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Attorneys for Defendant **PEPPERDINE UNIVERSITY**

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

HALEY VIDECKIS and LAYANA WHITE, individuals,

Plaintiffs,

vs.

PEPPERDINE UNIVERSITY, a corporation doing business in California,

Defendant.

Case No. 2:15-CV-00298-DDP (JCx)

REPLY RE MOTION IN LIMINE NO. 1 TO EXCLUDE TESTIMONY AND EVIDENCE RELATING TO THE ATMOSPHERE OR ENVIRONMENT AT PEPPERDINE REGARDING LGBT ISSUES; EVIDENTIARY OBJECTIONS AND DECLARATION OF PAULA TRIPP VICTOR IN SUPPORT THEREOF

Date: June 12, 2017
Time: 10:00 a.m.
Place: Ctrm. 9C

Trial Date: July 18, 2017

I. PLAINTIFFS' OPPOSITION FAILS TO ESTABLISH THAT EVIDENCE OF ATMOSPHERE OR ENVIRONMENT IS RELEVANT

Plaintiffs claim they need to introduce "complete evidence of the environment at Pepperdine" because it is "essential to show that Plaintiffs were subjected to this environment and were therefore fearful that their relationship would be discovered." (Opposition at 5:3-5). Pepperdine has not sought a motion in limine to prevent Plaintiffs from testifying as to why they were allegedly fearful of coming out as a couple. They can testify as to their reasons to the extent such testimony is relevant in this case. Their own testimony as to their state of mind, however, is a far cry from allowing the alleged "environmental bias" evidence they seek to introduce.

Additionally, their assertion as to why they need the evidence begs the question of how Plaintiffs could have been "subjected to this environment" despite not experiencing these events themselves or becoming aware of them until after the conduct they allege was discriminatory or harassing occurred and well after this lawsuit was filed. While Plaintiffs try to establish they had some personal experience regarding Pepperdine's alleged environment, the evidence is not persuasive and to the contrary.

Plaintiffs offer their deposition testimony regarding, (1) hearing a statement at a memorial service where a baseball coach said that they should pray for the homosexuals, (2) Layana White's former girlfriend's statements regarding Pepperdine not being welcoming to LGBT students and that it would kick them out if they knew, and (3) the failure to have an officially recognized LGBT group on campus. No one else heard the statement Plaintiffs allegedly heard from the baseball coach. (Paula Tripp Victor decl. ¶3.) Layana admitted that she was not very concerned about the comment she heard from her ex-girlfriend. (Victor decl. ¶4; Ex. 1.) Aside from that comment (which is hearsay), there is no evidence Pepperdine has expelled a student for being gay. To the contrary, Pepperdine's Mark Davis has, for years, welcomed LGBT students to talk to him about their concerns and they worked together to have an official

LGBT group on campus. (*See* ECF No. 104-1, pages 4-105) And, while Plaintiffs knew when their depositions were taken in this case that there was no official LGBT group on campus when they were students, there is no evidence they knew that while they were at Pepperdine. Moreover, Plaintiffs were aware of some openly gay students on campus. In fact, they witnessed two women being affection at an Athlete's Formal in April, 2014. (Victor decl. ¶5; Ex. 2.) Thus, this weak and inadmissible evidence should not be considered as supportive of any "environmental bias" theory. (See also attached Evidentiary Objections.)

Even more important, Plaintiffs have failed to establish that any alleged hostile environment influenced or impacted the action of the Athletics Department personnel who Plaintiffs contend were the ones who committed the acts that were allegedly discriminatory and harassing.

The evidence Plaintiffs seek to introduce is essentially character evidence which is inadmissible under Federal Rule of Evidence 404(a)(1). They attempt to establish that because Pepperdine had this alleged environmental bias against other LGBT students, then it, through its employees, must have acted with such bias when the handling Plaintiffs' issues. FRE 404 prohibits this type of evidence.

