

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Shannon Miller,  
Jen Banford, and  
Annette Wiles,

Case No. 15-cv-3740 (RHK/LIB)

Plaintiffs,

**DECLARATION OF ANDREW T.  
JAMES IN SUPPORT OF  
PLAINTIFFS' MOTION TO  
COMPEL DISCOVERY**

vs.

The Board of Regents of the  
University of Minnesota,

Defendant.

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I, Andrew T. James, declare under penalty of perjury as follows:

1. I am an attorney licensed by the State of Minnesota and practice law at the firm of Fafinski Mark & Johnson, P.A., which is located at 775 Prairie Center Drive, Suite 400, Eden Prairie, MN 55344. I represent the Plaintiffs in this action.

2. I have personal knowledge of the facts contained in this declaration and if called as a witness, would testify competently to those facts.

3. Attached hereto as Exhibit 1 is a true and correct copy of Plaintiffs' First Set of Requests for Production.

4. Attached hereto as Exhibit 2 is a true and correct copy of Plaintiffs' First Set of Interrogatories.

5. Attached hereto as Exhibit 3 is a true and correct copy of Defendant's Responses to Plaintiffs' First Set of Document Requests.

6. Attached hereto as Exhibit 4 is a true and correct copy of Defendant's Answers to Plaintiffs' First Set of Interrogatories.

7. Attached hereto as Exhibit 5 is a true and correct copy of a letter from Plaintiffs to Defendant, dated July 21, 2016.

8. Attached hereto as Exhibit 6 is a true and correct copy of a letter from Plaintiffs to Defendant, dated August 8, 2016.

9. Attached hereto as Exhibit 7 is a true and correct copy of a letter from Defendant to Plaintiffs, dated August 12, 2016.

10. Attached hereto as Exhibit 8 is a true and correct copy of Defendant's Supplemental Answers to Plaintiffs' First Set of Interrogatories.

11. Attached hereto as Exhibit 9 is a true and correct copy of a letter from Plaintiffs to Defendant, dated October 13, 2016.

12. Attached hereto as Exhibit 10 is a true and correct copy of a letter from Defendant to Plaintiffs, dated October 20, 2016.

13. Attached hereto as Exhibit 11 is a true and correct copy of an email from Plaintiffs to Defendant, dated October 27, 2016.

14. Attached hereto as Exhibit 12 is a true and correct copy of a letter from Defendant to Plaintiffs, dated May 13, 2016.

15. Attached hereto as Exhibit 13 is a true and correct copy of a letter from Defendant to Plaintiffs, dated July 15, 2016.

16. Attached hereto as Exhibit 14 is a true and correct copy of a letter from Defendant to Plaintiffs, dated August 12, 2016.

17. Attached hereto as Exhibit 15 is a true and correct copy of a letter from Defendant to Plaintiffs, dated September 12, 2016.

18. Attached hereto as Exhibit 16 is a true and correct copy of a letter from Defendant to Plaintiffs, dated October 7, 2016.

19. Attached hereto as Exhibit 17 is a true and correct copy of a letter from Defendant to Plaintiffs, dated October 21, 2016.

20. Attached hereto as Exhibit 18 is a true and correct copy of a letter from Defendant to Plaintiffs, dated October 31, 2016.

Dated: November 3, 2016

s/Andrew T. James  
Andrew T. James (#0390982)

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Shannon Miller,  
Jen Banford, and  
Annette Wiles,

Case No. 15-cv-1740 (RHK/LIB)

Plaintiffs,

**PLAINTIFFS' FIRST SET OF  
REQUESTS FOR PRODUCTION**

vs.

The Board of Regents of the  
University of Minnesota,

Defendant.

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PROPOUNDING PARTY:

Plaintiffs: SHANNON MILLER,  
JEN BANFORD, and ANNETTE  
WILES

RESPONDING PARTY:

Defendant: THE BOARD OF  
REGENTS of the UNIVERSITY OF  
MINNESOTA, through its counsel,  
Jeanette M. Bazis, GREENE ESPEL  
PLLP, 222 S. Ninth St., Suite 2200,  
Minneapolis, Minnesota 55402.

SET NUMBER:

ONE

Pursuant to Federal Rules of Civil Procedure Rules 26 and 34, SHANNON MILLER, JEN BANFORD, and ANNETTE WILES (plaintiffs) hereby request that THE BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA (Regents) respond in writing and under oath to the following Requests for Production of Documents, Set One, within thirty (30) days, and produce all requested documents described herein for inspection and/or copying at the law offices of SIEGEL & YEE, 499 14<sup>th</sup> Street, Suite 300, Oakland, CA 94612.

### DEFINITIONS AND INSTRUCTIONS

1. "You" and "Your" when used herein shall refer to the party or parties to whom these Requests for Production are directed, and all Persons acting on Your behalf including, but not limited to, attorneys and their associates, investigators, employees, agents, and other representatives.
2. These Requests for Production are directed to all Documents in Your possession, custody, and control, including information possessed by Your agents, employees, attorneys, accountants, investigators, consultants, and representatives, and any other Person or entity under Your control and/or acting or purporting to act on Your behalf.
3. These Requests for Production are deemed to be continuing, such as to require You to serve supplemental responses should You learn of additional information responsive to these interrogatories between the time Your responses are served and the time of trial. These supplemental responses are required to be served on counsel for Plaintiff within a reasonable time after the discovery of such information.
4. "Shannon Miller" and "Miller" shall refer to Plaintiff Shannon Miller.
5. "Jen Banford" and "Banford" shall refer to Plaintiff Jen Banford.
6. "Annette Wiles" and "Wiles" shall refer to Plaintiff Annette Wiles.
7. "Plaintiffs" and "plaintiffs" shall refer collectively and individually to Plaintiffs Miller, Banford, and Wiles.
8. "Defendant," "Board of Regents," and "UMD," shall refer collectively and individually to Defendant Board of Regents of the University of Minnesota Duluth, the University of Minnesota Duluth, and the University of Minnesota

Twin-Cities.

9. "Person" as used herein refers to any natural person and/or any association, joint venture, partnership, corporation, or other legal or business entity.
10. "Identify" or "Identity" when used in reference to an individual shall mean that You shall state the following:
  - a. His or her full name;
  - b. His or her present business and home address and phone numbers;
  - c. His or her present employer and his or her present position with such employer;
  - d. His or her present or last known employment by position held and by name and address of employer, if different from the information described in (c) above.
11. "Identify" and "Identity" when used in reference to a firm, partnership, incorporated, or unincorporated association or other legal or commercial entity shall mean that You shall state the following:
  - a. Its name;
  - b. Its nature (e.g. firm, partnership, profit-making corporation, fraternal);
  - c. If incorporated, licensed, or otherwise registered as required by law, the place of incorporation, licensing, or other registration (e.g. city, state, province).
12. "Identify" or "Identity" when used in reference to a Document shall mean that You shall state the following:

- a. The date of its preparation;
- b. Its author;
- c. The addressee or other intended recipient thereof;
- d. The type of Document (E.g. letter, memorandum, inventory list, notes);
- e. Its title, heading, or other designation, numerical or otherwise;
- f. A summary of its contents or other means of Identifying it; and
- g. Its present location and the Person who has possession, custody, or control thereof.

13. "Identify" or "Identity" when used in reference to a conversation, conference, meeting, or Communication shall mean that You shall state the following:

- a. The date and time thereof;
- b. The location at which it occurred;
- c. The identity of all Persons participating or attending;
- d. The identity of all Documents, recording or summarizing or otherwise arising from the conversation, conference, or meeting;
- e. The method of Communication utilized (e.g. telephone, in-person Communication, e-mail Correspondence); and
- f. A summary of its contents or other means of Identifying it.

14. "All Facts" include but are not limited to identification, as defined above, of the Persons and Documents plus specification of places, dates, exact words used in conversation (or substance of conversation if exact words are not remembered), acts, events, and occurrences.

15. "Document" is used in its broadest sense, and has the same meaning as defined in Federal Rules of Civil Procedure 34(a); it includes all media on which information is recorded or stored, including any such electronic storage devices or electronically-stored information. The term Document means originals, copies, preliminary drafts, versions or revisions of any of the aforementioned, all underlined, preparatory, or supporting materials thereto, and all studies, analyses or other evaluative or interpretive reports thereof. If multiple copies of the Document exist, each copy that is in any way not completely identical to a copy that is being produced shall also be produced or Identified. Documents specifically include, but are not limited to, any kind of printed, recorded, written, graphic, photographic, magnetic, or electronic matter or Electronic Record (including, without limitation, tape recordings and material for computer use), however printed, produced or reproduced, quoted or stored, of any kind or description, whether sent or received or not, including all originals, copies, reproductions, facsimiles, email messages, text messages, instant messages or other electronic chats, drafts, and both sides thereof, and including, without limitations, all Correspondence and Communications, notices, papers, books, accounts, letters, drafts, models, photographs, correspondence, telegrams, telex messages, memoranda, notes, jottings, inter-office communications, intra- and inter-department communications, transcripts, minutes, agenda, reports, notes or recordings of testimony, notes or recordings of telephone or other conversations, interviews, conference, board, committee, or subcommittee meetings, or other meetings, affidavits, abstracts, audits, charges, statements, summaries, résumés, opinions, evaluations, notebooks, checks, desk (or other

type) calendars, appointment books, diaries, journals, policy statements, manuals, rules, regulations, instructions, lists, logs, guidelines, newspaper stories, computer tapes and disks, magnetic tapes, punch cards, computer printouts, microfilms, microfiches, any materials underlying, supporting, or used in the preparation of any similar material.

16. "Electronic Records" refers to Documents maintained in an electronic format including, but not limited to, e-mails and their associated attachments or other computer-mediated Communications, databases, CAD and/or word processing Documents located and/or maintained at any location within Your custody and control, including but not limited to desktops, hard drives, network servers, disks, CD-ROMs and/or tapes. A draft or non-identical copy is a separate "Electronic Record" as to the meaning of this term and should be produced unless specifically provided otherwise.

17. The words "Communication" and "Correspondence" when used herein mean any contact, verbal or written (including e-mail, instant messenger, text message, voicemail, letter, memorandum, or any electronic means of Communication), formal or informal, at any time or place, under any circumstances, in any manner, whereby a statement of any nature is transmitted or transferred, including any meeting, interview, conversation, or Correspondence, and shall include, without limitation, any Documents containing, evidencing, constituting, reflecting, memorializing, referring to, or relating to any such contact.

18. "Inspection" means an examination or investigation, the rights to see and duplicate documents, or make other such examinations for the purpose of

gathering evidence.

19. "Expert" shall mean any Person whom You claim or may claim possesses a special skill or knowledge derived from his or her education, training, or experience and who You claim or may claim is qualified to have an opinion or to state a conclusion concerning any matter at issue in this litigation, or who You claim or may claim is capable of aiding the jury in determining facts.

20. The words "employee," "agent," or "representative" when used herein include any present or past employee, agent, independent contractor, or representative.

21. The words "evidence," "reflect," or "relate to," and any conjugation thereof, shall be construed in their broadest sense and shall be deemed to mean and encompass, without limitation, any Document or other requested information that, directly or indirectly, supports, negates, contains, embodies, constitutes, or sets forth the subject or topic in question, either in whole or in part.

22. The terms "relate" or "relating," in addition to their natural meaning, shall also mean reflecting, regarding, containing, pertaining, referring, indicating, showing, evidencing, describing, discussing, mentioning, bearing upon, and/or comprising.

23. "Any" shall be deemed to include and encompass the words "each" and "all."

24. The singular includes the plural and the plural includes the singular.

#### **DOCUMENT REQUESTS**

##### **DOCUMENT REQUEST NUMBER 1:**

All Documents relating to plaintiffs' employment with UMD, including,

but not limited to, the complete personnel file of each plaintiff, any Documents which were ever a part of the same, the file "jacket" or other object used to contain the file and all attachments thereto, and, in addition, any Documents, records, memoranda, or notes, including, but not limited to, computer printouts, which were part of any plaintiff's respective personnel file at any time.

**DOCUMENT REQUEST NUMBER 2:**

All Documents relating to plaintiffs' performance, including but not limited to performance reviews, disciplinary documents, corrective action, complaints about any plaintiff (whether received from players, parents, or UMD personnel), praise for plaintiffs (whether received from players, parents, or UMD personnel), or awards.

**DOCUMENT REQUEST NUMBER 3:**

Please produce any and all Documents reflecting the procedures and criteria used for renewing the employment contracts of coaches and assistant coaches for each academic year from 2010-2011 to the present.

**DOCUMENT REQUEST NUMBER 4:**

Please produce any and all Documents constituting or otherwise reflecting the guidelines under which each plaintiff worked while employed at UMD. This request includes, but is not limited to, personnel policies, procedures and practices for hiring, promoting, evaluating, disciplining and terminating employees, employee performance reviews, all policy and procedural manuals, codes of conduct, employee handbooks or guidelines, contracts, policy statements, or any other appeal procedures for each academic year from 2010-2011 to present. This includes, but is not limited to, policies or procedures used,

created, or relied upon by Defendant related to discrimination, harassment, hiring, terminations, promotions, demotions, compensation, employee benefits, management or supervision of employees or harassment.

**DOCUMENT REQUEST NUMBER 5:**

Please produce line item budgets for each year from 2010-2011 to the present for the UMD Athletics Department including, but not limited to, final drafts and revisions.

**DOCUMENT REQUEST NUMBER 6:**

Please produce all Documents filed with any governmental or regulatory entity, or maintained by UMD, relating to Title IX and UMD's obligations thereunder with respect to UMD's athletics department from 2010 to the present, including, but not limited to, any attachments, any Documents providing support for the information contained therein, and any drafts and revisions of the same, and specifically including any such Documents relating to the Equity in Athletics Disclosure Act.

**DOCUMENT REQUEST NUMBER 7:**

Please produce all Documents reflecting the salaries, including the title, percent of full time equivalent (FTE) and salary of all coaches and assistant coaches in the men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs in the UMD Athletics Department, including for each year from 2010 to the present, including, but not limited to, any contracts for each such coach or assistant coach.

**DOCUMENT REQUEST NUMBER 8:**

Please produce all Documents reflecting, evidencing, referring to, or

otherwise related to any complaint made by any plaintiff, formal or informal, concerning any actual or alleged discrimination, disparate treatment, retaliation/reprisal, hostile work environment, and/or any conduct alleged in the pleadings, including, but not limited to, complaints, responses, notes investigations, reports, drafts, documents reviewed, witness statements, and Correspondence and Communications to or from Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Mary Cameron, Lisa Erwin, Angie Nichols, Linda Kinnear, Bob Nygaard, Bob Nielson, Mike Wendinger, and/or William Wade, or copied or blind-copied to the same, from 2010 to the present, including, but not limited to, any such complaints relating to conduct allegedly based on any plaintiff's sex, sexual orientation, national origin, and/or age.

**DOCUMENT REQUEST NUMBER 9:**

Please produce all Documents referring or relating to merit increases for all staff in the men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs in the UMD Athletics Department for each year from 2010-2011 to the present.

**DOCUMENT REQUEST NUMBER 10:**

Please produce all Documents relating to or referring to all donations to any UMD athletic team, including the name of the donor, the date of each individual donation, the amount of each individual donation, any condition(s) placed upon such donation by the donor, and all Documents showing the distribution or use of each such donation, including, but not limited to, which UMD athletics team received the donation, the portion of the donation received by each team, and all Correspondence relating to any such donation, from 2010

to the present.

**DOCUMENT REQUEST NUMBER 11:**

Please produce all Documents and Correspondence reflecting, relating to, or referring to the budgets, including, but not limited to, the staffing, travel, equipment/apparel, scholarship, summer financing, and recruiting budgets for each team, men's and women's, in the UMD Athletics Department from 2010 to the present.

**DOCUMENT REQUEST NUMBER 12:**

Please produce all Documents including, but not limited to, press releases, and other information released relating or referring to men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs from Defendant, including from the UMD sports information office, from 2010 to the present, including any drafts of the same.

**DOCUMENT REQUEST NUMBER 13:**

Please produce all Documents, Correspondence, and Communications related or referring to Miller's contract as the UMD women's hockey coach not being renewed for the 2015-2016 academic year, including, but not limited to, any such Documents, Correspondence, and Communications relating to the decision whether or not to renew Miller's contract, and any notes relating to the same.

**DOCUMENT REQUEST NUMBER 14:**

Please produce all Documents, Correspondence, and Communications related or referring to Banford's contract as the director of operations for the UMD women's hockey team and/or contract as the UMD women's softball coach

not being renewed for the 2015-2016 academic year, including, but not limited to, any such Documents, Correspondence, and Communications relating to the decision whether or not to renew either of Banford's contracts, and any notes relating to the same.

**DOCUMENT REQUEST NUMBER 15:**

Please produce all Documents, Communications, and Correspondence, to or from Jay Finnerty, regarding the budget of the women's hockey program for 2014-2015, including but not limited to summer school.

**DOCUMENT REQUEST NUMBER 16:**

Please produce all Documents, Communications, and Correspondence, including, but not limited to, any such Communications to or from Jay Finnerty, regarding the Malosky Stadium Field schedule from 2013 through 2016.

**DOCUMENT REQUEST NUMBER 17:**

Please produce all Documents, Communications, or Correspondence referring to or relating to Wiles' decision to leave UMD, including any such Documents evidencing any reasons for Wiles' decision.

**DOCUMENT REQUEST NUMBER 18:**

Please produce all Documents, Communications, or Correspondence referring or relating to invitations to athletics department staff meetings by UMD, including without limitation Josh Berlo, from October 2012 through 2015.

**DOCUMENT REQUEST NUMBER 19:**

Please produce all Documents constituting, referring to, or relating to any survey or interview, including without limitation any student survey or senior exit interview, conducted by Defendant concerning any plaintiff from 2010 to the

present.

**DOCUMENT REQUEST NUMBER 20:**

Please produce all Documents constituting, referring to, or relating to the power point presentation created by or presented by Josh Berlo at the December 9, 2014, UMD Athletics Department staff meeting regarding department finances and fundraising.

**DOCUMENT REQUEST NUMBER 21:**

All Documents relating to Joshua Berlo and/or Lendley Black's respective employments with UMD, including, but not limited to, records, memoranda, or notes, including, but not limited to, computer printouts, which were part of each's respective at any time related to complaints, discipline documents, corrective action, referring or related to sexual harassment or retaliation.

**DOCUMENT REQUEST NUMBER 22:**

Please produce all Documents, Correspondence, and Communications related to or concerning Defendant's search for and hiring of the head coach for UMD's women's hockey team, women's softball team, and/or women's basketball team for the 2015-2016 season. This includes, but is not limited to, the job posting; the job description; candidate lists; any Correspondence, Communications, Documents, notes, memoranda, or other internal communications regarding the hiring process; any outlines, notes, memoranda, or other Documents prepared for, during, or after the interviews of candidates; and any communications with candidates.

**DOCUMENT REQUEST NUMBER 23:**

Please produce all Documents related to or concerning UMD's decision to

hire Miller as head coach of the women's hockey team, Banford as head coach of the women's softball team, or Wiles as the head coach of the women's basketball team. This includes, but is not limited to, any Documents, Correspondence, Communications, notes, memoranda, or other internal communications regarding plaintiffs; any emails or other written communications between UMD and plaintiffs; any outlines, notes, memoranda, or other Documents prepared for, during, or after plaintiffs' interviews; and any emails or other written communications between UMD and plaintiffs.

**DOCUMENT REQUEST NUMBER 24:**

Please produce all Correspondence and Communications to or from Joshua Berlo and/or Lendley Black, or copied or blind-copied to the same, and all Documents, including notes and memos, created or prepared by or for the same individuals, before, during, or after any meeting with Miller, including, but not limited to, meetings dated July 14, 2014; July 29, 2014; October 2, 2014; November 25, 2014; November 26, 2014; December 9, 2014; December 11, 2014; December 12, 2014; and December 14, 2014.

**DOCUMENT REQUEST NUMBER 25:**

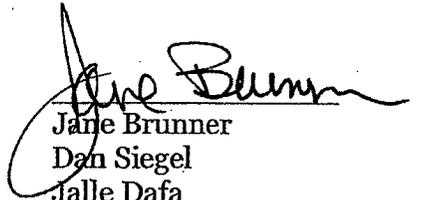
Please produce all Documents relating to any and all allegations, claims, charges, or complaints of discrimination, harassment, or retaliation (including but not limited to discrimination based upon sex, sexual orientation, national origin, and/or age) made against UMD's athletic department from 1995 to the present, including but not limited to informal and/or internal complaints or allegations of discrimination, harassment, or retaliation, as well as formal charges of discrimination and lawsuits, and including but not limited to

documents relating to investigations of such complaints.

**DOCUMENT REQUEST NUMBER 26:**

Please Produce all Documents referenced in, that support Defendant's Answers to Plaintiffs' Interrogatories, or that Defendant reviewed in the preparation of its answers to the same.

Dated: March 16, 2016

  
Jane Brunner  
Dan Siegel  
Jalle Dafa  
SIEGEL & YEE  
499 14th Street, Suite 300  
Oakland, CA 94612  
dansiegel@siegelyee.com  
janebrunner@siegelyee.com  
jalle@siegelyee.com  
(510) 839-1200

– and –

FAFINSKI MARK & JOHNSON, P.A.  
/s/ Donald Chance Mark, Jr.  
Donald Chance Mark, Jr. (#67659)  
Andrew T. James (#0390982)  
Christopher R. Sall (#0395633)  
Flagship Corporate Center  
775 Prairie Center Drive, Suite 400  
Eden Prairie, MN 55344  
donald.mark@fmjlaw.com  
andrew.james@fmjlaw.com  
christopher.sall@fmjlaw.com  
(952) 995-9500

*Attorneys for Plaintiffs Shannon Miller,  
Jen Banford, and Annette Wiles*

**PROOF OF SERVICE**

I declare:

I am an attorney at Siegel & Yee, in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action. My business address is 499 14<sup>th</sup> Street, Suite 300, Oakland, California 94612.

On March 16, 2016, I served the following documents:

**1. PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION**

by transmitting a copy to :

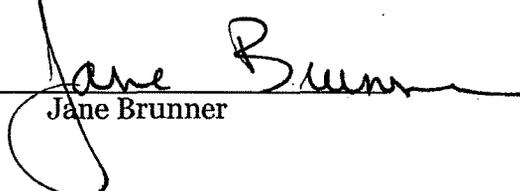
William P. Donohue  
General Counsel  
University of Minnesota  
360 McNamara Alumni Center  
200 Oak Street S.E.  
Minneapolis, MN 55455

GREENE ESPEL PLLP  
Jeanette M. Bazis  
222 South Ninth Street, Suite 2200  
Minneapolis, MN 55402

via the following method:

    x     I am familiar with this office's business practice for collecting and processing of correspondence from mailing with the United States Postal Service. This document, which is in an envelope addresses as stated above, will be sealed with postage fully prepaid and will be deposited with the United States Postal Service this date in the ordinary course of business.

