

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

DR. RACHEL TUDOR,)	
)	
Plaintiff,)	
)	
v.)	Case No. 5:15-CV-00324-C
)	
SOUTHEASTERN OKLAHOMA)	
STATE UNIVERSITY,)	
)	
and)	
)	
THE REGIONAL UNIVERSITY)	
SYSTEM OF OKLAHOMA,)	
)	
)	
Defendants.)	

**PLAINTIFF DR. RACHEL TUDOR’S
MOTIONS IN LIMINE AND RELATED
MOTION TO STRIKE AFFIRMATIVE DEFENSES**

A jury has been empaneled and this case is set to be heard starting on the morning of November 13, 2017. In furtherance of the Court’s direction that counsel streamline matters where possible, Dr. Tudor respectfully presents the foregoing, which will substantially reduce the issues to be presented to the jury and conserve resources.

Matter 1: Strike failure to mitigate damages defense and exclude all mitigation evidence past Tudor's start of employment at Collin College as irrelevant.

Dr. Tudor takes the position that, upon her reemployment at Collin College in Fall 2012, her damages for back pay stopped accumulating, and therefore all evidence concerning her job at Collin College (save for her start date) is irrelevant and should be excluded. Since Dr. Tudor is taking this position, Defendants should not be permitted to ask Tudor or others about Tudor's employment at Collin College, beyond her start date, or introduce evidence concerning her employment at Collin College or attempts to seek employment elsewhere.

Given the above, the Court should strike the following exhibits from Defendants' Exhibit List on relevancy grounds:

- a. Exhibit 133: Documents received from Schools cited by Intervenor as places to which post-SEOSU applications were made for employment.
- b. Exhibit 160: Cary Israel with Collin College Memorandum to Rachel Tudor dated 8/30/2013 RE: Compensation 2012014 (PI000453)
- c. Exhibit 161: Cary Israel with Collin College Memorandum to Rachel Tudor dated 9/3/2014 RE: Compensation 2014-2015 (PI000454)
- d. Exhibit 162: Collin County Community College District Full-Time Faculty Contract beginning 8/12/2014 and ending May 2016 signed by Rachel Tudor on 4/22/2015 (PI000455-456)

- e. Exhibit 203: Rachel Tudor's Personnel File from Collin College (CC1–CC1083)

Given the above, the Court should preclude Defendants from calling Dr. Weasenforth, Ms. Holly Newell, or any other unidentified witnesses to explore Tudor's mitigation efforts past her start date at Collin College in Fall 2012.

Consistent with the requests above, Dr. Tudor respectfully withdraws the following exhibits from Plaintiff's Revised Exhibit List¹:

- a. Exhibit 209: 8/30/2013 Salary Letter: Collin College for 2013-2014 (PI0000453)
- b. Exhibit 210: 9/3/2014 Salary Letter: Collin College for 2014-2015 (PI000454)
- c. Exhibit 211: Collin College Full-Time Faculty Contract for 2015-2016 (PI000455 to PI000456)
- d. Exhibit 212: Collin College Electronic Pay Stub for pay period 1/1/2013 to 1/31/2013 (PI000022)
- e. Exhibit 213: Collin College Full-Time Faculty Contract for 2015-2016 (PI002044 to PI002045)

¹ Tudor shared a revised Exhibit List with opposing counsel via letter on October 27, 2017 to correct errors not identified in previous drafts. For ease, Dr. Tudor will reference the exhibits numbers used in the revised list, attached hereto as **Exhibit 1**.

Additionally, because Tudor is electing to cut off her entitlement to back pay as of the date of her start of employment at Collin College, she further respectfully urges the Court to act on its own to strike Defendants' failure to mitigate damages defense pursuant to Fed. R. Civ. P. 12(f)(1) and also direct Defendants that they may not present evidence or otherwise imply or suggest to the jury that Tudor failed to mitigate damages.

As a point of clarification, it is Dr. Tudor's position that this election only limits her monetary damages (back pay); she in no way intends to limit her ability to seek reinstatement with tenure as an Associate Professor at Southeastern or, if deemed infeasible, front pay adequate to compensate her for the job she earned at Southeastern but was illegally deprived of by Defendants. *See Fitzgerald v. Sirloin Stockade, Inc.*, 624 F.2d 945, 957 (10th Cir. 1980 (trial court has discretion to reinstate employee rather than award front pay); *Dilley v. SuperValu, Inc.*, 296 F.3d 958, 968 (10th Cir. 2002) ("A plaintiff's ability to replace some of the income lost by virtue of the wrongful discharge certainly affects how much income he is due, but it does not bear on whether the plaintiff is entitled to the job itself.")

Matter 2: Strike *Faragher/Ellerth* defense and otherwise exclude evidence and argument on this defense.

Dr. Tudor requests that the Court direct Defendants that they may not present evidence or otherwise imply or suggest to the jury that they are

entitled to *Faragher/Ellerth* defense with respect to Dr. Tudor's hostile work environment claim.

In this Court's opinion denying summary judgment, the Court decided as a matter of law that Defendants are not entitled to a *Faragher/Ellerth* defense because the evidence shows that "the policies in existence at SEOSU did not address transgender persons." ECF Doc. 219 at 4. As the Court further noted—consideration of arguments concerning whether Tudor "should have understood the sexual harassment or sex discrimination policies could have reached her claims and therefore should have been required to file a report is immaterial" since precedents "require a more specific policy before a defendant is entitled to a *Faragher/Ellerth* defense." *Id. See also Meritor Sav. Bank, FSB v. Vinson*, 477 U.S. 57, 7273 (1986) (requiring policies sufficient to redress hostilities alleged for *Faragher/Ellerth* to be invoked); *Debord v. Marcy Health Sys. of Kan., Inc.*, 737 F.3d 642 (10th Cir. 2013) (similar).

