24 11/24
delving [1] 9/6
demands [1] 54/7
demonstrate [1] 85/18
denied [1] 54/24
department [3] 42/3 61/1 66/2
depending [2] 16/22 16/25
depo [2] 20/13 20/24
deposition [5] 20/16 27/21 60/5 60/16 61/4
describing [1] 30/18
designated [2] 42/22 42/24
designating [1] 41/9
designations [6] 20/14 20/16 20/24 22/13 63/19 63/21
desist [2] 37/15 55/10
despite [1] 27/5
detail [2] 8/19 54/13
determination [2] 47/2 53/6
determine [3] 16/21 55/20 59/25
developed [1] 58/9
dialogue [1] 88/15
Diane [5] 3/23 4/4 30/24 80/11 83/9
did [41] 10/14 10/15 16/6 16/17 17/5 18/11 19/10 22/18 23/1 23/2 23/22 24/20 26/1 27/7 31/23 31/23 32/4 33/10 35/12 46/21 46/24 46/25 50/9 50/18 51/24 56/7 58/7 65/21 66/5 69/8 69/8 69/10 69/19 72/24 73/4 77/4 79/1 79/2 80/1 82/2 83/9
didn't [8] 12/20 13/15 22/6 28/24 35/11 63/22 76/10 84/4
different [6] 13/15 40/8 45/2 52/17 66/2 88/12
differently [3] 30/21 51/3 51/20
dire [4] 5/19 17/10 18/23 20/9
direct [5] 20/21 62/20 73/4 75/3 87/4
directives [1] 77/4
directly [1] 48/7
Director [1] 78/11
disagree [4] 11/2 11/14 13/10 13/11
disagreement [2] 13/17 13/19
disagreements [2] 86/14 88/12
disagrees [1] 59/6
discern [3] 52/7 55/12 56/20
discipline [16] 23/12 24/6 28/6 28/6 31/2 31/2 31/3 33/5 33/13 37/16 39/8 65/10 70/5 70/23 78/18 78/20
disciplined [6] 32/9 32/11 32/12 33/10 51/3 85/21
disclaimer [2] 35/11 35/12
disclaimers [1] 30/19
disclosures [1] 58/8
discovered [1] 31/25
discovery [3] 26/12 27/16 83/13
discs [1] 22/16
discuss [4] 19/4 48/16 58/7 65/21
discussed [3] 54/13 60/4 69/7
discussing [3] 21/16 69/5 69/8
discussion [8] 17/12 20/22 20/24 21/7 29/18 29/20 58/2 58/9
discussions [3] 25/17 25/21 85/17
dismissed [5] 46/6 59/20 59/22 85/5 85/5
disprove [1] 40/13
dispute [3] 45/22 49/15 65/8
disputed [2] 12/16 60/21
disruptive [1] 88/17
distinction [1] 26/24
district [9] 1/1 1/1 1/11 28/15 28/16 28/18 53/4 53/8 61/2
DIVISION [1] 1/2
do [50] 5/6 5/8 5/12 5/13 5/13 5/14 5/14 6/19 6/24 7/10 10/17 12/12 14/7 16/20 18/2 22/4 28/9 31/23 32/8 32/21 33/3 36/22 37/2 39/12 43/3 43/18 44/4 45/4 56/6 62/12 63/14 68/25 69/16 69/19 70/6 70/7 70/14 71/6 76/7 77/9 80/6 81/8 81/16 81/16 81/16 81/17 86/13 86/13 88/18 88/21
docket [20] 20/16 26/22 26/24 28/11 28/25 29/19 32/5 33/18 34/5 35/21 37/3 43/10 43/14 52/16 59/21 60/9 60/9 60/19 60/22 62/8
document [22] 25/8 25/10 25/11 29/10 39/13 40/6 43/10 60/14 60/16 60/25 61/4 61/5 64/17 67/23 69/2 69/3 69/25 72/19 73/12 75/9 78/2 79/9
documents [7] 27/11 31/11 40/9 73/15 80/22 81/22 85/4
does [30] 6/17 9/5 12/6 14/3 26/9 27/25 28/22 46/2 46/8 46/11 46/12 46/16 47/13 50/5

D

does... [16] 50/8 54/3 55/18 58/25 59/22 60/12 64/11 65/4 66/12 67/11 67/18 72/18 75/8 81/1 83/24 88/19
doesn't [12] 9/5 11/13 13/2 13/9 22/1 34/22 64/12 65/17 68/5 68/20 74/11 84/7
doing [7] 19/5 25/3 63/12 65/1 65/19 65/24 88/20
don't [44] 5/15 6/3 8/12 11/3 11/16 15/18 16/4 16/9 16/16 16/17 19/8 20/3 20/22 21/10 22/11 23/10 28/10 29/3 30/1 33/24 35/4 35/23 36/24 37/10 40/1 42/9 42/10 43/11 60/10 62/21 63/2 65/2 66/9 70/21 71/23 74/9 77/9 78/23 80/4 82/20 86/3 86/16 87/18 88/16
done [5] 18/4 19/8 21/13 43/14 83/14
door [1] 16/25
double [1] 3/24
Douglas [2] 51/12 51/16
down [4] 22/3 63/3 78/4 78/20
dozen [1] 38/17
Dr [3] 60/16 76/21 83/10
drafted [1] 59/15
draw [1] 47/12
drawing [2] 47/24 63/18
drive [2] 2/3 48/22
due [1] 46/6
duly [1] 44/13
duration [1] 6/1
during [15] 15/10 17/10 21/25 27/16 27/21 27/24 28/1 29/21 41/8 43/7 46/25 47/4 60/14 61/4 72/12
duties [4] 55/18 55/19 56/12 56/23
duty [1] 27/3

E

E-D-G-E-B-O-W [1] 3/14
each [24] 5/12 5/15 6/22 9/18 10/5 15/14 17/7 17/11 18/3 22/22 41/7 41/9 41/10 41/12 42/4 42/24 52/21 61/11 61/12 65/20 81/9 85/16 87/9 88/10
earlier [1] 84/14
Eason [1] 31/21
East [1] 2/4
effect [15] 11/14 11/15 13/10 24/4 24/12 31/7 31/13 35/18 36/15 36/16 39/19 39/22 59/1 78/15 79/9
effectively [1] 50/12
efforts [1] 57/7
eight [2] 60/23 82/15
either [6] 15/17 31/23 51/2 64/17 73/21 88/17
elaborate [1] 37/10
elements [4] 12/8 68/18 73/17 81/15
Eleventh [4] 32/15 56/1 56/15 61/16
elicit [3] 31/17 57/13 57/21
elicits [1] 14/9
else [4] 63/19 75/11 78/6 88/9
email [47] 35/6 35/12 38/24 39/1 40/16 40/23 41/11 41/11 41/17 42/5 42/5 42/22 43/4 43/4 58/4 60/3 64/14 64/22 64/25 65/6 66/2 66/3 67/6 67/9 67/10 67/11 67/14 67/17 71/18 71/20 75/6 75/14 75/16 75/20 76/13 77/12 79/19 79/20 79/25 81/7 81/9 83/10 83/22 83/24 83/25 84/7 85/7
emails [29] 39/1 43/5 43/11 63/7 64/5 67/4 67/21 75/6 76/9 76/13 80/15 81/6 81/17 83/3 83/4 83/7 83/9 83/11 83/11 83/15 84/25 85/16 85/17 85/18 85/23 85/24 86/19 86/22 86/23
emergency [1] 6/10
emotional [2] 58/9 75/25
employee [8] 24/2 32/16 61/18 66/17 66/22 68/16 85/6 85/7
employee's [1] 53/2
employees [1] 31/20
employer's [1] 53/1
employment [12] 26/19 28/2 40/9 40/20 55/25 61/14 61/22 66/6 66/17 72/18 80/9 85/11
empowered [1] 55/19
empowered in [1] 55/19
encapsulates [1] 11/4
encompassed [1] 33/18
end [7] 6/12 19/8 20/11 21/20 29/14 42/18 43/8
ended [1] 82/2
enforcement [1] 36/9
enforcing [2] 31/8 31/13
engaged [5] 11/25 12/7 12/8 13/16 13/24
enough [2] 5/16 34/1
ensure [1] 87/13
entered [2] 39/10 78/20
entertain [2] 19/5 49/10
entertaining [1] 63/24
entire [2] 65/11 81/5
entirely [2] 46/13 58/3
entirety [2] 64/18 70/10
entries [1] 35/21
Entry [16] 20/16 26/22 26/25 28/25 29/19 33/18 34/5 37/3 43/10 43/14 52/17 59/21 60/10 60/19 60/22 62/8
err [1] 15/3
error [1] 21/6
errors [1] 53/10
especially [1] 76/23
ESQ [8] 1/13 1/14 1/14 1/18 2/1 2/1 2/2 2/2
essence [1] 54/1
essentially [1] 77/6
establish [1] 73/19
estimate [2] 6/2 6/3
estimated [3] 5/20 5/23 67/22
estimation [1] 5/22
et [1] 44/5
ethical [1] 24/6
evaluate [1] 51/19
evaluating [1] 51/10
evaluation [5] 51/17 72/16 72/17 73/3 74/3
evaluations [5] 71/25 72/14 72/24 73/1 74/14
even [4] 27/3 29/6 58/11 80/9
evening [1] 87/13
event [1] 54/16
events [2] 12/1 13/25
every [15] 7/5 9/18 21/10 22/10 22/22 22/25 24/20 38/19 38/20 41/12 42/5 81/6 81/9 86/16 86/16
everybody [1] 5/2
everyone [5] 3/3 3/8 5/3 5/10 5/10
everyone's [1] 3/9
everything [3] 78/6 83/19 86/17
evidence [92]
evidentiary [5] 28/21 32/24 49/5 56/21 78/13
exact [1] 74/7
exactly [2] 71/8 77/2
examination [5] 5/19 32/13 51/8 52/1 62/20
example [3] 47/18 56/2 58/3
except [1] 79/15
exception [9] 52/14 55/1 55/15 68/1 68/11 68/19 69/1 69/10 81/25
exceptions [1] 53/21
excessive [1] 8/24
exclude [2] 52/9 54/23
excluded [9] 21/22 27/10 45/21 52/18 54/22 55/4 58/15 58/19 59/20
excludes [2] 21/20 57/11
excluding [1] 59/1
exclusion [1] 51/8
excuse [1] 17/18
excused [1] 17/16
exhaustive [2] 18/5 19/2
exhibit [71] 20/16 22/11 22/11 22/14 22/22 22/25 23/4 23/5 23/6 23/8 24/20 24/21 24/22 25/2 25/6 29/22 29/23 29/23 29/25 30/5 30/5 31/22 34/14 34/16 34/19 34/21 36/1 38/18 41/12 43/10 43/12 43/13 48/9 48/17 48/21 58/17 60/1 60/2 60/3 60/4 60/8 60/11 60/12 60/20 60/23 60/25 61/6 61/7 61/11 61/24 62/1 64/10 64/10 69/6 70/4 70/5 70/11 70/22 70/23 71/11 71/24 75/15 77/12 78/3 78/17 79/15 79/21 80/10 82/5 82/22 86/16
exhibits [45] 20/13 20/23 22/12 22/22 23/1 24/24 25/2

E

exhibits... [38] 25/5 34/11 38/17 41/10 41/21 42/1 42/14 42/21 42/22 43/22 43/24 44/18 45/14 45/14 45/20 48/5 48/7 48/11 48/19 48/21 48/24 58/18 58/19 58/20 58/24 59/4 59/14 59/18 59/19 59/24 63/18 63/21 71/9 71/17 71/21 80/1 86/24 88/14
existed [1] 24/3
existing [2] 43/9 75/25
expansive [1] 26/17
expect [1] 69/14
expects [1] 48/23
experience [1] 15/23
explain [10] 5/19 8/15 11/10 33/1 33/9 44/18 45/6 49/19 50/8 81/9
explained [1] 7/23
exposed [5] 8/13 15/16 15/25 17/13 17/19
exposure [1] 18/5
expressing [1] 75/19
extensive [1] 38/19
extent [3] 57/12 58/6 64/9
extrapolate [2] 63/17 63/19