Executed on March 16, 2016, at Oakland, California.

  
\_\_\_\_\_  
Jane Brunner

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Shannon Miller,  
Jen Banford, and  
Annette Wiles,

Case No. 15-cv-1740 (RHK/LIB)

Plaintiffs, **PLAINTIFFS' FIRST SET OF  
INTERROGATORIES**

vs.

The Board of Regents of the  
University of Minnesota,

Defendant.

---

**PROPOUNDING PARTY:**

Plaintiffs: SHANNON MILLER,  
JEN BANFORD, and ANNETTE  
WILES

**RESPONDING PARTY:**

Defendant: THE BOARD OF  
REGENTS of the UNIVERSITY OF  
MINNESOTA, through its counsel,  
Jeanette M. Bazis, GREENE ESPEL  
PLLP, 222 S. Ninth St., Suite 2200,  
Minneapolis, Minnesota 55402.

**SET NUMBER:**

ONE

Pursuant to Federal Rules of Civil Procedure Rules 26 and 33, plaintiffs SHANNON MILLER, JEN BANFORD, and ANNETTE WILES (plaintiffs) hereby request that THE BOARD OF REGENTS of the UNIVERSITY OF MINNESOTA (Regents), answer in writing and under oath, within thirty (30) days, to the following Interrogatories, and produce their responses at the law offices of SIEGEL & YEE, 499 14<sup>th</sup> Street, Suite 300, Oakland, CA 94612.

///

**DEFINITIONS:**

The following definitions are to be considered applicable to all Interrogatories:

1. "You" and "Your" when used herein shall refer to the party or parties to whom these Interrogatories are directed, and all Persons acting on Your behalf including, but not limited to, attorneys and their associates, investigators, employees, agents, and other representatives.
2. These interrogatories are directed to all Documents in Your possession, custody, and control, including information possessed by Your agents, employees, attorneys, accountants, investigators, consultants, and representatives, and any other Person or entity under Your control and/or acting or purporting to act on Your behalf.
3. These interrogatories are deemed to be continuing, such as to require You to serve supplemental responses should You learn of additional information responsive to these interrogatories between the time Your responses are served and the time of trial. These supplemental responses are required to be served on counsel for Plaintiff within a reasonable time after the discovery of such information.
4. "Shannon Miller" and "Miller" shall refer to Plaintiff Shannon Miler.
5. "Jen Banford" and "Banford" shall refer to Plaintiff Jen Banford.
6. "Annette Wiles" and "Wiles" shall refer to Plaintiff Annette Wiles.
7. "Plaintiffs" and "plaintiffs" shall refer collectively and individually to Plaintiffs Miller, Banford, and Wiles.
8. "Defendant," "Board of Regents," and "UMD," shall refer collectively and

individually to Defendant Board of Regents of the University of Minnesota  
Duluth, the University of Minnesota Duluth, and the University of Minnesota  
Twin-Cities.

9. "Person" as used herein refers to any natural person and/or any association, joint venture, partnership, corporation, or other legal or business entity.
10. "Identify" or "Identity" when used in reference to an individual shall mean that You shall state the following:
  - a. His or her full name;
  - b. His or her present business and home address and phone numbers;
  - c. His or her present employer and his or her present position with such employer;
  - d. His or her present or last known employment by position held and by name and address of employer, if different from the information described in (c) above.
11. "Identify" and "Identity" when used in reference to a firm, partnership, incorporated, or unincorporated association or other legal or commercial entity shall mean that You shall state the following:
  - a. Its name;
  - b. Its nature (e.g. firm, partnership, profit-making corporation, fraternal);
  - c. If incorporated, licensed, or otherwise registered as required by law, the place of incorporation, licensing, or other registration (e.g. city, state, province).

12. "Identify" or "Identity" when used in reference to a Document shall mean

that You shall state the following:

- a. The date of its preparation;
- b. Its author;
- c. The addressee or other intended recipient thereof;
- d. The type of Document (E.g. letter, memorandum, inventory list, notes);
- e. Its title, heading, or other designation, numerical or otherwise;
- f. A summary of its contents or other means of Identifying it; and
- g. Its present location and the Person who has possession, custody, or control thereof.

13. "Identify" or "Identity" when used in reference to a conversation, conference, meeting, or Communication shall mean that You shall state the following:

- a. The date and time thereof;
- b. The location at which it occurred;
- c. The identity of all Persons participating or attending;
- d. The identity of all Documents, recording or summarizing or otherwise arising from the conversation, conference, or meeting;
- e. The method of Communication utilized (e.g. telephone, in-person Communication, e-mail Correspondence); and
- f. A summary of its contents or other means of Identifying it.

14. "All Facts" include but are not limited to identification, as defined above, of the Persons and Documents plus specification of places, dates, exact words

used in conversation (or substance of conversation if exact words are not remembered), acts, events, and occurrences.

15. "Document" is used in its broadest sense, and has the same meaning as defined in Federal Rules of Civil Procedure 34(a); it includes all media on which information is recorded or stored, including any such electronic storage devices or electronically-stored information. The term Document means originals, copies, preliminary drafts, versions or revisions of any of the aforementioned, all underlined, preparatory, or supporting materials thereto, and all studies, analyses or other evaluative or interpretive reports thereof. If multiple copies of the Document exist, each copy that is in any way not completely identical to a copy that is being produced shall also be produced or Identified. Documents specifically include, but are not limited to, any kind of printed, recorded, written, graphic, photographic, magnetic, or electronic matter or Electronic Record (including, without limitation, tape recordings and material for computer use), however printed, produced or reproduced, quoted or stored, of any kind or description, whether sent or received or not, including all originals, copies, reproductions, facsimiles, email messages, text messages, instant messages or other electronic chats, drafts, and both sides thereof, and including, without limitations, all Correspondence and Communications, notices, papers, books, accounts, letters, drafts, models, photographs, correspondence, telegrams, telex messages, memoranda, notes, jottings, inter-office communications, intra- and inter-department communications, transcripts, minutes, agenda, reports, notes or recordings of testimony, notes or recordings of telephone or other conversations, interviews, conference, board, committee, or subcommittee

meetings, or other meetings, affidavits, abstracts, audits, charges, statements, summaries, résumés, opinions, evaluations, notebooks, checks, desk (or other type) calendars, appointment books, diaries, journals, policy statements, manuals, rules, regulations, instructions, lists, logs, guidelines, newspaper stories, computer tapes and disks, magnetic tapes, punch cards, computer printouts, microfilms, microfiches, any materials underlying, supporting, or used in the preparation of any similar material.

16. "Electronic Records" refers to Documents maintained in an electronic format including, but not limited to, e-mails and their associated attachments or other computer-mediated Communications, databases, CAD and/or word processing Documents located and/or maintained at any location within Your custody and control, including but not limited to desktops, hard drives, network servers, disks, CD-ROMs and/or tapes. A draft or non-identical copy is a separate "Electronic Record" as to the meaning of this term and should be produced unless specifically provided otherwise.

17. The words "Communication" and "Correspondence" when used herein mean any contact, verbal or written (including e-mail, instant messenger, text message, voicemail, letter, memorandum, or any electronic means of Communication), formal or informal, at any time or place, under any circumstances, in any manner, whereby a statement of any nature is transmitted or transferred, including any meeting, interview, conversation, or Correspondence, and shall include, without limitation, any Documents containing, evidencing, constituting, reflecting, memorializing, referring to, or relating to any such contact.

18. "Expert" shall mean any Person whom You claim or may claim possesses a special skill or knowledge derived from his or her education, training, or experience and who You claim or may claim is qualified to have an opinion or to state a conclusion concerning any matter at issue in this litigation, or who You claim or may claim is capable of aiding the jury in determining facts.

19. The words "employee," "agent," or "representative" when used herein include any present or past employee, agent, independent contractor, or representative.

20. The words "evidence," "reflect," or "relate to," and any conjugation thereof, shall be construed in their broadest sense and shall be deemed to mean and encompass, without limitation, any Document or other requested information that, directly or indirectly, supports, negates, contains, embodies, constitutes, or sets forth the subject or topic in question, either in whole or in part.

21. The terms "relate" or "relating," in addition to their natural meaning, shall also mean reflecting, regarding, containing, pertaining, referring, indicating, showing, evidencing, describing, discussing, mentioning, bearing upon, and/or comprising.

22. "Any" shall be deemed to include and encompass the words "each" and "all."

23. The singular includes the plural and the plural includes the singular.

**INTERROGATORIES, SET ONE**

**FOR ALL PLAINTIFFS:**

**INTERROGATORY NUMBER 1:**

Please list all the complaints each plaintiff made to Defendant, including,

but not limited to, regarding disparate treatment on the basis of sex, sexual orientation, national origin, and/or age, any discrimination from 2010 to the present, or any conduct alleged in the pleadings, and, for each such complaint, state:

- (a) the date of the complaint;
- (b) the nature of the complaint;
- (c) to whom the complaint was made;
- (d) Identify the Person(s) who investigated the complaint;
- (e) the nature and date of any action(s) taken in response to the complaint;
- (f) Identify each person who has knowledge of the complaint, any action(s) taken in response to the complaint, or Defendant's response;
- (g) state if any plaintiff was informed of the action(s) taken in response to the complaint and Defendant's response; and
- (h) Identify all Documents and Correspondence related to the complaint, investigation, and response.

**INTERROGATORY NUMBER 2:**

Please describe in detail every investigation(s) conducted by Defendant into each allegation of discrimination or any other wrongdoing made by any plaintiff, including but not limited to, the individuals who conducted the investigation(s), all investigative steps taken, the identity of all individuals interviewed as part of the investigation(s), the conclusions reached at the end of the investigation(s), and any action taken by Defendant as a result of the investigation(s).

**INTERROGATORY NO. 3:**

Please describe all other complaints, regardless of who made the complaint, made against UMD's athletic department regarding harassment, discrimination, and/or disparate treatment on the basis of sex, sexual orientation, national origin, and/or age, or any conduct alleged in the pleadings.

For each such complaint, include the following:

- a. The date of the complaint;
- b. The manner in which the complaint was made;
- c. The nature of the complaint;
- d. Identify the person making the complaint;
- e. Identify all UMD employees or independent contractors who were the subject of any allegations in the complaint;
- f. State whether an investigation was conducted following said complaint;
- g. If an investigation was conducted, Identify and state the job title of the person conducting the investigation, and Identify all individuals that the investigator spoke with during the course of the investigation;
- h. Specifically describe the outcome of the investigation; and
- i. State whether the complaint resulted in a lawsuit, arbitration, mediation, or any other formal proceeding and, if yes, specifically describe the outcome of that lawsuit.

**INTERROGATORY NUMBER 4:**

Please describe each fringe benefit received by any coach and/or assistant

coach in UMD's the men's or women's athletics department between 2010-2011 to the present and, for each benefit, state whether it was provided to each plaintiff, state the cost of the fringe benefit to you, and state the cost to the employee as of the date of each plaintiff's termination and/or resignation.

**INTERROGATORY NUMBER 5:**

Please describe all written or verbal reprimands, warnings, suspensions, or other disciplinary measures given to any plaintiff since their respective date of retention. For each such measure, state the date and nature of the offense and the supervisor involved.

**INTERROGATORY NUMBER 6:**

Please describe all written or verbal reprimands, warnings, suspensions, or other disciplinary measures regarding or related to discrimination given to Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Mary Cameron, Lisa Erwin, Angie Nichols, Linda Kinnear, Bob Nygaard, Bob Nielson, and/or William Wade since their respective dates of retention. For each such measure, state the date and nature of the offense and the supervisor involved.

**INTERROGATORY NUMBER 7:**

Please describe any and all complaints the University has received regarding any Person described in Interrogatory No. 6, including but not limited to complaints received from employees, students, members of the any men's or women's athletics team at the University, and/or other third parties.

**INTERROGATORY NO. 8:**

Please describe any and all discussions by, between, and/or among the Persons described in Interrogatory No. 6, and/or any other University personnel

regarding the sex, sexual orientation, national origin, and/or age of any plaintiff, any employee in the UMD athletics department, and/or any other candidate(s) for employment in the UMD athletics department or any men's or women's athletics team at UMD.

**INTERROGATORY NO. 9:**

Please identify all individuals, including but not limited to University student-athletes, with whom Defendant has met or whom Defendant has interviewed in connection with plaintiffs' allegations in this case. For each such meeting and/or interview:

- a. Identify the parties involved in the meeting or interview;
- b. Describe when the meeting or interview occurred;
- c. Describe the substance of what was discussed in the meeting or interview; and
- d. Indicate whether the individual prepared or signed a statement.

**INTERROGATORY NUMBER 10:**

Please identify every Person whom you expect to call as an expert witness at the trial of this matter. With respect to each expert:

- a. State the area of expertise and the basis for expertise;
- b. Provide a list of all publications the expert has authored;
- c. State the subject matter on which the expert is expected to testify;
- d. State the substance of the facts and opinions to which the expert is expected to testify;
- e. Identify all facts, Documents, and other tangible items relied upon by the expert in reaching the facts and opinions provided in your

answer to (d) above;

- f. State the compensation to be paid for the expert's study and testimony; and
- g. Provide a listing of any other cases in which the expert has testified as an expert at trial or by deposition within the preceding five (5) years.

**FOR SHANNON MILLER:**

**MILLER INTERROGATORY NUMBER 1:**

Please identify, including in Your answer a statement of the name, title, address, and phone number, of each Person who was involved in the decision not to renew Miller's contract as coach of the UMD women's hockey team, and specifically describe their role in that decision.

**MILLER INTERROGATORY NUMBER 2:**

Please state each and every fact relied on in making Defendant's decision not to renew Miller's contract for 2015-2016, Identify every person with knowledge of each such fact, and for each such fact, Identify all Documents and Correspondence underlying, supporting, describing, or otherwise relating to each fact.

**MILLER INTERROGATORY NUMBER 3:**

Please state each and every reason that was communicated to Miller for not renewing her contract as coach of the UMD women's hockey team, including the date and place of the communication, Identify the Person who made the communication, Identify all Persons who were present for or otherwise received the communication, state the method of the communication, and Identify all

Documents and Correspondence underlying, supporting, describing, or otherwise relating to each communication.

**MILLER INTERROGATORY NUMBER 4:**

Please identify each and every Communication by, between, and/or among Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Linda Kinnear, and/or any other personnel of UMD, the University of Minnesota Twin Cities, or the Regents regarding Defendant's decision not to renew Miller's contract as coach of the UMD women's hockey team. For each such Communication:

- a. Identify the parties involved in the Communication;
- b. Identify whether it was an oral or written Communication;
- c. Describe when the Communication occurred; and
- d. Describe in detail the substance of the Communication, including, but not limited to, every reason given by any Person why Miller's contract should not be renewed.

**FOR JEN BANFORD:**

**BANFORD INTERROGATORY NUMBER 1:**

Please identify, including in Your answer a statement of the name, title, address, and phone number, each person who was involved in the decision not to renew Banford's contract as director of operations for the UMD women's hockey team for 2015-2016 and/or the decision whether or not to renew Banford's contract as coach of the UMD women's softball team.

**BANFORD INTERROGATORY NUMBER 2:**

Please state each and every fact relied on in making the decision not to

renew Banford's contract as director of operations for women's hockey for 2015-2016 and/or the decision whether or not to renew Banford's contract as coach of the UMD women's softball team, Identify every person who has knowledge of each such fact, and Identify all Documents and Correspondence underlying, supporting, describing, or otherwise relating each such fact.

**BANFORD INTERROGATORY NUMBER 3:**

Please state each reason that was communicated to Banford for her women's hockey operations contract not being renewed and/or for her contract as coach of the UMD women's softball team not being renewed, including the date and place of the communication, Identify the Person who made the communication, Identify all Persons who were present for or otherwise received the communication, state the method of the communication, and Identify all Documents and Correspondence underlying, supporting, describing, or otherwise relating to each communication.

**BANFORD INTERROGATORY NUMBER 4:**

Please identify each and every Communication by, between, and/or among Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Linda Kinnear, and/or any other personnel of UMD, the University of Minnesota Twin Cities, or the Regents regarding Defendant's decision not to renew Banford's contract as director of operations for the UMD women's hockey team for 2015-2016 and/or whether or not to renew Banford's contract as coach of the UMD women's softball team. For each such Communication:

- a. Identify the parties involved in the Communication;
- b. Identify whether it was an oral or written Communication;

- c. Describe when the Communication occurred; and
- d. Describe in detail the substance of the Communication, including, but not limited to, every reason given by any Person why Banford's contract should not be renewed.

**FOR ANNETTE WILES:**

**WILES INTERROGATORY NUMBER 1:**

Please state each reason for the decision to give Wiles a 1% merit increase for 2014-2015.

**WILES INTERROGATORY NUMBER 2:**

Please state each and every fact supporting Your denial of Paragraphs 101-104 of the Complaint, including, but not limited to, your denial of Paragraph 103 of the Complaint, including in your answer Identification of any discussions between Joshua Berlo and Wiles relating to the October 2013 GLBT National Coming Out Day luncheon, state the dates and locations of the discussions, and specifically describe the contents of the discussions.

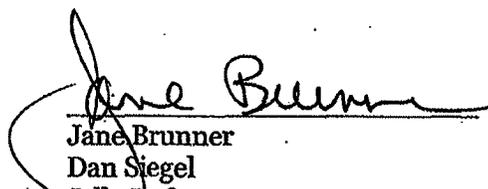
**WILES INTERROGATORY NUMBER 3:**

Please state whether, during Wiles' tenure as women's basketball coach at UMD, department meetings were ever held in which Wiles was not invited. If Your answer is yes, for each such meeting, Identify the Persons in attendance, state the date and time of the meeting, state the location of the meeting, Identify each Person involved in the decision not to invite Wiles, specifically describe each and every reason relied upon in not inviting Wiles to the meeting, and specifically describe what was discussed at the meeting.

**WILES INTERROGATORY NUMBER 4:**

Please state whether, during Wiles' tenure as women's basketball coach at UMD, the women's basketball budget was ever decreased. If Your answer is yes, for each such decrease, state the amount of the decrease (including the initial budget and revised budget), state the date when the budget was decreased, Identify each Person involved in the decision to decrease the budget, state whether the decrease was communicated to Wiles and, if yes, Identify each and every Communication, the date of the Communication, the nature and method of the Communication, and specifically describe the contents of the Communication, and state each and every fact relied upon in decreasing the budget.

Dated: March 16, 2016

  
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– and –

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*Attorneys for Plaintiffs Shannon Miller,  
Jen Banford, and Annette Wiles*

**PROOF OF SERVICE**

I declare:

I am an attorney at Siegel & Yee, in the County of Alameda, State of California. I am over the age of 18 years and not a party to the within action. My business address is 499 14<sup>th</sup> Street, Suite 300, Oakland, California 94612.

On March 16, 2016, I served the following documents:

**1. PLAINTIFFS' FIRST SET OF INTERROGATORIES**

by transmitting a copy to :

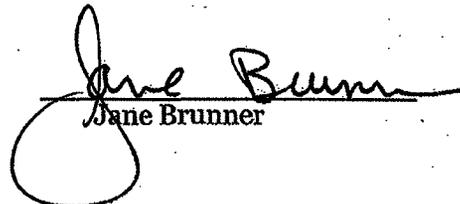
William P. Donohue  
General Counsel  
University of Minnesota  
360 McNamara Alumni Center  
200 Oak Street S.E.  
Minneapolis, MN 55455

GREENE ESPEL PLLP  
Jeanette M. Bazis  
222 South Ninth Street, Suite 2200  
Minneapolis, MN 55402

via the following method:

  x   I am familiar with this office's business practice for collecting and processing of correspondence from mailing with the United States Postal Service. This document, which is in an envelope addresses as stated above, will be sealed with postage fully prepaid and will be deposited with the United States Postal Service this date in the ordinary course of business.

Executed on March 16, 2016, at Oakland, California.

  
Jane Brunner

APR 20 2016

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

Shannon Miller, Jen Banford,  
and Annette Wiles,

Plaintiffs,

v.

The Board of Regents of the  
University of Minnesota,

Defendant.

Case No. 15-cv-03740 (RHK/LIB)

**DEFENDANT'S RESPONSES TO  
PLAINTIFFS' FIRST SET OF  
DOCUMENT REQUESTS**

Defendant The Board of Regents of the University of Minnesota (the "University") for its Responses to Plaintiffs' First Set of Document Requests, states as follows:

**PRELIMINARY STATEMENT**

Defendant is continuing its investigation and reserves the right to rely on any facts, documents, or other evidence that may come to it or its counsel's attention later. Defendant's responses to these Document Requests are based upon information known at this time, and Defendant expressly reserves its right to revise, correct, clarify, or supplement its responses, or assert additional or revised objections. No response, objection, or limitation, or lack thereof, set forth in these Responses shall be deemed to be an admission that any information requested or provided is relevant or admissible.

### **OBJECTIONS COMMON TO ALL DOCUMENT REQUESTS**

Defendant objects to each and every Document Request on the following grounds, in addition to the grounds set forth in response to specific requests:

1. Defendant objects to each and every Document Request to the extent that it seeks information or materials protected from discovery by the attorney-client privilege, work-product doctrine, or any other applicable privilege or protection. Defendant further objects to the part of the “Definitions and Instructions” section specifying information requested about documents that are withheld as privileged. Defendant will provide such information as is required by the Federal Rules of Civil Procedure regarding assertions of privilege or other protection against disclosure.

2. Defendant objects to each and every Document Request to the extent that it seeks proprietary or otherwise confidential information, or information subject to federal and state privacy laws, including, but not limited to, the Minnesota Government Data Practices Act (“MGDPA”), the Family Educational Rights and Privacy Act (“FERPA”), and the Health Insurance Portability and Accountability Act (“HIPAA”). To the extent that the Document Requests seek documents or information subject to confidentiality agreements, protective orders, or other confidentiality obligations owed to third parties, courts, or other tribunals, Defendant will not produce documents containing such information except pursuant to an appropriate order or as permitted by these other confidentiality obligations. Otherwise, such information and documents, and the information protected from disclosure under federal and state privacy laws, including the MGDPA, FERPA, and HIPAA, will be produced pursuant to the stipulated protective

order entered in this case, or any further protective order that may be entered by the Court.

3. Defendant objects to each and every Document Request to the extent that it could be construed to call for information or documents not in Defendant's possession, custody, or control, or to require Defendant to locate documents in others' possession.

4. Defendant objects to the "Definition and Instructions" to the extent that they attempt to impose on Defendant any obligations beyond those provided for in the Federal Rules of Civil Procedure.