Because Defendants are not entitled to a *Faragher/Ellerth* defense as a matter of law, it is appropriate for the Court to act pursuant to its powers under Rule 12(f)(1) to strike this defense from Defendants' pleadings.

Additionally, Tudor respectfully moves that the Court preclude Defendants, Defendants' counsel, and any witness from mentioning, referring to, arguing about, or introducing any purported evidence concerning the

Faragher/Ellerth defense at trial. Given that it is, as a factual matter, impossible for Defendants to show evidence to the jury entitling them to a *Faragher/Ellerth* defense, it would be prejudicial for the jury to hear from Defendants' counsel and/or their witnesses arguments or evidence that even imply that remedial policies at Southeastern entitle Defendants to a defense to Tudor's environmental claim.

In the event that Matter 2 is denied, Tudor respectfully alerts the Court that it will be necessary for Tudor to zealously cross-examine Defendants' witnesses whom participated in or otherwise directed and/or were substantially involved in internal investigations concerning incidents giving rise to Tudor's environmental claims, including but not limited to restroom, dress, and make-up restrictions placed on Tudor by the Southeastern administration in 2007 and incidents surrounding Tudor's 2009-10 and 2010-11 tenure applications. Additionally, Tudor would be entitled to introduce evidence to rebut any of Defendants' witness's testimony supporting the *Faragher/Ellerth* defense, including evidence which Defendants have previously argued is protected under attorney-client privilege and/or are protected work product.

As a matter of law, Defendants' invocation of a *Faragher/Ellerth* defense would preclude invocation of attorney-client privilege and/or work product protections concerning any internal investigations, even where a

lawyer conducted the investigation or otherwise supervised those activities. *See, e.g., Harding v. Dana Transp., Inc.*, 914 F. Supp. 1084, 1093 and 1099 (D.N.J. 1996) (employer's invocation of *Faragher/Ellerth* defense placed confidential communications "at issue" and waived privileges because of employer's "reliance upon the investigation as a defense to employer liability under Title VII"); *id.* 1096 (privilege cannot be used as "both a sword and a shield"); *Rahn v. Junction City Foundry, Inc.*, 2000 WL 1679419, at *3 (D.Kan. 2000) ("When an employer defends itself by relying upon the reasonableness of its response to the sexual harassment victim's allegations, the adequacy of the employer's investigation becomes critical to the issue of liability. The only manner in which the plaintiff, or the factfinder, can determine the reasonableness of the defendant's investigation is through full disclosure of the content of the investigation.").

Matter 3: Strike Defendants' after-acquired evidence defense.

Defendants have represented to this Court that they are "not in possession of any after-acquired evidence" (ECF No. 213 at 2). Given that Defendants have disclaimed having possession of after-acquired evidence and have otherwise made no showing of after acquired evidence being available in this case, Tudor respectfully suggests that the Court act pursuant to its powers under Rule 12(f)(1) to strike this defense from Defendants' pleadings.

See Southeastern Ans., ECF No. 21 at 14 ¶ 12; RUSO Ans., ECF No. 29 at 28 ¶12.

Additionally, Tudor respectfully moves that the Court preclude Defendants, Defendants' counsel, and any witness from mentioning, referring to, arguing about, or introducing any purported after-acquired evidence at trial.

Matter 4: Strike Defendants' defense that transgender persons are not protected by Title VII's sex discrimination proscription.

This Court has repeatedly held that Dr. Tudor is protected by Title VII. *See, e.g.*, Denial of SJ, ECF No. 219. To avoid needlessly confusing the jury and otherwise prejudicing Tudor, Tudor respectfully requests that the Court act pursuant to Rule 12(f)(1) to strike Defendants' defense that Tudor is not protected by Title VII. *See* Southeastern Ans., ECF No. 21 at 13 ¶10; RUSO Ans., ECF No. 29 at 28 ¶10. Striking this defense is appropriate at this juncture because Defendants have failed to legally show this defense is viable—indeed it is foreclosed by law of the case.

Additionally, Tudor respectfully moves that the Court preclude Defendants, Defendants' counsel, and any witness from mentioning, referring to, arguing about, or introducing any purported evidence that contends that Dr. Tudor or transgender persons more broadly are not entitled to the full statutory sex discrimination protections afforded under Title VII. Such

witnesses, evidence, and arguments are at their very essence prejudicial and fall woefully short of arguing this case on the merits.

Dated: November 11, 2017

/s/ Ezra Young
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CERTIFICATE OF SERVICE

I hereby certify that on November 11, 2017, I electronically filed a copy of the foregoing with the Clerk of Court by using the CM/ECF system, which will automatically serve all counsel of record.

/s/ Ezra Young
Ezra Young (NY Bar No. 5283114)

LAW OFFICE OF EZRA YOUNG

ATTORNEY AT LAW
ADMITTED NY

October 27, 2017

Via Email

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Re: Dr. Tudor's Corrected Exhibits List:

Dear Counsel:

Copies of Tudor's exhibits are being FedEx-ed to you overnight. Additionally, I am making arrangements to send you a secure download link to download the digital files.