F

F-I-R-E [1] 78/1
F.2d [2] 56/3 56/15
F.3d [3] 51/15 56/1 61/16
F.R.D [1] 61/2
Facebook [1] 30/20
faced [1] 33/5
facially [1] 59/25
fact [10] 20/20 27/5 28/15 40/13 45/25 46/11 46/24 46/25 53/8 55/17
facts [3] 60/18 60/21 60/22
factual [1] 46/12
faculty [36] 30/6 30/12 30/16 36/2 36/7 44/25 49/16 50/11 50/14 51/2 52/21 55/3 55/6 55/9 55/9 55/16 55/18 55/19 56/5 56/12 56/21 57/1 57/5 57/8 57/14 57/22 57/24 58/1 58/4 58/5 58/7 58/16 58/17 59/16 72/23 72/25
faculty member [1] 55/16
failed [2] 59/3 85/23
failing [1] 74/5
failure [17] 44/24 45/23 45/25 46/1 46/7 46/8 46/11 46/13 46/16 46/17 46/19 46/21 47/23 48/1 48/5 48/16 49/2
fair [7] 6/2 8/16 9/3 9/9 9/15 14/10 18/6
fairly [1] 15/23
fairness [1] 6/13
fall [3] 34/11 37/18 45/5
fallen [1] 73/10
falls [3] 64/25 65/5 81/24
fan [1] 21/3
far [3] 37/6 69/4 69/6
fashion [2] 48/21 49/13
FAU [45] 3/24 4/1 24/13 25/18 29/18 32/21 33/12 33/14 36/23 44/25 45/1 45/1 46/16 49/17 49/23 50/8 50/23 51/2 51/25 52/21 54/8 54/15 55/3 55/8 55/8 55/10 56/13 56/14 57/9 57/19 58/2 58/8 58/16 59/8 65/1 65/19 66/6 66/25 68/14 68/17 75/11 78/10 85/5 85/11 87/12
FAU's [2] 53/19 59/5
fault [1] 82/25
February [1] 67/10
February 23 [1] 67/10
Federal [15] 2/6 25/19 25/20 26/8 26/13 27/4 27/4 28/13 28/20 28/21 28/22 61/8 61/14 61/17 89/5
feel [1] 19/3
feeling [1] 76/22
feelings [2] 8/20 8/23
FEICHT [7] 2/2 4/3 24/19 26/22 32/2 43/2 64/9
felt [1] 12/24
few [2] 33/25 44/16
fewer [1] 21/1
Fields [1] 1/18
Fifth [1] 56/3
file [25] 23/18 24/9 24/10 24/16 26/15 26/18 26/20 26/20 39/2 39/5 39/6 39/6 39/9 39/12 40/7 40/8 40/10 45/13 52/3 60/12 68/14 68/14 68/16 72/5 72/14
filed [5] 7/16 52/16 60/13 62/8 62/24
files [1] 26/16
filing [2] 34/6 62/23
filling [1] 4/17
final [2] 46/22 47/1
Finally [2] 49/6 55/2
find [8] 7/22 24/6 26/10 31/1 34/2 63/6 84/5 84/11
finding [2] 8/7 12/21
fine [6] 11/16 18/16 18/19 18/22 22/7 28/10
finish [4] 6/23 6/24 7/7 7/7
finishes [1] 17/23
FIRE [3] 77/22 78/14 78/16
fired [2] 53/5 74/13
first [23] 8/2 10/19 11/9 11/22 13/13 16/19 16/20 22/12 23/7 24/8 25/7 28/6 52/18 54/6 62/14 64/22 69/9 69/19 70/13 73/9 79/19 81/12 84/1
FIU [1] 70/3
five [4] 22/4 37/9 41/3 41/4
five-minute [2] 22/4 41/3
FL [2] 1/16 2/4
Flagler [1] 2/3
flash [1] 48/22
floodgates [1] 80/22
floor [1] 49/4
FLORIDA [16] 1/1 1/7 1/7 1/15 1/20 3/4 3/5 7/18 10/13 25/14 26/4 28/12 28/20 28/22 53/4 53/8
flush [1] 15/12
flushed [1] 64/4
focus [2] 42/16 65/13
focusing [2] 74/6 74/7
follow [3] 9/13 69/15 74/16
followed [3] 16/16 45/13 51/25
following [4] 14/18 48/7 57/4 66/21
follows [2] 44/17 76/9
followup [5] 9/5 9/20 9/21 18/7 18/8
force [1] 8/24
foregoing [3] 48/4 58/14 89/1
form [3] 15/25 46/19 60/1
formed [2] 17/14 49/24
former [7] 23/12 24/13 25/13 27/17 36/2 48/12 85/10
Fort [1] 2/7
forth [1] 60/6
found [2] 23/18 74/14
foundation [4] 69/1 69/15 69/23 73/9
four [1] 34/8
framed [2] 58/2 58/9
framework [1] 51/13
Frankly [1] 28/25
Fred [1] 4/2
freedom [1] 75/22
Friday [1] 62/21
front [4] 9/2 16/7 16/10 88/16
frustration [2] 57/25 58/1
frustrations [1] 57/8
full [2] 6/22 62/4
fully [2] 10/20 69/21
fundamental [1] 88/11
further [6] 7/18 21/6 45/7 63/25 77/8 77/10
furthermore [3] 24/16 27/25 59/13

G

G-E-H-R-I-N-G [1] 51/15
G-R-I [1] 3/24
gather [1] 83/6
Gehring [1] 51/14
general [9] 3/25 7/3 7/21 12/2 14/1 17/10 45/4 51/9 81/14
generally [3] 7/4 37/8 55/8
Georgia [1] 61/2
get [42] 4/12 4/22 5/5 7/13 8/4 9/1 9/2 9/19 10/5 10/9 10/20 12/23 15/15 16/3 16/13 19/9 19/25 20/25 25/1 26/1 30/22 33/25 41/5 43/5 43/5 44/17 69/8 69/10 69/11 69/11 69/22 71/6 71/23 72/3 73/7 73/23 73/25 76/10 77/8 81/1 85/22 88/6
gets [1] 16/12
getting [2] 23/16 85/16
give [13] 6/22 7/21 10/16 15/9 15/9 17/1 20/9 34/5 38/16 43/24 62/25 77/9 88/13
given [8] 22/10 24/12 49/14

G

given... [5] 63/16 72/15 75/12 77/4 87/25
gives [1] 15/20
giving [4] 4/18 6/2 22/16 79/7
Glanzer [15] 38/24 39/1 39/16 64/15 64/16 64/23 65/1 65/18 65/18 65/23 66/19 67/5 67/6 67/7 67/18
Glanzer's [4] 39/18 40/16 67/9 67/11
Glick [2] 25/13 29/1
go [23] 3/9 4/21 5/10 6/3 6/25 7/11 9/17 9/25 15/3 20/12 23/8 30/13 41/10 41/21 41/22 42/4 44/1 48/17 63/17 72/24 84/7 85/25 86/15
goal [3] 14/7 78/25 79/10
goes [11] 22/15 27/2 29/20 36/16 37/5 47/3 54/10 54/18 69/16 82/14 87/9
going [60] 4/8 5/21 6/7 7/7 7/16 8/18 11/19 12/24 13/21 15/1 18/23 20/9 21/23 22/2 25/22 28/15 28/17 33/8 38/20 38/21 41/8 41/13 41/16 41/21 42/4 42/9 42/11 42/11 42/24 43/23 44/1 44/10 44/16 44/17 45/4 62/5 63/2 63/7 64/5 64/24 66/20 67/24 69/18 70/14 71/2 71/18 71/19 72/1 73/6 73/22 74/23 74/24 76/16 78/22 80/21 81/6 86/8 86/24 87/21 88/20
good [8] 3/1 3/2 3/3 3/10 3/22 24/19 33/25 76/21
got [1] 39/11
gotten [1] 69/4
governed [2] 47/4 49/22
Government [4] 11/25 12/7 13/16 13/24
granted [3] 53/13 56/10 58/14
granting [1] 57/2
gravamen [1] 50/6
great [3] 48/20 76/25 88/12
grievance [3] 40/5 48/13 48/14
grieve [22] 44/24 45/23 45/25 46/2 46/7 46/8 46/11 46/13 46/17 46/19 46/21 46/24 46/25 47/20 47/23 48/1 48/6 48/16 49/7 59/3 85/23 85/24
grieve. [1] 49/2
grieve. If [1] 49/2
GRIFFIN [4] 2/1 3/24 26/3 87/12
ground [1] 10/3
grounds [4] 13/9 57/21 58/21 59/17
group [2] 9/17 77/23
groups [4] 37/19 38/1 38/5 78/18
guidance [1] 88/15
gun [2] 12/1 13/25
Gunster [6] 2/3 3/23 3/24 4/2 4/3 26/3

H

had [28] 7/25 8/21 8/23 10/6 10/14 11/15 15/24 19/16 28/13 32/10 33/12 36/20 36/24 37/21 37/22 39/4 39/10 39/11 40/13 51/2 55/18 56/6 57/9 58/4 65/22 71/19 72/10 85/10
half [1] 7/8
hand [2] 5/5 17/3
handled [1] 86/11
hands [6] 5/4 8/9 9/8 16/22 16/23 16/24
happen [3] 4/8 13/15 45/6
happened [1] 16/15
happening [2] 23/3 64/2
harassed [1] 80/20
Harcross [2] 55/25 61/15
hard [2] 22/15 79/7
has [57] 6/8 6/11 13/3 15/13 17/11 20/8 28/16 30/17 30/24 33/11 34/21 41/8 41/15 43/14 47/5 48/8 48/11 49/2 49/21 51/4 51/9 51/9 51/11 52/16 52/24 53/14 53/20 54/11 54/14 55/5 57/18 57/20 59/7 60/13 60/24 62/4 62/5 62/12 63/3 63/20 69/9 70/5 70/10 70/12 71/3 73/4 73/13 74/15 79/24 80/24 82/2 82/5 82/9 84/14 84/19 85/16 86/17
hasn't [1] 28/2
have [123]
haven't [5] 16/23 19/3 19/16 22/25 73/15
having [3] 21/7 33/3 86/15
he [66] 3/25 11/21 12/6 25/15 27/13 33/14 33/15 35/11 35/12 37/22 43/25 44/1 44/6 46/24 49/16 50/9 50/12 50/13 51/11 52/11 52/19 52/22 52/24 53/5 53/14 53/15 53/16 54/2 54/2 54/7 54/10 58/4 65/4 65/4 66/2 66/5 68/5 68/13 68/17 68/18 72/6 72/7 72/7 74/4 74/12 75/19 75/20 75/21 76/6 76/8 76/8 76/10 76/16 76/22 76/24 76/24 77/3 77/4 77/25 80/20 80/21 83/13 85/7 85/7 85/10 87/21
hear [6] 8/19 10/21 62/6 73/13 73/22 87/10
heard [15] 8/1 8/2 15/13 15/18 17/13 43/23 51/4 57/25 62/22 63/1 63/23 64/10 69/9 73/15 74/18
hearing [10] 5/6 6/13 6/17 8/10 9/8 11/9 15/2 22/2 73/22 81/11
hears [1] 49/7
hearsay [57] 23/21 31/11 35/15 36/11 36/13 37/23 37/25 38/4 39/13 39/19 39/22 40/23 49/3 55/2 55/5 55/15 55/24 56/10 61/7 64/17 64/18 64/21 65/7 65/15 65/16 66/22 67/3 67/6 67/8 67/18 67/21 67/22 68/1 69/1 69/3 69/7 69/11 69/12 72/20 75/15 76/14 77/22 78/9 78/23 79/9 80/12 80/14 80/17 80/22 81/4 81/25 82/19 82/24 83/18 84/3 84/4 85/2
heated [1] 58/9
Heather [12] 23/14 23/15 23/16 23/18 26/20 34/15 34/18 35/7 35/10 70/11 72/13 73/8
held [1] 53/11
helpful [6] 10/18 14/11 56/22 81/21 84/12 85/18
her [16] 53/9 55/24 61/4 67/25 72/18 72/18 73/2 73/10 73/12 73/21 73/23 74/20 74/22 74/22 80/9 83/10
here [17] 3/3 4/25 19/21 22/20 25/16 25/19 25/19 28/4 32/18 40/22 41/22 43/5 48/20 63/8 88/3 88/6 88/23
high [1] 15/23
highlight [1] 21/24
highly [1] 42/2
Hillsboro [1] 1/15
him [16] 7/8 37/21 46/8 47/20 49/24 50/2 50/4 50/18 54/8 58/6 66/4 74/13 76/7 76/15 76/15 85/5
himself [3] 37/22 47/4 49/22
his [66] 12/9 23/18 32/12 33/3 33/15 35/11 36/17 37/16 38/2 38/5 39/5 40/8 40/10 42/16 44/4 45/23 46/9 46/12 46/15 46/16 47/1 47/1 47/6 47/8 47/21 48/12 48/14 50/10 50/20 50/21 52/8 52/10 53/2 53/15 53/24 54/1 54/12 54/15 54/21 54/23 55/24 56/8 58/5 59/3 60/17 60/18 61/22 66/5 66/10 66/12 66/24 67/13 68/14 68/14 72/5 73/5 75/20 76/1 76/15 76/17 76/17 77/23 77/24 80/9 80/19 85/8
Hollingsworth [5] 39/1 67/11 67/23 67/24 68/10
HOLLY [4] 2/1 3/24 26/3 87/12
home [1] 41/22
HON [1] 2/7
honesty [1] 88/11
honor [47] 3/22 4/6 11/1 13/20 14/2 14/4 14/14 14/21 16/4 17/23 18/16 19/20 21/20 22/9 22/24 23/9 23/11 23/17 25/9 26/6 27/25 29/11 29/15 30/21 33/20 35/17 35/20 36/14 36/24 39/24 43/17 62/16 65/9 66/1 67/14 68/8 74/5 75/9 75/19 76/1 76/19 77/13 77/20 79/18 79/22 82/21 86/4
Honor's [2] 21/19 64/12
HONORABLE [1] 1/11