5. Defendant objects to the Document Request "Definitions and Instructions" specifying the timing of supplementation of its responses to the extent they exceed its obligations under Federal Rules of Civil Procedure, and specifically Fed. R. Civ. P. 26(e).

**RESPONSES TO DOCUMENT REQUESTS (for all Plaintiffs)**

**DOCUMENT REQUEST NO. 1:** All Documents relating to plaintiffs' employment with UMD, including, but not limited to, the complete personnel file of each plaintiff, any Documents which were ever a part of the same, the file "jacket" or other object used to contain the file and all attachments thereto, and, in addition, any Documents, records, memoranda, or notes, including, but not limited to, computer printouts, which were part of any plaintiffs respective personnel file at any time.

**RESPONSE NO. 1:** The University objects to Document Request No. 1 as overly broad, unduly burdensome, vague, and ambiguous to the extent it seeks production of "[a]ll Documents relating to plaintiffs' employment with UMD." Taken literally, this request would encompass every document authored by, reviewed by, directed to, or mentioning plaintiffs, regardless of whether it is relevant to any claim or defense or

proportional to the needs of this case. Subject to and without waiving these objections, the University will produce each plaintiff's personnel file.

**DOCUMENT REQUEST NO. 2:** All Documents relating to plaintiffs' performance, including but not limited to performance reviews, disciplinary documents, corrective action, complaints about any plaintiff (whether received from players, parents, or UMD personnel), praise for plaintiffs (whether received from players, parents, or UMD personnel), or awards.

**RESPONSE NO. 2:** The University objects to Document Request No. 2 as overly broad, vague, and ambiguous. Subject to and without waiving these objections, the University will produce each plaintiff's personnel file and, from the academic year 2010–2011 to the present, complaints about or praise for plaintiffs from players, parents, or UMD personnel.

**DOCUMENT REQUEST NO. 3:** Please produce any and all Documents reflecting the procedures and criteria used for renewing the employment contracts of coaches and assistant coaches for each academic year from 2010-2011 to the present.

**RESPONSE NO. 3:** The University will produce any non-privileged responsive documents.

**DOCUMENT REQUEST NO. 4:** Please produce any and all Documents constituting or otherwise reflecting the guidelines under which each plaintiff worked while employed at UMD. This request includes, but is not limited to, personnel policies, procedures and practices for hiring, promoting, evaluating, disciplining and terminating employees, employee performance reviews, all policy and procedural manuals, codes of conduct, employee handbooks or guidelines, contracts, policy statements, or any other appeal procedures for each academic year from 2010-2011 to present. This includes, but is not limited to, policies or procedures used, created, or relied upon by Defendant related to discrimination, harassment, hiring, terminations, promotions, demotions, compensation, employee benefits, management or supervision of employees or harassment.

**RESPONSE NO. 4:** The University objects to Document Request No. 4 as overly broad, unduly burdensome, irrelevant, and vague and ambiguous to the extent it

seeks production of “guidelines under which each plaintiff worked while employed at UMD” insofar as there are hundreds of policies that govern University employees. Subject to and without waiving these objections, the University will meet and confer with plaintiffs and produce documents responsive to a more narrowly tailored request or, alternatively, plaintiffs may search for responsive documents at <http://policy.umn.edu/>.

**DOCUMENT REQUEST NO. 5:** Please produce line item budgets for each year from 2010-2011 to the present for the UMD Athletics Department including, but not limited to, final drafts and revisions.

**RESPONSE NO. 5:** The University will produce any non-privileged responsive documents.

**DOCUMENT REQUEST NO. 6:** Please produce all Documents filed with any governmental or regulatory entity, or maintained by UMD, relating to Title IX and UMD’s obligations thereunder with respect to UMD’s athletics department from 2010 to the present, including, but not limited to, any attachments, any Documents providing support for the information contained therein, and any drafts and revisions of the same, and specifically including any such Documents relating to the Equity in Athletics Disclosure Act.

**RESPONSE NO. 6:** The University objects to Document Request No. 6 as overly broad, unduly burdensome, irrelevant, and vague and ambiguous to the extent it seeks production of “all Documents . . . maintained by UMD, relating to Title IX and UMD’s obligations thereunder,” insofar as many of the Athletics Department’s activities are geared toward compliance with Title IX. Subject to and without waiving these objections, the University will produce non-privileged responsive documents.

**DOCUMENT REQUEST NO. 7:** Please produce all Documents reflecting the salaries, including the title, percent of full time equivalent (FTE) and salary of all coaches and assistant coaches in the men’s and women’s interscholastic basketball, ice hockey, softball, baseball, and football programs in the UMD Athletics Department, including for

each year from 2010 to the present, including, but not limited to, any contracts for each such coach or assistant coach.

**RESPONSE NO. 7:** The University objects to Document Request No. 7 as overly broad and unduly burdensome to the extent it seeks production of “all Documents” reflecting the sought-after information. Subject to and without waiving these objections, the University will produce documents sufficient to show the salary, title, and percent of full-time equivalent for each head coach and assistant coach of UMD’s intercollegiate athletics programs for men’s basketball, women’s basketball, football, men’s hockey, women’s hockey, baseball, and softball, including their contracts, from the 2010–2011 academic year to the present.

**DOCUMENT REQUEST NO. 8:** Please produce all Documents reflecting, evidencing, referring to, or otherwise related to any complaint made by any plaintiff, formal or informal, concerning any actual or alleged discrimination, disparate treatment, retaliation/reprisal, hostile work environment, and/or any conduct alleged in the pleadings, including, but not limited to, complaints, responses, notes investigations, reports, drafts, documents reviewed, witness statements, and Correspondence and Communications to or from Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Mary Cameron, Lisa Erwin, Angie Nichols, Linda Kinnear, Bob Nygaard, Bob Nielson, Mike Wendinger, and/or William Wade, or copied or blind-copied to the same, from 2010 to the present, including, but not limited to, any such complaints relating to conduct allegedly based on any plaintiffs sex, sexual orientation, national origin, and/or age.

**RESPONSE NO. 8:** The University objects to Document Request No. 8 to the extent that the request seeks information protected from discovery by the attorney-client privilege, work-product doctrine, or any other applicable privilege or protection. Subject to and without waiving these objections, the University will produce any non-privileged documents, the subject matter of which is complaints plaintiffs made to the University alleging discrimination, disparate treatment, retaliation/reprisal, or hostile work

environment based on plaintiffs' sex, sexual orientation, national origin, or age, from the 2010–2011 academic year to the present.

**DOCUMENT REQUEST NO. 9:** Please produce all Documents referring or relating to merit increases for all staff in the men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs in the UMD Athletics Department for each year from 2010-2011 to the present.

**RESPONSE NO. 9:** The University objects to Document Request No. 9 as overly broad, unduly burdensome, vague, and ambiguous to the extent it seeks "all Documents referring or relating to" merit increases. Subject to and without waiving these objections, Defendants will produce non-privileged documents sufficient to show merit increases for each head coach and assistant coach of UMD's intercollegiate athletics programs for men's basketball, women's basketball, football, men's hockey, women's hockey, baseball, and softball, from the academic year 2010–2011 to the present.

**DOCUMENT REQUEST NO. 10:** Please produce all Documents relating to or referring to all donations to any UMD athletic team, including the name of the donor, the date of each individual donation, the amount of each individual donation, any condition(s) placed upon such donation by the donor, and all Documents showing the distribution or use of each such donation, including, but not limited to, which UMD athletics team received the donation, the portion of the donation received by each team, and all Correspondence relating to any such donation, from 2010 to the present.

**RESPONSE NO. 10:** The University objects to Document Request No. 10 as overly broad, unduly burdensome, vague, and ambiguous to the extent it seeks "all Documents referring or relating to" donations. Subject to and without waiving these objections, Defendants will produce non-privileged documents sufficient to show each donation to UMD's intercollegiate athletics programs from the 2010–2011 academic year

to the present, including the name of the donor (if available), the date and amount of the donation, any condition placed on the donation, and the distribution of each donation.

**DOCUMENT REQUEST NO. 11:** Please produce all Documents and Correspondence reflecting, relating to, or referring to the budgets, including, but not limited to, the staffing, travel, equipment/apparel, scholarship, summer financing, and recruiting budgets for each team, men's and women's, in the UMD Athletics Department from 2010 to the present.

**RESPONSE NO. 11:** The University objects to Document Request No. 11 as overly broad, unduly burdensome, vague, and ambiguous to the extent it seeks "all Documents referring or relating to" the budgets for UMD's intercollegiate athletics programs. Subject to and without waiving these objections, Defendant will produce the line-item budgets for each UMD intercollegiate athletics program for the academic year 2010–2011 to the present.

**DOCUMENT REQUEST NO. 12:** Please produce all Documents including, but not limited to, press releases, and other information released relating or referring to men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs from Defendant, including from the UMD sports information office, from 2010 to the present, including any drafts of the same.

**RESPONSE NO. 12:** The University objects to Document Request No. 12 as overly broad, unduly burdensome, vague, and ambiguous to the extent it seeks "all Documents including . . . other information released relating or referring to" the specific programs. The University further objects to the extent this request seeks publicly available information, and the burden of deriving the information is substantially the same for plaintiffs as it is for the University. Subject to and without waiving these objections, the University will meet and confer with plaintiffs and produce documents

responsive to a more narrowly tailored request or, alternatively, plaintiffs may search for responsive documents at the following websites:

- <http://umdbulldogs.com/>
- <http://twitter.com/UMDBulldogs>
- <https://www.facebook.com/pages/UMD-Athletics/91762194002>
- <http://twitter.com/UMDChamp>
- <http://twitter.com/UMDMensHockey>
- <https://www.facebook.com/pages/UMD-Hockey/94257486061?fref=ts>
- <http://twitter.com/UMDWHockey>
- <https://www.facebook.com/UmdWomensHockey>
- [http://twitter.com/UMD\\_Football](http://twitter.com/UMD_Football)
- [https://www.facebook.com/pages/UMD-Bulldog-Football/112066435546103?ref=br\\_tf](https://www.facebook.com/pages/UMD-Bulldog-Football/112066435546103?ref=br_tf)
- <http://twitter.com/UMDBulldogMBB>
- <https://www.facebook.com/UniversityOfMinnesotaDuluthMensBasketball>
- <http://twitter.com/UMDWomensBBall>
- [https://www.facebook.com/UmdWomensBasketball?ref=br\\_tf](https://www.facebook.com/UmdWomensBasketball?ref=br_tf)
- <http://twitter.com/UMDBaseball>
- [http://twitter.com/UMD\\_Softball](http://twitter.com/UMD_Softball)
- <https://www.facebook.com/pages/UMD-Softball/147735808582601?fref=ts>

**DOCUMENT REQUEST NO. 13:** Please produce all Documents, Correspondence, and Communications related or referring to Miller's contract as the UMD women's hockey coach not being renewed for the 2015-2016 academic year, including, but not limited to, any such Documents, Correspondence, and Communications relating to the decision whether or not to renew Miller's contract, and any notes relating to the same.

**RESPONSE NO. 13:** The University objects to Document Request No. 13 as overly broad, unduly burdensome, irrelevant, vague, and ambiguous to the extent it seeks "all Documents, Correspondence, and Communications" relating to Miller's contract non-renewal. Read literally, this would include documents, correspondence, and communications issued by and between third parties such as the media, social-networking sites, and other non-University sources, and documents generated by any of the thousands of University employees or agents who were not involved in the decision not to renew Miller's contract. Subject to and without waiving these objections, the University will produce non-privileged responsive documents generated by the University's current and former employees and agents who were involved in the decision whether or not to renew Miller's contract.

**DOCUMENT REQUEST NO. 14:** Please produce all Documents, Correspondence, and Communications related or referring to Banford's contract as the director of operations for the UMD women's hockey team and/or contract as the UMD women's softball coach not being renewed for the 2015-2016 academic year, including, but not limited to, any such Documents, Correspondence, and Communications relating to the decision whether or not to renew either of Banford's contracts, and any notes relating to the same.

**RESPONSE NO. 14:** The University objects to Document Request No. 14 as overly broad, unduly burdensome, irrelevant, vague, and ambiguous to the extent it seeks "all Documents, Correspondence and Communications" relating to Banford's contract

and the decision whether or not to renew her contract. Read literally, this would include documents, correspondence, and communications issued by and between third parties such as the media, social-networking sites, and other non-University sources, and documents generated by any of the thousands of University employees or agents who were not involved in the decision whether or not to renew Banford's contract. Subject to and without waiving these objections, the University will produce non-privileged responsive documents generated by the University's current and former employees and agents who were involved in the decision whether or not to renew Banford's contract.

**DOCUMENT REQUEST NO. 15:** Please produce all Documents, Communications, and Correspondence, to or from Jay Finnerty, regarding the budget of the women's hockey program for 2014-2015, including but not limited to summer school.

**RESPONSE NO. 15:** The University will produce any non-privileged responsive documents.

**DOCUMENT REQUEST NO. 16:** Please produce all Documents, Communications, and Correspondence, including, but not limited to, any such Communications to or from Jay Finnerty, regarding the Malosky Stadium Field schedule from 2013 through 2016.

**RESPONSE NO. 16:** The University will produce any non-privileged responsive documents.

**DOCUMENT REQUEST NO. 17:** Please produce all Documents, Communications, or Correspondence referring to or relating to Wiles' decision to leave UMD, including any such Documents evidencing any reasons for Wiles' decision.

**RESPONSE NO. 17:** The University objects to Document Request No. 17 as overly broad, unduly burdensome, irrelevant, vague, and ambiguous to the extent it seeks "all Documents, Communications and Correspondence," from any source, referring to

relating to Wiles's decision to leave UMD. Read literally, this would include documents, correspondence, and communications issued by and between third parties such as the media, social-networking sites, and other non-University sources, and documents generated by any of the thousands of University employees or agents. Subject to and without waiving these objections, the University will produce non-privileged responsive documents (if any exist) generated by Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, and Abbey Strong regarding Wiles's decision to leave UMD.

**DOCUMENT REQUEST NO. 18:** Please produce all Documents, Communications, or Correspondence referring or relating to invitations to athletics department staff meetings by UMD, including without limitation Josh Berlo, from October 2012 through 2015.

**RESPONSE NO. 18:** The University objects to Document Request No. 18 as overly broad, vague, and ambiguous insofar as it refers to "department staff meetings." Taken literally, this could refer to any meeting between and among Athletics Department personnel. Subject to and without waiving these objections, the University will produce invitations sent by or on behalf of Joshua Berlo to quarterly town-hall meetings and meetings to which all head coaches or all coaches were invited, from May 1, 2013, when Berlo commenced employment, through 2015.

**DOCUMENT REQUEST NO. 19:** Please produce all Documents constituting, referring to, or relating to any survey or interview, including without limitation any student survey or senior exit interview, conducted by Defendant concerning any plaintiff from 2010 to the present.

**RESPONSE NO. 19:** The University objects to Document Request No. 19 as overly broad, vague, and ambiguous as to "interview." Subject to and without waiving these objections, the University will produce non-privileged responsive documents

regarding student surveys and senior exit interviews from the 2010–2011 academic year to the present concerning any plaintiff.

**DOCUMENT REQUEST NO. 20:** Please produce all Documents constituting, referring to, or relating to the power point presentation created by or presented by Josh Berlo at the December 9, 2014, UMD Athletics Department staff meeting regarding department finances and fundraising.

**RESPONSE NO. 20:** The University will produce responsive documents.

**DOCUMENT REQUEST NO. 21:** All Documents relating to Joshua Berlo and/or Lendley Black’s respective employments with UMD, including, but not limited to, records, memoranda, or notes, including, but not limited to, computer printouts, which were part of each’s respective at any time related to complaints, discipline documents, corrective action, referring or related to sexual harassment or retaliation.

**RESPONSE NO. 21:** The University objects to Document Request No. 21 as overly broad, unduly burdensome, irrelevant, vague, and ambiguous to the extent it seeks production of “[a]ll Documents relating to Joshua Berlo’s and/or Lendley Black’s respective employments with UMD.” Taken literally, this request would encompass every document authored by, reviewed by, directed to, or mentioning Athletics Director Berlo or Chancellor Black, regardless of whether it is relevant to any claim or defense or proportional to the needs of this case. The University further objects to this request as vague and ambiguous to the extent it uses the unintelligible phrase “which were part of each’s respective at any time related to complaints.” Subject to and without waiving these objections, and to the extent this request seeks documents relating to complaints of sexual harassment or retaliation against Berlo or Black and related discipline or corrective action, the University states that no non-privileged responsive documents exist beyond those that the University has agreed to produce in response to Document Request No. 8.

**DOCUMENT REQUEST NO. 22:** Please produce all Documents, Correspondence, and Communications related to or concerning Defendant's search for and hiring of the head coach for UMD's women's hockey team, women's softball team, and/or women's basketball team for the 2015-2016 season. This includes, but is not limited to, the job posting; the job description; candidate lists; any Correspondence, Communications, Documents, notes, memoranda, or other internal communications regarding the hiring process; any outlines, notes, memoranda, or other Documents prepared for, during, or after the interviews of candidates; and any communications with candidates.

**RESPONSE NO. 22:** The University will produce non-privileged responsive documents.

**DOCUMENT REQUEST NO. 23:** Please produce all Documents related to or concerning UMD's decision to hire Miller as head coach of the women's hockey team, Banford as head coach of the women's softball team, or Wiles as the head coach of the women's basketball team. This includes, but is not limited to, any Documents, Correspondence, Communications, notes, memoranda, or other internal communications regarding plaintiffs; any emails or other written communications between UMD and plaintiffs; any outlines, notes, memoranda, or other Documents prepared for, during, or after plaintiffs' interviews; and any emails or other written communications between UMD and plaintiffs.

**RESPONSE NO. 23:** The University will produce responsive non-privileged documents, if any exist.

**DOCUMENT REQUEST NO. 24:** Please produce all Correspondence and Communications to or from Joshua Berlo and/or Lendley Black, or copied or blind-copied to the same, and all Documents, including notes and memos, created or prepared by or for the same individuals, before, during, or after any meeting with Miller, including, but not limited to, meetings dated July 14, 2014; July 29, 2014; October 2, 2014; November 25, 2014; November 26, 2014; December 9, 2014; December 11, 2014; December 12, 2014; and December 14, 2014.

**RESPONSE NO. 24:** The University objects to Document Request No. 24 as overly broad, irrelevant, vague, ambiguous, and unduly burdensome. Taken literally, this request would encompass every document ever created, sent, or received by Athletics Director Joshua Berlo or Chancellor Lendley Black or on their behalf, regardless of the

subject matter or timeframe (“before, during, or after any meeting”). Subject to and without waiving these objections, the University will produce non-privileged documents responsive to this request, the subject matter of which is any meeting between Miller and Berlo and/or Black on July 14, 2014; July 29, 2014; October 2, 2014; November 25, 2014; November 26, 2014; December 9, 2014; December 11, 2014; December 12, 2014; and December 14, 2014, and the topics discussed in those meetings.

**DOCUMENT REQUEST NO. 25:** Please produce all Documents relating to any and all allegations, claims, charges, or complaints of discrimination, harassment, or retaliation (including but not limited to discrimination based upon sex, sexual orientation, national origin, and/or age) made against UMD’s athletic department from 1995 to the present, including but not limited to informal and/or internal complaints or allegations of discrimination, harassment, or retaliation, as well as formal charges of discrimination and lawsuits, and including but not limited to documents relating to investigations of such complaints.

**RESPONSE NO. 25:** The University objects to Document Request No. 25 as overly broad, vague, ambiguous, and unduly burdensome. Subject to and without waiving these objections, the University will produce complaints made to UMD’s Athletic Department, from the 2010–2011 academic year to the present, regarding unlawful discrimination on the basis of sex, sexual orientation, national origin, or age.

**DOCUMENT REQUEST NO. 26:** Please produce all Documents referenced in, that support Defendant’s Answers to Plaintiffs’ Interrogatories, or that Defendant reviewed in the preparation of its answers to the same.

**RESPONSE NO. 26:** The University will produce non-privileged responsive documents.

Dated: April 18, 2016

**GREENE ESPEL PLLP**

s/ Jeanette M. Bazis

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*Attorneys for Defendant Board of Regents  
of the University of Minnesota*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

Shannon Miller, Jen Banford,  
and Annette Wiles,

Plaintiffs,

v.

The Board of Regents of the  
University of Minnesota,

Defendant.

Case No. 15-cv-03740 (RHK/LIB)

**CERTIFICATE OF SERVICE**

I hereby certify that on April 18, 2016, I caused a copy of the following document to be e-mailed and mailed to the following attorneys upon their consent to receive service of the same via e-mail:

1. Defendant's Answers to Plaintiffs' First Set of Interrogatories; and
2. Defendant's Responses to Plaintiffs' First Set of Document Requests;

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Oakland, CA 94612

Dated: April 16, 2016

s/ Jeanette M. Bazis  
Jeanette M. Bazis, Reg. No. 255646

APR 20 2016

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

Shannon Miller, Jen Banford,  
and Annette Wiles,

Plaintiffs,

v.

The Board of Regents of the  
University of Minnesota,

Defendant.

Case No. 15-cv-03740 (RHK/LIB)

**DEFENDANT'S ANSWERS TO  
PLAINTIFFS' FIRST SET OF  
INTERROGATORIES**

Defendant The Board of Regents of the University of Minnesota (the "University") for its Answers to Plaintiffs' First Set of Interrogatories, states as follows:

**PRELIMINARY STATEMENT**

Defendant is continuing its investigation and reserves the right to rely on any facts, documents, or other evidence that may come to it or its counsel's attention later. Defendant's responses to these Interrogatories are based upon information known at this time, and Defendant expressly reserves its right to revise, correct, clarify, or supplement its responses, or assert additional or revised objections. No response, objection, or limitation, or lack thereof, set forth in these Answers shall be deemed to be an admission that any information requested or provided is relevant or admissible.

**OBJECTIONS COMMON TO ALL INTERROGATORIES**

Defendant objects to each and every one of these Interrogatories on the following grounds, in addition to the grounds set forth in response to specific requests:

1. Defendant objects to each and every interrogatory to the extent that it seeks information or materials protected from discovery by the attorney-client privilege, work-product doctrine, or any other applicable privilege or protection. Defendant will provide such information as is required by rules of civil procedure regarding assertions of privilege or other protection against disclosure.

2. Defendant objects to each and every interrogatory to the extent that it seeks proprietary or otherwise confidential information, or information subject to federal and state privacy laws, including, but not limited to, the Minnesota Government Data Practices Act ("MGDPA"), the Family Educational Rights and Privacy Act ("FERPA"), and the Health Insurance Portability and Accountability Act ("HIPAA"). To the extent the interrogatories seek information or documents subject to confidentiality agreements, protective orders, or other confidentiality obligations owed to third parties, courts, or other tribunals, Defendant will not produce documents containing such information except pursuant to an appropriate order or as permitted by these other confidentiality obligations. Otherwise, such proprietary and confidential information and documents, and the information protected from disclosure under federal and state privacy laws, including the MGDPA, FERPA, and HIPAA, will be produced pursuant to the stipulated protective order entered in this case, or any further protective order that may be entered by the Court.