Lastly, please find the promised corrected version of Dr. Tudor's exhibits list. Where changes have been made, I have highlighted them in yellow.

No.	Title/Description	Objection	FRE Relied Upon
1.	Portions of Tudor 2009-10 promotion and tenure portfolio (PI001309 – 1335)		901
2.	English, Humanities, & Languages Tenure/Promotion Guidelines (PI001177 – 1180)		901
3.	Policy 3.7.4 Role of the Faculty		

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Re: Tudor's Corrected Exhibits List

	(EEOC000300-01)		
4.	Policy 4.0 Faculty Personnel Policies (EEOC000303 – 349)		
5.	Faculty Promotion and Tenure Evaluation Summary Confidential Analysis Worksheet for Tudor (DEF001133 – 34)		
6.	11/14/2005 letter from Mangrum to Spencer (EEOC003570)		401, 402, 403, 801, 802
7.	Emails dated 8/26/2010 (DEF001144)	Vague, improperly identified	
8.	10/11/2010 Tudor grievance (DEF005644 – 5659)		
9.	1/28/2011 Tudor email to Prus (PI000743)		401, 402, 403, 801, 802, 901
10.	1/19/2011 Findings and Conclusions on Gender Discrimination Complaint (DEF001796 – 1801)		
11.	Memorandum to Regent Connie Reilly (DEF001765 – 68)		
12.	Document Retention Notice Pursuant to Charge of Discrimination (DEF001106 – 07)		401, 402, 403
13.	Southeastern Oklahoma State University Administrative Organization Chart (DEF001314)		
14.	4/4/2007 letter from F. Porter (EEOC000592)		401, 402, 403, 801, 802, 901
15.	Conway notes and emails re Tudor gender transition (DOJ000009 – 14)	Overly broad; Defendants' reserve the right to supplement these objections.	901
16.	Diagram of Morrison Hall with Conway's handwritten markings from her deposition (Plaintiff's deposition Exhibit 27)		401, 402, 403
17.	9/3/2010 emails between Conway and Stubblefield (DEF004701)		401, 402, 403, 801, 802
18.	9/15/2010 letter from U.S. Department of Education to Minks (DOE000004)		401, 402, 403, 801, 802

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Re: Tudor's Corrected Exhibits List

19.	Defendants' submission to EEOC (DEF005279 – 86)	Not a complete copy of what Defendants submitted to EEOC.	106, 901
20.	Nondiscrimination, Equal Opportunity and Affirmative Action Policy (EEOC000265)		
21.	Nondiscrimination, Equal Opportunity and Affirmative Action Policy (DEF005879)		407, 901
22.	Sexual Harassment Policy (DEF006929 – 31)		401, 402, 403
23.	Sexual Harassment Policy (DEF006955 – 56)		401, 402, 403
24.	Faculty Senate Minutes 1/19/2011 (PI000400 – 07)		401, 402, 403, 901
25.	Online petition to reinstate Tudor (PI000815–1100)		401, 402, 403, 801, 802, 901
26.	4/1/2011 letter to Tudor (EEOC000593)		
27.	Orientation for New Faculty (DEF001311 – 12)		
28.	Legal Briefing on Sexual Harassment and attendance sheets (DEF008898 – 8910)		401, 402, 403, 801, 802
29.	Training materials "Sexual Harassment: What Is and Isn't Acceptable" (DEF008915 – 8946)		401, 402, 403, 801, 802
30.	4/29/2010 letter from Weiner to Tudor (EEOC000183 – 84 and EEOC000908)		801, 802
31.	2/26/2010 Tudor grievance (EEOC000927 – 29)		
32.	3/25/2010 Faculty Appellate Committee determination on Tudor's 2/26/2010 grievance (DEF005125)		
33.	3/4/2010 Tudor email to Weiner with email chain (EEOC000174)		401, 402, 403, 801, 802
34.	3/21/2010 and 3/22/2010 emails between Weiner and Tudor RE: Tudor Appeal (EEOC001481 – 82)	Not properly identified; Defendants reserve the right to supplement objections as document is more clearly identified.	
35.	4/1/2010 email from Weiner		

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Re: Tudor's Corrected Exhibits List

	(EEOC000919 – 20)		
36.	Policy 3.7.3 Role of the President (EEOC000299 – 300)		
37.	4/6/2010 Tudor email to Weiner (EEOC000177)		401, 402, 403, 801, 802
38.	4/20/2010 Weiner email to Tudor (EEOC000180)		401, 402, 403, 801, 802
39.	5/7/2010 Tudor appeal to Minks (EEOC000185)		901
40.	8/30/2010 Tudor discrimination complaint filed with Stubblefield (DEF001279 – 84; DEF005176 – 5187; and EEOC000895)	Defendants do not object to one complete copy of Tudor's grievance (DEF5171-5187)	
41.	8/30/2010 Tudor grievance filed with Minks (DEF001158 – 1175)		
42.	9/16/2010 Weiner email to Stubblefield with email chain (EEOC000031 – 33)		401, 402, 403, 801, 802
43.	2/2/2005 memorandum from Snowden to Johnson re Fridley promotion and tenure application (EEOC002961)		401, 402, 403
44.	Spencer Tenure Application Vita (EEOC003523 – 3534)		401, 402, 403
45.	12/1/2006 Mischo letter to Mangrum re Spencer promotion and tenure application (DEF007506 – 07)		401, 402, 403, 801, 802
46.	1/11/2007 Mangrum letter to Spencer re Spencer promotion and tenure application (DEF007505)		401, 402, 403, 801, 802
47.	2/12/2007 D. McMillan memo to Snowden re Spencer promotion and tenure application (DEF007504)		401, 402, 403, 801, 802
48.	4/18/2007 Snowden letter to Spencer re promotion and tenure application (DEF007503)		401, 402, 403, 801, 802
49.	9/8/2010 Snowden letter re Spencer promotion and tenure application process (EEOC000896)		401, 402, 403, 801, 802
50.	2/12/2007 D. McMillan memo to Snowden re Spencer promotion and tenure application (DEF012992)		401, 402, 403, 801, 802
51.	Spencer curriculum vita (DEF007311 – 19)		401, 402, 403
52.	9/21/2010 Clark email to Scoufos re Tudor		