Plaintiffs attempt to circumvent FRE 404 by characterizing the "environmental" evidence Pepperdine seeks to exclude as admissible "me too" evidence. The cases they cite in support, however, instead illustrate why their evidence should be excluded. For example, Plaintiffs rely on *Heyne v. Caruso*, 69 F.3d 1475, 1480 (9th Cir. 1995) for the proposition that "evidence from other employees who suffered harassment by the defendant was probative of the defendant's motive for firing her." Opposition at 6. In that case, a female plaintiff claimed to have been sexually harassed by her supervisor. *Heyne*, 69 F.3d at 1482. She sought to introduce testimony of other female employees who claimed to have been sexually harassed by the same supervisor. *Id*. The Ninth Circuit only ruled that it was improper to exclude this testimony. Its holding did not

address the issue here, where Plaintiffs are seeking to introduce evidence without regard to whether it involved the Athletic Department or the individuals whom she claims committed the bad acts.

Plaintiffs cite *Goldsmith v. Bagby Elevator Co., Inc.*, 513 F.3d 1261, 1286 (11th Cir. 2008) for the proposition that "me too" evidence is admissible to "demonstrate the unlawful intent of a common decision maker, though the common decision maker was only one of several." Opposition at 6. In so arguing, Plaintiffs seem to suggest that "me too" evidence about *anybody* at Pepperdine is admissible to prove the discriminatory intent of the decision makers (i.e., the Athletic Department personnel). The Court's decision, however, expressly noted that the experiences of co-workers were only probative of the intent of the decision makers who were involved in the decisions and events regarding plaintiff. *Goldsmith*, 513 F.3d at 1286 ("Goldsmith and coworkers Jemison and Thomas were discriminated against by the same supervisor, Farley, so the experiences of Jemison and Thomas are probative of Farley's intent to discriminate. Steber was involved in the termination decisions of all four individuals, so the experiences of Jemison, Peoples, and Thomas are probative of Steber's intent.") In other words, the Court in *Goldsmith* did not allow the plaintiff to do what Plaintiffs seek to do in this case: introduce evidence about the experiences of other individuals involving decision makers who are not involved in this case.

Other cases considering whether to exclude such environmental evidence recognize the necessity of a causal connection or relationship between the evidence sought to be introduced and the events and individuals actually at issue in the case. In *Palmer v. Bd. of Regents of Univ. Sys. of Ga.*, 208 F.3d 969, 972 (11th Cir. 2000), the Eleventh Circuit affirmed a trial court's exclusion of the same type of evidence Plaintiffs seek to introduce in this case. The plaintiff in that case sought to introduce evidence of complaints by others against the university involving different decision makers and different departments. *Id*. The trial court excluded the evidence because it

found that it was "too remote to be relevant to the motive here." *Id*. Notably, the trial court permitted the plaintiff to "question the decision makers concerning their motive as to their knowledge of the atmosphere at the University or their knowledge of other complaints[.]" *Id*. Thus, the Court recognized the requirement that a plaintiff establish some relationship or connection between the evidence sought to be introduced and the decision makers' awareness thereof. Moreover, the Court acknowledged the likely prejudice that would ensue in the absence of such a requirement: "The Court further finds it questionable whether a jury charge could lessen the prejudice or confusion, especially in this case, where the decision makers were different, the department was different, and the method of choosing the person for the position was different." *Id*.

Similarly, the cases Plaintiffs cite in support of their "social context" argument are misplaced. Each of these cases stems from claims of a hostile work environment.[1] For example, Plaintiffs rely on *Oncale v. Sundowner Offshore Serv., Inc.*, 523 U.S. 75 (1998) for its social context argument, but that argument only potentially applies here if the Plaintiffs were present or aware of the situation that resulted in the perceived hostile environment. *See also, e.g., Beyda v. City of Los Angeles*, 65 Cal. App. 4th 511, 520 (1998) ("Harassment against others in the workplace is only relevant to the plaintiff's case if she has personal knowledge of it. Unless plaintiff witnesses the conduct against others, or is otherwise aware of it, that conduct cannot alter the conditions of her employment and create an abusive working environment. Stated another way, a reasonable person in plaintiff's position would not find the environment hostile or abusive unless that person had knowledge of the objectionable conduct toward others."); *see also Kovach v. Calfornia Cas. Management Co.*, 65 Cal. App. 4th 1256, 1268 (1998) (disapproved of on other grounds in *Aguilar v. Atlantic Richfield Co.*, 25 Cal. 4th 826 (2001)). *McGinest v. GTE Serv. Corp.*, 360 F.3d 1103, 1118 (9th Cir.