3. Defendant objects to each and every interrogatory to the extent that it could be construed to call for information or documents not in Defendant's possession, custody, or control, or to require Defendant to locate documents in others' possession.

4. Defendant objects to the interrogatory “definitions” section to the extent that it attempts to impose on Defendant any obligations beyond those provided for in the Federal Rules of Civil Procedure.

5. Defendant objects to the interrogatory “definitions” section specifying the manner in which Defendant is to identify documents as exceeding its obligations under Federal Rules of Civil Procedure, and specifically Fed. R. Civ. P. 33(d).

6. Defendant objects to the interrogatory “definitions” specifying the timing of supplementation of its responses to the extent the instructions exceed its obligations under Federal Rules of Civil Procedure, and specifically Fed. R. Civ. P. 26(e).

**ANSWERS TO INTERROGATORIES (for all Plaintiffs)**

**INTERROGATORY NO. 1:** Please list all the complaints each plaintiff made to defendant, including, but not limited to, regarding disparate treatment on the basis of sex, sexual orientation, national origin, and/or age, any discrimination from 2010 to the present, or any conduct alleged in the pleadings, and, for each such complaint, state:

- (a) the date of the complaint;
- (b) the nature of the complaint;
- (c) to whom the complaint was made;
- (d) Identify the Person(s) who investigated the complaint;
- (e) the nature and date of any action(s) taken in response to the complaint;
- (f) Identify each person who has knowledge of the complaint, any action(s) taken in response to the complaint, or Defendant’s response;
- (g) state if any plaintiff was informed of the action(s) taken in response to the complaint and Defendant’s response; and
- (h) Identify all Documents and Correspondence related to the complaint, investigation, and response.

**ANSWER NO. 1:** The University objects to Interrogatory No. 1 as overly broad, unduly burdensome, irrelevant, vague, and ambiguous to the extent that it asks the University to list “all the complaints” made by a plaintiff regardless of the subject matter. Subject to and without waiving these objections, non-privileged responsive documents that evidence, memorialize, or record complaints plaintiffs made to the University, from the 2010–2011 academic year to the present, regarding unlawful discrimination on the basis of sex, sexual orientation, national origin, or age, will be produced pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 2:** Please describe in detail every investigation(s) conducted by Defendant into each allegation of discrimination or any other wrongdoing made by any plaintiff, including but not limited to, the individuals who conducted the investigation(s), all investigative steps taken, the identity of all individuals interviewed as part of the investigation(s), the conclusions reached at the end of the investigation(s), and any action taken by Defendant as a result of the investigation(s).

**ANSWER NO. 2:** The University objects to Interrogatory No. 2 as overly broad, unduly burdensome, irrelevant, vague, and ambiguous to the extent that it asks the University to list any investigation into any allegation of “any other wrongdoing,” regardless of subject matter and regardless of when the investigation occurred. Subject to and without waiving these objections, non-privileged documents that evidence, memorialize, or record investigations conducted by the University into any allegation by plaintiffs of unlawful discrimination on the basis of sex, sexual orientation, national origin, or age, from the 2010–2011 academic year to the present, will be produced pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 3:** Please describe all other complaints, regardless of who made the complaint, made against UMD's athletic department regarding harassment, discrimination, and/or disparate treatment on the basis of sex, sexual orientation, national origin, and/or age, or any conduct alleged in the pleadings. For each such complaint, include the following:

- (a) The date of the complaint;
- (b) The manner in which the complaint was made;
- (c) The nature of the complaint;
- (d) Identify the person making the complaint;
- (e) Identify all UMD employees or independent contractors who were the subject of any allegations in the complaint;
- (f) State whether an investigation was conducted following said complaint;
- (g) If an investigation was conducted, Identify and state the job title of the person conducting the investigation, and Identify all individuals that the investigator spoke with during the course of the investigation;
- (h) Specifically describe the outcome of the investigation; and
- (i) State whether the complaint resulted in a lawsuit, arbitration, mediation, or any other formal proceeding and, if yes, specifically describe the outcome of that lawsuit.

**ANSWER NO. 3:** The University objects to Interrogatory No. 3 as overly broad and vague and ambiguous as to "any conduct alleged in the pleadings." Subject to and without waiving these objections, pursuant to Fed. R. Civ. P. 33(d), the University will produce complaints made to UMD's Athletics Department, from the 2010-2011 academic year to the present, regarding unlawful discrimination on the basis of sex, sexual orientation, national origin, or age, to the extent that any exist in addition to plaintiffs' complaints that are the subject of Interrogatory No. 1.

**INTERROGATORY NO. 4:** Please describe each fringe benefit received by any coach and/or assistant coach in UMD's the men's or women's athletics department between 2010-2011 to the present and, for each benefit, state whether it was provided to each plaintiff, state the cost of the fringe benefit to you, and state the cost to the employee as of the date of each plaintiffs termination and/or resignation.

**ANSWER NO. 4:** The University objects to Interrogatory No. 4 as overly broad, unduly burdensome, irrelevant, and vague and ambiguous as to "fringe benefit." Subject to and without waiving its objections, the University responds as follows:

Each coach, including each plaintiff, was afforded a fringe-benefits program as provided generally to University professional and administrative employees as described in the University of Minnesota Academic Professional and Administrative Policies and Procedures (the "Manual"), which Manual will be produced pursuant to Fed. R. Civ. P. 33(d). Additional fringe benefits afforded are set forth in each coach's individual contract, and coaches' contracts from the 2010-2011 academic year to the present will be produced pursuant to Fed. R. Civ. P. 33(d).

Some coaches, including plaintiffs, have provisions in their contracts that allow for them to receive either the use of a vehicle or a car allowance. For the 2015-2016 academic year, coaches received the following:

<b>Coach*</b>	<b>Sport</b>	<b>Benefit</b>
Greg Cane	Women's Soccer Head Coach	Vehicle
John Steger	Football Assistant Coach	Vehicle
Greg Bower	Football Assistant Coach	Vehicle
Jessica Worden	Women's Tennis Head Coach	Vehicle
Scott Sandelin	Men's Hockey Head Coach	Car Allowance
Jason Herter	Men's Hockey Assistant Coach	Car Allowance
Brett Larson	Men's Hockey Assistant Coach	Car Allowance
Christian Koelling	Men's Hockey Director of Operations	Car Allowance
Maura Crowell	Women's Hockey Head Coach	Car Allowance

Samantha Reber	Women's Hockey Assistant Coach	Car Allowance
Laura Bellamy	Women's Hockey Assistant Coach	Car Allowance
Curt Wiese	Football Head Coach	Car Allowance
Noah Pauley	Football Assistant Coach	Car Allowance
Matt Bowen	Men's Basketball Head Coach	Car Allowance
Mandy Pearson	Women's Basketball Head Coach	Car Allowance
Jim Boos	Volleyball Head Coach	Car Allowance

\*Women's Hockey Director of Operations for 2015–2016 declined a vehicle.

The University will supplement this response as to the 2010–11 to 2014–2015 academic years. All coaches who receive the use of a vehicle enter into a lease contract with Toyota and are required to provide their own car insurance and to pay for maintenance and non-warranty repairs on the vehicle. Coaches with vehicles prior to 2014 paid for vehicle registrations; after that, Toyota covered the cost of vehicle registrations as part of the renewed and revised sponsorship agreement. All such lease contracts contain the same mileage limits and other restrictions. Copies of such contracts will be produced pursuant to Fed. R. Civ. P. 33(d). During Fall 2014, all coaches who received the use of a vehicle turned in their leased vehicles, and Toyota billed the coaches for mileage overages and excessive wear-and-tear on the vehicles; the University had no involvement in assessing these charges. Given that there was a period of time between the 2014 lease turn-in and receipt of new vehicle, impacted coaches were provided a stipend based on the degree of inconvenience to them. In addition, some programs elected to use camp or other funds to help offset the excess mileage and wear-and-tear charges as part of this stipend. These stipends were taxed as income. Documents regarding the Toyota charges and stipends paid to coaches will be produced pursuant to Fed. R. Civ. P. 33(b).

In addition, all full-time Athletics Department staff have access to complimentary tickets. Also, each head coach has the option of conducting a summer camp and has discretion over the use of the net income for compensation or program-enhancement purposes. The University's complimentary ticket policy will be produced pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 5:** Please describe all written or verbal reprimands, warnings, suspensions, or other disciplinary measures given to any plaintiff since their respective date of retention. For each such measure, state the date and nature of the offense and the supervisor involved.

**ANSWER NO. 5:** Pursuant to Fed. R. Civ. P. 33(d), the University will produce each plaintiff's personnel file.

**INTERROGATORY NO. 6:** Please describe all written or verbal reprimands, warnings, suspensions, or other disciplinary measures regarding or related to discrimination given to Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Mary Cameron, Lisa Erwin, Angie Nichols, Linda Kinnear, Bob Nygaard, Bob Nielson, and/or William Wade since their respective dates of retention. For each such measure, state the date and nature of the offense and the supervisor involved.

**ANSWER NO. 6:** The University objects to Interrogatory No. 6 as overly broad, vague, ambiguous, and unlikely to lead to the discovery of admissible evidence. Subject to and without waiving these objections, non-privileged documents that evidence, memorialize, or record written or oral reprimands, warnings, suspensions, or other disciplinary measures taken against Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Mary Cameron, Lisa Erwin, Angie Nichols, Linda Kinnear, Bob Nygaard, Bob Nielson, or William Wade related to unlawful discrimination against plaintiffs on the basis of sex, sexual orientation, national origin, or age, from the 2010-

2011 academic year to the present, to the extent any exist, will be produced pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 7:** Please describe any and all complaints the University has received regarding any Person described in Interrogatory No. 6, including but not limited to complaints received from employees, students, members of the any men's or women's athletics team at the University, and/or other third parties.

**ANSWER NO. 7:** The University objects to Interrogatory No. 7 as overly broad, unduly burdensome, vague, ambiguous, and irrelevant to the extent that it asks the University to describe "any and all complaints" it has received regarding certain persons, regardless of subject matter and regardless of when the complaint occurred. Subject to and without waiving these objections, non-privileged documents that evidence, memorialize, or record complaints made against Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Mary Cameron, Lisa Erwin, Angie Nichols, Linda Kinnear, Bob Nygaard, Bob Nielson, or William Wade related to unlawful discrimination on the basis of sex, sexual orientation, national origin, or age, from the 2010–2011 academic year to the present, will be produced pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 8:** Please describe any and all discussions by, between, and/or among the Persons described in Interrogatory No. 6, and/or any other University personnel regarding the sex, sexual orientation, national origin, and/or age of any plaintiff, any employee in the UMD athletics department, and/or any other candidate(s) for employment in the UMD athletics department or any men's or women's athletics team at UMD.

**ANSWER NO. 8:** The University objects to Interrogatory No. 8 as overly broad, unduly burdensome to the extent it seeks information relating to "any other University personnel," vague, ambiguous, and irrelevant. The University further objects to the extent

the Interrogatory seeks information protected by the attorney-client privilege, joint-defense privilege, attorney-work-product doctrine, or any other applicable privilege or protection. Subject to and without waiving these objections, the University will produce documents (if any) reflecting such discussions between the persons listed in Interrogatory No. 6, pursuant to Minn. R. Civ. P. 33(d). Moreover, the University responds that Joshua Berlo had discussions with Jen Banford in 2015 concerning her status as Canadian in the course of assisting her to obtain her U.S. Citizenship, ultimately convincing an acquaintance—the head coach of a NCAA Division I women’s program—to write a letter to federal authorities in support of Banford’s application for U.S. citizenship stressing the importance of female coaches.

**INTERROGATORY NO. 9:** Please identify all individuals, including but not limited to University student-athletes, with whom Defendant has met or whom Defendant has interviewed in connection with plaintiffs’ allegations in this case. For each such meeting and/or interview:

- (a) Identify the parties involved in the meeting or interview;
- (b) Describe when the meeting or interview occurred;
- (c) Describe the substance of what was discussed in the meeting or interview; and
- (d) Indicate whether the individual prepared or signed a statement.

**ANSWER NO. 9:** The University objects to Interrogatory No. 9 because it seeks information protected by the attorney-client privilege, joint-defense privilege, and attorney-work-product doctrine. Subject to and without waiving these objections, the University states that, to its knowledge, no individual has prepared or signed a statement regarding plaintiffs’ allegations.

**INTERROGATORY NO. 10:** Please identify every Person whom you expect to call as an expert witness at the trial of this matter. With respect to each expert:

- (a) State the area of expertise and the basis for expertise;
- (b) Provide a list of all publications the expert has authored;
- (c) State the subject matter on which the expert is expected to testify;
- (d) State the substance of the facts and opinions to which the expert is expected to testify;
- (e) Identify all facts, Documents, and other tangible items relied upon by the expert in reaching the facts and opinions provided in your answer to (d) above;
- (f) State the compensation to be paid for the expert's study and testimony; and
- (g) Provide a listing of any other cases in which the expert has testified as an expert at trial or by deposition within the preceding five (5) years.

**ANSWER NO. 10:** The University objects to Interrogatory No. 10 as premature and as overbroad to the extent it attempts to impose on the University obligations beyond those provided for in the Federal Rules of Civil Procedure. The University will timely make expert disclosures in accordance with the Court's pretrial scheduling order and as required by the Federal Rules of Civil Procedure.

**ANSWERS TO INTERROGATORIES (for Shannon Miller)**

**MILLER INTERROGATORY NO. 1:** Please identify, including in Your answer a statement of the name, title, address, and phone number, of each Person who was involved in the decision not to renew Miller's contract as coach of the UMD women's hockey team, and specifically describe their role in that decision.

**MILLER ANSWER NO. 1:** The University responds as follows:

The decision not to renew Miller's contract was made by:

Lendley Black Chancellor University of Minnesota Duluth Contact through counsel only
Joshua Berlo Director of Intercollegiate Athletics University of Minnesota Duluth Contact through counsel only

**MILLER INTERROGATORY NO. 2:** Please state each and every fact relied on in making Defendant's decision not to renew Miller's contract for 2015-2016, Identify every person with knowledge of each such fact, and for each such fact, Identify all Documents and Correspondence underlying, supporting, describing, or otherwise relating to each fact.

**MILLER ANSWER NO. 2:** The University objects to Miller Interrogatory No. 2 as overly broad, unduly burdensome, and irrelevant insofar as it calls for identification of each person with knowledge of each fact relied on in the decision not to renew Miller's contract, and for identification of all documents relating to such fact. Read literally, this interrogatory would require identification of every person with knowledge of, for instance, the women's hockey team's win-loss record and Miller's salary. Subject to and without waiving these objections, the University responds as follows:

At the time her contract ended, Miller was the highest-paid coach in women's college hockey. While the UMD Women's Hockey team had experienced success in the past, the team's performance had slipped significantly in more recent years. The team was eliminated in the first round of the NCAA tournament in 2011. It did not qualify for the NCAA tournament in 2012, 2013, or 2014—the longest streak without an NCAA tournament appearance in the history of the program, and at the time of the contract-decision discussions, UMD was not part of the likely 2015 NCAA tournament field. The team had not won a WCHA tournament or regular season title since 2011, nor an NCAA tournament game since 2010.

The team had also struggled against two of its closest rivals, the University of Minnesota Gophers and the University of Wisconsin Badgers. The Gophers and Badgers had combined to win four WCHA regular season titles, four WCHA tournament titles, and three national championships since 2011. As of December 2014, when the decision regarding Miller's contract was made, the UMD Women's Hockey team had a record of 7-30-4 against the Gophers and the Badgers during the same period, including a 19-game winless drought starting in October 2012. For the second half of the 2014–15 season, the team had a record of 0-3-1 against these opponents, thereby extending the winless streak to 23 games. The head coaches of the Gophers and Badgers received salaries lower than Miller's.

The Women's Hockey team had also struggled academically. Each year, all NCAA Division I teams calculate and report their Academic Progress Rate ("APR") using formulas and definitions adopted by the NCAA. APR holds institutions accountable

for the academic progress of their student-athletes through a team-based metric that accounts for the eligibility and retention of each student-athlete for each academic term. The UMD Women's Hockey Team received the lowest APR score in the conference, and either the lowest or second lowest APR score in all of NCAA Division I women's hockey, every year from 2009–2010 through 2013–2015. The team's 2014–2015 APR was the lowest of any year since 2009–2010. UMD assumes the team will once again rank last in the conference and the NCAA in APR for 2014–2015. However, the conference and national numbers have not yet been released.

Bulldog Athletics was facing a budget deficit of nearly \$1 million going into the 2013–2014 season. That deficit had declined only slightly for the 2014–2015 season. Given the team's performance since 2011, UMD could no longer justify paying Miller the highest salary in all of NCAA Division I women's college hockey. Miller had specifically told Athletics Director Joshua Berlo and University Chancellor Lendley Black that she would not accept any reduction in her salary unless the salary of every other UMD coach and athletic staff member was also reduced. UMD did not believe it was fair, nor was UMD willing, to reduce the salaries of all of its other coaches, including coaches who had experienced significant recent success, simply to retain Miller. Further, there was no logical reason for UMD to believe that reducing Miller's salary would create a reasonable expectation that the team's performance would improve. Taking all of these factors into account, UMD decided it was time to make a change, and that it would not extend or otherwise offer Miller a new contract when her current contract expired.

The decision not to extend Miller's contract was driven by financial considerations, i.e., lack of return on investment for providing Miller the highest salary in women's college hockey. It was also a direct result of the team's lackluster performance since 2011 and relative lack of community engagement. Once the decision was made and communicated to Miller, Athletics Director Berlo, Chancellor Black, and Miller discussed how the decision would be characterized when announced to the public. Out of respect for Miller and her service to Bulldog Athletics, Berlo and Black agreed that the public announcement would focus on the financial considerations, not the team's performance. Miller was asked for and provided input regarding the wording of the announcement. Later, after Miller publicly accused UMD of violating Title IX by basing the decision solely on financial considerations, UMD publicly clarified that the decision also took into account the team's performance since 2011. Miller was made aware of the UMD administration's concerns regarding the decline in team performance. In sum, it was felt that non-renewal was in the best interest of the student athletes, and the future of the women's hockey program and the Athletics Department.

**MILLER INTERROGATORY NO. 3:** Please state each and every reason that was communicated to Miller for not renewing her contract as coach of the UMD women's hockey team, including the date and place of the communication, Identify the Person who made the communication, Identify all Persons who were present for or otherwise received the communication, state the method of the communication, and Identify all Documents and Correspondence underlying, supporting, describing, or otherwise relating to each communication.

**MILLER ANSWER NO. 3:** Chancellor Black and Athletics Director Berlo communicated to Miller the reasons for not renewing her contract at an in-person meeting attended by Chancellor Black, Berlo, and Miller on December 9, 2014, chiefly stressing

the financial considerations (i.e., the lack of return on investment for providing Miller the highest salary in women's college hockey) and—out of respect for Miller and her service to Bulldog Athletics—deemphasizing the performance issues, which had already been communicated to Miller. (Miller represents that she has an audio recording of the December 9, 2014 meeting, which has been identified but not yet been produced by plaintiffs.)

**MILLER INTERROGATORY NO. 4:** Please identify each and every Communication by, between, and/or among Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Linda Kinnear, and/or any other personnel of UMD, the University of Minnesota Twin Cities, or the Regents regarding Defendant's decision not to renew Miller's contract as coach of the UMD women's hockey team. For each such Communication:

- (a) Identify the parties involved in the Communication;
- (b) Identify whether it was an oral or written Communication;
- (c) Describe when the Communication occurred; and
- (d) Describe in detail the substance of the Communication, including, but not limited to, every reason given by any Person why Miller's contract should not be renewed.

**MILLER ANSWER NO. 4:** The University objects to Miller Interrogatory No. 4 on the grounds that it seeks the disclosure of information or materials protected from discovery by the attorney-client privilege, work-product doctrine, or any other applicable privilege or protection. The University further objects that this interrogatory is overly broad, unduly burdensome, and irrelevant insofar as it seeks identification of communications by persons not involved in the non-renewal decision and by, between, and/or among “any other personnel of UMD, the University of Minnesota Twin Cities, or

the Regents,” as those personnel number in the thousands. Subject to and without waiving these objections, the University responds that Joshua Berlo and Lendley Black had multiple discussions regarding whether to renew Miller’s contract and the decision not to renew Miller’s contract, including but not limited to discussions on July 15, 2014, and at various of their regular bi-monthly meetings up to December 2, 2014. Berlo also had general discussions with Jay Finnerty about human-resources logistics matters relating to the non-renewal, and advised Finnerty of the non-renewal decision prior to communicating it to Miller.

Non-privileged responsive documents and communications, if any exist, between or among Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, and Linda Kinnear relating to the decision not to renew Miller’s contract will be produced pursuant to Fed. R. Civ. P. 33(d).

**ANSWERS TO INTERROGATORIES *(for Jen Banford)***

**BANFORD INTERROGATORY NO. 1:** Please identify, including in Your answer a statement of the name, title, address, and phone number, each person who was involved in the decision not to renew Banford’s contract as director of operations for the UMD women’s hockey team for 2015-2016 and/or the decision whether or not to renew Banford’s contract as coach of the UMD women's softball team.

**BANFORD ANSWER NO. 1:** The University responds as follows: Joshua Berlo made the decision to retain Banford with a revised appointment as Head Softball Coach only. See response to Banford Interrogatory No. 2.

**BANFORD INTERROGATORY NO. 2:** Please state each and every fact relied on in making the decision not to renew Banford’s contract as director of operations for women’s hockey for 2015-2016 and/or the decision whether or not to renew Banford’s contract as coach of the UMD women's softball team, Identify every person who has

knowledge of each such fact, and Identify all Documents and Correspondence underlying, supporting, describing, or otherwise relating each such fact.

**BANFORD ANSWER NO. 2:** Banford had a hybrid appointment as “Director of Hockey Operations/Head Softball Coach” for the 2014–2015 academic year, which appointment contained both hockey-operations and head-softball-coach duties. The University did not renew this hybrid Director of Hockey Operations/Head Softball Coach appointment because of the non-renewal of the contract of the head coach of the women’s hockey program (Miller). The University, consistent with Division I athletics common practice, did not renew Banford’s hockey staff position so that the new head hockey coach could select his or her own coaching and operations staff. The University offered and always intended to offer Banford a new appointment to remain in her position as head coach of the softball program. These decisions were made by Chancellor Lendley Black and Athletics Director Joshua Berlo.