H

Hook [1] 13/14
hope [1] 45/6
hopeful [1] 16/2
hopefully [3] 4/12 9/24 19/1
hoping [1] 45/9
Hopkins [5] 26/7 26/9 28/13 29/10 43/14
hot [3] 14/8 18/20 32/3
hour [1] 7/8
hours [1] 62/4
house [2] 25/14 75/11
housekeeping [3] 17/21 87/12 88/23
how [39] 5/6 8/15 13/3 15/13 16/9 16/25 17/4 18/14 18/14 25/22 26/1 28/12 30/20 31/10 44/18 47/3 50/11 51/23 55/12 61/12 63/2 63/6 65/2 66/9 69/4 69/15 69/22 70/16 70/17 72/6 72/11 73/4 76/22 77/7 79/12 81/24 86/11 88/20 88/21
how the [1] 61/12
however [9] 10/23 12/13 36/14 42/21 45/17 47/5 48/6 48/25 49/18
HUFF [4] 2/2 4/3 10/13 87/2
hundreds [1] 72/25

I

I-N [1] 3/24
idea [3] 7/21 11/5 77/7
identical [1] 32/18
identified [2] 15/16 44/21
identifies [2] 5/10 5/11
imagine [1] 71/5
imbalance [1] 85/15
immediate [2] 73/1 88/14
immediately [1] 41/17
impact [5] 21/17 24/4 37/21 64/11 64/13
impacted [1] 62/15
impartial [5] 8/16 9/3 9/9 14/10 18/6
impartiality [1] 9/15
impartially [1] 12/13
important [2] 7/1 20/4
importantly [2] 33/8 54/11
improperly [1] 55/8
in-house [2] 25/14 75/11
inaccurately [1] 75/20
Inc [5] 53/3 53/7 56/1 56/15 61/16
include [2] 20/8 64/12
included [4] 13/13 48/22 56/12 83/12
includes [2] 11/22 82/15
including [3] 10/6 18/7 60/9
inclusive [3] 12/6 12/9 14/6
inconsistent [1] 13/5
incorporate [1] 4/15
indicates [1] 41/12
indication [1] 80/4
individual [3] 18/23 59/22 63/21
individually [3] 9/11 9/16 15/14
individuals [3] 31/22 59/20 87/15
information [1] 31/18
informed [1] 69/21
initial [1] 8/7
initially [2] 12/22 13/1
initiate [1] 7/4
initiated [1] 23/12
initiative [1] 8/6
inquire [1] 18/24
inquiry [3] 53/1 55/23 65/24
inserted [1] 5/20
insofar [3] 51/24 53/13 58/14
instance [2] 40/18 85/9
instances [3] 21/8 21/12 32/20
instead [1] 61/20
instructed [2] 61/10 70/7
instruction [9] 15/7 15/9 49/11 49/12 79/8 86/9 87/3 88/2 88/4
instructional [1] 75/19
instructions [4] 15/10 15/19 76/6 87/24
instructive [1] 84/25
insubordinate [4] 50/7 50/13 54/10 76/2
insubordination [3] 46/15 50/21 54/9
intend [2] 6/4 41/14
intended [2] 14/7 73/24
intends [4] 16/9 44/6 61/24 62/19
intent [2] 76/1 81/16
interest [7] 37/11 40/21 66/10 66/12 74/14 75/23 85/16
interfere [1] 22/1
interfered [1] 16/1
interrogatories [1] 86/7
interrogatory [1] 86/10
interrupt [1] 22/6
interview [1] 16/10
introduce [9] 4/24 5/2 41/14 44/11 45/23 49/16 59/7 62/19 80/17
introduced [7] 20/23 30/1 30/23 45/20 47/17 52/5 60/7
introducing [4] 47/10 47/16 58/15 58/16
invoice [2] 67/22 68/2
involvement [1] 36/20
involving [1] 8/22
irrelevant [6] 53/11 57/11 58/3 58/10 58/22 59/23
irreversible [1] 21/6
is [484]
isn't [1] 75/5
isolated [1] 54/16
issue [42] 9/2 12/24 15/25 17/9 27/11 28/14 29/21 32/3 32/3 35/22 36/24 38/7 40/15 45/11 45/17 45/24 46/17 46/18 47/4 47/16 48/3 48/8 48/25 49/1 49/11 50/19 51/1 52/24 54/15 59/24 62/15 62/23 65/3 70/25 71/1 71/2 71/4 75/12 76/1 76/25 84/9 84/15
issued [1] 46/20
issues [21] 9/1 9/6 9/15 9/15 13/23 14/8 18/5 20/4 20/21 20/22 20/25 21/15 23/2 25/23 44/22 50/19 57/16 58/2 63/15 63/17 71/9
it [330]
it's [1] 20/14
item [1] 27/10
its [12] 31/8 31/13 36/12 36/15 53/23 55/10 59/11 60/20 63/23 64/18 70/9 84/14
itself [2] 9/20 68/19
IV [2] 1/13 3/10

J

JAMES [8] 1/4 3/4 3/12 80/13 80/15 80/16 81/7 84/1
January [1] 34/15
January 28th [1] 34/15
Jeffrey [1] 36/3
Jim [1] 80/10
job [3] 30/18 32/22 67/13
Joe [1] 3/23
JOEL [2] 1/14 3/12
Johnson [3] 31/20 75/6 75/14
joint [2] 24/25 41/12
jointly [1] 4/16
Jones [2] 3/25 4/4
JOSEPH [1] 2/1
Joshua [5] 38/24 64/14 64/16 65/1 65/23
journalist [1] 38/25
judge [9] 1/11 3/2 12/13 26/6 26/9 28/13 29/10 43/14 81/1
judgment [10] 46/6 46/10 49/21 51/13 54/13 58/22 58/25 60/5 60/7 60/18
juncture [2] 60/1 74/10
juror [2] 9/18 15/25
jurors [22] 4/10 4/17 4/23 5/7 5/8 5/16 6/25 7/9 7/21 8/12 8/20 8/23 14/9 15/14 15/17 16/23 16/24 17/1 17/11 19/17 20/5 41/1
jury [37] 1/10 4/9 4/11 4/20 8/11 9/25 11/2 11/12 13/3 13/9 13/17 13/20 20/3 20/7 21/21 22/2 34/22 36/23 38/21 41/7 41/9 41/16 44/9 44/13 46/9 49/7 49/25 50/9 51/19 51/20 58/13 63/9 69/16 69/17 79/8 81/11 88/16
jury's [3] 22/1 51/17 73/21
just [19] 3/8 7/19 7/23 17/6 17/25 19/5 37/8 37/11 39/5 39/11 59/22 63/20 64/10 69/2 71/7 74/10 81/14 84/1 88/14

K

keep [11] 7/2 11/19 14/11 14/16 15/1 15/5 19/1 19/2 21/11 68/14 68/16
keeps [1] 67/25

K

Kelley [1] 87/17
Kennesaw [1] 61/1
key [1] 63/17
kinds [1] 80/25
know [58] 5/3 5/6 5/16 5/17 6/5 6/7 6/11 6/25 7/6 7/15 7/22 7/25 8/8 8/20 9/10 9/15 15/7 15/13 16/4 16/9 16/16 16/25 17/3 17/4 17/17 19/8 19/18 19/24 20/9 20/24 21/13 22/5 22/11 22/16 31/16 37/2 41/19 42/5 42/7 42/18 43/12 62/21 63/14 64/3 65/4 69/18 71/1 71/8 73/15 74/18 79/1 79/2 81/1 81/9 81/20 87/18 88/1 88/11
knowledge [7] 33/12 52/24 53/15 53/18 64/18 69/10 73/4
knows [3] 8/8 8/11 16/21

L

lack [2] 52/1 53/17
laid [1] 81/13
large [3] 44/21 45/22 63/16
larger [2] 71/8 88/13
Larry [2] 25/13 29/1
last [11] 5/23 8/21 8/21 14/12 15/5 16/15 21/18 25/5 36/25 62/24 63/11
late [5] 63/3 64/4 79/23 79/23 79/24
late-breaking [1] 63/3
later [6] 6/25 11/6 11/7 11/8 28/8 69/23
law [19] 7/19 26/8 26/8 26/10 26/11 26/13 27/4 27/4 28/12 28/13 28/14 28/18 28/22 32/15 51/9 61/19 62/9 68/19 68/20
lawful [3] 49/24 50/2 50/17
lawsuit [2] 28/7 67/16
lay [4] 68/23 70/17 73/8 74/16
learn [1] 17/5
learned [1] 17/6
least [9] 6/9 8/1 12/24 14/7 15/23 29/13 42/18 61/24 75/6
leave [2] 20/11 21/18
left [5] 3/11 17/12 65/22 70/13 88/7
legal [12] 25/24 26/23 27/1 30/15 31/4 36/8 41/19 43/9 43/11 46/2 78/11 81/21
lend [1] 20/17
lends [1] 9/20
length [1] 5/20
lengths [1] 88/13
lengthy [1] 6/18
lens [2] 51/11 51/12
LEO [4] 1/13 3/10 13/8 22/9
less [2] 47/7 50/3
let [17] 3/7 3/8 5/16 6/11 6/25 10/5 10/9 13/4 13/21 17/17 19/24 20/20 25/10 33/20 69/23 80/3 88/1
let's [4] 4/7 11/19 29/22 34/2
letter [16] 35/1 35/1 35/2 35/6 37/13 37/15 77/15 77/18 77/21 77/22 77/23 77/24 78/9 79/1 79/3 79/5
letters [12] 31/2 37/25 38/1 38/2 38/3 38/4 38/11 77/14 78/14 78/16 78/17 78/19
letting [1] 6/5
lieu [3] 18/11 19/11 19/13
light [2] 9/3 20/20
like [8] 6/23 8/4 21/11 21/16 21/20 21/24 30/17 86/13
likely [1] 7/7
limit [4] 47/6 49/19 51/22 51/23
limited [6] 48/25 50/16 50/16 54/5 57/20 77/16
limiting [3] 49/10 49/12 79/8
Linda [1] 75/6
line [5] 10/16 13/6 47/12 47/25 63/1
lines [2] 56/15 84/6
lineup [1] 7/6
lingering [1] 20/17
list [11] 19/1 19/2 19/3 20/16 22/11 22/14 22/25 24/21 24/23 25/2 38/18
listed [1] 23/2
listen [1] 5/16
listener [1] 78/15
literally [1] 22/10
litigation [6] 24/15 25/17 28/5 28/8 29/6 85/13
little [3] 8/18 20/2 69/19
log [3] 26/2 27/9 60/13
logical [1] 50/10
long [4] 15/18 44/7 63/4 79/24
longer [8] 5/25 9/25 46/1 52/5 58/23 59/6 85/4 85/14
look [14] 24/5 24/22 33/23 36/19 69/14 72/23 77/8 77/10 82/14 83/25 85/3 86/1 86/18 86/19
looking [1] 27/21
lot [10] 9/24 10/2 12/7 23/1 24/23 24/24 41/8 81/10 83/14 88/5
LOUIS [4] 1/13 3/10 13/8 22/9
Lulu [4] 38/24 64/15 64/15 64/18
lunch [1] 7/3