[1] *Emeldi v. University of Oregon*, 698 F.3d 715, 724 (9th Cir. 2012) extends the analysis of a Title VII retaliation claims only to Title IX retaliation claims.

2004) likewise adds nothing to Plaintiffs' argument. *See id.* ("If racial animus motivates a harasser to make provocative comments *in the presence of an individual* in order to anger and harass him, such comments are highly relevant in evaluating the creation of a hostile work environment, regardless of the identity of the person to whom the comments were superficially directed.") (emphasis added).

Here, Plaintiffs have presented no evidence to establish such a relationship or connection. In fact, the head coach, Ryan Weisenberg, and the Athletic Director, Steve Potts, two of the alleged bad actors, have submitted declarations stating that they never knew about events such as President Benton's comments to the faculty in February, 2012 and never took any actions based on the failure of Pepperdine to officially recognize an LGBT group (ECF Nos. 104-2, 104-3) Plaintiffs have offered no shred of evidence to the contrary as there is none. Accordingly, Plaintiffs have failed to demonstrate that environment or atmosphere evidence is relevant to their claims and this case.

II. THE PROBATIVE VALUE OF EVIDENCE OF ATMOSPHERE OR ENVIRONMENT IS INADEQUATE TO OVERCOME THE SIGNIFICANT PROBLEMS IT WILL CREATE

Rule 403 of the Federal Rules of Evidence states that evidence, even if relevant, "may be excluded if its probative value is substantially outweighed by the danger of *one or more* of the following: unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." F.R.E. 403. *All* of these considerations exist in this case.

This case is not about the perception of a handful of LGBT students' experiences at Pepperdine who were not similarly situated to Plaintiffs, did not attend Pepperdine when Plaintiffs did, and who had no interactions with those about whom Plaintiffs complain. It is about whether two female basketball players were treated differently by the Athletics staff because of their sexual orientation. To make this case about anything

other than that would cause considerable confusion, prejudice and delay. In a case where more than 30 witnesses whose testimony *is* relevant need to testify, allowing testimony on issues where, aside from merely speculation, no causal connection between the proffered evidence and the treatment of Plaintiffs has been offered, only serves Plaintiffs' desire to inflame the jury, detract from the weakness of their case, and waste time the Court and Parties do not have.

A. Allowing Evidence of Alleged Environmental Bias Would Cause Considerable Confusion and Prejudice to Pepperdine

It is clear that Plaintiffs do not want to try this case on the true merits, *i.e.*, whether those in Athletics with whom Plaintiffs interacted treated them differently because of their sexual orientation. As a result, they need to resort to presenting evidence that they think would inflame a jury and play on emotions of jurors who may have encountered or heard about a judgmental Christian who treated LGBT individuals poorly. Stories of these Christians exist; they are in the media and they are what cause stereotypes which then influence people's opinions.

Experiences of jurors or individuals described in the media, however, have absolutely no bearing on any issue in this case, *i.e.*, Plaintiffs' experiences at Pepperdine. Indeed, those experiences are one step even more remote than the "me too" or character evidence discussed above in that jurors would be influenced by conduct of people having no connection whatsoever to Pepperdine. The risk of jurors painting Pepperdine with some broad brush that all Christians are judgmental and homophobic is considerable. To run that risk and turn the jury's focus away from the relevant issues in this case would be highly prejudicial to Pepperdine.