In approximately late November or early December 2014, Berlo spoke with Assistant Athletics Director Jay Finnerty to seek input on how, as a hypothetical and logistical matter, to transition Banford from the hybrid Director of Hockey Operations/Head Softball Coach position to the role of Head Softball Coach only. Finnerty, in turn, consulted Linda Kinnear, then Interim Co-Director of Human Resources & Equal Opportunity. By email dated December 9, 2014, Kinnear advised Finnerty that the Athletics Department must give Banford a non-renewal of the combined Director of Hockey Operations/Head Softball Coach appointment and then offer Banford a new appointment with only head-softball-coach duties.

On December 11, 2014, Finnerty emailed to Banford a non-renewal letter from Berlo notifying Banford that her appointment as “the Director of Hockey Operations/Head Softball Coach” would end on June 14, 2015, and would not be renewed. The cover email to Banford explicitly stated that Banford would continue as Head Softball Coach: “*We are in the process of working with Human Resources to reclassify your job as solely Head Softball Coach.*”

The University formally offered Banford an appointment as Head Softball Coach on or about January 27, 2015.

Berlo, Finnerty, and Kinnear were aware that the reason behind the non-renewal for the Director of Hockey Operations/Head Softball Coach position was the need to create a new Head Softball Coach-only position. Non-privileged documents and correspondence in this regard will be produced pursuant to Minn. R. Civ. P. 33(d).

Berlo, Finnerty, Kinnear, Sharyl Beaudin, Banford, Kathy Crudo, Susan MacDonald, Maria Rinne, Karen Stromme, Julianne Vasichek, the student athletes on Banford’s softball team, and all members of the Athletics Department senior staff were informed of the decision to retain Banford as the Head Softball Coach.

**BANFORD INTERROGATORY NO. 3:** Please state each reason that was communicated to Banford for her women's hockey operations contract not being renewed and/or for her contract as coach of the UMD women's softball team not being renewed, including the date and place of the communication, Identify the Person who made the communication, Identify all Persons who were present for or otherwise received the communication, state the method of the communication, and Identify all Documents and Correspondence underlying, supporting, describing, or otherwise relating to each communication.

**BANFORD ANSWER NO. 3:** See Banford Answer to Interrogatory No. 2. The University further responds as follows:

In mid-December 2014, Berlo told Banford by telephone that the Department intended to retain her as Head Softball Coach going forward.

Also in mid-December 2014, Associate Athletics Director and Senior Woman Administrator Karen Stromme told Banford that Banford was and would remain the Head Softball Coach. Karen Stromme also told Banford that the hockey non-renewal had nothing to do with the softball position.

Also in or about mid-December, Linda Kinnear spoke with Banford by phone and told her that the Athletics Department intended to keep her as Head Softball Coach but did not yet know the exact terms.

On or about December 17, 2014, Jay Finnerty spoke to Banford on the telephone. Finnerty told Banford that her job would be Head Softball Coach and that it would be an approximately 60-day process to provide a new appointment.

At a January 15, 2015 budget meeting attended by Banford, Finnerty, Susan MacDonald, and Miller, Finnerty told Banford that Human Resources was working on a new appointment for the Head Softball Coach position.

Following that budget meeting, Miller and Banford approached Kinnear in her office. Kinnear told them that the Athletics Department had communicated that it intended to keep Banford on as softball coach, but the paperwork for the head-softball-coach position was not yet completed.

Finnerty left a voicemail message for Banford on Sunday, January 18, 2015, affirming the University's intent to retain Banford as Head Softball Coach.

On or about January 19, 2015, Berlo sent a letter to Banford informing her that when a head coach (Miller) leaves her position it is common practice to issue notices of non-renewal to the program's entire coaching staff, which allows the new head coach to choose her new staff; that the notice of nonrenewal was consistent with this practice; and that Banford's job would need to be reclassified solely as Head Softball Coach and this would be addressed through a new appointment.

Berlo presented Banford with an official offer of appointment as Women's Head Softball Coach on January 27, 2015.

Referenced documents will be produced pursuant to Fed. R. Civ. P. 33(d).

**BANFORD INTERROGATORY NO. 4:** Please identify each and every Communication by, between, and/or among Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Linda Kinneer, and/or any other personnel of UMD, the University of Minnesota Twin Cities, or the Regents regarding Defendant's decision not to renew Banford's contract as director of operations for the UMD women's hockey team for 2015-2016 and/or whether or not to renew Banford's contract as coach of the UMD women's softball team. For each such Communication:

- (a) Identify the parties involved in the Communication;
- (b) Identify whether it was an oral or written Communication;
- (c) Describe when the Communication occurred; and
- (d) Describe in detail the substance of the Communication, including, but not limited to, every reason given by any Person why Banford's contract should not be renewed.

**BANFORD ANSWER NO. 4:** The University objects to Banford Interrogatory No. 4 on the grounds that it seeks the disclosure of information or materials protected

from discovery by the attorney-client privilege and the work-product doctrine. The University further objects that this interrogatory is overly broad, unduly burdensome, and irrelevant insofar as it seeks identification of communications by, between, and/or among “any other personnel of UMD, the University of Minnesota Twin Cities, or the Regents,” as those personnel number in the thousands. Subject to and without waiving these objections, the University responds: See response to Banford Interrogatory No. 3. Non-privileged responsive documents will be produced pursuant to Fed. R. Civ. P. 33(d).

**ANSWERS TO INTERROGATORIES** *(for Annette Wiles)*

**WILES INTERROGATORY NO. 1:** Please state each reason for the decision to give Wiles a 1% merit increase for 2014-2015.

**WILES ANSWER NO. 1:** The University objects that the Wiles Interrogatory No. 1 is premised on an inaccuracy: Wiles did not receive a 1% merit increase for 2014–2015, but rather initially received a 1.5% merit increase for 2014–2015. Subject to and without waiving this objection, the University responds as follows:

Head-coach merit increases are determined by the relative expectations for each program’s goals as defined by the “three Cs”: community, classroom and competition. Wiles received a below-base merit increase of 1.5% because she achieved below-base performance for the three Cs. The primary driver was the significant student-athlete-welfare issues, morale and treatment concerns identified by women’s basketball players in the student-athlete survey (which was provided electronically to the women’s basketball team, along with all other student athletes) and the exit interviews of the women’s basketball seniors. Moreover, these processes revealed that Wiles committed a

HIPAA violation by disclosing a student athlete's medical condition to the entire team. In addition, the program's win-loss record was disappointing, with barely a .500 record with a talented team.

**WILES INTERROGATORY NO. 2:** Please state each and every fact supporting Your denial of Paragraphs 101-104 of the Complaint, including, but not limited to, your denial of Paragraph 103 of the Complaint, including in your answer Identification of any discussions between Joshua Berlo and Wiles relating to the October 2013 GLBT National Coming Out Day luncheon, state the dates and locations of the discussions, and specifically describe the contents of the discussions.

**WILES ANSWER NO. 2:** Berlo does not recall that Wiles invited him to the October 2013 luncheon. If she had, Berlo would not have immediately declined her invitation. Due to the fluid and full nature of his schedule, he would have had to check his calendar, which he does not solely manage. On the day of the luncheon, Berlo was briefly in his office before going to the Minnesota Wild practice at Amsoil Arena in downtown Duluth, from which he would not have been able to return to campus in time for the luncheon. After the luncheon, Berlo recalls a general conversation with Wiles regarding the event. Berlo does not recall asking Wiles, "Did you give it a lot of thought before you decided to speak?" or otherwise implying that he questioned Wiles' wisdom in deciding to speak at the luncheon. He does recall talking with Wiles and asking how it went because he found it courageous and inspiring that Wiles was the keynote speaker.

Wiles's allegation that Berlo's and Abbey Strong's attitudes towards her changed after the October 2013 GLBT National Coming Out Day luncheon is baseless. As an initial matter, Wiles was openly gay prior to the Coming Out Day luncheon. Most, if not all, of the Athletics Department leadership had met Wiles's partner (a woman) and their

daughter. Berlo, for instance, had met Wiles's partner (now spouse) in the fall of 2013 before the luncheon, and Strong regularly socialized with Wiles and her partner. In addition, Berlo was genuinely excited for Wiles and provided positive feedback when she informed him and another staff member that she was getting married in September 2014.

Strong and Wiles were good friends for years. Strong went to bonfires and barbeques at Wiles's house, and they played on a bocce ball league team together. Strong babysat Wiles's daughter. Strong attended the GLBT National Coming Out Day luncheon in October 2013. She went to Wiles's daughter's birthday party the following month, in November 2013. She also traveled with the women's basketball team to Missouri after the Coming Out Day luncheon. Wiles's graduate assistant—who identified as gay—lived in Strong's home, as did other gay female coaching staff.

Wiles severed her friendship with Strong as a result of a falling-out in October 2014. Namely, Toyota had assessed Wiles charges of more than \$1,200 for wear and tear on the leased Toyota vehicle that the University provided to Wiles free of charge. Despite the fact that Wiles had signed a lease contract agreeing that she would be personally responsible for paying Toyota for charges such as wear and tear and mileage overages, Wiles insisted that Strong find money in the budget to pay for the charges. Strong had difficulty finding money in the budget, and Wiles became hostile toward Strong—not the other way around.

Berlo, likewise, harbored no hostility toward Wiles or the GLBT community generally and, in fact, supported Wiles and the GLBT community. Berlo was among a small contingent of family and friends who attended the August 2012 wedding ceremony

of a close friend who is gay, and travelled over 750 miles to do so. Again, Berlo admired Wiles for speaking at the Coming Out Day luncheon.

In connection with the October 8, 2014 luncheon, Berlo was scheduled to be en route to Madison, Wisconsin at the time of the luncheon. Therefore, on October 1, 2014, Berlo sent an email regarding the Coming Out Day Luncheon to senior Athletics Department staff (Abbey Strong, Brian Nystrom, Jay Finnerty, Karen Stromme, Robert Nygaard, Gary Holquist, and Mike Wendinger) stating: "I am out of town (as are Gary and Karen), I would like one of you to attend in my place to represent Athletics and show support. There is no cost to you. Please let me know ASAP. Thank you."

**WILES INTERROGATORY NO. 3:** Please state whether, during Wiles' tenure as women's basketball coach at UMD, department meetings were ever held in which Wiles was not invited. If Your answer is yes, for each such meeting, Identify the Persons in attendance, state the date and time of the meeting, state the location of the meeting, Identify each Person involved in the decision not to invite Wiles, specifically describe each and every reason relied upon in not inviting Wiles to the meeting, and specifically describe what was discussed at the meeting.

**WILES ANSWER NO. 3:** The University objects to Wiles Interrogatory No. 3 as being overly broad, vague, and ambiguous insofar as it refers to "department meetings." Taken literally, this could refer to any meeting between or among Athletics Department personnel. Subject to and without waiving these objections, the University states that Wiles was never excluded from meetings to which all UMD head coaches or all UMD coaches were invited.

**WILES INTERROGATORY NO. 4:** Please state whether, during Wiles' tenure as women's basketball coach at UMD, the women's basketball budget was ever decreased. If Your answer is yes, for each such decrease, state the amount of the decrease (including the initial budget and revised budget), state the date when the budget was decreased, Identify each Person involved in the decision to decrease the budget, state

whether the decrease was communicated to Wiles and, if yes, Identify each and every Communication, the date of the Communication, the nature and method of the Communication, and specifically describe the contents of the Communication, and state each and every fact relied upon in decreasing the budget.

**WILES ANSWER NO. 4:** The University objects to Wiles Interrogatory No. 4 as being overly broad to the extent it seeks information for Wiles's entire tenure at UMD. Subject to and without waiving these objections, the University responds that it will produce documents containing the responsive information as to academic years 2010–2011 to 2014–2015.

**AS TO OBJECTIONS:**

Dated: April 18, 2016

**GREENE ESPEL PLLP**

s/Jeanette M. Bazis

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July 21, 2016

Jeanette M. Bazis  
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 222 South Ninth Street, Suite 2200  
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Re: Miller v. The Board of Regents of the University of Minnesota

Dear Ms. Bazis:

Thank you for providing us with responses to plaintiffs' First Set of Interrogatories and Request for Production of Documents. Unfortunately, the responses from the defendant do not provide us with all of the information requested. In an attempt to "meet and confer" to resolve this deficiency, and in preparation for our phone conversation on July 27, I respectfully direct your attention to the following:

Plaintiffs served their Document Requests on March 16, 2016. Defendant responded on April 18, 2016, and then starting on June 1, 2016 provided some documents, and more in the month of June, but defendant only provided documents that were responsive to the requests of the Office of Civil Rights. Defendant did not provide documents responsive to plaintiffs' document requests. On or about July 7, 2016, defendant informed plaintiffs' attorney that she plans to send more documents. On July 15, defendant sent new documents through an email server which our office could not open and then sent a disk that our computers could not download. My understanding is that our local co-counsel also could not access these documents. Therefore, my comments below outline what is missing from the previous production. If we are able to access the new documents in time, we will address what is still missing in our meet and confer phone call.

Defendant makes boilerplate objections to the document requests. Many of the boilerplate objections are general and non-specific, so plaintiffs are at a loss as to the basis of the objection. As an initial matter, general or boilerplate objections such as "overly burdensome and harassing" are improper—especially when a party fails to submit any evidentiary declarations supporting such objections. *Paulsen v. Case Corp.* (C.D. Cal. 1996) 168 F.R.D. 285, 289; *see also McLeod, Alexander, Powel & Apffel, P.C. v. Quarles* (5th Cir. 1990) 894 F.2d 1482, 1485 (objections that document requests were overly broad, burdensome, oppressive, and irrelevant were insufficient to meet objecting party's burden of explaining why discovery



requests were objectionable); *Panola Land Buyers Ass'n v. Shuman*, 762 F.2d 1550, 1559 (11th Cir.1985) (conclusory recitations of expense and burdensomeness are not sufficiently specific to demonstrate why requested discovery is objectionable).” *A. Farber & Partners, Inc. v. Garber*, 234 F.R.D. 186, 188 (C.D. Cal. 2006).

A responding party who objects to any items or category of items needs to: (1) identify with particularity any documents, tangible thing, and/or electronically stored information (ESI) falling within any category of item in the demand to which an objection is being made; (2) set forth the extent of, and the specific ground for, the objection; and (3) if an objection is based on claim of privilege or claim that the information is protected work product, the response shall provide sufficient factual information for other parties to evaluate the merits of that claim, including, if necessary, a privilege log.

**DOCUMENT REQUEST NUMBER 1:**

Plaintiffs request all Documents relating to plaintiffs’ employment with UMD, including, but not limited to, the complete personnel file of each plaintiff, any Documents which were ever a part of the same, the file “jacket” or other object used to contain the file and all attachments thereto, and, in addition, any Documents, records, memoranda, or notes, including, but not limited to, computer printouts, which were part of any plaintiff’s respective personnel file at any time.

Defendant agreed to produce plaintiff’s personnel files. These documents were not provided.

**DOCUMENT REQUEST NUMBER 2:**

Plaintiffs requested all Documents relating to plaintiffs’ performance, including but not limited to performance reviews, disciplinary documents, corrective action, complaints about any plaintiff (whether received from players, parents, or UMD personnel), praise for plaintiffs (whether received from players, parents, or UMD personnel), or awards.

Defendant responded that this request was overly broad, vague, and ambiguous but agreed to provide personnel files from academic year 2010-2011 to the present, and complaints about or praise for plaintiffs from players, parents, or UMD personnel. Defendant provided some of the requested documents but not all. Plaintiffs request all the documents beginning with academic year 2010-2011, and also plaintiffs are not willing to limit the time period starting with 2010-2011. Plaintiffs request all of this information from the time each plaintiff was employed by UMD.

**DOCUMENT REQUEST NUMBER 3:**

Plaintiffs requested all Documents reflecting the procedures and criteria used for renewing the employment contracts of coaches and assistant coaches for each academic year from 2010-2011 to the present.

Defendant responded that it would produce non-privileged responses, but it only provided recruitment policy for students and no information regarding renewing employment contracts. Defendant needs to provide a privilege log to identify if there are any privileged documents that fall under this request, and, if there are not, defendant needs to provide the responsive documents or state that no other documents exist.

**DOCUMENT REQUEST NUMBER 4:**

Plaintiffs requested any and all Documents constituting or otherwise reflecting the guidelines under which each plaintiff worked while employed at UMD. This request includes, but is not limited to, personnel policies, procedures and practices for hiring, promoting, evaluating, disciplining and terminating employees, employee performance reviews, all policy and procedural manuals, codes of conduct, employee handbooks or guidelines, contracts, policy statements, or any other appeal procedures for each academic year from 2010-2011 to present. This includes, but is not limited to, policies or procedures used, created, or relied upon by Defendant related to discrimination, harassment, hiring, terminations, promotions, demotions, compensation, employee benefits, management or supervision of employees or harassment.

Defendant responded that it would meet and confer and produce documents responsive to a more narrowly tailored request. Plaintiffs request policies and procedures for hiring, promoting, demoting, evaluating, disciplining, terminating employees, employee performance reviews, employee handbooks or guidelines, and employee benefits, management or supervision of employees and harassment from 2005 to present.

**DOCUMENT REQUEST NUMBER 5:**

Plaintiff requested line item budgets for each year from 2010-2011 to the present for the UMD Athletics Department including, but not limited to, final drafts and revisions.

Defendant did not produce line item budgets for each year from 2010-2011. Defendant produced a document from 2015-2016 that was part of the document production requested by the Office of Civil Rights. Plaintiffs request line item budgets for all UMD Athletic departments from 2010-2011 to present, including revisions.

**DOCUMENT REQUEST NUMBER 6:**

Plaintiffs requested all Documents filed with any governmental or regulatory entity, or maintained by UMD, relating to Title IX and UMD's obligations thereunder with respect to UMD's athletics department from 2010 to the present, including, but not limited to, any attachments, any Documents providing support for the information contained therein, and any drafts and revisions of the same, and specifically including any such Documents relating to the Equity in Athletics Disclosure ACT (EADA).

Defendant did produce some Title IX responses, but not the underlying documents related to those reports; nor did they provide the Equity in Athletics Data Analysis (EADA) and the underlying documents. Plaintiffs request all Title IX and EADA reports and the underlying documents from 2010-2011 to present.

**DOCUMENT REQUEST NUMBER 7:**

Plaintiffs requested all Documents reflecting the salaries, including the title, percent of full time equivalent (FTE) and salary of all coaches and assistant coaches in the men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs in the UMD Athletics Department, including for each year from 2010 to the present, including, but not limited to, any contracts for each such coach or assistant coach.

Although objecting that the information requested was overly broad and unduly burdensome, defendant agreed to provide the requested information except for football. The defendant did provide some salaries, but they did not provide all the information requested in this request. Plaintiffs request all salaries from 2010-2011 to present of all coaches and assistant coaches in the men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs in the UMD Athletics Department. This request includes the football coaches. This request includes, but is not limited to, base salary, annuities, augmentations, media bonuses, stipends, and specific car allowances.

**DOCUMENT REQUEST NUMBER 8:**

Plaintiffs requested all Documents reflecting, evidencing, referring to, or otherwise related to any complaint made by any plaintiff, formal or informal, concerning any actual or alleged discrimination, disparate treatment, retaliation/reprisal, hostile work environment, and/or any conduct alleged in the pleadings, including, but not limited to, complaints, responses, notes investigations, reports, drafts, documents reviewed, witness statements, and Correspondence and Communications to or from Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Mary Cameron, Lisa Erwin, Angie Nichols, Linda Kinnear, Bob Nygaard, Bob Nielson, Mike Wendinger, and/or William Wade, or copied or blind-copied to the same, from 2010 to the present, including, but not limited to, any such complaints relating to conduct allegedly based on any plaintiff's sex, sexual orientation, national origin, and/or age.

Defendant provided documents related to plaintiffs' formal complaints and the investigations, but did not provide all the underlying documents mentioned in the investigation. Plaintiffs requested all underlying documents connected to the complaints and investigations. Defendant also did not provide all of the plaintiffs' complaints that were sent to Berlo, Athletic Directors, LGBT Director, and Human Resources. Plaintiffs request all complaints, including underlying documents, as well as a privilege log listing any privileged documents responsive to this request.

**DOCUMENT REQUEST NUMBER 9:**

Plaintiffs requested all Documents referring or relating to merit increases for all staff in the men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs in the UMD Athletics Department for each year from 2010-2011 to the present.

Defendant provided merit increase information only for 2013- 2014 that was related to Annette Wiles' 2015 grievance. Plaintiff will narrow this request to requesting information related to merit increases for head and assistant coaches in the men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs in the UMD Athletics Department for each year from 2010-2011 to the present.

**DOCUMENT REQUEST NUMBER 10:**

Plaintiff requested all Documents relating to or referring to all donations to any UMD athletic team, including the name of the donor, the date of each individual donation, the amount of each individual donation, any condition(s) placed upon such donation by the donor, and all Documents showing the distribution or use of each such donation, including, but not limited to, which UMD athletics team received the donation, the portion of the donation received by each team, and all Correspondence relating to any such donation, from 2010 to the present.

Defendant did not provide any documents related to this request. Plaintiffs agree to narrow this request from 2010 to present but requests the name of the donor, the amount of each individual donation, any conditions placed on the donation, and documents showing the distribution or use of each such donation, which UMD athletic teams received the donation, the portions of the donation received by each team, how each donation was spent, and correspondence related to such donations.

**DOCUMENT REQUEST NUMBER 11:**

Plaintiff requested all Documents and Correspondence reflecting, relating to, or referring to the budgets, including, but not limited to, the staffing, travel, equipment/apparel, scholarship, summer financing, and recruiting budgets for each team, men's and women's, in the UMD Athletics Department from 2010 to

the present.

Defendant stated it would produce line item budgets from 2010 to present, but the only documents produced were for 2015 and they were not line item budgets. Plaintiffs request the line item budgets for 2010 to present.

**DOCUMENT REQUEST NUMBER 12:**

Please produce all Documents including, but not limited to, press releases, and other information released relating or referring to men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs from Defendant, including from the UMD sports information office, from 2010 to the present, including any drafts of the same.

Defendant produced some articles and ads but did not provide the press releases. Please provide all responses to the above request and all press releases.

**DOCUMENT REQUEST NUMBER 13:**

Please produce all Documents, Correspondence, and Communications related or referring to Miller's contract as the UMD women's hockey coach not being renewed for the 2015-2016 academic year, including, but not limited to, any such Documents, Correspondence, and Communications relating to the decision whether or not to renew Miller's contract, and any notes relating to the same.

Defendant produced a couple of memos and letters dated after the decision to terminate Miller and one letter regarding a student who resigned. Defendant did not produce any communication regarding the decision not to renew Miller's contract. Defendant did not produce emails or documents related to cutting or "gutting" the hockey program or cutting Miller's salary. Plaintiffs request that defendant produce all documents requested in this request and, if defendant is claiming privilege in relation to any documents, a privilege log regarding those documents, and, once this request has been complied with, a statement indicating that it has produced all documents in its possession.