M

made [20] 20/12 24/1 25/23 27/23 29/5 40/4 43/9 54/8 56/4 59/11 62/10 66/16 66/22 66/24 70/12 71/7 76/25 81/6 84/15 86/22
mailbox [1] 36/6
mailboxes [1] 36/6
mailed [1] 24/9
maintained [1] 26/20
majority [1] 57/5
make [19] 7/10 16/11 17/15 21/2 21/3 21/24 22/5 29/13 68/6 69/23 73/14 73/16 74/9 74/11 74/16 79/21 81/17 81/23 88/7
maker [1] 37/7
makers [1] 36/24
makes [3] 22/4 33/13 45/24
making [4] 36/21 53/25 64/3 80/24
manner [3] 16/3 49/22 49/23
many [11] 6/12 6/12 16/25 22/13 25/5 41/25 42/2 42/21 44/22 51/23 59/14
March [3] 28/6 70/4 70/23
March 2013 [1] 28/6
March 28th [2] 70/4 70/23
Marin [1] 80/14
mass [2] 11/25 13/25
massacres [1] 13/14
material [2] 60/18 60/22
matter [27] 3/4 7/3 9/3 11/13 18/21 19/21 20/6 24/2 24/2 31/13 39/22 45/16 46/12 47/14 55/7 55/14 56/7 56/19 61/13 61/21 66/22 73/10 78/24 79/7 80/23 85/8 89/2
matters [13] 6/8 6/10 8/10 8/19 18/20 44/16 52/23 53/14 57/14 58/7 63/3 63/5 88/23
MATTHEW [3] 1/14 3/10 43/1
may [45] 3/1 5/6 6/25 8/19 11/14 12/21 12/22 14/6 15/11 15/18 16/22 19/16 19/17 19/18 19/21 19/21 21/22 24/12 37/1 38/10 44/15 45/8 45/22 47/19 49/1 49/4 49/8 49/12 49/15 51/23 52/4 52/5 52/13 52/25 53/14 53/15 60/7 62/18 65/9 71/5 73/19 76/20 79/21 81/8 86/17
maybe [8] 8/20 9/9 11/19 19/1 19/2 19/7 80/4 83/2
McDonnel [2] 51/12 51/16
me [30] 3/7 3/8 7/2 7/9 8/1 8/18 10/5 10/9 13/4 13/21 19/24 22/21 25/10 33/20 34/5 37/2 38/16 63/6 64/21 74/9 75/1 78/9 78/24 80/3 81/8 84/6 86/22 87/25 88/3 88/4
mean [8] 19/8 31/10 44/2 46/12 55/18 59/23 64/17 79/24
means [1] 24/6
measure [1] 9/2
MEDGEBOW [2] 1/14 3/12
media [18] 8/12 15/8 15/12 15/16 16/1 17/13 24/10 26/15 26/16 26/18 39/19 39/21 40/4 40/7 40/8 40/13 40/23 64/19
meet [5] 41/24 42/4 44/10 66/21 68/18
meeting [15] 21/13 22/23 52/21 55/3 55/6 55/7 56/22 57/1 57/6 57/14 57/24 58/6 58/7 58/16 58/17
meetings [7] 24/14 25/15 27/19 27/20 27/24 27/24 29/2

M

meets [2] 73/16 81/25
member [5] 36/2 50/11 55/16 56/4 58/4
members [17] 4/25 6/15 30/13 30/17 36/7 40/4 40/13 44/25 49/16 50/14 51/2 55/18 55/19 57/9 57/24 58/5 73/1
members' [2] 56/12 58/1
memo [1] 81/8
memorandum [7] 34/16 34/19 34/23 35/8 62/9 62/12 62/13
mentioned [2] 33/21 69/17
mere [2] 46/11 55/17
met [2] 22/21 81/15
metaphors [1] 24/7
Miami [1] 1/20
might [7] 9/3 9/4 40/20 43/23 44/6 68/1 88/2
mind [19] 35/19 36/17 37/21 75/18 75/24 76/4 76/12 76/13 77/1 80/20 80/23 81/5 81/14 81/16 81/19 81/24 81/25 85/20 86/21
mindful [1] 47/10
minimize [1] 9/6
minimum [2] 21/11 71/7
minor [1] 4/14
minute [2] 22/4 41/3
minutes [7] 7/8 10/1 18/3 19/9 19/25 41/4 42/6
mirror [2] 76/7 77/4
misconduct [1] 24/6
misheard [1] 19/7
missing [1] 74/10
Mississippi [1] 56/3
misspoke [2] 19/7 29/15
misstating [1] 13/5
misunderstand [1] 19/10
model [1] 51/16
modifications [1] 4/14
modifier [1] 12/5
moment [5] 25/5 26/10 28/3 40/25 44/11
monitor [1] 43/6
month [1] 6/12
more [15] 8/18 10/1 17/10 21/2 26/17 33/8 39/6 40/12 40/19 51/7 60/20 69/19 79/21 83/20 88/14
Moreover [2] 40/22 60/14
morning [11] 3/1 3/2 3/3 3/10 3/22 16/5 16/6 24/19 41/23 60/10 88/20
Morton [1] 36/3
most [4] 15/23 21/4 32/20 54/11
motion [10] 28/11 29/19 52/16 53/13 53/23 54/24 56/9 57/2 58/14 60/18
move [6] 6/20 29/12 29/22 34/2 71/2 71/3
Mr [12] 4/4 20/21 20/25 42/15 43/23 69/20 74/10 77/18 85/4 86/24 87/7 87/21
Mrs. [2] 71/6 88/19
Mrs. Stipes [2] 71/6 88/19
much [6] 9/25 17/13 30/17 33/24 57/6 57/25
Much frustration [1] 57/25
multiple [8] 8/14 20/13 24/10 25/11 27/20 30/5 30/12 40/4
multiple-page [1] 25/11
must [5] 12/12 32/12 32/16 32/18 41/16
my [23] 3/11 3/11 5/21 8/6 9/21 9/21 14/7 15/10 18/24 19/20 29/13 32/22 33/5 44/20 45/6 64/5 64/18 66/14 71/14 77/17 80/3 82/25 87/19

N

name [4] 3/9 5/12 5/16 36/3
names [1] 30/13
Nancy [1] 60/23
Naomi [1] 80/14
narrative [1] 44/2
narrow [2] 40/12 40/19
nature [6] 6/11 15/8 15/19 15/19 15/20 85/24
necessarily [2] 12/21 63/2
necessary [7] 6/21 6/25 7/19 21/12 56/17 61/17 61/20
need [28] 5/25 7/10 9/24 13/20 20/23 21/2 33/1 37/10 41/11 41/24 63/15 63/15 63/17 64/24 65/17 70/7 70/14 70/15 70/17 73/8 73/12 73/13 73/16 74/9 77/9 79/4 81/15 86/13
needed [2] 22/16 76/8
neutral [1] 31/9
never [5] 27/9 27/15 42/1 65/12 88/17
newspaper [2] 15/24 36/2
next [15] 6/21 7/9 11/23 29/22 29/23 30/4 34/9 34/11 35/25 37/12 38/14 42/13 77/12 80/15 82/1
night [5] 7/5 36/25 62/24 81/10 86/13
nine [4] 32/5 33/19 70/20 70/21
no [45] 1/2 8/4 10/10 11/8 14/14 15/7 16/1 18/23 20/6 21/4 24/14 25/9 27/22 27/23 28/6 28/7 28/7 29/11 30/14 34/5 34/21 35/24 36/20 37/6 38/8 38/9 43/15 45/19 46/1 52/5 57/9 58/23 59/6 70/24 72/10 74/12 74/14 77/14 79/23 82/24 83/2 83/8 83/17 85/4 85/14
non [3] 36/23 67/21 75/15
non-hearsay [2] 67/21 75/15
none [2] 19/16 40/17
normal [1] 67/25
Northern [1] 61/2
not [196]
note [9] 23/15 23/22 24/23 25/6 25/12 25/14 70/11 81/23 82/13
noted [3] 45/8 50/15 57/18
notes [15] 5/21 23/11 23/18 23/19 24/3 27/15 27/15 27/17 27/18 27/22 27/22 28/24 49/6 57/5 80/3
nothing [6] 39/11 56/6 83/20 87/14 87/17 87/18
notice [14] 39/8 45/23 46/20 47/1 47/7 47/8 47/13 47/21 48/2 59/3 65/10 70/4 70/4 70/23
noticed [1] 83/1
notices [1] 31/2
notification [1] 6/14
noting [1] 45/9
November [1] 1/8
now [18] 4/17 6/9 27/4 29/13 34/1 41/24 44/16 51/19 60/15 63/11 63/16 64/1 69/18 71/2 73/20 74/23 77/7 86/17
number [11] 3/6 25/6 26/23 28/9 29/24 31/16 34/22 43/11 43/15 48/19 71/3
numbers [3] 29/16 35/21 82/14
nutshell [1] 80/7

O

o'clock [2] 6/8 6/13
object [4] 42/12 63/19 78/2 82/17
objected [17] 23/5 23/6 27/15 34/9 34/16 38/14 38/18 42/2 48/8 48/11 69/7 70/5 75/9 77/18 82/10 82/11 82/13
objecting [3] 42/10 78/6 85/2
objection [49] 8/4 10/10 14/13 21/4 21/10 22/10 22/22 23/7 23/21 24/11 24/12 24/20 32/23 32/24 34/14 34/24 34/25 35/14 41/15 42/8 42/17 49/6 60/2 60/11 60/15 60/19 63/22 67/15 67/19 67/20 68/25 70/24 71/12 74/17 74/18 74/19 77/14 79/15 82/5 82/9 82/25 83/2 83/18 83/21 84/2 84/3 84/4 84/10 85/1
objectionable [4] 12/19 12/22 13/5 15/17
objections [36] 20/13 21/2 21/4 21/5 22/24 23/22 25/4 27/23 40/15 44/3 44/18 44/20 44/22 45/5 45/8 45/9 45/10 45/12 45/13 48/4 48/14 48/17 49/3 58/24 59/14 59/17 63/15 63/25 64/6 65/22 71/15 71/19 82/6 82/8 85/3 86/16
objectives [1] 24/5
objectors [1] 6/18
objects [2] 58/20 61/6
obtain [1] 18/10
obtained [1] 68/22
obviously [1] 15/12
occur [1] 46/21
occurred [1] 59/5
October [1] 75/7
October 27 [1] 75/7
of agency [1] 61/19
off [6] 19/3 65/22 71/2

O

off... [3] 71/18 71/19 83/22
offer [5] 50/9 80/12 82/20 84/16 86/9
offered [16] 23/25 31/6 35/17 35/18 35/19 36/12 36/15 36/15 37/20 45/14 55/13 66/15 68/7 76/14 78/15 79/6
offering [2] 80/19 86/3
office [1] 87/19
officers [2] 8/22 8/23
Official [2] 2/6 89/5
officials [3] 23/19 85/19 85/20
okay [40] 3/3 3/15 3/19 4/7 10/12 11/19 12/18 15/1 15/6 18/13 18/18 19/23 20/2 22/8 22/14 22/20 23/6 24/18 29/9 29/25 32/1 32/6 33/7 34/13 34/20 35/24 39/25 41/7 43/16 44/15 44/16 74/15 75/5 78/22 82/6 82/10 82/22 84/17 86/5 87/20
once [4] 9/14 15/15 16/3 31/25
one [63] 4/18 4/18 4/20 4/20 4/21 4/22 5/10 5/15 13/14 15/14 15/25 16/6 16/20 17/1 17/11 18/2 19/2 23/1 23/7 23/8 23/8 24/12 25/8 25/10 25/12 29/1 30/4 30/8 30/10 34/9 35/25 37/12 38/14 38/19 38/21 40/7 40/14 42/3 43/17 43/22 44/6 44/12 45/16 45/22 58/4 66/11 66/20 73/3 77/21 79/21 80/9 81/19 81/24 82/1 82/13 82/15 83/18 83/22 84/8 84/14 86/18 86/20 87/12
one-page [2] 25/8 25/10
ones [13] 20/17 20/17 21/2 34/2 42/7 42/9 42/10 42/11 42/11 42/16 63/10 63/10 81/23
ongoing [4] 42/5 43/6 80/1 82/2
online [7] 30/7 30/16 30/17 30/19 32/11 32/20 33/15
only [15] 17/9 21/4 21/11 22/4 25/8 33/14 33/21 36/5 36/15 52/23 53/14 59/16 63/21 82/15 84/2
open [2] 70/13 80/22
opening [4] 20/10 20/18 87/24 88/15
opens [1] 49/4
operative [2] 53/1 55/23
opinions [1] 36/23
opponent [3] 55/17 56/5 57/2
opportunity [3] 17/9 62/6 63/1
opposed [1] 19/14
opposing [2] 24/1 66/16
opposition [3] 6/17 27/8 60/21
orally [2] 8/1 76/16
order [11] 7/12 7/25 28/14 29/9 32/18 54/13 56/17 58/25 59/21 60/5 60/6
ordered [2] 68/13 70/10
orders [1] 28/16
organization [1] 78/1
other [36] 6/9 8/12 12/8 13/5 13/14 15/4 17/1 17/20 17/24 25/3 28/14 30/16 32/8 32/10 33/9 36/6 36/20 39/7 40/13 43/17 43/24 43/25 49/16 50/14 50/23 51/1 53/17 54/17 54/20 55/13 58/5 65/20 75/21 83/14 86/21 88/10
others [4] 51/20 54/14 54/25 86/25
otherwise [11] 6/19 8/12 15/5 17/14 21/10 51/3 57/13 58/12 80/22 81/3 81/4
our [11] 4/12 4/23 4/25 4/25 15/15 16/3 20/3 42/17 43/7 74/2 82/9
ourselves [1] 63/6
out [36] 4/17 6/14 7/22 7/25 8/7 9/14 12/3 12/4 12/14 14/13 14/15 15/4 15/13 16/10 20/17 22/2 34/2 41/25 42/4 44/11 63/15 63/16 64/4 72/8 75/17 79/17 80/11 80/16 81/3 81/13 84/21 86/2 86/14 86/14 87/1 88/21
out-of-court [4] 72/8 75/17 80/11 80/16
outlets [1] 24/10
outlined [2] 20/19 24/5
outlines [1] 24/7
outside [13] 5/6 5/8 8/10 16/20 16/24 16/24 21/21 30/25 44/9 57/7 58/5 58/8 73/21
outweighed [1] 57/16
outweighed by [1] 57/16
outweighing [1] 79/9
over [19] 5/1 5/1 8/21 9/22 10/3 13/4 18/1 18/3 20/12 26/1 26/4 26/14 26/16 27/3 41/10 53/19 63/7 69/10 87/24
overall [1] 12/5
overly [7] 19/1 47/11 47/15 47/18 47/25 50/24 53/21
overrule [2] 67/20 84/10
overruled [5] 48/6 48/16 58/25 59/18 71/15
Owens [1] 4/2
own [6] 9/21 19/12 52/8 52/10 53/2 60/21