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Re: Tudor's Corrected Exhibits List

	grievance (DEF001155 – 56)		
53.	Minutes of Faculty Appellate Committee 9/22/2010 meeting and 9/30/2010 decision on Tudor grievance (DEF000144 and DEF001152)		
54.	1/31/2011 Clark email re Tudor grievance (DEF005672)		
55.	Procedure attached to Clark 1/31/2011 email (DEF005673)		
56.	1/3/2011 Walkup memo re Tudor grievance (PI001244 – 47)		801, 802
57.	2/22/2011 D. McMillan memo to Clark re Tudor grievance (DEF001331)		
58.	3/4/2011 Tudor email to Clark re Tudor grievance (DEF001332 – 37)		
59.	3/25/2011 Minks letter re Tudor grievance (DEF005687)		
60.	A Self-Study Report for Continued Accreditation (DOJ000331 – 548)		401, 402, 403, 801, 802, 901
61.	Mischo curriculum vita (DEF007284-86)		401, 402, 403, 901
62.	2/23/2010 D. McMillan memo to Minks re 1/25/2010 letter from Faculty Senate (PI001187 – 88)		
63.	Faculty Development Agreement and Follow-Up for Tudor 2005 – 2006 (EEOC000801 – 04)		
64.	Follow Up Faculty Development Agreement for Tudor 2006 – 2007 (EEOC00791 – 793)		
65.	Faculty Development and Evaluation Summary for Tudor 2007-08 evaluation period (EEOC000781 – 82)		
66.	Follow Up Report Faculty Development Agreement for Tudor 2007-08 (EEOC000778 – 80)		
67.	Faculty Development and Evaluation Summary for Tudor 2008-09 evaluation period (DEF007392 – 93)		
68.	Faculty Promotion and Tenure Evaluation Summary for Parrish by Mischo		401, 402, 403

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Re: Tudor's Corrected Exhibits List

	(DEF007389 – 90)		
69.	11/9/2009 email from Tudor to Mischo with email chain re meeting with Coleman (PI000588–89)		801, 802
70.	12/1/2009 email from Mischo to Tudor re promotion and tenure recommendation (PI000592)		801, 802
71.	Faculty Development Agreement for Tudor 2009-10 (EEOC000915 – 16)		
72.	1/12/2010 memo from Scoufos to Tudor re promotion and tenure application recommendation (DOJ000151)		
73.	2/19/2010 Tudor email to Scoufos requesting reasons for promotion and tenure recommendation (EEOC000162 – 64)		
74.	2/19/2010 Tudor email to McMillan requesting reasons for promotion and tenure recommendation (EEOC000166 – 68)		
75.	Tudor response to Defendants' Request for Admission No. 8		801, 802
76.	9/15/2010 Mischo email to Tudor with email chain re Scoufos' recommendation on Tudor's promotion and tenure application (PI000662)		801, 802
77.	1/12/2010 Scoufos memo to D. McMillan re recommendation on Tudor promotion and tenure application (DOJ000150)		
78.	11/30/2010 Scoufos email re Tudor article accepted for publication (EEOC000063 – 64)		401, 402, 403
79.	4/30/2010 D. McMillan memo to Tudor re Denial of Application for Tenure and Promotion (DEF001186 – 87)		
80.	Audio recording of EEOC interviews of Stubblefield, Mischo, and Weiner (EEOC004567)		801, 802, 901
81.	9/17/2010 D. McMillan email chain to Scoufos forwarding Stubblefield email Subject "Discrimination Cases-Litmus Test" (EEOC000877)		401, 402, 403, 801, 802
82.	10/7/2010 Tudor email to Stubblefield		

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Re: Tudor's Corrected Exhibits List

