

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION**

KIMBERLY HIVELY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CAUSE NO. 3:14-cv-01791-JD-MGG
	)	
IVY TECH COMMUNITY COLLEGE,	)	
	)	
Ivy Tech.	)	

**IVY TECH'S FIRST SET OF DISCOVERY TO PLAINTIFF**

Pursuant to Rules 26, 33, 34, and 36 of the Federal Rules of Civil Procedure, Ivy Tech Community College (“Ivy Tech”) serves the following discovery requests upon Plaintiff Kimberly Hively, to be answered fully and under oath within thirty (30) days.

**DEFINITIONS**

1. The term “documents” is defined to mean all original writings of any kind and all non-identical copies thereof in the actual or constructive possession, custody, or control of the Plaintiff Kimberly Hively, regardless of where located. The term “documents” also includes, but is not limited to, writings, contracts, records, reports, files, tape recordings, correspondence, communications, summaries, notes (including summaries or notes of conversations), diaries, letters, telegrams, memoranda, drawings, graphs, charts, photographs, phono-records, information stored electronically and other data compilations from which information can be obtained, and all other documents contemplated by the Federal Rules of Civil Procedure, of every kind and description, in your actual or constructive possession, care, custody, or control. In any case where the original or non-identical copy is not available, the term “documents”

includes an identical copy of an original or a copy of a non-identical copy. Any document bearing notations, markings, or writings of any kind different from the original shall be treated as an original document.

2. “Identify” when used with respect to a document means to state the type of document (*e.g.*, letter), author, addressee, date, and present location and custodian. When used with respect to a person it means to state his or her name, last known address, and last known place of employment.

3. When you are asked to “identify” a person or an entity, state separately each person’s or entity’s full name, current or last known address, and telephone number. When you are asked to identify a person, also state the person’s current or last known employer. When asked to identify a document, please state the author or creator, date of creation, custodian, and current location.

4. The terms “you,” “your,” “Hively,” or “Plaintiff” refer to the named Plaintiff, Kimberly Hively, and any of her designated representatives, agents, or counsel.

5. The term “Ivy Tech” refers to named Ivy Tech, Ivy Tech Community College, or any parent, subsidiary or affiliated entity, and any current or former employee or agent thereof.

**INTERROGATORIES**

Ivy Tech, pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, hereby requests that you respond under oath to the following Interrogatories within thirty (30) days after service.

**INTERROGATORY NO. 1:** Please state your full name and provide the following information:

- (a) any other names by which you are or have ever been known, including any nicknames, or aliases, if any;
- (b) your date and place of birth;
- (c) your social security number;
- (d) your marital status (if married, the date upon which the marriage occurred; if divorced, the dates upon which the divorce was filed and finalized);
- (e) your driver's license number and the state in which the license was issued;
- (f) your present address, telephone number and the names of all persons with whom you reside at such address, including their relationship to you, if any; and
- (g) all other addresses at which you have resided during the past five (5) years and give the period of time that you resided at each such address.

**ANSWER:**

**INTERROGATORY NO. 2:** Please identify each document that was responsive to Ivy Tech's First Request for Production of Documents but that you have not produced. With respect to each such document, give the following information:

- (a) the document request to which the document is responsive but not produced;
- (b) a description of the document, including the date, subject matter, persons mentioned in the document, persons involved with the creation of the document, and persons who received or have knowledge of the document's existence; and
- (c) the reason for non-production.

**ANSWER:**

**INTERROGATORY NO. 3:** Please identify each person, including any Ivy Tech employees, former employees, students, and/or former students having knowledge relevant to your claims. With respect to each such individual, please identify or provide:

- (a) The name, address, and telephone number of the individual;
- (b) If employed by Ivy Tech, the position held by the employee and the name of the employee's supervisor;
- (c) A summary of each individual's knowledge as it relates to your complaint allegations; and
- (d) All documents which you contend support your answers to subparts (a) through (c) above, and identify all persons who presently have possession of such documents.

**ANSWER:**

**INTERROGATORY NO. 4:** Have you given any written or oral statements and/or interviews to anyone regarding this case? If so, please state:

- (a) the date of each;
- (b) the location of each;
- (c) who was present at each;
- (d) whether the statement was oral, written, and/or recorded;
- (e) the person who currently has possession of any such statement; and
- (f) a summary of the content of the statement/interview.