P

P.A [2] 1/18 2/3
p.m [2] 71/20 79/25
page [32] 16/7 25/7 25/8 25/10 25/11 25/12 26/23 26/25 27/2 28/9 29/1 29/15 29/20 29/20 30/10 32/5 32/5 33/19 34/7 35/2 35/21 37/5 37/9 43/11 43/14 70/20 72/23 80/13 80/15 82/14 82/15 82/15
pages [4] 20/15 30/20 37/6 70/21
paid [1] 68/17
PALM [7] 1/2 1/7 2/4 2/7 16/7 64/20 65/24
panel [3] 15/11 15/15 16/3
paper [1] 16/5
paperless [1] 7/12
paragraph [1] 60/23
paramount [1] 21/15
part [20] 13/11 13/13 14/9 26/4 26/12 29/8 32/22 33/5 34/10 40/4 64/18 65/15 65/16 67/7 70/6 70/14 70/25 81/10 87/22 88/18
partial [1] 70/12
partially [1] 84/23
particular [8] 17/8 28/19 29/10 37/6 40/6 69/6 71/9 85/3
particularly [2] 20/19 31/7
parties [13] 4/16 5/22 45/12 45/13 45/19 48/23 52/6 60/14 65/11 70/25 85/4 87/2 87/11
parties' [1] 24/1
parts [2] 11/1 64/11
party [9] 24/1 55/17 56/5 57/1 61/8 66/15 66/16 85/7 85/14
party's [1] 66/22
pass [1] 87/5
past [4] 51/10 51/14 69/11 71/7
Pauline [2] 2/6 89/5
pause [3] 5/15 40/25 42/5
paying [1] 64/2
Pena's [1] 67/17
pending [1] 63/4
people [6] 9/8 9/14 16/11 43/25 67/6 85/4
perception [1] 53/2
Perez [1] 67/17
perfectly [1] 63/13
performance [2] 53/3 53/9
perhaps [2] 56/24 59/15
period [2] 47/1 47/4
permeate [1] 44/22
permit [3] 31/5 50/22 52/14
permitted [3] 7/19 50/25 59/7
person [7] 42/24 66/11 68/9 68/21 69/20 73/19 74/21
personal [11] 7/10 12/15 12/17 14/13 15/4 18/17 36/23 52/24 53/15 53/17 72/5
personnel [22] 23/18 24/9 24/10 24/16 26/15 26/18 26/20 31/17 39/2 39/5 39/5 39/6 39/9 39/12 40/7 40/8 40/10 68/14 68/14 70/2 70/3 72/14
persons [1] 31/16
pertain [2] 44/23 45/21
pertaining [9] 44/24 44/25 48/5 48/12 52/18 53/21 58/5 58/15 59/4
pertains [1] 59/2
phon [3] 75/16 78/11 85/5
phrase [1] 14/17

P

phrasing [1] 31/11
picking [1] 63/9
Pierce [1] 2/7
Pierce/West [1] 2/7
Plaintiff [136]
Plaintiff provided [1] 50/3
Plaintiff will [1] 59/7
Plaintiff's [115]
plan [4] 20/19 44/19 87/14 87/15
please [3] 17/4 38/12 80/4
PLLC [1] 1/15
plow [1] 86/13
plus [1] 4/12
point [20] 4/23 9/11 11/16 16/22 17/15 17/17 17/18 21/18 25/1 25/2 39/4 46/10 47/11 50/25 52/2 56/9 57/3 68/25 79/21 87/13
points [1] 45/7
police [2] 8/22 8/23
policies [17] 31/8 45/1 45/1 45/3 46/16 49/17 49/24 50/8 50/23 51/25 53/20 55/8 57/20 59/5 59/8 59/11 76/3
policies that [1] 59/5
policy [16] 31/13 36/10 50/10 54/15 54/21 55/9 55/11 55/20 55/21 56/13 57/22 58/2 58/8 75/21 76/7 77/5
portion [7] 4/8 64/22 65/6 67/2 67/3 70/13 71/11
portions [3] 60/9 62/2 70/16
position [11] 23/9 23/23 38/3 38/5 40/16 46/14 51/6 62/13 63/7 72/18 74/2
positions [1] 41/19
possesses [1] 61/18
possible [4] 11/11 11/12 41/11 41/18
possibly [1] 65/16
Post [4] 16/8 64/19 64/20 65/25
posted [2] 7/2 33/23
potential [1] 6/14
potentially [1] 15/2
precisely [1] 29/21
preclude [4] 9/5 46/2 46/8 46/11
predicate [3] 68/23 70/17 74/16
predicting [1] 86/23
prefer [4] 12/22 14/21 18/4 21/1
preference [1] 21/19
prefers [1] 23/9
prejudice [6] 36/22 49/12 57/3 57/3 57/17 57/23
prejudicial [5] 32/25 49/8 58/12 79/9 84/8
preliminary [2] 15/10 87/23
premised [3] 46/4 48/15 59/23
preparations [1] 25/4
prepared [6] 5/25 38/19 67/25 71/24 73/1 88/3
preparing [2] 25/1 25/3
presence [1] 21/21
present [4] 27/19 49/1 56/20 86/20
presented [5] 13/3 13/22 17/7 64/1 76/5
president [3] 60/4 78/9 78/10
press [1] 16/20
presumably [2] 42/13 86/23
pretextual [3] 51/22 54/12 54/21
pretrial [3] 24/25 25/3 51/17
pretty [1] 81/14
prevent [1] 12/1
preview [2] 33/25 38/16
previously [4] 26/7 50/15 55/1 87/16
primary [1] 21/15
principal [1] 61/20
prior [4] 45/18 46/22 47/8 59/15
prioritizing [1] 45/14
priority [3] 20/25 42/12 43/13
private [1] 13/2
privately [1] 9/10
privilege [23] 24/11 24/14 24/17 25/16 25/19 25/19 26/13 26/24 27/5 27/9 27/11 27/23 27/25 28/4 28/4 28/12 49/3 60/11 60/13 60/24 61/5 75/10 75/12
privilege as [1] 61/5
privileged [6] 25/21 26/2 26/2 26/8 27/5 61/3
probably [1] 15/22
probative [7] 47/5 49/19 50/15 57/15 57/18 57/19 79/10
problem [3] 34/21 35/24 38/9
procedure [2] 9/13 10/2
proceed [5] 16/2 18/12 44/17 44/19 45/10
proceeded [1] 51/14
proceedings [5] 1/10 21/17 22/7 51/17 89/2
process [3] 26/12 36/21 53/25
produced [6] 26/11 27/6 27/16 33/11 70/2 83/12
product [1] 26/5
productive [1] 43/8
professional [4] 12/17 33/3 33/4 33/6
professor [18] 28/7 30/9 32/21 33/14 35/7 35/10 36/6 36/16 37/16 37/21 38/10 56/4 56/4 56/6 73/4 75/10 76/13 82/18
professors [7] 32/8 32/10 32/20 33/9 36/20 37/14 55/3
professorship [1] 7/17
proffer [10] 21/24 21/25 22/3 22/4 22/5 55/14 56/11 56/25 64/24 65/17
proffers [1] 21/19
profile [1] 15/24
profiles [1] 30/19
progressive [1] 30/9
projecting [1] 86/23
promote [1] 13/25
promoting [1] 33/4
pronounced [1] 63/20
pronouncement [2] 63/23 71/14
pronouncements [1] 88/13
proper [4] 74/16 79/11 79/12 80/24
proportional [1] 47/17
proposed [13] 4/16 7/24 10/6 10/14 10/16 10/19 11/23 12/23 13/6 13/12 14/12 15/4 87/3
proposing [1] 12/20
proposition [1] 61/3
protect [1] 28/1
protected [2] 10/22 11/22
prove [2] 55/13 77/3
provide [1] 81/21
provided [7] 48/22 49/13 50/2 50/3 50/17 59/16 68/2
provides [4] 66/15 68/11 68/19 68/21
providing [1] 50/12
Provost [1] 3/23
prudent [1] 22/12
public [19] 24/17 26/4 26/5 26/11 26/17 26/18 26/24 27/3 29/4 29/6 36/21 39/11 40/4 40/14 40/19 66/3 66/4 66/10 78/12
publication [1] 26/12
publicly [1] 24/9
published [3] 36/2 36/5 36/20
pull [1] 26/6
pulled [1] 20/3
purported [1] 76/17
purpose [5] 5/19 7/20 8/5 14/11 21/9
purposes [2] 6/9 87/20
pursuant [5] 26/11 39/9 61/8 61/14 86/22
pursue [1] 69/23
put [11] 7/12 7/24 17/5 26/2 36/5 43/10 43/14 47/13 72/4 72/14 76/1
putting [1] 24/16

Q

qualified [1] 68/12
qualify [1] 57/1
quality [1] 32/17
quantity [1] 32/17
quarrels [1] 53/24
question [15] 8/16 9/11 9/12 9/21 15/14 18/17 19/5 19/11 28/20 49/25 53/11 69/2 79/1 81/16 86/16
questioning [5] 10/4 17/24 74/20 78/25 79/11
questionnaire [5] 4/13 9/17 9/22 18/7 18/24
questionnaires [2] 4/20

Q

questionnaires... [1] 43/18
questions [23] 4/16 9/5 9/18 9/21 11/22 11/24 14/17 17/8 17/10 17/25 18/4 18/6 18/7 18/8 18/10 18/12 18/25 19/12 19/14 19/17 19/24 20/9 31/17
quickly [3] 33/20 45/10 62/12
quoting [3] 51/16 53/8 56/17