	subject "retaliation" (EEOC000036)		
83.	10/7/2010 Tudor email to Stubblefield subject "letter" (EEOC000040)		502, 801, 802
84.	10/5/2010 D. McMillan memo to Tudor re Application for Tenure and Promotion during the 2010 – 2011 Academic Year (DEF005188)		
85.	10/13/2010 Tudor memo to Stubblefield (EEOC000037-39)		801, 802
86.	10/14/2010 email chain between D. McMillan and Stubblefield (EEOC000044)		401, 402, 403, 801, 802
87.	10/28/2010 Tudor amended discrimination complaint to Stubblefield (DEF001290 – 96)		
88.	1/19/2011 email chain between Legako and Stubblefield (EEOC000066-67)		502
89.	Stubblefield's timeline from investigation of Tudor's discrimination complaint (EEOC001183 – 86)		401, 402, 403, 502
90.	8/3/2011 Stubblefield memo to Scoufos enclosing EEOC's document retention notice (EEOC000825 – 29)		401, 402, 403, 502
91.	8/17/2011 Scoufos memo to Stubblefield transmitting copy of Tudor file from School of Arts & Sciences (EEOC000824)		401, 402, 403, 502
92.	11/20/2009 Faculty Development and Evaluation Summary for Tudor (EEOC000972 – 73)		
93.	3/21/2012 letter from EEOC to Stubblefield (EEOC000002 – 03)		401, 402, 403, 801, 802
94.	Southeastern's response to requests for information from EEOC (EEOC000238-39)	Incomplete as identified; objections reserved	
95.	5/8/2015 email from Scoufos to Southeastern faculty regarding change to discrimination policy (Plaintiff's deposition Exhibit 118)		
96.	4/21/2010 memo from Babb to D. McMillan regarding Southeastern's Promotion and Tenure Policy (PI001195 – 97)		502
97.	12/3/2010 Faculty Appellate Committee decision on Tudor's 10/11/2010 grievance		

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Re: Tudor's Corrected Exhibits List

	(PI000411)		
98.	1/24/2011 emails between Babb and Clark re "Addition to Grievance Policy" (DEF005674)		502
99.	Audio recording of EEOC's interview of Minks (EEOC004564-65)		613, 801, 802
100.	Parrish curriculum vita (EEOC001681 – 87)		401, 402, 403, 901
101.	Defendants' Response to United States' First Set of Interrogatories Propounded Upon Defendants	Not best evidence.	401, 402, 403, 613
102.	Barker curriculum vita (DOJ000173 – 76)		401, 402, 403, 901
103.	Faculty Promotion and Tenure Evaluation Summary for Tudor by Scoufos (EEOC000857 – 58 or DEF001137-38)		
104.	Faculty Promotion and Tenure Evaluation Summary for Tudor by D. McMillan (DEF007703 – 04)		
105.	4/6/2010 memo from Tudor to Scoufos regarding offer made to Tudor relating to her application for promotion and tenure (EEOC001483)		801, 802
106.	10/19/2010 D. McMillan memo to Hall and Clark regarding Tudor grievance (DEF001323 – 24)		
107.	1/9/2011 Tudor memo to Hall regarding Tudor's grievance (PI001248 – 50)		801, 802
108.	1/28/2011 Tudor appeal of Stubblefield's findings on Tudor's discrimination complaint (DEF001297 – 99)		
109.	2/21/2011 Minks letter to Tudor regarding Tudor's discrimination complaint (DEF001300)		
110.	5/6/2011 letter from AAUP to Minks (EEOC000213 – 16)		401, 402, 403, 801, 802
111.	10/26/2010 Dear Colleague letter from DOE (PI000558 – 67)		401, 402, 403, 801, 802
112.	1/3/2011 Scoufos email to Walkup (DEF001131)		401, 402, 403
113.	1/3/2011 Scoufos email to Walkup forwarding email from Coleman (DEF001139)		401, 402, 801, 802

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Re: Tudor's Corrected Exhibits List

114.	1/3/2011 Scoufos email to Walkup with (1) Faculty Promotion and Tenure Evaluation Summary for Tudor by Mischo and (2) Scoufos memo to D. McMillan re Tudor promotion and tenure application attached (DEF001132 – 35)		
115.	9/30/2010 emails between Hall and Clark regarding Tudor grievance (Plaintiff's deposition Exhibit 141)SEOSU84		
116.	Handwritten notes of 10/15/2010 Faculty Appellate Committee meeting regarding Tudor grievance (DEF000143)		401, 402, 613, 801, 802
117.	10/15/2010 email from Clark to Hall, Prather, and Knapp regarding Tudor grievance (Plaintiffs' deposition Exhibit 143)SEOSU17		
118.	3/7/2011 email from Hall to Clark regarding Tudor grievance (DEF005667)		
119.	Audio recording of EEOC's interview of Scoufos (EEOC004556)		613, 801, 802, 901
120.	Audio recording of DOJ's interview of Scoufos (DOJ000003)		613, 801, 802, 901
121.	8/25/2009 email from Scoufos to Tudor (with email chain below) with Scoufos' handwritten notes re 8/31/2009 meeting with Tudor (EEOC000734 – 35)		801, 802
122.	10/28/2009 email from Mischo to Scoufos with Scoufos' handwritten notes (EEOC000976)		801, 802
123.	10/29/2009 email from Scoufos to House with Scoufos' handwritten notes (EEOC000974)		801, 802
124.	Scoufos' handwritten notes of 4/6/2010 meeting with Tudor and Mischo (EEOC000913)		801, 802
125.	4/6/2010 memo from Tudor to Scoufos regarding offer made to Tudor relating to her application for promotion and tenure with Scoufos' handwritten notes (EEOC000914)		801, 802
126.	6/15/2010 memo from Minks to Scoufos notifying Scoufos of Tudor's tenure and		