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B. Allowing Evidence of Alleged Environmental Bias Would Cause Considerable Delay and Run the Risk of Depriving Pepperdine the Opportunity to Present Relevant Key Evidence in its Defense

Plaintiffs' Opposition is silent as to one of Pepperdine's key objections to evidence of atmosphere and environment – that it will necessitate an undue amount of time because it would require Pepperdine to present rebuttal evidence from other Pepperdine students who would testify that their experience was very different than that described by Plaintiffs' witnesses. It will also require testimony from Mark Davis, Pepperdine's administrator who made the decision regarding the official recognition of LGBT groups on campus and the one who spear-headed the conversations on campus *at the time Plaintiffs were enrolled at Pepperdine* which ultimately led to official recognition of such a group on campus. Mr. Davis would be called to rebut the allegations by Plaintiffs' witnesses (he was the one who interacted with those witnesses) and to present evidence as to the many different programs and activities in which Pepperdine was engaged which ultimately led to the official recognition of an LGBT group. Mr. Davis was deposed over two full days and it is inconceivable that his trial testimony would last less than two days considering the breadth of knowledge he has on this topic that would all need to be offered in order to fully explain Pepperdine's position on the issue. In total, allowing the type of evidence Plaintiffs request would lengthen this trial by at least one full week.

In *Chen v. County of Orange*, the Court of Appeal expressed an appreciation for this precise issue when it upheld the trial court's exclusion of "anecdotal evidence" about the experiences of other employees:

> The trial court was, however, within its discretion to exclude the anecdotes, given the theory of Chen's case. (See generally Evid.Code, § 352.) Chen had not framed her pleadings in terms of some sort of systematic discrimination by the office, but rather in terms of the office's treatment of her specifically. ***To have allowed anecdotes of how a select group of non-white employees were***

> ***treated would have expanded the scope of the trial exponentially***. The court would have had to allow, to be fair to the District Attorney's office, an exploration into the careers of every non-white employee who had worked for the office over the past few decades (or at least under Capizzi's administration), and maybe even every employee, regardless of race or sex, so as to show that the office was treating similarly situated deputies similarly.

Chen v. Cty. of Orange, 96 Cal. App. 4th 926, 951 (2002). There can be no doubt that Plaintiffs are attempting to expand the scope of this trial exponentially. Other courts have also recognized that introduction of the this type of "environment" or "me too" evidence would effectively require the company to hold a mini-trial with respect to each of the allegations of inappropriate conduct made by other individuals, confusing the relevant issues for the court and unnecessarily consuming time and resources. In *Moorhouse v. Boeing Co.*, the Third Circuit Court of Appeals explained:

> Had the Court permitted each of the proposed witnesses to testify about the circumstances surrounding his own lay off, each, in essence, would have presented a prima facie case of age discrimination. ***Defendants then would have been placed in the position of either representing the justification for each witnesses' lay off, or of allowing the testimony to stand unrebutted***. This latter alternative, of course, would have had an obvious prejudicial impact on the jury's consideration of [plaintiff's] case. To have pursued the former option, defendants would have been forced, in effect, to try all six cases together with the attendant confusion and prejudice inherent in that situation.

501 F.Supp. 390, 393 (D.C. Pa. 1980) (footnote omitted) (emphasis added); *see also Harpring v. Continental Oil Co.*, 628 F.2d 406, 410 (5th Cir. 1980) (evidence of prior discriminatory acts excluded to avoid "trying another lawsuit within the existing lawsuit"); *Palmer*, *supra* at 972 ("the court finds that the actions alleged against these other persons is too remote and the prejudice in bringing in the acts alleged by other persons and the confusion caused by this, even if not offered to show propensity, would cause the Court to try the three other cases before this jury.")