R

Rachel [4] 39/1 67/23 67/24 68/10
raise [4] 16/24 24/20 44/3 84/4
raised [10] 16/23 17/3 25/4 27/20 28/3 41/20 49/4 62/15 82/25 85/3
raises [1] 5/5
raising [2] 29/21 75/21
Ramadan [5] 38/25 64/15 64/16 64/18 64/23
random [1] 27/18
rather [2] 7/8 31/7
reach [2] 80/1 87/3
reactions [1] 58/1
read [9] 7/13 9/9 15/7 37/10 71/12 86/9 87/6 87/23 88/4
readdress [1] 29/14
readily [1] 20/14
reading [6] 7/20 8/5 8/5 8/14 66/14 76/12
reads [1] 10/6
ready [1] 41/1
realistic [1] 62/14
really [3] 10/1 84/6 88/10
reason [10] 8/18 12/3 12/4 29/5 39/8 50/1 50/3 58/13 59/10 59/12
reasonableness [1] 53/25
reasoning [1] 45/6
reasons [8] 44/6 48/4 48/7 50/18 57/4 58/14 60/6 71/15
rebuts [1] 74/4
receipt [1] 47/6
receive [2] 70/10 79/1
received [10] 58/4 68/5 72/5 72/6 72/7 74/3 74/12 75/20 79/12 83/20
receives [1] 74/11
receiving [4] 47/8 76/6 78/19 79/13
recency [1] 16/14
recent [1] 15/23
recess [4] 41/3 41/4 41/6 44/14
recessed [1] 88/24
recipient [1] 44/1
recognize [1] 28/13
recollection [2] 30/3 76/17
record [16] 3/8 9/19 29/6 35/5 38/12 45/8 68/8 68/10 68/11 68/13 68/24 69/1 69/21 71/14 71/16 89/2
recorded [2] 23/11 27/24
recording [7] 55/6 57/6 57/7 57/13 57/25 58/17 58/18
records [24] 26/4 26/5 26/11 26/17 26/19 26/24 27/4 28/1 29/4 31/2 39/7 39/11 40/7 40/9 40/14 40/19 66/3 66/4 66/11 68/19 68/20 68/22 69/10 70/1
red [2] 10/16 13/6
redacted [1] 79/17
redundancy [2] 11/10 15/3
redundant [2] 11/5 15/2
refer [1] 43/10
referenced [2] 60/10 88/14
references [1] 45/25
referring [1] 27/13
refers [1] 66/2
reflected [1] 77/25
refresh [1] 30/2
refuse [1] 51/25
refused [2] 33/14 49/23
refusing [1] 76/3
regard [2] 14/10 15/3
regarding [9] 15/7 22/24 25/22 44/4 60/25 65/10 75/6 81/15 83/22
regardless [3] 12/13 25/16 52/9
regular [3] 43/4 68/15 68/15
reinstated [1] 7/17
relate [1] 20/21
related [5] 26/19 51/1 58/18 59/19 60/4
Relatedly [1] 48/11
relates [3] 17/8 40/16 73/11
relation [1] 85/17
relationship [6] 56/14 66/23 66/25 72/13 73/11 85/8
releasing [1] 24/16
relevance [5] 46/23 60/1 67/15 84/24 85/1
relevancy [8] 40/15 44/22 45/5 45/10 67/19 72/2 74/6 74/9
relevant [20] 31/7 46/3 46/13 47/3 47/7 49/18 50/3 50/15 52/11 52/13 53/6 53/21 55/7 56/22 57/6 57/14 58/7 59/6 59/12 66/10
relevant subject [1] 55/7
relied [1] 60/17
relief [1] 7/18
relying [1] 40/14
remain [2] 4/4 20/13
remainder [1] 83/6
remaining [5] 20/5 20/11 28/23 45/10 70/13
remains [2] 27/16 64/6
remember [3] 15/18 16/17 88/5
remind [2] 75/1 88/3
removal [1] 65/10
removed [6] 39/9 39/11 40/6 40/10 40/10 65/12
render [2] 45/7 84/8
renders [1] 58/22
repeated [2] 15/22 45/24
reported [2] 28/5 83/13
reporter [5] 2/6 2/6 64/20 89/5 89/6
reporters [1] 16/10
reports [1] 31/1
represent [1] 5/21
represented [1] 85/12
representing [1] 79/6
represents [1] 59/13
reputation [1] 52/8
request [14] 26/4 26/17 26/18 26/24 39/5 39/11 39/12 39/19 40/11 40/12 62/11 70/2 70/3 71/5
requested [3] 49/14 70/2 83/11
requests [7] 39/2 39/21 40/4 40/14 40/19 80/25 86/7
require [1] 33/9
required [1] 69/15
research [4] 43/6 69/19 81/16 81/17
researching [3] 15/7 33/2 36/25
reserve [4] 69/22 74/23 86/1 86/20
reserved [1] 88/7
resolve [2] 23/2 82/2
resolved [7] 41/15 63/5 80/5 82/4 82/23 84/23 88/10
respect [14] 12/25 22/12 27/11 31/21 31/24 35/11 63/18 70/11 71/8 75/1 82/24 85/15 86/6 86/20
respects [1] 32/17
respond [7] 25/22 34/4 38/10 62/11 76/19 76/20 83/10
responded [2] 40/20 79/13
responding [2] 29/3 65/24
response [19] 24/9 28/25 29/8 34/6 34/15 34/18 34/23 35/1 35/7 35/16 37/24 40/2 47/16 62/6 64/15 67/16 76/11 78/8 78/18
responses [1] 86/7
responsible [1] 53/10
rest [4] 5/7 5/8 8/10 11/5
result [5] 21/6 50/10 55/14 79/3 79/13
resume' [1] 32/21
retaliation [2] 46/3 46/9
return [1] 7/8
review [9] 18/24 44/20 48/20 48/23 58/24 60/12 62/2 62/6 80/3
reviewed [3] 55/5 60/8 60/9
reviewing [1] 15/25
Revisions [1] 59/11
Richard [1] 67/17
right [18] 3/11 3/19 12/18 17/15 27/2 29/12 34/1 40/24 44/9 62/23 62/25 73/20 74/23 77/7 83/21 87/7 88/3 88/5
rights [7] 1/15 37/19 38/1 38/5 77/23 78/1 78/18
Robe [1] 31/21
Robert [1] 85/6
ROBIN [2] 1/11 2/7
ROGER [7] 2/2 4/2 24/19 26/22 32/2 43/2 64/9

R

role [1] 85/9
rolling [1] 41/18
Romadan's [1] 67/10
room [2] 3/17 4/11
rooms [1] 44/12
ROSENBERG [3] 1/2 1/11 2/7
rule [10] 31/4 45/4 45/11 61/8 61/14 66/14 66/15 68/19 69/14 74/16
ruled [11] 20/7 20/8 49/21 53/20 57/19 59/7 84/14 84/19 84/19 85/2 86/17
ruled that [1] 53/20
rules [5] 28/21 61/17 65/14 68/4 74/7
ruling [24] 20/18 20/24 21/16 29/13 45/6 46/5 48/6 48/24 48/25 53/16 58/21 64/9 64/12 67/5 70/12 71/7 71/8 71/22 73/14 75/12 75/13 77/9 84/15 84/24
rulings [10] 20/12 45/11 45/18 63/16 63/17 63/20 64/3 84/14 86/21 88/7

S

S-Y-B-A-S-E [1] 53/3
S.E [1] 1/19
said [8] 7/11 20/6 46/21 50/5 52/12 55/3 79/25 86/20
sail [1] 63/4
same [12] 5/8 12/21 16/15 31/17 37/18 51/10 54/24 59/12 67/13 70/14 78/25 79/10
Sandy [1] 13/14
SARA [3] 2/2 4/3 10/13
Sarah [1] 87/2
Saunders [1] 78/10
saw [1] 16/10
say [16] 8/1 13/14 13/15 17/3 19/1 20/6 20/15 21/19 22/18 32/10 32/21 62/13 66/10 69/13 73/13 74/24
saying [7] 28/3 72/16 72/19 76/8 81/5 82/7 83/19
says [11] 7/16 26/10 28/18 28/19 33/5 66/3 67/5 67/7 76/8 82/1 87/10
schedule [1] 7/1
school [2] 11/23 72/25
scope [28] 24/2 28/2 40/20 54/5 55/24 56/8 56/19 56/23 61/13 61/22 64/25 65/6 65/18 66/5 66/17 66/23 66/24 67/13 67/15 72/12 72/18 73/2 73/10 73/11 75/8 80/8 85/8 85/11
screen [2] 30/7 30/12
scroll [1] 78/4
search [1] 30/25
searching [1] 24/7
seated [3] 3/1 3/9 44/15
second [8] 1/19 13/11 52/19 66/19 67/6 79/20 79/25 80/3
Secondly [1] 54/11
section [2] 16/7 75/24
see [23] 3/8 7/6 9/20 14/8 16/6 19/4 25/11 25/11 34/22 36/25 56/14 60/11 60/22 61/1 63/9 66/2 66/9 69/15 70/6 70/21 80/9 81/1 83/23
seek [4] 42/16 62/1 69/14 69/24
seeking [9] 25/23 31/12 42/8 42/23 43/12 76/5 76/24 77/2 80/17
seeks [1] 7/17
seem [4] 6/17 73/18 84/6 84/24
seems [4] 23/21 64/21 78/8 78/24
seen [4] 4/13 10/1 16/4 30/24
selected [1] 44/13
selection [7] 4/9 9/25 13/17 13/20 41/9 41/17 81/11
selective [2] 36/9 81/2
senate [12] 52/21 55/3 55/6 56/5 56/6 56/21 57/1 57/6 57/14 57/24 58/16 58/17
send [2] 16/23 43/11
sense [2] 22/4 34/1
sent [13] 7/25 37/14 37/15 38/3 41/17 63/8 71/18 71/20 77/24 79/20 79/20 79/25 86/22
sentence [6] 7/16 11/5 11/23 14/5 14/11 14/16
separate [3] 26/20 40/14 85/12
series [1] 81/15
serve [1] 50/8
served [2] 87/14 87/18
serves [1] 88/17
service [1] 87/16
serving [1] 14/11
session [2] 6/7 6/10
set [3] 4/20 6/12 60/6
settlement [4] 39/10 40/5 65/11 78/21
seven [1] 37/9
seventh [2] 24/22 38/18
several [4] 8/21 29/1 46/6 77/20
shall [1] 49/13
she [22] 23/19 24/5 24/7 24/7 27/17 27/21 38/25 53/10 53/10 64/20 67/24 67/24 72/1 72/13 72/13 72/25 73/3 73/13 73/22 74/14 74/20 83/9
shifting [1] 51/16
Shoenmakers [1] 75/16
shootings [1] 11/23
short [4] 22/3 22/3 41/6 44/14
shorter [1] 5/24
shots [2] 30/7 30/12
should [48] 6/3 6/18 12/25 13/16 14/5 14/24 17/16 19/14 20/7 20/15 26/10 29/4 29/7 30/15 31/24 42/14 47/10 47/16 47/18 47/22 48/15 51/5 52/17 54/2 54/18 55/4 55/10 55/21 59/10 59/20 61/23 62/23 63/4 63/24 64/1 64/2 64/4 64/23 66/11 74/8 81/2 81/7 82/25 83/12 86/10 86/25 88/5 88/15
shouldn't [2] 71/2 80/25
show [8] 5/4 8/9 9/8 16/22 52/7 61/17 65/12 76/10
shown [1] 69/16
shows [4] 30/20 40/7 77/25 82/14
shy [2] 28/15 28/17
side [12] 3/17 3/20 3/23 4/18 4/19 15/3 15/17 41/8 42/4 42/25 85/16 88/17
side's [1] 10/5
sidebar [5] 21/3 21/5 21/8 21/9 21/11
sidebars [1] 86/15
sides [4] 7/6 43/18 63/13 69/4
sign [1] 72/24
Signature [1] 89/6
signed [7] 72/13 72/16 72/17 73/16 74/13 78/11 84/1
significantly [1] 60/20
similar [3] 16/3 32/19 33/10
similarity [1] 52/1
similarly [8] 32/9 32/16 32/17 32/23 47/15 50/14 71/17 80/13
simple [1] 63/24
simply [6] 40/19 48/20 49/25 50/13 53/24 54/2
single [4] 22/10 23/1 38/19 38/20
situated [5] 32/9 32/16 32/17 32/23 51/24
six [5] 4/12 32/5 32/8 33/9 33/19
slew [1] 81/6
slip [1] 44/11
slowly [5] 3/9 5/3 5/10 5/15 5/16
smoothly [1] 86/15
so [108]
solely [1] 49/1
Soler [2] 85/4 85/6
solicited [1] 38/11
some [17] 4/15 8/19 10/14 11/21 12/25 23/2 31/19 31/19 39/4 42/13 44/1 46/23 48/21 55/17 63/22 71/9 88/23
somebody [5] 37/7 64/19 65/24 80/8 81/20
someone [4] 5/5 5/6 8/11 75/11
something [20] 6/13 8/11 9/10 9/15 12/21 13/20 17/4 19/14 21/6 21/7 24/11 27/20 31/24 39/6 43/14 62/23 65/4 72/7 74/10 74/11
somewhat [2] 51/1 58/7
soon [3] 21/17 41/11 41/17
sort [4] 9/13 44/1 65/2 66/1
sought [2] 31/21 84/17
South [1] 53/7
SOUTHERN [5] 1/1 28/16 28/18 53/4 53/8