Defendant objected to this request as being overly broad, unduly burdensome, irrelevant, vague, and ambiguous and then agreed to produce documents but only by people involved in the decision. Plaintiffs request all documents related to the decision to terminate or not to renew Miller's contract, and that includes some people who did not make the decision but have information regarding the decision not to renew Millers' contract, including, but not limited to, Human Resources. The information sought by this document request is not vague and is clearly calculated to lead to relevant, admissible evidence; plaintiffs request that the defendant provide it.

**DOCUMENT REQUEST NUMBER 14:**

Plaintiffs requested all Documents, Correspondence, and Communications related or referring to Banford's contract as the director of operations for the UMD women's hockey team and/or contract as the UMD women's softball coach not being renewed for the 2015-2016 academic year, including, but not limited to, any such Documents, Correspondence, and Communications relating to the decision whether or not to renew either of Banford's contracts, and any notes relating to the same.

Defendant provided some documents but did not provide any emails or notes before December 2014. Plaintiffs request that defendant provide all documents responsive to this request as well as a privilege log listing any privileged documents. If defendant has provided all documents in its possession, then defendant needs to state that it has provided every document that is responsive to this request.

**DOCUMENT REQUEST NUMBER 15:**

Plaintiffs requested all Documents, Communications, and Correspondence, to or from Jay Finnerty, regarding the budget of the women's hockey program for 2014-2015, including but not limited to summer school.

Defendant did not produce any documents in response to this request. Please provide all documents that are responsive to Document Request Number 15.

**DOCUMENT REQUEST NUMBER 17:**

Plaintiffs requested all Documents, Communications, or Correspondence referring to or relating to Wiles' decision to leave UMD, including any such Documents evidencing any reasons for Wiles' decision.

Defendant provided some documents. Plaintiffs request that defendant provide all documents responsive to this request as well as a privilege log listing any documents for which it is claiming privilege. If and when defendant has provided all documents in its possession in response to this request, defendant needs to state that it has provided every document responsive to this request.

**DOCUMENT REQUEST NUMBER 18:**

Plaintiffs requested all Documents, Communications, or Correspondence referring or relating to invitations to athletics department staff meetings by UMD, including without limitation Josh Berlo, from October 2012 through 2015.

Defendant did not provide any documents in response to this request. Plaintiffs are willing to narrow this request to documents regarding strategic planning meetings.

**DOCUMENT REQUEST NUMBER 19:**

Plaintiffs requested all Documents constituting, referring to, or relating to any survey or interview, including without limitation any student survey or senior exit interview, conducted by Defendant concerning any plaintiff from 2010 to the present.

Defendant only provided student survey summaries for Wiles and did not provide the surveys themselves. Plaintiffs request that the defendant provide all students surveys from 2010-2011 to present for Wiles, Miller, and Banford.

**DOCUMENT REQUEST NUMBER 20:**

Plaintiffs requested all Documents constituting, referring to, or relating to the power point presentation created by or presented by Josh Berlo at the December 9, 2014, UMD Athletics Department staff meeting regarding department finances and fundraising.

Defendant did not provide any documents responsive to this request. Please provide all documents responsive to Document Request Number 20.

**DOCUMENT REQUEST NUMBER 21:**

Plaintiffs requested all Documents relating to Joshua Berlo and/or Lendley Black's respective employments with UMD, including, but not limited to, records, memoranda, or notes, including, but not limited to, computer printouts, which were part of each's respective at any time related to complaints, discipline documents, corrective action, referring or related to sexual harassment or retaliation.

Defendant did not provide any documents responsive to this request. Plaintiffs request that defendant provide all documents responsive to this request as well as a privilege log listing all documents for which it is claiming privilege. If and when defendant has provided all documents in its possession responsive to this request, defendant needs to state that it has either provided every document responsive to this request or that it does not possess responsive documents.

**DOCUMENT REQUEST NUMBER 22:**

Please produce all Documents, Correspondence, and Communications related to or concerning Defendant's search for and hiring of the head coach for UMD's women's hockey team, women's softball team, and/or women's basketball team for the 2015-2016 season. This includes, but is not limited to, the job posting; the job description; candidate lists; any Correspondence, Communications, Documents, notes, memoranda, or other internal communications regarding the hiring process; any outlines, notes, memoranda,

or other Documents prepared for, during, or after the interviews of candidates; and any communications with candidates.

Defendants provided some documents but not interview notes or emails related to the search. Plaintiffs request that defendant provide all documents responsive to this request as well as a privilege log listing all documents for which defendant claims privilege. If defendant has provided all documents in its possession, defendant needs to state that it has either provided every document responsive to this request or that it does not possess responsive documents.

**DOCUMENT REQUEST NUMBER 23:**

Plaintiffs requested all Documents related to or concerning UMD's decision to hire Miller as head coach of the women's hockey team, Banford as head coach of the women's softball team, or Wiles as the head coach of the women's basketball team. This includes, but is not limited to, any Documents, Correspondence, Communications, notes, memoranda, or other internal communications regarding plaintiffs; any emails or other written communications between UMD and plaintiffs; any outlines, notes, memoranda, or other Documents prepared for, during, or after plaintiffs' interviews; and any emails or other written communications between UMD and plaintiffs.

Defendant did not provide any response to this request. Plaintiffs are willing to narrow this request to include just documents related to Miller and Wiles.

**DOCUMENT REQUEST NUMBER 24:**

Plaintiffs requested all Correspondence and Communications to or from Joshua Berlo and/or Lendley Black, or copied or blind-copied to the same, and all Documents, including notes and memos, created or prepared by or for the same individuals, before, during, or after any meeting with Miller, including, but not limited to, meetings dated July 14, 2014; July 29, 2014; October 2, 2014; November 25, 2014; November 26, 2014; December 9, 2014; December 11, 2014; December 12, 2014; and December 14, 2014.

Defendant did not provide documents responsive to this request. Plaintiffs request that defendant provide all documents responsive to this request, as well as a privilege log listing all documents for which defendant claims privilege. If defendant has provided all documents in its possession, then defendant needs to so state.

**DOCUMENT REQUEST NUMBER 25:**

Plaintiffs requested all Documents relating to any and all allegations, claims, charges, or complaints of discrimination, harassment, or retaliation (including but not limited discrimination based upon sex, sexual orientation, national origin, and/or age) made against UMD's athletic department from 1995

to the present, including but not limited to informal and/or internal complaints or allegations of discrimination, harassment, or retaliation, as well as formal charges of discrimination and lawsuits, and including but not limited to documents relating to investigations of such complaints.

Defendant did not provide documents responsive to this request. Defendant stated that it would provide complaints made to the UMD Athletic Department from 2010-2011 to present regarding discrimination on the basis of sex, sexual orientation, national origin, or age. Plaintiff requested all complaints made about the athletic department even if they were not made directly to the athletic department, and including not only discrimination on the basis of sex, sexual orientation, national origin, or age, but also complaints about harassment and retaliation. Plaintiffs are willing to narrow the request to 2005-2006 to present.

**DOCUMENT REQUEST NUMBER 26:**

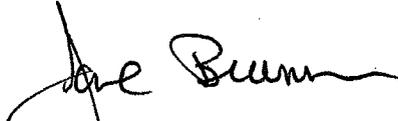
Plaintiffs requested all Documents referenced in, that support Defendant's Answers to Plaintiffs' Interrogatories, or that Defendant reviewed in the preparation of its answers to the same.

Defendant did provide some documents in response to this request, but it is unclear if defendant provided all documents that are responsive. Plaintiffs request defendant provide all documents responsive to this request as well as a privilege log listing all documents for which defendant is claiming privilege. If defendant has provided all documents in its possession in response to this request, then defendant needs to state that it has provided every document responsive to this request.

We request that you respond fully to all our documents request because the plaintiffs need these documents in order for plaintiffs' attorneys to prepare for depositions and to file the Motion to Compel if necessary. Please provide all the requested documents to our office by August 1, 2016.

We have set July 27, 2016 to discuss the document requests, and at that time I will also discuss with you your objections to the plaintiffs' interrogatories.

Very truly yours,

  
Jane Brunner

Cc. Andrew James



ATTORNEYS AT LAW

- ♦ DAN SIEGEL
- ♦ ALAN S. YEE
- ♦ JANE BRUNNER
- ♦ KEVIN BRUNNER
- ♦ SONYA Z. MEHTA
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- ♦ ANNE BUTTERFIELD WELLS

August 8, 2016

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Re: *Shannon Miller, Jen Barford, and Annette Wiles*  
*v. The Board of Regents of the University of Minnesota*  
Court File No.: 15-CV-3740 (RHK/LIB)

Dear Counsel:

This letter is to summarize the discussion the parties had during the meet and confer telephone conference that took place on July 27, 2016. Jane Brunner, Andrew James, Jeanette Bazis, and Timothy Pramas participated on that call.

With respect to the production of electronic documents by Defendant going forward, Defendant agrees to produce documents in a form accessible to attorney Jane Brunner through her [janebrunner@hotmail.com](mailto:janebrunner@hotmail.com) email address.

The parties also agree to create privilege logs and disclose to the other party any documents responsive to discovery requests but not produced on the grounds of either attorney-client privilege or the attorney work-product doctrine. Defendant's Meet & Confer Letter to Plaintiffs

#### Requests for Production

The deficiencies addressed in Paragraphs 4-9 of the deficiency letter dated July 25, 2016 from Jeanette Bazis to Plaintiffs' counsel (the "Bazis Letter") were resolved during the course of discussions concerning the other deficiencies described in the Bazis Letter.



Requests for Production Nos. 1, 2, 8, 10, 14-18: Plaintiffs agree to produce any documents responsive to the allegations in the Plaintiffs' complaint.

Requests for Production No. 3: Plaintiffs state no responsive documents yet exist.

Request for Production No. 4: Plaintiffs agree to supplement their production with W-2 income coming in for clients. Defendants requested all responsive documents concerning the business of Plaintiffs Miller and Banford operating in Palm Springs. Plaintiffs agreed to take that request under advisement and to inform Defendant whether and to what extent the requested documents will be produced. With respect to any other discovery requests include in their scope these business records, Plaintiffs agree to similarly take those requests under advisement.

Request for Production No. 5: Plaintiffs agree to produce documents concerning Plaintiffs' W-2 income. Plaintiffs will provide individual responses to this request but do not plan on producing household income. Defendant will determine if it still needs to request documents related to household income. Plaintiffs agree to review the request for business records and take that request under advisement and to inform Defendant to what extent the requested documents will be produced.

Request for Production No. 6: Plaintiffs agree to produce emails concerning the allegations contained in the Complaint, to produce redacted calendars, to produce emails, text messages, journals and diaries and other correspondence.

Request for Production No. 7: Defendant agrees to narrow the scope of the request to documents concerning the allegations in the Complaint. Plaintiff agrees to produce responsive documents subject to that narrowed scope.

Request for Production No. 9: Defendant requests production of all documents regarding Plaintiffs' attempts to mitigate their damages, including all documents from 2006 to the present and all business documents concerning Plaintiffs Miller and Banford's business operating in Palm Springs. Plaintiffs agree to provide documents related to mitigation of Plaintiffs' damages but at this time do not agree to provide all business documents concerning Miller and Banford and are taking that request under advisement and will inform Defendant whether and to what extent the requested documents will be produced. Plaintiffs will also review if there are any documents related to the time period for employment applications right before Plaintiffs left the University of Minnesota-Duluth (UMD).

Request for Production No. 13: Defendant requests that Plaintiff Wiles produce an authorization for documents from Via Christi, a medical facility in Kansas, and Defendant also requests responsive documents from Plaintiff Miller, including responsive records from any Duluth medical facilities. Plaintiffs responded that the medical damages of Miller and Banford are garden variety and do

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not require production of their medical records, but agreed to take Defendant's request under advisement and to inform Defendant whether and to what extent the requested documents will be produced.

Request for Production No. 19: Plaintiffs state that documents concerning Plaintiff Wiles' decision to relocate away from Duluth will be produced for the time period right before Wiles resigned from UMD.

### **Interrogatories**

Interrogatory No. 3: Miller and Banford will provide information regarding the amount of money they received from self-employment.

Interrogatory No. 4: The parties agree to produce both documents that support and that undermine their claims. Plaintiffs agree to produce responsive documents and Defendant will inform Plaintiffs if the produced documents remain deficient.

Interrogatory No. 6: Plaintiffs agree to work with Plaintiffs to provide the requested information, including the specific dates of complaints alleged. Plaintiffs will provide the requested information as soon as possible.

Interrogatories Nos. 7-9: Plaintiffs agree to produce the requested information.

Interrogatory No. 16: Plaintiffs agree to provide additional information concerning the responsive institutions, dates, purposes of contact, and extents of contact.

Interrogatory No. 17: Plaintiffs agree to provide additional information concerning the responsive dates, locations, and names. Defendant agrees to review the information provided and determine whether additional detail is requested.

Interrogatory No. 18: Plaintiffs agree to supplement their interrogatory responses to provide the requested information concerning mitigation of damages. Plaintiffs agree to consider Defendant's request for information concerning income of the business operated by Miller and Banford.

Plaintiffs' Meet & Confer Letter to Defendant

### **Requests for Production**

Letter to J. Bazis  
Meet and Confer Recap  
August 8, 2016  
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Plaintiffs have indicated the below-described documents must be produced on or before August 12, 2016, and that time is of the essence in order for depositions to be scheduled and taken. Defendant agrees to produce all documents within that time period, or to provide a status update prior to August 12 regarding the expected timeframe for production. Defendant also agrees to provide a privilege log for all documents not being provided on the basis of attorney-client privilege and/or the attorney work product doctrine.

Request for Production No. 2: Defendant agrees to produce any responsive documents for each Plaintiff, if any exist, as well as inform the Plaintiffs if they have produced all responsive documents.

Request for Production No. 3: Defendant agrees to produce any documents concerning procedures for hiring coaches, and also agrees to identify any documents not produced on the basis of attorney-client privilege and/or the work product doctrine.

Request for Production No. 4: Defendant agrees to produce any responsive guidelines.

Request for Production No. 5: Defendant agrees to produce any responsive documents, including, but not limited to, any line item budgets.

Request for Production No. 6: Defendant agrees to produce any responsive documents.

Request for Production No. 7: Defendant agrees to produce any responsive documents.

Request for Production No. 8: Defendant states that it has provided documents in response to this document request. Defendant is reviewing emails and will provide emails that are responsive to this document request.

Request for Production No. 9: Defendant agrees to produce any responsive documents subject to Plaintiffs' narrowing of the request to the men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs.

Request for Production No. 10: Defendant agrees to produce any responsive documents.

Request for Production No. 11: Defendant agrees to produce any responsive documents.

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Request for Production No. 12: Defendant agrees to produce any responsive documents, including original press releases sent to any media organization.

Request for Production No. 13: Defendant agrees to produce any responsive documents concerning individuals who had input in reviewing Plaintiffs' contracts.

Request for Production No. 14: Defendant agrees to produce any responsive documents and to confirm when the document production is complete.

Request for Production No. 15: Defendant agrees to produce any responsive documents.

Request for Production No. 16: Defendant agrees to produce any responsive documents.

Request for Production No. 17: Defendant agrees to produce any responsive documents.

Request for Production No. 18: Defendant agrees to produce responsive documents concerning any responsive meetings or committees, including documents with respect to the Strategic Planning Committee meeting, if any Plaintiff was a member of that committee.

Request for Production No. 19: Defendant agrees to produce any responsive documents.

Request for Production No. 20: Defendant agrees to produce any responsive documents.

Request for Production No. 21: Defendant agrees to produce any responsive documents.

Request for Production No. 22: Defendant agrees to produce any responsive documents, including any documents concerning the job search to replace Plaintiffs.

Request for Production No. 23: Defendant agrees to produce any responsive documents.

Request for Production No. 24: Defendant agrees to produce any responsive documents, and represents it will produce "documents" in the broadest sense under the Federal Rules of Civil Procedure.

Letter to J. Bazis  
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Request for Production No. 25: Defendant agrees to produce any responsive documents.

Request for Production No. 26: Defendant confirms no documents have been withheld on the basis described in Plaintiffs' deficiency letter.

### **Interrogatories**

Interrogatory No. 4: Defendant agrees to produce responsive information concerning Plaintiffs' fringe benefits, including, but not limited to, the amount UMD paid for all coaches and assistant coaches in men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs. The cost to Plaintiffs for any benefits received and any documents or manuals showing what benefits responsive individuals received.

Interrogatories Nos. 5-8: Defendant will provide documents responsive to this request.

Wiles Interrogatory No. 4: Plaintiff agreed to review additional documents to be produced by Defendant before making a demand for supplementation of this interrogatory.

Plaintiffs agree to provide signed copies of their respective interrogatory responses.

Plaintiffs agree to email all counsel with pertinent information concerning the loss of information on a cell phone including the identity of the owner of the phone, the date of the data loss, efforts made to retrieve the data, whether a backup of the data exists, and the service provider for the cell phone.

Very truly yours,

/s/ Jane Brunner  
Jane Brunner

/s/ Andrew T. James  
Andrew T. James



Jeanette M. Bazis  
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jbazis@greeneespel.com

August 12, 2016

**VIA EMAIL**

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Re: *Miller, et al. v. Regents of the University of Minnesota*  
Our File No. 02025-00035

Dear Counsel:

Thank you for the productive and pleasant July 27, 2016 discovery meet-and-confer call. This letter is in response to Jane Brunner's August 8, 2016 letter regarding that call. There are several summaries that would benefit from amplification, clarification or correction, as set forth below.

***Page 1 (Form of Production of Documents)***

*With respect to the production of electronic documents by Defendant going forward, Defendant agrees to produce documents in a form accessible to attorney Jane Brunner through her janebrunner@hotmail.com email address.*

We agreed that we would continue to send you an FTP link to your Hotmail email address and our IT person Brigid Volk will continue to offer you technical support if needed.

***The University's Requests for Production to Plaintiff***

*The deficiencies addressed in Paragraphs 4-9 of the deficiency letter dated July 25, 2016 from Jeanette Bazis to Plaintiffs' counsel (the "Bazis Letter") were resolved during the course of discussions concerning the other deficiencies described in the Bazis Letter.*

Although we did not discuss each objection as to each discovery request, your assurances that you would provide a privilege log, and that your clients were not withholding any documents in their possession, custody, or control

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August 12, 2016

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except as expressly stated during our call appear to have addressed the concerns stated in paragraphs 4–9 of my July 25 letter.

*Requests for Production Nos. 1, 2, 8, 10, 14-18: Plaintiffs agree to produce any documents responsive to the allegations in the Plaintiffs' complaint.*

This does not entirely reflect our discussion as to many of the requests for production ("RFP"). Plaintiffs agreed to provide documents responsive to the RFPs, that is:

- RFP #1: Documents identified, considered, referred to, or relied upon in responding to the University's interrogatories;
- RFP #2: Documents relating to Plaintiffs' performance as described in our July 25 letter;
- RFP #8: Any admissions against interest related to the claims asserted in the complaint;
- RFP #15: Documents that refer or relate to Plaintiffs' job searches, searches for self-employment, and business opportunities beginning July 1, 2014;
- RFP #16: Copies of the documents referenced in Plaintiffs' Rule 26(a)(1)(A) disclosures;
- RFP #17: Copies of audio recordings or conversations of current and former University employees, agents and students; and
- RFP #18: Documents relating to Jen Banford's decision to decline the University's offer of the head-softball-coach position made in 2015.

*Request for Production No. 4: Plaintiffs agree to supplement their production with W-2 income coming in for clients. Defendants requested all responsive documents concerning the business of Plaintiffs Miller and Banford operating in Palm Springs. Plaintiffs agreed to take that request under advisement and to inform Defendant whether and to what extent the requested documents will be produced. With respect to any other discovery requests include in their scope these business records, Plaintiffs agree to similarly take those requests under advisement.*

*Request for Production No. 5: Plaintiffs agree to produce documents concerning Plaintiffs' W-2 income. Plaintiffs will provide individual responses to this request but do not plan on producing household income. Defendant will determine if it still needs to request documents related to household income. Plaintiffs agree to review the request for business records and take that request under advisement and to inform Defendant to what extent the requested documents will be produced.*

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The University is seeking "all" documents relating to the business that Ms. Miller and Ms. Banford are operating in Palm Springs. The University requested and is entitled to audited and unaudited financial statements of that business—e.g., quarterly and annual financial statements, P&L statements, and balance sheets from inception to present. Also relevant would be any documents that show whether the business is paying for vehicles driven by Plaintiffs, gas, rent or mortgage payments, or other expenses that benefit Plaintiffs personally. There are many avenues by which a business owner can take advantage of corporate structure; all documents reflecting such benefits flowing to Plaintiffs from the business are discoverable.

Your offers of production for RFP #4 and RFP #5 are insufficient. Employers issue W-2s to employees, and those documents reflect wages paid to employees and withholdings. Therefore, a W-2 would not reflect payments and benefits flowing to a Plaintiff from a business owned by that Plaintiff. Nor would a W-2 reflect income received by a Plaintiff as an independent contractor—such income is reflected in a 1099 form. Nor—to the extent Plaintiffs are seeking damages related to loss of fringe benefits as you suggested—would a W-2 reflect fringe benefits received by Plaintiffs since their departure from the University. The University is entitled to all documents reflecting the income and fringe benefits received by Plaintiffs since their departure.

When you are prepared to tell us what categories of documents will be produced, please also tell us which documents are being withheld.

This discussion also pertains to RFP #9 and #15.

*Request for Production No. 6: Plaintiffs agree to produce emails concerning the allegations contained in the Complaint, to produce redacted calendars, to produce emails, text messages, journals and diaries and other correspondence.*

To clarify, the request asks for, and you agreed to produce, documents concerning the termination of Plaintiffs' employment with the University (whether by non-renewal or resignation). We also discussed Plaintiffs' production of all emails, text messages, and other communications among Plaintiffs and UMD personnel, for instance, between Ms. Wiles and Mr. Berlo and/or Ms. Strong that support or undermine the allegation that their relationship changed after the Coming Out Luncheon, even though they may not on their face relate to the allegations in the Complaint. You may have intended to include these, although it is unclear from your letter.

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*Request for Production No. 7: Defendant agrees to narrow the scope of the request to documents concerning the allegations in the Complaint. Plaintiff agrees to produce responsive documents subject to that narrowed scope.*

Because RFP#7 by its terms seeks documents "referring to, or relating to, the facts alleged in the complaint," it is inaccurate to say that we agreed to "narrow" the request. I think it is fair to say that you agreed to produce all responsive documents.