In this case, Plaintiffs would presumably have the Court hear and implicitly determine the validity of multiple individuals' complaints, regardless of whether they

take issue with Pepperdine's alleged denial of LGBT clubs, donors withholding donations, censorship, or any tangential issues that bear no direct relationship to Plaintiffs' claims in this case. This would take the Court and jury's attention away from the relevant issues in this case and potentially deny Pepperdine the opportunity to present a complete defense due to the lack of time since the proffered evidence would be presented by Plaintiffs in their case in chief. Accordingly, to avoid the protracted, confusing, and prejudice mini trials that would be necessitated by the introduction of such evidence, all "environmental" testimony and argument should be excluded.

III. CONCLUSION

For the reasons discussed above, Pepperdine respectfully requests that Plaintiffs be precluded from introducing any comment, argument or evidence of the atmosphere or environment at Pepperdine regarding LGBT issues at trial.

DATED: June 5, 2017 ANDERSON, McPHARLIN & CONNERS LLP

By: /s/ Paula Tripp Victor
Paula Tripp Victor
David R. Hunt
Peter B. Rustin
Attorneys for Defendant PEPPERDINE UNIVERSITY

EVIDENTIARY OBJECTIONS IN SUPPORT OF PEPPERDINE'S REPLIES RE: PEPPERDINE'S MOTIONS IN LIMINE NOS. 1-6

Defendant Pepperdine University hereby objects to the following evidence offered by Plaintiffs in connection with Pepperdine's Motion in Limine Nos. 1-6:

1. Testimony of Haley Videckis and Layana White regarding statements made to Layana White by Kiah Jones as inadmissible hearsay (Exs. 1 and 2, respectively to Patel decl. in support of Plaintiffs' Opposition (ECF Nos. 130-1 through 130-3.)

2. As to Haley Videckis, testimony of Haley Videckis regarding statements made to Layana White by Kiah Jones as irrelevant because Haley does not know when Layana told her about Ms. Jones' statements. (Exs. 1 and 2, respectively to Patel decl. in support of Plaintiffs' Opposition (ECF Nos. 130-1 through 130-3.)

3. As to Layana White, testimony of Layana White regarding statements made to Layana White by Kiah Jones as inadmissible hearsay not supportive of Layana White's state of mind because Ms. White testified the statements did not concern her. (Exs. 1 and 2, respectively to Patel decl. in support of Plaintiffs' Opposition (ECF Nos. 130-1 through 130-3; White's deposition testimony attached as Ex. 1 to Victor decl. attached hereto.)

4. Plaintiffs' testimony regarding being unaware of the existence of any LGBT support groups on campus as their testimony related to their knowledge at the time of their depositions, not while students at Pepperdine and, therefore, it is

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irrelevant. Ex. 1 to Patel decl. in support of Plaintiffs' Opposition (ECF Nos. 130-1 through 130-3.)

DATED: June 5, 2017

ANDERSON, McPHARLIN & CONNERS LLP

By: /s/ Paula Tripp Victor
Paula Tripp Victor
David R. Hunt
Peter B. Rustin
Attorneys for Defendant PEPPERDINE UNIVERSITY

DECLARATION OF PAULA TRIPP VICTOR IN SUPPORT OF PEPPERDINE'S REPLIES RE: PEPPERDINE'S MOTIONS IN LIMINE NOS. 1-6

I, Paula Tripp Victor, declare as follows:

1. I am an attorney-at-law duly licensed to practice before all courts in the State of California and am a partner with the law firm of Anderson, McPharlin & Conners LLP, attorneys of record for defendant PEPPERDINE UNIVERSITY ("Pepperdine") in the above-entitled action.

2. I have personal knowledge of the matters set forth herein, and if called upon as a witness to testify thereto, I could and would competently do so.

3. While Plaintiffs allege they heard a comment by a Pepperdine baseball coach made at a memorial service for Pepperdine's former men's basketball coach in March, 2014, about praying for homosexuals, no other witness, whether Plaintiffs' teammates (including their LGBT teammates) or Pepperdine employees (including LGBT employees), who have been deposed or who I have interviewed heard such a statement made even though they were present at the same memorial service.