S

speak [1] 9/16
speaker's [1] 61/13
speaking [5] 21/4 55/24 61/18 65/5 85/8
special [1] 86/8
specific [9] 10/21 12/5 44/18 44/18 45/13 45/14 48/7 57/9 81/14
specifically [2] 66/4 81/22
speculate [1] 52/25
speech [25] 10/21 10/25 11/2 11/9 11/14 11/15 11/21 11/24 12/9 12/25 13/10 13/18 13/19 13/19 13/23 14/16 14/18 14/20 14/21 14/25 30/16 50/20 52/10 52/13 58/5
spend [1] 33/24
Sperling [1] 61/1
stab [1] 13/1
staff [2] 4/25 42/7
stage [3] 51/10 51/14 64/4
stages [1] 8/7
Staheli [1] 56/2
stand [7] 6/24 21/1 28/16 44/7 62/5 87/22 88/4
standards [1] 61/19
standing [3] 61/2 64/6 71/19
start [4] 10/8 41/13 87/23 88/22
started [2] 41/5 44/17
starting [1] 23/4
starts [1] 30/8
state [28] 3/7 3/9 5/15 9/25 11/3 23/10 26/8 28/20 35/19 36/17 37/21 61/12 75/18 75/24 76/4 76/12 76/13 77/1 80/19 80/23 81/5 81/14 81/15 81/19 81/24 81/25 85/20 86/20
stated [5] 12/11 55/1 59/9 69/8 71/16
statement [27] 7/14 7/15 7/20 8/14 10/7 10/11 11/7 13/12 13/15 15/5 15/5 15/6 42/14 56/18 60/17 60/21 60/22 61/11 61/12 61/13 61/19 61/21 66/19 66/24 72/8 75/17 80/11
statements [18] 14/6 20/10 20/18 23/25 39/15 39/16 39/18 40/17 55/16 56/3 56/25 57/14 62/10 62/20 66/21 80/16 80/18 87/24
states [6] 1/1 1/11 11/24 12/7 13/24 75/20
Statute [1] 26/5
stay [2] 14/5 44/10
Stephen [1] 3/16
STEVEN [1] 1/18
Stewart [1] 2/3
stick [2] 38/12 68/4
still [15] 4/10 19/9 19/23 19/25 20/17 29/7 63/6 64/8 67/19 68/25 69/7 69/8 69/23 71/18 74/17
Stipes [4] 2/6 71/6 88/19
89/5
stipulation [1] 24/25
stop [2] 5/12 27/23
straightforward [1] 86/10
Street [1] 1/19
string [1] 83/3
strong [1] 8/23
subject [9] 9/3 19/21 29/9 52/13 53/21 55/1 55/7 59/14 83/5
subjected [1] 45/2
subjective [7] 52/4 52/10 52/19 52/22 53/5 53/15 53/17
submit [1] 61/10
submitted [5] 24/10 24/25 33/15 62/4 73/3
subpoenas [2] 87/14 87/19
subsequent [1] 78/19
substance [1] 84/7
substantial [2] 52/3 57/23
such [13] 11/22 48/21 49/3 49/12 55/5 56/13 56/25 57/11 61/12 79/2 79/2 79/2 79/2
sufficient [1] 69/9
suggest [3] 19/8 73/6 81/20
suggested [2] 4/15 4/15
Suite [3] 1/16 1/19 2/4
summarize [1] 65/9
summary [16] 7/11 7/23 20/15 30/14 32/6 32/7 46/5 46/10 49/21 51/13 54/13 58/22 58/25 60/5 60/7 60/18
supervises [1] 72/25
supervisor [4] 73/2 75/3 75/4 75/20
Supp [2] 53/4 53/7
supplementing [1] 35/5
support [7] 38/2 38/5 42/7 56/17 58/6 60/18 62/9
suppose [3] 62/22 64/24 73/12
supposed [2] 39/8 40/9
sure [6] 16/11 63/15 65/8 73/16 80/10 86/8
surrounding [1] 59/8
suspect [1] 70/9
sustains [1] 60/2
sworn [1] 44/13
Sybase [1] 53/3

T

table [8] 4/21 4/21 5/2 5/4 5/13 5/14 5/18 42/3
tainted [1] 16/1
take [20] 5/23 6/16 8/6 8/10 15/4 20/25 21/20 41/3 41/4 44/16 46/25 62/5 63/11 66/20 69/13 77/10 79/3 80/3 86/19 88/23
taken [5] 27/18 41/6 44/14 54/17 84/13
takes [2] 79/19 88/4
taking [6] 12/3 12/4 19/11 31/10 40/15 51/5
talk [6] 5/20 7/5 28/24 44/4 87/1 88/10
talked [2] 65/19 71/12
talking [7] 4/7 11/17 65/14 70/7 72/2 83/16 84/6
talks [2] 27/13 54/1
task [1] 41/8
team [1] 4/25
teams [1] 41/10
telephone [1] 4/13
telephonically [1] 8/3
tell [4] 6/6 17/4 37/2 80/7
telling [1] 22/21
ten [8] 5/23 6/2 6/21 18/6 25/1 70/20 70/21 77/21
ten-day [1] 6/2
tenure [1] 56/7
tenured [1] 7/17
terminate [5] 28/7 49/24 50/2 50/4 50/18
terminated [12] 46/15 46/18 47/24 50/1 50/20 52/11 52/19 52/23 52/25 53/16 54/3 85/21
termination [20] 45/24 46/20 46/22 47/1 47/7 47/9 47/21 50/6 51/21 54/8 54/12 54/18 54/21 59/3 59/6 59/10 59/12 59/16 59/17 71/13
terms [7] 4/8 13/2 16/14 28/5 50/11 63/3 69/4
tested [1] 61/19
testified [1] 27/17
testify [13] 43/24 52/23 53/14 53/15 67/24 68/9 68/12 68/13 69/20 72/1 72/7 80/21 87/7
testifying [3] 27/22 54/23 76/16
testimony [18] 10/21 27/23 42/16 43/24 53/19 53/24 54/9 55/2 57/13 57/21 58/15 60/5 62/9 73/15 76/16 76/21 81/3 83/9
text [1] 7/13
than [14] 7/8 10/1 15/4 21/2 26/17 39/6 45/2 47/7 51/8 55/13 63/14 83/14 86/21 88/14
thank [3] 17/20 20/1 22/7
thanks [2] 10/18 40/24
that [498]
their [19] 3/7 5/5 8/17 16/11 16/23 16/24 17/6 18/3 30/18 30/19 33/4 55/19 56/13 56/14 62/20 66/17 78/15 78/20 85/18
them [38] 4/20 5/21 6/5 6/6 9/10 9/11 9/12 9/19 10/16 15/7 15/9 15/9 16/23 16/25 17/1 17/17 17/18 22/17 22/17 22/20 24/16 24/17 24/23 26/6 31/12 33/25 42/12 44/4 44/5 59/15 72/5 72/7 74/3 74/12 80/19 86/14 86/14 87/1
themselves [2] 5/11 30/18
then [24] 4/24 5/13 7/11 8/15 9/14 9/22 11/21 12/11 17/11 22/4 45/7 64/15 66/16 71/23 73/6 75/25 76/8 77/11 78/10 79/20 81/20 84/5 85/24 86/25
theoretically [1] 56/24

T

theory [1] 54/20
there [93]
therefore [10] 32/11 37/7 45/21 46/23 47/10 48/23 53/13 54/23 56/9 82/23
Thereupon [4] 41/6 44/13 44/14 88/24
therewith [1] 57/20
these [83] 23/11 23/18 23/19 23/20 23/25 24/8 24/13 24/15 25/15 25/17 25/21 25/22 27/5 27/15 27/15 27/17 27/17 27/19 27/24 28/1 28/5 28/24 29/1 29/4 29/5 30/12 30/24 31/1 31/11 31/19 31/19 31/23 31/25 32/8 32/10 32/19 32/20 33/12 33/19 33/22 37/18 37/20 37/25 37/25 38/3 38/11 38/17 39/2 39/6 39/14 39/14 39/16 42/22 45/4 45/7 45/11 48/17 51/6 59/17 63/5 63/15 63/15 65/11 70/3 70/17 72/3 72/9 72/14 73/1 74/3 76/9 76/23 78/17 78/19 80/15 80/16 80/25 81/22 83/4 85/3 85/4 85/18 85/24
they [85] 4/6 4/10 4/12 4/17 5/3 5/25 7/10 7/10 7/22 8/8 8/16 8/19 9/9 9/9 10/15 11/9 11/14 14/7 14/9 15/17 15/18 17/5 17/6 17/13 17/15 17/19 17/24 17/25 18/6 23/20 23/22 23/23 25/23 26/3 26/5 26/5 26/8 26/17 27/3 27/5 28/3 29/4 29/7 30/6 30/18 31/8 31/24 31/25 32/16 33/3 33/10 33/12 34/11 38/2 38/3 38/8 40/12 40/22 42/12 43/5 44/2 44/2 51/24 63/11 65/22 67/21 68/14 69/7 69/8 69/11 70/16 72/4 72/6 72/12 76/7 76/14 76/15 76/24 77/4 79/13 83/13 83/20 85/11 85/12 87/19
thing [7] 13/14 16/15 33/21 43/17 43/22 70/15 79/7
things [13] 5/7 6/10 6/20 15/8 15/18 16/20 17/13 17/21 64/3 79/13 85/24 88/6 88/12
think [26] 6/2 6/3 11/2 14/10 16/6 18/21 20/23 21/5 29/3 33/25 44/21 45/18 61/23 70/14 74/15 74/17 74/19 74/20 80/24 80/24 82/20 84/5 84/8 86/3 86/19 86/21
thinking [1] 19/13
third [1] 52/20
this [162]
those [37] 4/17 4/25 8/10 8/25 9/14 15/16 16/23 17/11 18/5 18/10 20/25 21/11 26/10 31/21 34/11 42/16 42/19 44/23 45/2 45/5 45/9 47/20 48/14 49/3 53/11 60/9 63/11 63/20 67/21 80/2 84/24 84/25 85/20 85/25 86/6 87/19 88/8
though [1] 27/3
thought [3] 9/1 55/10 73/25
thoughts [1] 85/19
three [8] 15/22 28/8 33/2 34/8 44/21 52/17 87/4 88/7
through [39] 5/22 8/11 9/17 23/16 29/20 30/13 30/22 30/23 32/5 33/19 34/8 41/16 41/21 41/22 42/15 42/16 44/1 45/10 51/11 51/12 57/21 61/25 68/24 70/15 72/3 72/4 73/8 73/23 74/1 74/20 74/22 74/24 79/11 82/14 82/15 83/12 86/2 86/13 86/24
throughout [4] 4/5 6/20 15/20 63/8
Thus [2] 58/6 60/24
tied [1] 48/7
time [33] 6/1 8/2 11/9 17/2 20/2 20/4 20/11 22/1 22/1 22/3 25/1 25/3 29/21 33/24 35/19 37/11 38/21 43/23 47/4 47/11 48/25 63/12 66/20 72/10 74/5 74/13 76/9 76/22 81/12 85/6 85/20 87/25 88/1
timely [2] 48/20 49/13
times [3] 8/14 15/22 33/2
titles [1] 30/18
today [6] 6/13 20/10 47/25 62/8 63/8 79/25
together [1] 60/4
told [3] 18/20 18/20 71/18
tomorrow [16] 20/18 21/17 41/22 42/13 42/15 42/23 45/15 62/16 62/17 62/21 69/24 77/9 86/25 87/20 87/23 88/7
tonight [3] 41/22 86/12 88/18
too [5] 33/24 47/22 48/2 48/20 79/23
took [4] 12/14 13/1 27/17 88/12
top [12] 23/19 25/12 25/13 65/16 67/2 80/9 83/22 83/23 83/24 84/5 84/7 84/11
topics [1] 85/25
total [1] 51/8
totality [1] 44/20
touch [2] 13/22 14/8
touches [1] 28/12
tough [1] 3/17
tracing [1] 68/24
TRACY [30] 1/4 3/4 3/12 20/21 21/1 28/7 35/7 35/10 36/16 37/16 38/11 42/15 43/23 69/9 69/20 72/10 73/4 74/11 75/16 77/18 80/10 80/14 80/16 80/16 81/7 83/10 84/1 86/24 87/7 87/21
Tracy's [5] 36/6 37/21 76/13 76/21 82/18
train [1] 83/12
training [1] 47/20
transcript [2] 71/6 89/1
transcripts [1] 88/19
treat [2] 16/9 20/20
treated [3] 30/20 51/3 51/20
treatment [1] 45/2
trial [36] 1/10 4/5 4/9 4/11 5/20 6/1 6/21 15/20 16/1 16/16 16/16 16/18 17/14 19/16 20/19 21/1 25/1 32/25 33/1 40/3 40/3 42/1 45/20 47/22 47/23 51/18 52/16 60/7 61/10 62/2 63/4 64/1 64/5 87/14 87/15 88/20
tried [1] 58/6
tries [1] 8/25
true [1] 46/1
truly [2] 34/2 81/2
TRUSTEES [2] 1/7 3/5
truth [14] 31/6 31/12 35/17 35/19 36/12 36/15 37/20 39/22 55/13 68/7 78/15 78/24 79/6 80/23
try [12] 6/16 6/18 14/8 23/2 41/24 61/24 78/4 81/1 84/5 84/11 84/21 88/6
trying [15] 10/2 32/8 32/10 36/22 38/4 40/12 40/22 62/14 68/4 72/3 73/25 76/15 77/8 80/12 85/22
turn [11] 5/1 5/1 9/22 13/4 17/25 18/2 21/10 47/22 52/21 64/5 87/24
turned [5] 26/1 26/4 26/14 26/16 27/3
turning [2] 10/3 25/6
Tuscaloosa [2] 55/25 61/15
twelve [1] 6/8
Twitter [1] 30/19
two [15] 4/12 4/14 18/2 35/2 38/25 39/2 67/4 67/21 80/2 84/6 86/18 86/22 87/14 87/15 88/6
two-page [1] 35/2
type [2] 22/5 51/7
types [2] 52/17 81/22