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Re: Tudor's Corrected Exhibits List

	promotion denial (EEOC000902)		
127.	4/30/2010 Scoufos emails, with email chain below, asking about "open mic chapbook" (EEOC000904)		401, 402, 403, 801, 802
128.	10/1/2010 Prus email to Scoufos re Tenure & Promotion Committees for Drs. Barker and Tudor (EEOC000867)		401, 402, 403, 801, 802
129.	Audio recording of EEOC's interview of D. McMillan (EEOC004566)		613, 801, 802, 901
130.	Audio recording of DOJ's interview of D. McMillan (DOJ000002)		613, 801, 802, 901
131.	Southeastern Policy for Granting Promotion and Tenure (Rev. 7/13) (DEF005950 – 53)		401, 402
132.	Excerpts from Plaintiff/Intervenor's Notice of Rule 30(b)(6) Deposition of Defendant Southeastern Oklahoma State University and the Regional University System of Oklahoma	Not best evidence	401, 402, 403
133.	Excerpts from Complaint in Intervention of Plaintiff/Intervenor Dr. Rachel Tudor (ECF No. 24) pages 1, 12, and 13.	Not best evidence	401, 402, 403
134.	Excerpts from Answer of Defendant Regional University System of Oklahoma to Plaintiff/Intervenor's Complaint (ECF No. 29) pages 1 and 7	Not best evidence Statement of lawyer's legal theories not evidence	401, 402, 403
135.	Excerpts from Answer of Defendant Southeastern Oklahoma State University, To Plaintiff/Intervenor's Complaint pages (ECF No. 28) 1, 6, and 7	Not best evidence Statement of lawyer's legal theories not evidence	401, 402, 403
136.	Blue Choice PPO High Option Certificate of Benefits (DEF006716 – 19 and DEF006768)	Improper Exhibit Plaintiff and Plaintiff/ Intervenor do not have a health benefits claim in the instant action	401, 402, 403
137.	6/14/2016 email from Coffey to Young and Weiss regarding Plaintiff/Intervenor's 30(b)(6) notice		401, 402, 403, 502
138.	6/24/2016 letter from Young to Coffey		401, 402,

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Re: Tudor's Corrected Exhibits List

	regarding Plaintiff/Intervenor's 30(b)(6) notice		403, 502
139.	3/31/2010 Babb email to Weiner with email chain (RUSO001272) (native file)		401, 402, 403, 801, 802, 803
140.	4/5/2010 Babb email to Weiner replying to Weiner (RUSO001279) (native file)		401, 402, 403, 801, 802, 803
141.	3/31/2010 Babb email to Weiner with email chain (RUSO001272) (native file)	Duplicate of #139	401, 402, 403, 801, 802, 803
142.	4/21/2010 Babb email to Weiner replying to Weiner (RUSO001474) (native file)		401, 402, 403, 801, 802, 803
143.	4/21/2010 Babb email to Weiner with email chain and attachments (RUSO001465) (native file)		401, 402, 403, 801, 802, 803
144.	1/24/2011 Clark email to Babb with attachments (SEOSUmail00880) (native file) (Plaintiff's Exhibit 178)		401, 402, 403, 801, 802, 803
145.	4/28/2011 letter from Andrew Rice (PI001273)		401, 402, 403, 801, 802, 803
146.	1/2/2016 Knight letter to Stubblefield re House (RUSO000502.001) (native file)		401, 402, 403
147.	3/1/2016 House letter to Stubblefield (RUSO002027.0001) (native file)		401, 402, 403
148.	4/1/2010 Weiner email to Minks, D. McMillan, Scoufos, and Babb with email chain (RUSO000447) (native file)		401, 402, 403, 801, 802, 803
149.	4/1/2010 Weiner email to Minks, D. McMillan, Scoufos, and Babb with email chain (SEOSUmail05927) (native file)		401, 402, 403, 801, 802, 803
150.	4/1/2010 Weiner email to Minks, D. McMillan, Scoufos, and Babb with email chain (SEOSUmail06865) (native file)	Cumulative as to Exhibit 149	
151.	4/1/2010 Weiner email to Minks, D. McMillan, Scoufos, and Babb with email chain (SEOSUmail06958) (native file)	Cumulative as to Exhibit 149 and 150	
152.	4/1/2010 Weiner email to Minks, D. McMillan, Scoufos, and Babb with email chain (SEOSUmail07217) (native file)	Cumulative as to Exhibit 149, 150, and 151	

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153.	Plaintiff United States' Amended Notice of Oral Deposition Under Fed. R. Civ. P. 30(b)(6)		401, 402, 403
154.	Academic Policies and Procedures Manual submitted to EEOC (EEOC000252 – 428)		
155.	9/5/2012 EEOC's Letter of Determination (EEOC004576-77)		401, 402, 403
156.	7/6/2011 Tudor supplemental charge of discrimination filed with EEOC (EEOC004592-93)		
157.	7/21/2011 EEOC notice of charge of discrimination (EEOC004602)		
158.	10/12/2010 DOE letter to Minks regarding Tudor complaint (EEOC004906-07)		
159.	Expert Report of Dr. George R. Brown		401, 402, 403
160.	Expert Report of Dr. Robert Dale Parker		401, 402, 403
161.	Southeastern's "Faculty Senate Awards Policy" (DOJ000587-88)		401, 402, 403
162.	Promotion and Tenure Portfolio of Parrish (EEOC001676-2238 or DEF003674 - 4236)		401, 402, 403
163.	Promotion and Tenure Portfolio of Cotter-Lynch (EEOC002239-2474 or DEF001955 – 2190)		401, 402, 403
164.	2010-11 Promotion and Tenure Portfolio of Tudor (EEOC003086-3271)		401, 402, 901, 902
165.	Promotion and Tenure Portfolio of Spencer (EEOC003521-3576 or DEF004830 - 4885)		401, 402, 403
166.	Promotion and Tenure Portfolio of Barker (DOJ000158-330)		401, 402, 403
167.	2/15/2010 memo from McMillan to Tudor re notification of promotion status (EEOC001619)		401, 402, 403
168.	4/21/2010 Minks memo to Tudor re Application for Tenure and Promotion to Associate Professor (DEF001319)		
169.	2/16/2011 Faculty Senate meeting minutes (DEF004720 – 23)		901, 902
170.	11/17/2010 Cotter-Lynch letter to FAC (PI000377-78)		901, 902
171.	Defendants' Response to United States' Second Set of Interrogatories		401, 402, 801, 802