4. Attached hereto as **Exhibit 1** are true and correct copies of excerpts from the deposition of Layana White taken in this case on May 23, 2016.

5. Attached hereto as **Exhibit 2** are true and correct copies of excerpts from the deposition of Haley Videckis taken in this case on June 6, 2016.

6. Plaintiffs contend that Pepperdine could have deposed the witnesses they offer to support their argument regarding environmental bias – Grant Turck, Amy Fan, Lindsay Jakows, David Spain, and Elijah Sims – because the Parties stipulated to extending the discovery cut-off date. The stipulation reached between the parties was that they could take the depositions of those persons whose depositions were noticed prior to the February 6, 2017 cut-off. (ECF No. 56 para. 1. of Stipulation) None of the declarations of those individuals were provided to Pepperdine in sufficient time for Pepperdine to notice their depositions before the February 6th deadline. Indeed, all of

them were provided to Pepperdine **after** February 6, 2017, the earliest having been sent to me on February 10, 2017 and the latest being sent on April 8, 2017. Even if Plaintiffs contend Pepperdine could have deposed the witnesses because there was an agreement to be able to set depositions of persons identified in "ongoing production of documents and deposition testimony of party witnesses," (ECF No. 56 para. 2. of Stipulation), I understood the ongoing production of documents to mean those documents requested of Pepperdine about which the parties were still meeting and conferring. I never anticipated when I agreed to the stipulation that Plaintiffs' counsel would keep sending more and more declarations of individuals whose names we had never heard before. Indeed, the fact that these witnesses were not identified until after discovery was cut off is further indication that this focus on "environmental bias" had never been Plaintiffs' focus. If it had, these witnesses would have been disclosed much earlier. It is prejudicial to impose a burden on Pepperdine to set depositions of individuals whose declarations kept on "rolling in" long after discovery was complete and at a time when we were trying to engage in expert discovery and prepare trial documents.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this Declaration was executed on June 5, 2017.

/s/ Paula Tripp Victor
Paula Tripp Victor

EXHIBIT 1

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

HALEY VIDECKIS AND LAYANA WHITE, INDIVIDUALS,	)	
PLAINTIFFS,	)	
VS.	)	CASE NO. 2:15-CV-00298 DDP (JCX)
PEPPERDINE UNIVERSITY, A CORPORATION DOING BUSINESS IN CALIFORNIA,	)	VOLUME I (PAGES 1 - 232)
DEFENDANTS.	)	

VIDEOTAPED DEPOSITION OF LAYANA WHITE

MONDAY, MAY 23, 2016

JOB NO. 77621

REPORTED BY LAURY WASOFF, CSR NO. 10995, RPR

A. No.
Q. Did she play any sports?
A. No, not at Pepperdine.
Q. So she was asking you not to tell anybody that you had dated?
A. Yes.
Q. And that was -- did she tell you that she was worried that she would get kicked out?
A. Yes. And also she didn't want me to get kicked out. She really wanted me to come there.
Q. How long did the two of you date?
A. Not very long. I think maybe a month or two. It was in high school.
Q. Did the two of you see each other very often while you were at Pepperdine?
A. Yes. In the summer.
Q. Summer of 2014?
A. Yes.
Q. How often did you see each other that summer?
A. Maybe -- I guess when I had free time outside of basketball and school. So a couple days in the week every week.
Q. What did you guys do together?
A. Just hang out. Just -- like just hanging out.
Q. Did you talk to Kiah -- that's how you pronounce

it?

A. Yes.

Q. Did you talk to Kiah about any of the problems you were having within the athletics department at Pepperdine?

A. I don't think so. Not really.

Q. Not at all?

A. I don't think I did, no. I think I may have mentioned to her -- actually, no. I don't even know. I don't think so.

Q. Was there a reason you didn't talk to her about that?

A. I mean, she was just a regular student, so I just didn't want to -- I just didn't feel the need to tell her that stuff.

Q. When she told you that she was concerned she would get kicked out or that you would get kicked out if they knew that you had dated, how much of a concern did that become for you?