U

ultimately [1] 9/14
unable [2] 55/12 56/20
unambiguous [1] 15/21
unclear [1] 27/16
under [23] 11/22 12/5 12/9 14/6 23/20 23/24 26/4 26/8 26/13 27/3 28/13 45/2 45/5 61/16 64/23 65/16 67/12 69/1 70/18 75/15 81/7 81/24 81/25
understand [14] 11/10 11/20 17/3 41/18 64/6 65/2 67/5 67/19 71/23 75/12 77/15 78/22 78/23 80/6
understanding [4] 5/24 19/20 47/19 77/17
understood [1] 19/23
undertook [2] 47/6 47/8
unequivocal [1] 15/21
unfair [3] 49/12 57/16 57/23
unfairly [3] 32/25 49/8 58/12
union [7] 85/10 85/12 85/14 85/16 85/17 85/19 86/19
unique [1] 33/14
UNITED [5] 1/1 1/11 11/24 12/7 13/24

U

university [40] 1/7 3/4 3/5 7/18 10/13 11/16 13/11 23/12 23/20 24/5 25/14 25/22 27/12 30/6 31/8 31/13 31/17 35/12 35/18 36/3 36/16 37/14 37/15 37/22 37/23 38/3 39/15 39/17 39/20 39/23 40/6 56/2 60/3 65/5 68/3 72/9 72/11 74/4 74/12 78/20
university's [3] 33/17 36/10 57/7
university's efforts [1] 57/7
unless [4] 26/5 34/5 65/1 74/10
unnecessary [2] 19/18 45/8
until [7] 20/5 20/7 28/3 28/8 42/13 60/15 70/10
unusual [2] 8/25 42/2
up [18] 4/11 7/7 8/10 9/2 20/3 20/5 20/7 20/25 21/23 22/15 44/16 78/16 79/19 80/22 84/13 88/1 88/15 88/23
update [2] 22/17 43/4
uploaded [1] 22/18
upon [9] 7/15 13/22 14/8 28/12 44/20 45/4 45/18 48/15 58/24
upset [1] 58/4
urgent [1] 21/4
us [10] 5/12 5/13 5/23 6/4 17/4 22/17 33/9 63/8 71/18 71/18
use [8] 21/9 29/23 30/18 38/21 44/11 59/9 61/3 64/12
used [6] 30/2 54/20 60/14 60/16 60/20 76/15
using [2] 29/25 60/25
usual [1] 61/19
utilize [1] 10/2

V

vacuum [1] 73/14
valid [2] 51/6 51/12
value [7] 47/5 49/19 50/16 57/15 57/18 57/19 79/10
various [2] 57/8 57/21
verdict [2] 8/17 17/6
version [1] 82/15
versus [8] 3/4 51/15 53/3 55/25 56/2 56/14 61/1 61/15
very [8] 16/20 25/6 42/3 62/12 63/16 63/23 77/16 81/2
Vice [1] 3/23
view [3] 10/5 14/17 65/15
viewed [1] 15/11
viewing [1] 15/8
viewpoint [1] 7/13
views [4] 12/14 12/17 14/13 17/14
Village [1] 53/7
voir [4] 5/19 17/10 18/23 20/9
VOLUME [1] 1/10

W

W-2 [1] 60/1
wait [2] 16/24 77/16
waived [5] 24/14 24/17 28/4 60/24 61/4
waiver [1] 26/9
walk [1] 70/15
want [39] 5/12 5/13 8/12 11/3 11/16 16/11 17/25 18/9 21/10 21/19 22/3 22/5 22/6 33/24 33/25 34/22 42/12 42/20 42/21 43/12 44/7 44/18 45/16 47/13 62/22 62/25 65/13 71/5 73/7 78/23 81/13 86/9 86/16 87/6 87/13 87/16 87/25 88/16 88/21
wanted [2] 39/7 52/7
wants [2] 49/18 67/20
warrants [1] 21/5
was [138]
wasn't [2] 12/23 23/3
way [16] 12/22 16/1 16/11 18/12 20/19 20/23 27/10 37/22 55/13 63/24 74/7 74/18 79/4 81/3 84/8 87/9
ways [1] 18/2
we [163]
we'll [7] 6/7 15/12 38/22 82/20 83/25 84/16 86/1
We've [1] 84/13
wedded [1] 12/23
week [2] 8/21 33/2
weeks [1] 8/22
well [14] 4/22 19/21 23/17 27/2 30/24 36/6 36/17 53/18 62/22 64/4 67/14 69/13 70/4 73/6
went [4] 6/14 21/6 68/17 68/21
were [71] 8/2 13/6 23/2 24/1 24/8 24/13 24/15 24/24 25/2 25/3 25/5 26/3 26/16 26/17 26/18 27/3 27/5 27/6 27/15 27/15 27/18 27/19 27/22 28/1 28/5 29/5 29/21 31/23 31/25 32/11 33/9 33/12 36/25 38/3 39/2 39/5 40/9 49/16 50/10 51/2 51/3 51/23 54/14 55/8 55/16 55/24 56/5 56/13 57/24 58/2 59/15 59/22 63/8 63/9 63/10 63/11 69/22 70/1 71/15 72/12 72/14 73/25 74/21 83/13 85/12 86/23 86/23 86/24 87/2 87/14 87/19
weren't [2] 38/18 40/10
WEST [4] 1/2 1/7 2/4 2/7
what [109]
whatever [1] 20/11
whatsoever [1] 36/21
when [38] 8/6 10/6 13/15 15/8 17/23 19/8 20/25 22/5 27/13 27/21 29/14 29/21 32/15 33/5 33/12 33/15 41/2 42/17 43/7 43/10 49/4 49/13 54/1 54/16 61/23 62/5 62/14 65/4 71/12 76/23 79/7 79/10 79/12 81/3 81/11 84/14 87/6 88/1
whenever [1] 69/24
where [11] 3/8 19/16 28/9 32/4 42/1 65/21 65/22 69/18 75/24 80/6 83/22
whether [45] 5/10 5/17 8/7 8/16 10/23 10/24 11/4 11/13 11/24 12/12 12/13 12/16 13/23 14/8 14/9 14/17 14/18 14/19 17/5 17/12 18/6 22/11 25/16 27/18 37/7 42/8 42/17 45/22 49/1 49/15 49/25 51/11 51/21 52/4 53/11 54/10 54/18 55/20 55/20 55/21 55/23 61/12 69/3 69/9 69/11
which [55] 4/13 5/23 6/2 7/20 7/24 11/21 11/23 13/9 13/16 20/17 20/17 24/1 24/12 26/23 27/16 28/1 28/12 30/20 31/8 34/2 34/14 34/16 34/16 34/22 35/12 35/19 37/23 41/12 41/14 42/7 42/16 43/12 45/21 46/24 49/22 49/23 52/23 53/14 56/21 61/25 63/9 63/10 64/11 70/5 70/11 70/12 70/23 70/23 75/24 76/1 76/16 76/24 79/5 86/22 86/24
while [8] 41/16 45/8 47/24 51/8 63/8 72/13 76/21 88/18
who [45] 4/24 7/4 9/3 9/9 9/14 15/13 15/16 16/23 16/24 23/12 23/13 23/13 23/17 30/17 30/22 30/24 30/25 31/16 31/22 33/14 35/9 36/2 36/4 42/24 44/10 47/20 51/23 53/17 64/19 68/9 68/21 69/25 71/24 72/2 72/4 73/4 74/2 74/13 78/10 80/8 80/9 87/15 87/15 87/18 88/19
whoever [1] 78/25
whole [5] 5/13 5/14 9/17 54/17 78/2
whom [2] 9/16 78/25
why [32] 13/1 20/3 20/22 23/10 29/4 30/14 31/15 32/13 33/9 33/16 39/8 44/6 46/18 46/19 47/23 50/3 50/8 50/18 50/19 51/4 52/11 52/19 52/22 52/24 53/5 53/16 73/22 75/5 81/9 81/17 81/22 88/12
Wilkinson [1] 56/14
will [158]
willful [1] 46/15
willfully [3] 51/24 76/2 76/2
Williams [6] 31/20 75/1 75/2 75/8 75/10 75/14
willing [3] 49/10 71/6 88/18
wish [1] 13/12
withdrawing [1] 84/13
withdrawn [6] 75/13 82/5 82/7 82/9 82/22 84/17
withhold [1] 27/12
within [30] 24/2 33/1 34/11 40/3 55/24 56/8 56/13 56/19 56/22 61/11 61/13 61/22 63/23 64/25 64/25 65/5 65/18 66/5 66/17 66/24 67/13 67/15 69/3 69/11 73/2 73/10 73/11 75/8 75/11 80/8
without [6] 21/7 57/3 60/15

W

without... [3] 60/19 79/5 79/14
witness [12] 6/24 7/6 36/4 61/25 62/5 62/14 68/12 78/25 87/10 87/10 87/11 88/4
witness' [2] 7/1 30/2
witnesses [13] 7/5 25/3 31/16 31/19 31/20 32/14 50/23 51/23 53/17 57/21 79/12 79/12 87/4
won't [6] 9/24 17/17 29/23 41/22 42/13 86/15
word [3] 12/14 15/4 87/9
words [2] 13/5 54/20
work [12] 21/25 26/5 41/25 63/15 74/19 80/20 81/10 84/21 86/2 86/14 86/14 87/1
worked [1] 63/16
working [1] 42/6
workplace [1] 83/13
would [90]
wouldn't [3] 31/15 32/13 82/17
write [3] 38/2 66/5 77/23
writing [3] 24/3 33/2 80/8
writings [1] 76/23
written [6] 7/12 33/22 43/13 59/21 78/9 78/17
wrong [1] 80/4
wrote [10] 23/13 23/15 23/19 35/7 65/18 67/6 69/25 70/12 81/7 85/7

X

XX [1] 44/13

Y

years [1] 28/8
Yes [27] 4/2 10/17 11/1 12/16 14/2 14/4 17/22 21/23 29/17 31/14 33/21 35/15 37/4 39/18 39/24 43/20 43/22 66/7 66/18 67/1 67/14 70/19 72/21 76/20 77/20 79/18 87/6
yesterday [6] 4/14 7/13 7/24 8/1 10/9 20/6
Yoakley [2] 2/3 4/2
you [250]
you'd [1] 7/12
You've [1] 22/21
your [71] 3/22 4/6 5/2 11/1 13/20 14/2 14/4 14/14 14/21 16/4 17/3 17/23 18/16 19/3 19/11 19/11 19/20 19/25 20/9 20/10 21/3 21/19 21/19 22/3 22/9 22/16 22/24 23/9 23/11 23/17 23/23 25/9 26/6 27/25 28/23 29/11 29/13 29/15 30/21 33/20 35/5 35/17 35/19 36/14 36/24 39/24 41/10 43/17 62/16 64/9 64/12 65/9 66/1 67/14 68/7 69/23 74/17 74/20 75/9 75/19 76/1 76/19 77/13 77/20 79/18 79/22 81/19 82/20 86/4 86/13 88/1
yourself [1] 44/11