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Re: Tudor's Corrected Exhibits List

172.	Defendants' Response to United States' First Requests for Admissions		401, 402, 801, 802
173.	Tudor 2015 contract with Collin College (PI002044 – 45)		801, 802
174.	5/9/2011 Scoufos email to D. McMillan with email chain (EEOC000839)		401, 402, 801, 802
175.	2/22/2010 Scoufos email to Mischo replying to his email with handwritten notes (EEOC000933)		
176.	2/11/2010 Williamson email to Scoufos replying to Scoufos' email with email chain and handwritten notes (EEOC000945)		
177.	30(b)(6) deposition transcript of Defendants taken by United States		401, 402, 801, 802
178.	30(b)(6) deposition transcript of Defendants taken by Plaintiff/Intervenor		401, 402, 801, 802, 803
179.	Babb deposition transcripts		401, 402, 801, 802, 803
180.	Clark deposition transcript		401, 402, 801, 802
181.	Conway deposition transcript		401, 402, 801, 802, 803
182.	Habas deposition transcript		401, 402, 801, 802, 803
183.	Hall deposition transcript		401, 402, 801, 802, 803
184.	Knapp deposition transcript		401, 402, 801, 802, 803
185.	D. McMillan deposition transcript		401, 402, 801, 802, 803
186.	Minks deposition transcript		401, 402, 801, 802, 803
187.	Mischo deposition transcript		401, 402, 801, 802, 803
188.	Nusz deposition transcript		401, 402, 801, 802, 803
189.	Ogden deposition transcript		401, 402, 801, 802, 803
190.	Prus deposition transcript		401, 402, 801, 802, 803
191.	Robinson deposition transcript		401, 402, 801, 802, 803

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Re: Tudor's Corrected Exhibits List

192.	Scoufos deposition transcript		401, 402, 801, 802, 803
193.	Snowden deposition transcript		401, 402, 801, 802, 803
194.	Stubblefield deposition transcript		401, 402, 801, 802, 803
195.	Tudor deposition transcripts		401, 402, 801, 802, 803
196.	Walkup deposition transcript		401, 402, 801, 802, 803
197.	Weiner deposition transcript		401, 402, 801, 802, 803
198.	Porter declaration (PI002046 - 49)		401, 402, 403, 801, 802, 901
199.	Tudor handwritten list of colleges where she applied for jobs (PI002050 - 54)		801, 802, 901
200.	RUSO Policy Manual (DOJ000016-133)		
201.	Letter from Tudor to co-workers re gender transition (PI002042-43)	Not listed on Tudor's or USA's exhibit lists	401, 402, 801, 802, 901
202.	Plaintiff/Intervenor's Responses to Defendants' First Set of Interrogatories Propounded Upon Plaintiff/Intervenor	USA nor Tudor have listed this exhibit before and therefore we have not objected to it previously	801, 802, 803
203.	8/10/2016 Emails between Whitney Popchoke and Marvin Bontrager "Re: Gender Reassignment Exclusion" (DEF013822-23)	Tudor has no claim concerning health coverage; USA nor Tudor have listed this exhibit	401, 402, 403
204.	Health plan documents produced by Defendants at 30(b)(6) deposition of Defendants (designee Whitney Popchoke) (DEF013824-014634)	Tudor has no claim concerning health coverage; USA nor Tudor have listed this exhibit	401, 402, 403
205.	1/13/2004 Appointment Letter; College of the Mainland for 2003-2004 (PI00447)		901
206.	5/18/2004 Appointment Letter: Southeastern Oklahoma State University for 2004-2005 (PI00448)		901
207.	Tudor's Southeastern Oklahoma State University Payroll Advice for 01/01/2011-01/31/2011 (PI00447)		901

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Re: Tudor's Corrected Exhibits List