A. It wasn't really a big concern at that time. One, I was dating a guy. And I just, like, wasn't, like, thinking about it that much at the time. I just wanted to, you know, get prepared for school and do well on the basketball team. So I wasn't thinking about that.

Q. The guy that you were dating at the time, what

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

I, Laury Wasoff, Certified Shorthand Reporter No. 10995, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter transcribed under my direction, and the same is a true, correct, and complete transcript of my shorthand notes so taken.

That if the foregoing pertains to the original transcript of a deposition in a Federal case, before completion of the proceedings, review of the transcript {X} was { } was not requested.

I further certify that I am not in any way interested in the outcome of this action.

In witness whereof, I have hereunto subscribed my name this 6th day of June, 2016.

Laury Wasoff, CSR No. 10995, RPR

EXHIBIT 2

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

HALEY VIDECKIS AND LAYANA WHITE, INDIVIDUALS, PLAINTIFFS, VS. PEPPERDINE UNIVERSITY, A CORPORATION DOING BUSINESS IN CALIFORNIA, DEFENDANTS.	CASE NO. 2:15-CV-00298 DDP (JCX) VOLUME I NONCONFIDENTIAL PORTIONS (PAGES 1 - 137, 140-261)

VIDEOTAPED DEPOSITION OF HALEY VIDECKIS

MONDAY, JUNE 6, 2016

JOB NO. 77863

REPORTED BY LAURY WASOFF, CSR NO. 10995, RPR

said this, but since we took a break, where the lesbianism comment was set out. Right?

Q BY MS. VICTOR: That's the one I'm talking about. Unless I specify otherwise, it will be the leadership council meeting where you contend Coach Ryan talked about lesbianism not being tolerated. Fair enough?

A. Yes.

MR. GRAY: Thank you. I just wanted to clarify that, Counsel, so we have a clear record.

Q BY MS. VICTOR: So what specifically did [Person 1] tell you?

A. I don't remember, like, the exact conversation because it just wasn't a big deal to me. But she just referenced that they were dating and, like, just said something that, I don't know, you wouldn't say that about your friend. And I feel like that was her way of expressing to me, like, this is someone she's talking to or who she's with, you know.

Q. Did she actually tell you they were dating?

A. I'm pretty sure she did.

Q. And did you understand that they were dating at the time she was telling you this?

A. I can't remember exactly.

Q. Did you ever talk to [Person 1] about her

relationship with [Person 4] after that initial conversation?

A. I only talked to [Person 1] about it if she brought it up. But, I mean, it wasn't a big deal. We hung out with them as friends. So we would just do normal things together. Hang out. And it wasn't a big deal.

Q. Did you ever see them -- did you ever observe their relationship where -- did you ever see them do anything that led you to believe that they were more than just friends?

A. Can you define what you mean "do anything"?

Q. I don't know. I want to know did you ever see anything that led you to believe that they were more than just friends?

A. I feel like at Athlete Formal they were in the corner, like dancing with each other. It was really dark in there, so I couldn't -- I wasn't watching them, but they spent Athlete Formal together.

Q. Is this in February, March?

A. April.

Q. April.

Anything else that caused you to believe that they were more than just friends?

A. Up until the meeting. Correct?

STATE OF CALIFORNIA)
)
COUNTY OF LOS ANGELES)

I, Laury Wasoff, Certified Shorthand Reporter No. 10995, do hereby certify:

That prior to being examined, the witness named in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth;

That said deposition was taken down by me in shorthand at the time and place therein named and thereafter transcribed under my direction, and the same is a true, correct, and complete transcript of my shorthand notes so taken.

That if the foregoing pertains to the original transcript of a deposition in a Federal case, before completion of the proceedings, review of the transcript { } was { } was not requested.

I further certify that I am not in any way interested in the outcome of this action.

In witness whereof, I have hereunto subscribed my name this 17th day of June, 2016.

Laury Wasoff, CSR No. 10995, RPR