**ANSWER:**

**INTERROGATORY NO. 5:** Identify each employer for whom you worked from the age of 18 through the present time, specifying the following:

- (a) The beginning and ending dates of employment;
- (b) The positions held at each such employer;
- (c) The name, address, and telephone numbers of your immediate supervisors during the course of each such employment;
- (d) If disciplinary action was taken, state the nature of such discipline; and
- (e) Whether you resigned or were terminated and the reasons for the resignation or termination.

**ANSWER:**

**INTERROGATORY NO. 6:** State any money or benefits (including wages, health benefits, disability benefits, worker's compensation benefits, and/or unemployment benefits) which you have earned or received during your employment with Ivy Tech (including proceeds from self-employment or other employment). For all such money or benefits, please state:

- (a) the source of the money or benefits;
- (b) the amount earned or received, or to which you were entitled;
- (c) the period of time over which you received, or were entitled to receive, the money or benefits;
- (d) whether you must repay all or some of the money or benefits; and
- (e) whether there is a written document evidencing receipt or entitlement to the money or benefits.

**ANSWER:**

**INTERROGATORY NO. 7:** Have you ever been a plaintiff, defendant, or witness in any legal proceeding (including a bankruptcy proceeding), or filed a claim or charge with any legal, administrative, or other body? If so, please state:

- (a) all parties named in the action;
- (b) the date that the action was initiated or filed;
- (c) the cause number or docket number of the action, as well as the court or administrative body with which it was filed;
- (d) the nature of the dispute;
- (e) the manner in which the dispute was resolved; and
- (f) the nature of your testimony and/or your involvement.

**ANSWER:**

**INTERROGATORY NO. 8:** Have you ever been arrested and/or charged with any crime or infraction? If so, describe the specific nature of the charges filed against you, the court in which the matter(s) was pending, the cause number of the matter, and the date of each guilty plea, conviction and/or the date you were assigned to any diversion program.

**ANSWER:**

**INTERROGATORY NO. 9:** Describe all efforts you have taken to mitigate (minimize) the damages you claim were caused by the Ivy Tech. If you have sought other employment, please include the following information:

- (a) the name, address, telephone number, and contact at each employer;
- (b) the date(s) on which you contacted the employer;
- (c) the mode by which you contacted the employer (*e.g.*, email, telephone, walk-in, online application, etc.);
- (d) whether you interviewed, and if so, with whom;
- (e) whether you completed an application;
- (f) whether you have received any job offers, and if so, the status of each; and
- (g) the reason you were ultimately not employed, if applicable.

**ANSWER:**

**INTERROGATORY NO. 10:** Describe any physical, mental, emotional, or psychological injuries, conditions, disabilities, or symptoms you claim that you suffered or incurred as a result of your claims against Ivy Tech. A complete answer to this Interrogatory should include:

- (a) the nature of the injury, condition, disability, or symptom;
- (b) the incident, event, or action allegedly causing it;
- (c) the name, mailing address, and telephone number of any medical provider with whom you consulted or are currently consulting for it, and the date(s) of such consultation;
- (d) any diagnosis, prognosis, treatment, medical procedure, or medication you have received as a result of it;
- (e) the last date you visited any medical provider for it; and
- (f) whether you have any scheduled appointment with any medical provider for it and if so, when.

**ANSWER:**

**INTERROGATORY NO. 11:** Please detail each and every item of damage, and the amount thereof, which you allege to have suffered as a result of any actions allegedly taken against you by Ivy Tech. State separately the amount of damages claimed with respect to each specified type of damage and describe separately the method of computation for each type of damage. Identify any and all documents you rely upon in providing the answer to this Interrogatory.

**ANSWER:**

**INTERROGATORY NO. 12:** Have you or any of your agents/representatives ever recorded any conversations or meetings with a representative or employee of Ivy Tech? If so, please state:

- (a) the date of each recording;
- (b) the location of the recording;
- (c) the names of all persons present; and
- (d) a summary of the content of the recording.

**ANSWER:**

**INTERROGATORY NO. 13:** Please state the identity of any attorney you have contacted in connection with your allegations in this case, and for each state:

- (a) the date of your first contact with each such attorney;
- (b) the method of contact (*e.g.*, phone or in person);
- (c) the identity of all persons present;
- (d) whether you retained that attorney at any time; and
- (e) the terms of any fee agreement.