208.	Southeastern Oklahoma State University: Salary Calculation Form 2011-12, Full-Time Faculty and Guide (PI000450 to PI000451)		901
209.	8/30/2013 Salary Letter: Collin College for 2013-2014 (PI0000453)		901
210.	9/3/2014 Salary Letter: Collin College for 2014-2015 (PI000454)		901
211.	Collin College Full-Time Faculty Contract for 2015-2016 (PI000455 to PI000456)		901
212.	Collin College Electronic Pay Stub for pay period 1/1/2013 to 1/31/2013 (PI000022)		901
213.	Collin College Full-Time Faculty Contract for 2015-2016 (PI002044 to PI002045)		901
214.	Tudor Federal Income Tax Returns 2011 (PI000434 to PI000436)		
215.	Tudor Federal Income Tax Returns 2012 (PI000437 to PI000440)		
216.	Tudor Federal Income Tax Returns 2013 (PI000441 to PI000443)		
217.	Tudor Federal Income Tax Returns 2014 (PI000444 to PI000445)		
218.	Humana Dental Claim Receipts (PI000457 to PI000460)	Improper Exhibit, Tudor has no health benefits claim	401, 402, 403, 801, 802, 901
219.	Tudor Chickasaw Nation Tribal Citizenship Identification Cards (PI002035 and PI002124)		401, 402, 403
220.	9/5/2011 Blog Entry: "Open Letter to Petition Signers" (PI01110 to PI01111)		401, 402, 403, 801, 802, 901
221.	5/30/2011 Blog Entry: "Scholarship Record" (PI001126 to PI001131)		401, 402, 403, 801, 802, 901
222.	5/29/2011 Blog Entry: "Reason is the Surest Safeguard Against Tyranny" (PI001132 to PI001138)		401, 402, 403, 801, 802, 901
223.	4/26/2011 Blog Entry: "Award for Excellence in Scholarship" (PI001141 to PI001142)		401, 402, 403, 801, 802, 901
224.	4/24/2011 Blog Entry: "Petition" (PI001143 to PI001144)		401, 402, 403, 801,

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			802, 901
225.	4/20/2011 Blog Entry: "Why This Blog?" (PI001145 to PI001146)		401, 402, 403, 801, 802, 901
226.	4/18/2011 Blog Entry: "Southeastern Oklahoma State University" (PI001147 to PI001150)		401, 402, 403, 801, 802, 901
227.	2/15/2012 Blog Entry: "LinkedIn" (PI001169)		401, 402, 403, 801, 802, 901
228.	10/12/2017 Tudor Declaration (filed on the docket as ECF No. 205-2)	Not listed before Tudor's Rsp to MSJ	401, 402, 801, 802, 803
229.	10/10/2017 Althoff Declaration (filed on the docket as ECF No. 205-17)	Not listed before Tudor's Rsp to MSJ	401, 402, 801, 802, 803
230.	10/12/2017 Cotter-Lynch Declaration (filed on the docket as ECF No. 205-18)	Not listed before Tudor's Rsp to MSJ	401, 402, 801, 802, 803
231.	5/2/2016 Spencer Declaration (filed on the docket as ECF No. 205-25)	Not listed before Tudor's Rsp to MSJ	401, 402, 801, 802, 803
232.	3/2/2011 email between Stubblefield and Conway, "Re: Interesting Article" (SEOSU1659) (native file)	Not listed prior to PTO	401, 402, 403
233.	Southeastern "Civil Rights & Title IX Policy for Faculty, Students, and Staff" (PI002070 to PI002118)	Not listed prior to PTO	401, 402, 403
234.	10/6/2016 OKHEEI Group Minutes of Regular Meeting (PI002055 to PI002068)	Not listed prior to PTO	401, 402, 403
235.	11/10/2016 OKHEEI Group Minutes of Regular Meeting (PI002119 to PI002123)	Not listed prior to PTO	401, 402, 403
236.	Settlement Agreement Between the United States of America and Southeastern Oklahoma State University and the Regional University System of Oklahoma (22 pages) (last signature 8/30/2017)	Not listed prior to PTO	408
237.	11/18/2010 emails between Conway and Stubblefield, "Re: Tudor/Conclusion Letter" (SEOSU3295) (native file)	Not listed prior to PTO	401, 402, 403,
238.	5/24/2016 Email from Rachel Tudor to Ezra Young (filed on the docket as ECF No. 205-34)	Not listed prior to PTO	401, 402, 403,
239.	4/27/2011 Emails between Richard Ogden and Sheridan McCaffree (RUSO2566) (native file)	Not listed prior to PTO	401, 402, 403,

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240.	4/27/2011 Email complaint from Frank Akehurst (RUSO465) (native file)	Not listed prior to PTO	401, 402, 403,
241.	4/28/2017 Email complaint from Carolyn Eichner (RUSO494) (native file)	Not listed prior to PTO	401, 402, 403,
242.	5/1/2011 Email complaint from Jeremy Shipley (RUSO933 and RUSO353) (native files)	Not listed prior to PTO	401, 402, 403,
243.	5/3/2011 Email complaint from Clayton Alsup (RUSO354) (native file)	Not listed prior to PTO	401, 402, 403
244.	5/6/2011 Email complaint from Therese Quinn (RUSO452) (native file)	Not listed prior to PTO	401, 402, 403
245.	10/14/2010 Email from Stubblefield to Babb and Minks, "Re: Info" (SEOSU2297) (native file)	Not listed prior to PTO	401, 402, 403
246.	11/18/2010 Email from Stubblefield to McMillan, "Re: TUDOR" (SEOSU3553) (native file)	Not listed prior to PTO	401, 402, 403
247.	9/30/2010 emails between Charla Hall and Bryon Clark (Plaintiff's Exhibit 141)SEOSU84	Not listed prior to PTO	401, 402, 403
248.	9/14/2010 email between Tudor and Stubblefield (DEF5467)	Not listed prior to PTO	401, 402, 403
249.	10/14/2010 email between McMillan and Stubblefield (SEOSU3284) (native file)	Not listed prior to PTO	401, 402, 403
250.	All exhibits listed by Defendants not objected to by Plaintiff/Intervenor.		
251.	All documents needed for rebuttal purposes.		

Sincerely,



Ezra Young