*Request for Production No. 9: Defendant requests production of all documents regarding Plaintiffs' attempts to mitigate their damages, including all documents from 2006 to the present and all business documents concerning Plaintiffs Miller and Banford's business operating in Palm Springs. Plaintiffs agree to provide documents related to mitigation of Plaintiffs' damages but at this time do not agree to provide all business documents concerning Miller and Banford and are taking that request under advisement and will inform Defendant whether and to what extent the requested documents will be produced. Plaintiffs will also review if there are any documents related to the time period for employment applications right before Plaintiffs left the University of Minnesota-Duluth (UMD).*

You advised us that you were working with your clients to compile responsive documents related to their employment-seeking efforts.

With regard to Ms. Miller's and Ms. Banford's business, here again, we are not seeking "all business records." We requested the documents described above in our discussion of RFP #4 and #5, as well as any business plans, pro formas, projections, and loan-application documents submitted to a bank in connection with their business.

This discussion also pertains to RFP #15.

*Request for Production No. 13: Defendant requests that Plaintiff Wiles produce an authorization for documents from Via Christi, a medical facility in Kansas, and Defendant also requests responsive documents from Plaintiff Miller, including responsive records from any Duluth medical facilities. Plaintiffs responded that the medical damages of Miller and Banford are garden variety and do not require production of their medical records, but agreed to take Defendant's request under advisement and to inform Defendant whether and to what extent the requested documents will be produced.*

To be more specific, you stated that Ms. Wiles would identify which Via Christi facility she visited and would fill out an authorization form. Moreover, you stated that Ms. Miller has agreed to release her medical records from the date she went to the emergency room and thought she was having a stress-related heart attack, up to the date she left UMD, but that she will not release medical records after that. You stated that Ms. Miller and Ms. Banford were seeking garden-variety emotional distress damages only. We engaged in a

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lengthy discussion regarding RFP #13, wherein we asserted that evidence regarding seeking emergency medical assistance for a stress-related heart attack is inconsistent with a garden-variety emotional-distress claim. Moreover, we also asserted that there is no basis to withhold records preceding the emergency room visit and post-dating Ms. Miller's departure from the University. In fact, such records are highly relevant to damages and causation. You agreed to discuss the issues with your clients and get back to us.

*Request for Production No. 19: Plaintiffs state that documents concerning Plaintiff Wiles' decision to relocate away from Duluth will be produced for the time period right before Wiles resigned from UMD.*

The time limitation is unacceptable. When and why Wiles decided to move away from Duluth and resign from UMD is highly relevant to both liability (whether she resigned because of a hostile work environment or some other reason) and damages. If in fact Ms. Wiles made a decision to move back to Kansas in, for instance, the summer of 2014, such that Ms. Wiles intended to resign at the end of the 2014–15 academic year, such evidence would be highly relevant. We are entitled to all responsive documents. Please let us know if you will reconsider your position.

***The University's Interrogatories to Plaintiffs***

*Interrogatory No. 3: Miller and Banford will provide information regarding the amount of money they received from self-employment.*

This is incomplete. In addition to providing information about the amount of money Ms. Miller and Ms. Banford received as salary from their self-employment, you agreed to discuss the other business-income-related issues (see above discussion of RFP #5 and RFP #9) with your clients and get back to us.

*Interrogatory No. 6: Plaintiffs agree to work with Plaintiffs to provide the requested information, including the specific dates of complaints alleged. Plaintiffs will provide the requested information as soon as possible.*

To clarify, we requested supplemental information not just about the dates of the complaints alleged, but also the substance of the complaints and how the complaints were made (e.g., via email, letter, text, orally, etc.).

*Interrogatories Nos. 7-9: Plaintiffs agree to produce the requested information.*

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Interrogatory No. 8 implicates our dispute regarding whether or not Ms. Miller is alleging garden-variety emotional distress damages or something more. If she intends to introduce evidence of her emergency room visit, we are entitled to the requested information and authorizations.

***Plaintiffs' Requests for Production***

*Plaintiffs have indicated the below-described documents must be produced on or before August 12, 2016, and that time is of the essence in order for depositions to be scheduled and taken. Defendant agrees to produce all documents within that time period, or to provide a status update prior to August 12 regarding the expected timeframe for production. Defendant also agrees to provide a privilege log for all documents not being provided on the basis of attorney-client privilege and/or the attorney work product doctrine.*

The University indicated that we could not promise production of all emails by August 12 because of the volume of ESI that needs to be reviewed, but agreed to make a substantial document production by August 12.

*Request for Production No. 4: Defendant agrees to produce any responsive guidelines.*

This is not entirely accurate. We noted that there are literally hundreds of University policies governing University employees, and that the wording of your request made it very difficult to determine which of the policies (all publicly available on the internet) you are interested in receiving. You clarified that you were interested in policies and guidelines relating to coaches and assistant coaches, and asked us to provide what we thought was relevant. We agreed to do so.

*Request for Production No. 7: Defendant agrees to produce any responsive documents.*

To clarify, as opposed to producing "all documents" reflecting the responsive information, you agreed that it would be sufficient to produce all of the coaches' contracts for the subject years, which reflect their titles, percentage FTE, and salaries.

*Request for Production No. 9: Defendant agrees to produce any responsive documents subject to Plaintiffs' narrowing of the request to the men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs.*

This request on its face is limited to "the men's and women's interscholastic [sic] basketball, ice hockey, softball, baseball, and football programs," such that there is no actual "narrowing" of the request.

*Request for Production No. 10: Defendant agrees to produce any responsive documents.*

August 12, 2016  
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Mr. Pramas indicated that the requested documents and information regarding donations are in the custody, possession and control of the University of Minnesota Foundation, not the University, but that he is working with the Foundation to attempt to obtain and provide documents and information responsive to the request as narrowed in your July 21 letter.

*Request for Production No. 11: Defendant agrees to produce any responsive documents.*

The University agreed to produce line-item budgets for each UMD intercollegiate athletics program for the academic year 2010–2011 to the present.

*Request for Production No. 12: Defendant agrees to produce any responsive documents, including original press releases sent to any media organization.*

The University agreed to find out whether "original" press releases sent to media organizations exist and determine if they differ in any way from the press releases that appear on the website. Specifically, we agreed that we would check to see if there is a December 2014 press release regarding Plaintiff Miller's non-renewal that is different than the one on the website.

*Request for Production No. 13: Defendant agrees to produce any responsive documents concerning individuals who had input in reviewing Plaintiffs' contracts.*

I believe you mean "renewing" Plaintiffs' contracts.

*Request for Production No. 14: Defendant agrees to produce any responsive documents and to confirm when the document production is complete.*

As with Ms. Miller, the University agreed to produce any responsive documents concerning individuals who had input in renewing Plaintiff Banford's contracts.

*Request for Production No. 21: Defendant agrees to produce any responsive documents.*

You agreed to limit the request as set forth in the University's response, that is, documents relating to complaints of discrimination against Berlo or Black and related discipline or corrective action. We stated we had produced the responsive material, with the possible exception of documents relating to Black (which have been produced).

*Request for Production No. 24: Defendant agrees to produce any responsive documents, and represents it will produce "documents" in the broadest sense under the Federal Rules of Civil Procedure.*

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You agreed to limit this request consistent with the University's written response, in which it agreed to produce responsive documents "the subject matter of which is any meeting between Miller and Berlo and/or Black on [the specified dates] and the topics discussed in those meetings."

***Interrogatories***

*Interrogatory No. 4: Defendant agrees to produce responsive information concerning Plaintiffs' fringe benefits, including, but not limited to, the amount UMD paid for all coaches and assistant coaches in men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs. The cost to Plaintiffs for any benefits received and any documents or manuals showing what benefits responsive individuals received.*

As requested, we have provided a chart showing the fringe benefits received by plaintiffs as well as all coaches' contracts. I think we're on the same page as to other coaches' fringe benefits. We discussed the fact that all coaches have access to the same benefits, and we will provide information regarding what those benefits are.

We look forward to continuing to work together on resolving the remaining discovery issues.

Very truly yours,



Jeanette M. Bazis

c: Timothy Pramas  
Katherine Swenson

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

Shannon Miller, Jen Banford,  
and Annette Wiles,

Plaintiffs,

v.

The Board of Regents of the  
University of Minnesota,

Defendant.

Case No. 15-cv-03740 (RHK/LIB)

**DEFENDANT'S SUPPLEMENTAL  
ANSWERS TO PLAINTIFFS' FIRST  
SET OF INTERROGATORIES**

Defendant The Board of Regents of the University of Minnesota (the "University") for its Supplemental Answers to Plaintiffs' First Set of Interrogatories, states as follows:

Defendant incorporates by this reference the Preliminary Statement and Objections Common to All Interrogatories set forth in its original Answers to Plaintiffs' First Set of Interrogatories. All Supplemental Answers are so designated.

**ANSWERS TO INTERROGATORIES (for all Plaintiffs)**

**INTERROGATORY NO. 1:** Please list all the complaints each plaintiff made to defendant, including, but not limited to, regarding disparate treatment on the basis of sex, sexual orientation, national origin, and/or age, any discrimination from 2010 to the present, or any conduct alleged in the pleadings, and, for each such complaint, state:

- (a) the date of the complaint;
- (b) the nature of the complaint;
- (c) to whom the complaint was made;
- (d) Identify the Person(s) who investigated the complaint;

- (e) the nature and date of any action(s) taken in response to the complaint;
- (f) Identify each person who has knowledge of the complaint, any action(s) taken in response to the complaint, or Defendant's response;
- (g) state if any plaintiff was informed of the action(s) taken in response to the complaint and Defendant's response; and
- (h) Identify all Documents and Correspondence related to the complaint, investigation, and response.

**ANSWER NO. 1:** The University objects to Interrogatory No. 1 as overly broad, unduly burdensome, irrelevant, vague, and ambiguous to the extent that it asks the University to list "all the complaints" made by a plaintiff regardless of the subject matter. Subject to and without waiving these objections, non-privileged responsive documents that evidence, memorialize, or record complaints plaintiffs made to the University, from the 2010–2011 academic year to the present, regarding unlawful discrimination on the basis of sex, sexual orientation, national origin, or age, will be produced pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 2:** Please describe in detail every investigation(s) conducted by Defendant into each allegation of discrimination or any other wrongdoing made by any plaintiff, including but not limited to, the individuals who conducted the investigation(s), all investigative steps taken, the identity of all individuals interviewed as part of the investigation(s), the conclusions reached at the end of the investigation(s), and any action taken by Defendant as a result of the investigation(s).

**ANSWER NO. 2:** The University objects to Interrogatory No. 2 as overly broad, unduly burdensome, irrelevant, vague, and ambiguous to the extent that it asks the University to list any investigation into any allegation of "any other wrongdoing," regardless of subject matter and regardless of when the investigation occurred. Subject to

and without waiving these objections, non-privileged documents that evidence, memorialize, or record investigations conducted by the University into any allegation by plaintiffs of unlawful discrimination on the basis of sex, sexual orientation, national origin, or age, from the 2010–2011 academic year to the present, will be produced pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 3:** Please describe all other complaints, regardless of who made the complaint, made against UMD’s athletic department regarding harassment, discrimination, and/or disparate treatment on the basis of sex, sexual orientation, national origin, and/or age, or any conduct alleged in the pleadings. For each such complaint, include the following:

- (a) The date of the complaint;
- (b) The manner in which the complaint was made;
- (c) The nature of the complaint;
- (d) Identify the person making the complaint;
- (e) Identify all UMD employees or independent contractors who were the subject of any allegations in the complaint;
- (f) State whether an investigation was conducted following said complaint;
- (g) If an investigation was conducted, Identify and state the job title of the person conducting the investigation, and Identify all individuals that the investigator spoke with during the course of the investigation;
- (h) Specifically describe the outcome of the investigation; and
- (i) State whether the complaint resulted in a lawsuit, arbitration, mediation, or any other formal proceeding and, if yes, specifically describe the outcome of that lawsuit.

**ANSWER NO. 3:** The University objects to Interrogatory No. 3 as overly broad and vague and ambiguous as to “any conduct alleged in the pleadings.” Subject to and

without waiving these objections, pursuant to Fed. R. Civ. P. 33(d), the University will produce complaints made to UMD's Athletics Department, from the 2010–2011 academic year to the present, regarding unlawful discrimination on the basis of sex, sexual orientation, national origin, or age, to the extent that any exist in addition to plaintiffs' complaints that are the subject of Interrogatory No. 1.

**INTERROGATORY NO. 4:** Please describe each fringe benefit received by any coach and/or assistant coach in UMD's the men's or women's athletics department between 2010-2011 to the present and, for each benefit, state whether it was provided to each plaintiff, state the cost of the fringe benefit to you, and state the cost to the employee as of the date of each plaintiffs termination and/or resignation.

**ANSWER NO. 4:** The University objects to Interrogatory No. 4 as overly broad, unduly burdensome, irrelevant, and vague and ambiguous as to "fringe benefit." Subject to and without waiving its objections, the University responds as follows:

Each coach, including each plaintiff, was afforded a fringe-benefits program as provided generally to University professional and administrative employees as described in the University of Minnesota Academic Professional and Administrative Policies and Procedures (the "Manual"), which Manual will be produced pursuant to Fed. R. Civ. P. 33(d). Additional fringe benefits afforded are set forth in each coach's individual contract, and coaches' contracts from the 2010–2011 academic year to the present will be produced pursuant to Fed. R. Civ. P. 33(d).

Some coaches, including plaintiffs, have provisions in their contracts that allow for them to receive either the use of a vehicle or a car allowance. For the 2015–2016 academic year, coaches received the following:

<b>Coach*</b>	<b>Sport</b>	<b>Benefit</b>
Greg Cane	Women's Soccer Head Coach	Vehicle
John Steger	Football Assistant Coach	Vehicle
Greg Bower	Football Assistant Coach	Vehicle
Jessica Worden	Women's Tennis Head Coach	Vehicle
Scott Sandelin	Men's Hockey Head Coach	Car Allowance
Jason Herter	Men's Hockey Assistant Coach	Car Allowance
Brett Larson	Men's Hockey Assistant Coach	Car Allowance
Christian Koelling	Men's Hockey Director of Operations	Car Allowance
Maura Crowell	Women's Hockey Head Coach	Car Allowance
Samantha Reber	Women's Hockey Assistant Coach	Car Allowance
Laura Bellamy	Women's Hockey Assistant Coach	Car Allowance
Curt Wiese	Football Head Coach	Car Allowance
Noah Pauley	Football Assistant Coach	Car Allowance
Matt Bowen	Men's Basketball Head Coach	Car Allowance
Mandy Pearson	Women's Basketball Head Coach	Car Allowance
Jim Boos	Volleyball Head Coach	Car Allowance

\*Women's Hockey Director of Operations for 2015–2016 declined a vehicle.

The University will supplement this response as to the 2010–11 to 2014–2015 academic years. All coaches who receive the use of a vehicle enter into a lease contract with Toyota and are required to provide their own car insurance and to pay for maintenance and non-warranty repairs on the vehicle. Coaches with vehicles prior to 2014 paid for vehicle registrations; after that, Toyota covered the cost of vehicle registrations as part of the renewed and revised sponsorship agreement. All such lease contracts contain the same mileage limits and other restrictions. Copies of such contracts will be produced pursuant to Fed. R. Civ. P. 33(d). During Fall 2014, all coaches who received the use of a vehicle turned in their leased vehicles, and Toyota billed the coaches for mileage overages and excessive wear-and-tear on the vehicles; the University had no involvement in assessing these charges. Given that there was a period of time between the 2014 lease turn-in and receipt of new vehicle, impacted coaches were provided a

stipend based on the degree of inconvenience to them. In addition, some programs elected to use camp or other funds to help offset the excess mileage and wear-and-tear charges as part of this stipend. These stipends were taxed as income. Documents regarding the Toyota charges and stipends paid to coaches will be produced pursuant to Fed. R. Civ. P. 33(b).

In addition, all full-time Athletics Department staff have access to complimentary tickets. Also, each head coach has the option of conducting a summer camp and has discretion over the use of the net income for compensation or program-enhancement purposes. The University's complimentary ticket policy will be produced pursuant to Fed. R. Civ. P. 33(d).

**SUPPLEMENTAL ANSWER TO INTERROGATORY NO. 4:**

The following chart shows the car stipends provided to coaches fiscal years 2011 through 2016:

	Sport	FY11	FY12	FY13	FY14	FY15	FY16
Bowen, Matt	MBB			831	7200	7200	7200
Larson, Dan	FB					2700	2148
Wiese, Curt	FB			1904	4500	6000	6000
Pauley, Noah	FB						692
Herter, Jason	MHK		4038	4200	4200	4200	6000
Koelling, Christian	MHK						2308
Larson, Brett	MHK	3738					4846
Plante, Derek	MHK	3738	4200	4200	4200	4200	162
Sandelin, Scott	MHK	7477	7800	7800	7800	9000	9000
Boos, Jim	VB	3600	3600	3600	3600	3600	3600
Pearson, Mandy	WBB						6036
Wiles, Annette	WBB	3739	3600	3185			
Bellamy, Laura	WHK						3600

	Sport	FY11	FY12	FY13	FY14	FY15	FY16
Crowell, Maura	WHK						6000
Kingsbury, Gina	WHK					3309	
Macdonald, Steven	WHK		3448	3600	3600		
Miller, Shannon	WHK	7477	7200	7200	7200	7200	332
Reber, Sami	WHK						3600
Rooth, Maria	WHK	3500					
Schuler, Laura	WHK	3738	3600	3600	3600	3600	

The following coaches received the use of a vehicle during the specified time frame:

2011-12	2012-13	2013-14	2014-15
Justin May	Justin May	Steph Reiter	John Steger
Annette Wiles	Annette Wiles	Annette Wiles	Annette Wiles
Curt Wiese	Curt Wiese	Justin May	Greg Cane
Jess Abrahams	Jess Abrahams	John Steger	Stephanie Reiter
Brian Nystrom	John Steger	Greg Cane	Greg Bower
Todd Stroph	Greg Cane	Dan Larson	
Greg Cane	Tyler Yelk	Greg Bower	

**INTERROGATORY NO. 5:** Please describe all written or verbal reprimands, warnings, suspensions, or other disciplinary measures given to any plaintiff since their respective date of retention. For each such measure, state the date and nature of the offense and the supervisor involved.

**ANSWER NO. 5:** Pursuant to Fed. R. Civ. P. 33(d), the University will produce each plaintiff's personnel file.

**INTERROGATORY NO. 6:** Please describe all written or verbal reprimands, warnings, suspensions, or other disciplinary measures regarding or related to discrimination given to Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Mary Cameron, Lisa Erwin, Angie Nichols, Linda Kinnear, Bob Nygaard, Bob Nielson, and/or William Wade since their respective dates of retention. For each such measure, state the date and nature of the offense and the supervisor involved.

**ANSWER NO. 6:** The University objects to Interrogatory No. 6 as overly broad, vague, ambiguous, and unlikely to lead to the discovery of admissible evidence. Subject to and without waiving these objections, non-privileged documents that evidence, memorialize, or record written or oral reprimands, warnings, suspensions, or other disciplinary measures taken against Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Mary Cameron, Lisa Erwin, Angie Nichols, Linda Kinnear, Bob Nygaard, Bob Nielson, or William Wade related to unlawful discrimination against plaintiffs on the basis of sex, sexual orientation, national origin, or age, from the 2010–2011 academic year to the present, to the extent any exist, will be produced pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 7:** Please describe any and all complaints the University has received regarding any Person described in Interrogatory No. 6, including but not limited to complaints received from employees, students, members of the any men’s or women’s athletics team at the University, and/or other third parties.

**ANSWER NO. 7:** The University objects to Interrogatory No. 7 as overly broad, unduly burdensome, vague, ambiguous, and irrelevant to the extent that it asks the University to describe “any and all complaints” it has received regarding certain persons, regardless of subject matter and regardless of when the complaint occurred. Subject to and without waiving these objections, non-privileged documents that evidence, memorialize, or record complaints made against Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Mary Cameron, Lisa Erwin, Angie Nichols, Linda Kinnear, Bob Nygaard, Bob Nielson, or William Wade related to unlawful discrimination on the basis of sex, sexual orientation, national origin, or age, from the

2010–2011 academic year to the present, will be produced pursuant to Fed. R. Civ. P. 33(d).

**INTERROGATORY NO. 8:** Please describe any and all discussions by, between, and/or among the Persons described in Interrogatory No. 6, and/or any other University personnel regarding the sex, sexual orientation, national origin, and/or age of any plaintiff, any employee in the UMD athletics department, and/or any other candidate(s) for employment in the UMD athletics department or any men’s or women’s athletics team at UMD.

**ANSWER NO. 8:** The University objects to Interrogatory No. 8 as overly broad, unduly burdensome to the extent it seeks information relating to “any other University personnel,” vague, ambiguous, and irrelevant. The University further objects to the extent the Interrogatory seeks information protected by the attorney-client privilege, joint-defense privilege, attorney-work-product doctrine, or any other applicable privilege or protection. Subject to and without waiving these objections, the University will produce documents (if any) reflecting such discussions between the persons listed in Interrogatory No. 6, pursuant to Minn. R. Civ. P. 33(d). Moreover, the University responds that Joshua Berlo had discussions with Jen Banford in 2015 concerning her status as Canadian in the course of assisting her to obtain her U.S. Citizenship, ultimately convincing an acquaintance—the head coach of a NCAA Division I women’s program—to write a letter to federal authorities in support of Banford’s application for U.S. citizenship stressing the importance of female coaches.

**INTERROGATORY NO. 9:** Please identify all individuals, including but not limited to University student-athletes, with whom Defendant has met or whom Defendant has interviewed in connection with plaintiffs’ allegations in this case. For each such meeting and/or interview:

- (a) Identify the parties involved in the meeting or interview;

- (b) Describe when the meeting or interview occurred;
- (c) Describe the substance of what was discussed in the meeting or interview;  
and
- (d) Indicate whether the individual prepared or signed a statement.

**ANSWER NO. 9:** The University objects to Interrogatory No. 9 because it seeks information protected by the attorney-client privilege, joint-defense privilege, and attorney-work-product doctrine. Subject to and without waiving these objections, the University states that, to its knowledge, no individual has prepared or signed a statement regarding plaintiffs' allegations.

**INTERROGATORY NO. 10:** Please identify every Person whom you expect to call as an expert witness at the trial of this matter. With respect to each expert:

- (a) State the area of expertise and the basis for expertise;
- (b) Provide a list of all publications the expert has authored;
- (c) State the subject matter on which the expert is expected to testify;
- (d) State the substance of the facts and opinions to which the expert is expected to testify;
- (e) Identify all facts, Documents, and other tangible items relied upon by the expert in reaching the facts and opinions provided in your answer to (d) above;
- (f) State the compensation to be paid for the expert's study and testimony; and
- (g) Provide a listing of any other cases in which the expert has testified as an expert at trial or by deposition within the preceding five (5) years.