**ANSWER:**

**INTERROGATORY NO. 14:** Have you kept any hard copy or electronic diary, journal, log, blog, notebook (or notes), calendar or day timer of any type during your employment with Ivy Tech or the time period during which you were applying for full time employment with Ivy Tech? If so, please identify its location and the time period covered.

**ANSWER:**

**INTERROGATORY NO. 15:** Have you communicated using any social networking sites (*e.g.*, Twitter, Facebook, LinkedIn, etc.) or online media (blogs, comments on newspaper webpages, etc.) regarding this lawsuit, the allegations in this lawsuit, or the facts underlying such allegations? If so, please identify:

- (a) the names of the social networking or online media sites visited and dates of such visits;
- (b) the names of individuals whom you communicated with using the social networking websites;
- (c) the date and substance of any communications; and
- (d) all records of such communications, whether electronic or otherwise.

**ANSWER:**

**INTERROGATORY NO. 16:** Have you given any interviews or otherwise communicated with any member of the press or civil rights organizations regarding this lawsuit, the allegations in this lawsuit, or the facts underlying such allegations? If so, please identify:

- (a) the names of the individuals you communicated with and the organizations they represent;
- (b) the dates of the communications;
- (c) the substance the communications; and
- (d) all records of such communications, whether electronic or otherwise.

**ANSWER:**

**INTERROGATORY NO. 17:** Identify each person who participated in the preparation of the answers to these interrogatories, and state which interrogatories each such person participated in answering.

**ANSWER:**

**INTERROGATORY NO. 18:** Please describe any and all positions you have applied for at Ivy Tech, and for each describe:

- (a) the position;
- (b) all records of your application, whether electronic or otherwise;
- (c) if interviewed, the date, location of the interview, interviewers, and whether you were awarded the position;
- (d) whether or not you contend you were discriminated against in regard to the interview or application process, or being awarded the position;
- (e) the method of alleged discrimination; and
- (f) all records of such alleged discrimination, whether electronic or otherwise.

**ANSWER:**

**INTERROGATORY NO. 19:** Please identify the person(s) you claim discriminated against you, in your allegations in this case, and for each state:

- (a) the identity of the person;
- (b) the basis of the alleged discrimination;
- (c) date and location where the alleged discrimination occurred; and
- (d) all records of such alleged discrimination, whether electronic or otherwise.

**ANSWER:**

**INTERROGATORY NO. 20:** Please describe your educational background, identifying all schools, institutions, or programs attended, the dates of each, the field of study, any transcript, and any degrees or certificates awarded.

**ANSWER:**

**VERIFICATION**

I affirm under the penalties for perjury that the foregoing statements and representations in response to each of the initial discovery requests are true and accurate to the best of my knowledge.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kimberly Hively

**REQUESTS FOR PRODUCTION**

Ivy Tech requests that you produce copies of the following documents in accordance with the provisions of the Federal Rules of Civil Procedure 26 and 34 within thirty (30) days.

**REQUEST NO. 1:** Please produce all documents you identified or reviewed in responding to Ivy Tech' First Set of Interrogatories.

**RESPONSE:**

**REQUEST NO. 2:** Please produce your state and federal tax returns, W-2's and 1099 Forms for the last five (5) years.

**RESPONSE:**

**REQUEST NO. 3:** Please produce all documents that support, reference, or relate to the allegations in paragraph 8 of your Complaint that you have "never had a negative evaluation."

**RESPONSE:**

**REQUEST NO. 4:** Please produce all documents that support, reference, or relate to the allegations in paragraph 7 of your Complaint that you "have applied for 6 full positions" and that you have "the required Master's Degree and grades."

**RESPONSE:**

**REQUEST NO. 5:** Please produce all documents that support, reference, or relate to the allegation in paragraph 7 of your Complaint that you have “either not been interviewed or not been granted full time employment.”

**RESPONSE:**

**REQUEST NO. 6:** Produce any written or tape-recorded statements of any parties or witnesses in any way related to the allegations contained in your complaint.

**RESPONSE:**

**REQUEST NO. 7:** Produce any memorandum, diary, calendar, or similar compilation of information (kept manually or stored electronically) in possession of or kept by you or your agents pertaining to your work for Ivy Tech.

**RESPONSE:**

**REQUEST NO. 8:** Produce all documents relating to or arising out of your employment with Ivy Tech whether created by you, Ivy Tech, or anyone else. This would include documents related to employment terms, compensation, or benefits; your treatment by Ivy Tech; your efforts to seek full time employment; the cessation of your employment; others currently or formerly employed by Ivy Tech; or otherwise including, but not limited to, any and all personnel documents, booklets, notices, policies, handbooks, correspondence (whether electronic or otherwise), and notes of meetings, telephone conversations, and/or any other contacts between you and any representative of Ivy Tech.

**RESPONSE:**

**REQUEST NO. 9:** Produce any and all documents indicating or reflecting your educational background, including but not limited to degrees, awards, certificates, and transcripts.

**RESPONSE:**

**REQUEST NO. 10:** Produce all correspondence to or from you and any current or former employee of Ivy Tech any time after January 2000, including all texts, emails, or other electronically stored information including social media posts or messages through a social media site.

**RESPONSE:**

**REQUEST NO. 11:** Produce all correspondence to or from you, including all texts, social media interactions, and emails, regarding this lawsuit, the allegations in this lawsuit, or the facts underlying such allegations. A complete response would include, but not be limited to, correspondence with civil rights organizations, the media, and family and friends.

**RESPONSE:**

**REQUEST NO. 12:** Please produce a download of your Facebook archive. To do so, go to the Account Settings page (arrow button located next to the “Home” button) and click the “Download Your Information” button (located at the bottom of the general settings page). Once the page loads, click the “Start My Archive” button. Once Facebook verifies your identity, an email will be sent to you advising that a zip file is ready for download. Please forward that zip file. You are hereby put on notice that deleting anything from your account from this point

forward (including but not limited to posts, status updates, mail messages, photographs, friends, links, etc.) may constitute the spoliation of evidence.

**RESPONSE:**

**REQUEST NO. 13:** Provide all documents that relate to and/or support any alleged mental, emotional, psychological, or physical injuries sustained by you as a result of actions taken by any employee or agent of Ivy Tech, including any diagnosis, prognosis, prescriptions, notes or other documentation prepared by your counselor, therapist, psychologist, psychiatrist, attending physician, or any other attending practitioner.

**RESPONSE:**

**REQUEST NO. 14:** Provide all documents that in any way support, reference, or relate to your allegations of discrimination.

**RESPONSE:**

**REQUEST NO. 15:** Please produce any fee agreements entered in by you with any attorney you contacted in connection with your employment by Ivy Tech and/or your allegations in this case.

**RESPONSE:**

**REQUEST NO. 16:** Please produce all documents not already produced that in any way support or relate to your allegations or that you intend to allege or assert at trial.

**RESPONSE:**

**REQUESTS FOR ADMISSIONS**

Ivy Tech, pursuant to Rule 36 of the Federal Rules of Civil Procedure, serves the following Request for Admissions upon you. You shall answer and return the following admissions, under oath, within thirty (30) calendar days of receipt of service.

**REQUEST NO. 1:** Admit that you received a grade B or better in only 15 out of your 29 credits that were at 300 or 400 course level.

**RESPONSE:**

**REQUEST NO. 2:** Admit that on or about June 26, 2014, you received a letter from Dr. Janet Evelyn that informed you that all candidates are required to validate their credentials when applying for new positions.

**RESPONSE:**

**REQUEST NO. 3:** Admit that you were not offered teaching assignments at Ivy Tech in the Fall of 2014 due to credentialing requirements.

**RESPONSE:**

**REQUEST NO. 4:** Admit you have received varying feedback on your performance during the course of your employment.

**RESPONSE:**

Respectfully submitted,

*s/ Adam L. Bartrom*

---

Jason T. Clagg (24123-02)

([jason.clagg@btlaw.com](mailto:jason.clagg@btlaw.com))

Adam L. Bartrom

([adam.bartrom@btlaw.com](mailto:adam.bartrom@btlaw.com))

BARNES & THORNBURG LLP

888 South Harrison Street, Suite 600

Fort Wayne, Indiana 46802

Telephone: (260) 423-9440

Facsimile: (260) 424-8316

ATTORNEYS FOR IVY TECH

IVY TECH COMMUNITY COLLEGE

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been served this 2nd day of August, 2017, via United States mail and by electronically filing the same with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Ms. Kimberly Hively  
1112 S. 25<sup>th</sup> Street  
South Bend, IN 46615

*s/ Adam L. Bartrom*

---

Adam L. Bartrom