**ANSWER NO. 10:** The University objects to Interrogatory No. 10 as premature and as overbroad to the extent it attempts to impose on the University obligations beyond

those provided for in the Federal Rules of Civil Procedure. The University will timely make expert disclosures in accordance with the Court's pretrial scheduling order and as required by the Federal Rules of Civil Procedure.

**ANSWERS TO INTERROGATORIES (for Shannon Miller)**

**MILLER INTERROGATORY NO. 1:** Please identify, including in Your answer a statement of the name, title, address, and phone number, of each Person who was involved in the decision not to renew Miller's contract as coach of the UMD women's hockey team, and specifically describe their role in that decision.

**MILLER ANSWER NO. 1:** The University responds as follows:

The decision not to renew Miller's contract was made by:

Witness
Lendley Black Chancellor University of Minnesota Duluth Contact through counsel only
Joshua Berlo Director of Intercollegiate Athletics University of Minnesota Duluth Contact through counsel only

**MILLER INTERROGATORY NO. 2:** Please state each and every fact relied on in making Defendant's decision not to renew Miller's contract for 2015-2016, Identify every person with knowledge of each such fact, and for each such fact, Identify all Documents and Correspondence underlying, supporting, describing, or otherwise relating to each fact.

**MILLER ANSWER NO. 2:** The University objects to Miller Interrogatory No. 2 as overly broad, unduly burdensome, and irrelevant insofar as it calls for identification of each person with knowledge of each fact relied on in the decision not to renew Miller's contract, and for identification of all documents relating to such fact. Read literally, this interrogatory would require identification of every person with knowledge of, for instance, the women's hockey team's win-loss record and Miller's salary. Subject to and without waiving these objections, the University responds as follows:

At the time her contract ended, Miller was the highest-paid coach in women's college hockey. While the UMD Women's Hockey team had experienced success in the past, the team's performance had slipped significantly in more recent years. The team was eliminated in the first round of the NCAA tournament in 2011. It did not qualify for the NCAA tournament in 2012, 2013, or 2014—the longest streak without an NCAA tournament appearance in the history of the program, and at the time of the contract-decision discussions, UMD was not part of the likely 2015 NCAA tournament field. The team had not won a WCHA tournament or regular season title since 2011, nor an NCAA tournament game since 2010.

The team had also struggled against two of its closest rivals, the University of Minnesota Gophers and the University of Wisconsin Badgers. The Gophers and Badgers had combined to win four WCHA regular season titles, four WCHA tournament titles, and three national championships since 2011. As of December 2014, when the decision regarding Miller's contract was made, the UMD Women's Hockey team had a record of 7-30-4 against the Gophers and the Badgers during the same period, including a 19-game winless drought starting in October 2012. For the second half of the 2014–15 season, the team had a record of 0-3-1 against these opponents, thereby extending the winless streak to 23 games. The head coaches of the Gophers and Badgers received salaries lower than Miller's.

The Women's Hockey team had also struggled academically. Each year, all NCAA Division I teams calculate and report their Academic Progress Rate ("APR") using formulas and definitions adopted by the NCAA. APR holds institutions accountable

for the academic progress of their student-athletes through a team-based metric that accounts for the eligibility and retention of each student-athlete for each academic term. The UMD Women's Hockey Team received the lowest APR score in the conference, and either the lowest or second lowest APR score in all of NCAA Division I women's hockey, every year from 2009–2010 through 2013–2015. The team's 2014–2015 APR was the lowest of any year since 2009–2010. UMD assumes the team will once again rank last in the conference and the NCAA in APR for 2014–2015. However, the conference and national numbers have not yet been released.

Bulldog Athletics was facing a budget deficit of nearly \$1 million going into the 2013–2014 season. That deficit had declined only slightly for the 2014–2015 season. Given the team's performance since 2011, UMD could no longer justify paying Miller the highest salary in all of NCAA Division I women's college hockey. Miller had specifically told Athletics Director Joshua Berlo and University Chancellor Lendley Black that she would not accept any reduction in her salary unless the salary of every other UMD coach and athletic staff member was also reduced. UMD did not believe it was fair, nor was UMD willing, to reduce the salaries of all of its other coaches, including coaches who had experienced significant recent success, simply to retain Miller. Further, there was no logical reason for UMD to believe that reducing Miller's salary would create a reasonable expectation that the team's performance would improve. Taking all of these factors into account, UMD decided it was time to make a change, and that it would not extend or otherwise offer Miller a new contract when her current contract expired.

The decision not to extend Miller's contract was driven by financial considerations, i.e., lack of return on investment for providing Miller the highest salary in women's college hockey. It was also a direct result of the team's lackluster performance since 2011 and relative lack of community engagement. Once the decision was made and communicated to Miller, Athletics Director Berlo, Chancellor Black, and Miller discussed how the decision would be characterized when announced to the public. Out of respect for Miller and her service to Bulldog Athletics, Berlo and Black agreed that the public announcement would focus on the financial considerations, not the team's performance. Miller was asked for and provided input regarding the wording of the announcement. Later, after Miller publicly accused UMD of violating Title IX by basing the decision solely on financial considerations, UMD publicly clarified that the decision also took into account the team's performance since 2011. Miller was made aware of the UMD administration's concerns regarding the decline in team performance. In sum, it was felt that non-renewal was in the best interest of the student athletes, and the future of the women's hockey program and the Athletics Department.

**MILLER INTERROGATORY NO. 3:** Please state each and every reason that was communicated to Miller for not renewing her contract as coach of the UMD women's hockey team, including the date and place of the communication, Identify the Person who made the communication, Identify all Persons who were present for or otherwise received the communication, state the method of the communication, and Identify all Documents and Correspondence underlying, supporting, describing, or otherwise relating to each communication.

**MILLER ANSWER NO. 3:** Chancellor Black and Athletics Director Berlo communicated to Miller the reasons for not renewing her contract at an in-person meeting attended by Chancellor Black, Berlo, and Miller on December 9, 2014, chiefly stressing

the financial considerations (i.e., the lack of return on investment for providing Miller the highest salary in women's college hockey) and—out of respect for Miller and her service to Bulldog Athletics—deemphasizing the performance issues, which had already been communicated to Miller. (Miller represents that she has an audio recording of the December 9, 2014 meeting, which has been identified but not yet been produced by plaintiffs.)

**MILLER INTERROGATORY NO. 4:** Please identify each and every Communication by, between, and/or among Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Linda Kinnear, and/or any other personnel of UMD, the University of Minnesota Twin Cities, or the Regents regarding Defendant's decision not to renew Miller's contract as coach of the UMD women's hockey team. For each such Communication:

- (a) Identify the parties involved in the Communication;
- (b) Identify whether it was an oral or written Communication;
- (c) Describe when the Communication occurred; and
- (d) Describe in detail the substance of the Communication, including, but not limited to, every reason given by any Person why Miller's contract should not be renewed.

**MILLER ANSWER NO. 4:** The University objects to Miller Interrogatory No. 4 on the grounds that it seeks the disclosure of information or materials protected from discovery by the attorney-client privilege, work-product doctrine, or any other applicable privilege or protection. The University further objects that this interrogatory is overly broad, unduly burdensome, and irrelevant insofar as it seeks identification of communications by persons not involved in the non-renewal decision and by, between, and/or among “any other personnel of UMD, the University of Minnesota Twin Cities, or

the Regents,” as those personnel number in the thousands. Subject to and without waiving these objections, the University responds that Joshua Berlo and Lendley Black had multiple discussions regarding whether to renew Miller’s contract and the decision not to renew Miller’s contract, including but not limited to discussions on July 15, 2014, and at various of their regular bi-monthly meetings up to December 2, 2014. Berlo also had general discussions with Jay Finnerty about human-resources logistics matters relating to the non-renewal, and advised Finnerty of the non-renewal decision prior to communicating it to Miller.

Non-privileged responsive documents and communications, if any exist, between or among Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, and Linda Kinnear relating to the decision not to renew Miller’s contract will be produced pursuant to Fed. R. Civ. P. 33(d).

**ANSWERS TO INTERROGATORIES *(for Jen Banford)***

**BANFORD INTERROGATORY NO. 1:** Please identify, including in Your answer a statement of the name, title, address, and phone number, each person who was involved in the decision not to renew Banford’s contract as director of operations for the UMD women’s hockey team for 2015-2016 and/or the decision whether or not to renew Banford’s contract as coach of the UMD women's softball team.

**BANFORD ANSWER NO. 1:** The University responds as follows: Joshua Berlo made the decision to retain Banford with a revised appointment as Head Softball Coach only. See response to Banford Interrogatory No. 2.

**BANFORD INTERROGATORY NO. 2:** Please state each and every fact relied on in making the decision not to renew Banford’s contract as director of operations for women’s hockey for 2015-2016 and/or the decision whether or not to renew Banford’s contract as coach of the UMD women's softball team, Identify every person who has

knowledge of each such fact, and Identify all Documents and Correspondence underlying, supporting, describing, or otherwise relating each such fact.

**BANFORD ANSWER NO. 2:** Banford had a hybrid appointment as “Director of Hockey Operations/Head Softball Coach” for the 2014–2015 academic year, which appointment contained both hockey-operations and head-softball-coach duties. The University did not renew this hybrid Director of Hockey Operations/Head Softball Coach appointment because of the non-renewal of the contract of the head coach of the women’s hockey program (Miller). The University, consistent with Division I athletics common practice, did not renew Banford’s hockey staff position so that the new head hockey coach could select his or her own coaching and operations staff. The University offered and always intended to offer Banford a new appointment to remain in her position as head coach of the softball program. These decisions were made by Chancellor Lendley Black and Athletics Director Joshua Berlo.

In approximately late November or early December 2014, Berlo spoke with Assistant Athletics Director Jay Finnerty to seek input on how, as a hypothetical and logistical matter, to transition Banford from the hybrid Director of Hockey Operations/Head Softball Coach position to the role of Head Softball Coach only. Finnerty, in turn, consulted Linda Kinnear, then Interim Co-Director of Human Resources & Equal Opportunity. By email dated December 9, 2014, Kinnear advised Finnerty that the Athletics Department must give Banford a non-renewal of the combined Director of Hockey Operations/Head Softball Coach appointment and then offer Banford a new appointment with only head-softball-coach duties.

On December 11, 2014, Finnerty emailed to Banford a non-renewal letter from Berlo notifying Banford that her appointment as “the Director of Hockey Operations/Head Softball Coach” would end on June 14, 2015, and would not be renewed. The cover email to Banford explicitly stated that Banford would continue as Head Softball Coach: “*We are in the process of working with Human Resources to reclassify your job as solely Head Softball Coach.*”

The University formally offered Banford an appointment as Head Softball Coach on or about January 27, 2015.

Berlo, Finnerty, and Kinnear were aware that the reason behind the non-renewal for the Director of Hockey Operations/Head Softball Coach position was the need to create a new Head Softball Coach-only position. Non-privileged documents and correspondence in this regard will be produced pursuant to Minn. R. Civ. P. 33(d).

Berlo, Finnerty, Kinnear, Sharyl Beaudin, Banford, Kathy Crudo, Susan MacDonald, Maria Rinne, Karen Stromme, Julianne Vasichek, the student athletes on Banford’s softball team, and all members of the Athletics Department senior staff were informed of the decision to retain Banford as the Head Softball Coach.

**BANFORD INTERROGATORY NO. 3:** Please state each reason that was communicated to Banford for her women's hockey operations contract not being renewed and/or for her contract as coach of the UMD women's softball team not being renewed, including the date and place of the communication, Identify the Person who made the communication, Identify all Persons who were present for or otherwise received the communication, state the method of the communication, and Identify all Documents and Correspondence underlying, supporting, describing, or otherwise relating to each communication.

**BANFORD ANSWER NO. 3:** See Banford Answer to Interrogatory No. 2. The University further responds as follows:

In mid-December 2014, Berlo told Banford by telephone that the Department intended to retain her as Head Softball Coach going forward.

Also in mid-December 2014, Associate Athletics Director and Senior Woman Administrator Karen Stromme told Banford that Banford was and would remain the Head Softball Coach. Karen Stromme also told Banford that the hockey non-renewal had nothing to do with the softball position.

Also in or about mid-December, Linda Kinnear spoke with Banford by phone and told her that the Athletics Department intended to keep her as Head Softball Coach but did not yet know the exact terms.

On or about December 17, 2014, Jay Finnerty spoke to Banford on the telephone. Finnerty told Banford that her job would be Head Softball Coach and that it would be an approximately 60-day process to provide a new appointment.

At a January 15, 2015 budget meeting attended by Banford, Finnerty, Susan MacDonald, and Miller, Finnerty told Banford that Human Resources was working on a new appointment for the Head Softball Coach position.

Following that budget meeting, Miller and Banford approached Kinnear in her office. Kinnear told them that the Athletics Department had communicated that it intended to keep Banford on as softball coach, but the paperwork for the head-softball-coach position was not yet completed.

Finnerty left a voicemail message for Banford on Sunday, January 18, 2015, affirming the University's intent to retain Banford as Head Softball Coach.

On or about January 19, 2015, Berlo sent a letter to Banford informing her that when a head coach (Miller) leaves her position it is common practice to issue notices of non-renewal to the program's entire coaching staff, which allows the new head coach to choose her new staff; that the notice of nonrenewal was consistent with this practice; and that Banford's job would need to be reclassified solely as Head Softball Coach and this would be addressed through a new appointment.

Berlo presented Banford with an official offer of appointment as Women's Head Softball Coach on January 27, 2015.

Referenced documents will be produced pursuant to Fed. R. Civ. P. 33(d).

**BANFORD INTERROGATORY NO. 4:** Please identify each and every Communication by, between, and/or among Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Linda Kinnear, and/or any other personnel of UMD, the University of Minnesota Twin Cities, or the Regents regarding Defendant's decision not to renew Banford's contract as director of operations for the UMD women's hockey team for 2015-2016 and/or whether or not to renew Banford's contract as coach of the UMD women's softball team. For each such Communication:

- (a) Identify the parties involved in the Communication;
- (b) Identify whether it was an oral or written Communication;
- (c) Describe when the Communication occurred; and
- (d) Describe in detail the substance of the Communication, including, but not limited to, every reason given by any Person why Banford's contract should not be renewed.

**BANFORD ANSWER NO. 4:** The University objects to Banford Interrogatory No. 4 on the grounds that it seeks the disclosure of information or materials protected

from discovery by the attorney-client privilege and the work-product doctrine. The University further objects that this interrogatory is overly broad, unduly burdensome, and irrelevant insofar as it seeks identification of communications by, between, and/or among “any other personnel of UMD, the University of Minnesota Twin Cities, or the Regents,” as those personnel number in the thousands. Subject to and without waiving these objections, the University responds: See response to Banford Interrogatory No. 3. Non-privileged responsive documents will be produced pursuant to Fed. R. Civ. P. 33(d).

**ANSWERS TO INTERROGATORIES (for Annette Wiles)**

**WILES INTERROGATORY NO. 1:** Please state each reason for the decision to give Wiles a 1% merit increase for 2014-2015.

**WILES ANSWER NO. 1:** The University objects that the Wiles Interrogatory No. 1 is premised on an inaccuracy: Wiles did not receive a 1% merit increase for 2014–2015, but rather initially received a 1.5% merit increase for 2014–2015. Subject to and without waiving this objection, the University responds as follows:

Head-coach merit increases are determined by the relative expectations for each program’s goals as defined by the “three Cs”: community, classroom and competition. Wiles received a below-base merit increase of 1.5% because she achieved below-base performance for the three Cs. The primary driver was the significant student-athlete-welfare issues, morale and treatment concerns identified by women’s basketball players in the student-athlete survey (which was provided electronically to the women’s basketball team, along with all other student athletes) and the exit interviews of the women’s basketball seniors. Moreover, these processes revealed that Wiles committed a

HIPAA violation by disclosing a student athlete's medical condition to the entire team. In addition, the program's win-loss record was disappointing, with barely a .500 record with a talented team.

**WILES INTERROGATORY NO. 2:** Please state each and every fact supporting Your denial of Paragraphs 101-104 of the Complaint, including, but not limited to, your denial of Paragraph 103 of the Complaint, including in your answer Identification of any discussions between Joshua Berlo and Wiles relating to the October 2013 GLBT National Coming Out Day luncheon, state the dates and locations of the discussions, and specifically describe the contents of the discussions.

**WILES ANSWER NO. 2:** Berlo does not recall that Wiles invited him to the October 2013 luncheon. If she had, Berlo would not have immediately declined her invitation. Due to the fluid and full nature of his schedule, he would have had to check his calendar, which he does not solely manage. On the day of the luncheon, Berlo was briefly in his office before going to the Minnesota Wild practice at Amsoil Arena in downtown Duluth, from which he would not have been able to return to campus in time for the luncheon. After the luncheon, Berlo recalls a general conversation with Wiles regarding the event. Berlo does not recall asking Wiles, "Did you give it a lot of thought before you decided to speak?" or otherwise implying that he questioned Wiles' wisdom in deciding to speak at the luncheon. He does recall talking with Wiles and asking how it went because he found it courageous and inspiring that Wiles was the keynote speaker.

Wiles's allegation that Berlo's and Abbey Strong's attitudes towards her changed after the October 2013 GLBT National Coming Out Day luncheon is baseless. As an initial matter, Wiles was openly gay prior to the Coming Out Day luncheon. Most, if not all, of the Athletics Department leadership had met Wiles's partner (a woman) and their

daughter. Berlo, for instance, had met Wiles's partner (now spouse) in the fall of 2013 before the luncheon, and Strong regularly socialized with Wiles and her partner. In addition, Berlo was genuinely excited for Wiles and provided positive feedback when she informed him and another staff member that she was getting married in September 2014.

Strong and Wiles were good friends for years. Strong went to bonfires and barbeques at Wiles's house, and they played on a bocce ball league team together. Strong babysat Wiles's daughter. Strong attended the GLBT National Coming Out Day luncheon in October 2013. She went to Wiles's daughter's birthday party the following month, in November 2013. She also traveled with the women's basketball team to Missouri after the Coming Out Day luncheon. Wiles's graduate assistant—who identified as gay—lived in Strong's home, as did other gay female coaching staff.

Wiles severed her friendship with Strong as a result of a falling-out in October 2014. Namely, Toyota had assessed Wiles charges of more than \$1,200 for wear and tear on the leased Toyota vehicle that the University provided to Wiles free of charge. Despite the fact that Wiles had signed a lease contract agreeing that she would be personally responsible for paying Toyota for charges such as wear and tear and mileage overages, Wiles insisted that Strong find money in the budget to pay for the charges. Strong had difficulty finding money in the budget, and Wiles became hostile toward Strong—not the other way around.

Berlo, likewise, harbored no hostility toward Wiles or the GLBT community generally and, in fact, supported Wiles and the GLBT community. Berlo was among a small contingent of family and friends who attended the August 2012 wedding ceremony

of a close friend who is gay, and travelled over 750 miles to do so. Again, Berlo admired Wiles for speaking at the Coming Out Day luncheon.

In connection with the October 8, 2014 luncheon, Berlo was scheduled to be en route to Madison, Wisconsin at the time of the luncheon. Therefore, on October 1, 2014, Berlo sent an email regarding the Coming Out Day Luncheon to senior Athletics Department staff (Abbey Strong, Brian Nystrom, Jay Finnerty, Karen Stromme, Robert Nygaard, Gary Holquist, and Mike Wendinger) stating: "I am out of town (as are Gary and Karen), I would like one of you to attend in my place to represent Athletics and show support. There is no cost to you. Please let me know ASAP. Thank you."

**WILES INTERROGATORY NO. 3:** Please state whether, during Wiles' tenure as women's basketball coach at UMD, department meetings were ever held in which Wiles was not invited. If Your answer is yes, for each such meeting, Identify the Persons in attendance, state the date and time of the meeting, state the location of the meeting, Identify each Person involved in the decision not to invite Wiles, specifically describe each and every reason relied upon in not inviting Wiles to the meeting, and specifically describe what was discussed at the meeting.

**WILES ANSWER NO. 3:** The University objects to Wiles Interrogatory No. 3 as being overly broad, vague, and ambiguous insofar as it refers to "department meetings." Taken literally, this could refer to any meeting between or among Athletics Department personnel. Subject to and without waiving these objections, the University states that Wiles was never excluded from meetings to which all UMD head coaches or all UMD coaches were invited.

**WILES INTERROGATORY NO. 4:** Please state whether, during Wiles' tenure as women's basketball coach at UMD, the women's basketball budget was ever decreased. If Your answer is yes, for each such decrease, state the amount of the decrease (including the initial budget and revised budget), state the date when the budget was decreased, Identify each Person involved in the decision to decrease the budget, state

whether the decrease was communicated to Wiles and, if yes, Identify each and every Communication, the date of the Communication, the nature and method of the Communication, and specifically describe the contents of the Communication, and state each and every fact relied upon in decreasing the budget.

**WILES ANSWER NO. 4:** The University objects to Wiles Interrogatory No. 4 as being overly broad to the extent it seeks information for Wiles's entire tenure at UMD. Subject to and without waiving these objections, the University responds that it will produce documents containing the responsive information as to academic years 2010–2011 to 2014–2015.

**AS TO OBJECTIONS:**

Dated: September 27, 2016

**GREENE ESPEL PLLP**

s/Jeanette M. Bazis

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*Attorneys for Defendant Board of Regents  
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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

Shannon Miller, Jen Banford,  
and Annette Wiles,

Plaintiffs,

v.

The Board of Regents of the  
University of Minnesota,

Defendant.

Case No. 15-cv-03740 (RHK/LIB)

**CERTIFICATE OF SERVICE**

I hereby certify that on September 27, 2016, I caused a copy of the following document to be e-mailed and mailed to the following attorneys upon their consent to receive service of the same via e-mail:

1. Defendant's Supplemental Answers to Plaintiffs' First Set of Interrogatories

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Dated: September 27, 2016

s/ Jeanette M. Bazis  
Jeanette M. Bazis, Reg. No. 255646



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October 13, 2016

Jeanette M. Bazis  
 Greene Espel PLLP  
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 Minneapolis, MN 55402

Re: Miller, et al. v. The Board of Regents of the University of Minnesota

Dear Ms. Bazis:

As you know, the parties have exchanged numerous correspondence regarding deficiencies in defendant’s discovery production in this matter, notably including my letter dated August 8, 2016, as well as a meet and confer telephone conference that took place on July 27, 2016. Although defendant has produced additional documents since that time, many deficiencies in defendant’s production remain.

In an attempt to continue to meet and confer to resolve these deficiencies, and in preparation for our telephone conversation scheduled for October 17, 2016, I respectfully direct your attention to the following:

**DOCUMENT REQUEST NUMBER 3:**

Plaintiffs requested all Documents reflecting the procedures and criteria used for renewing the employment contracts of UMD’s coaches and assistant coaches for each academic year from 2010-11 to the present.

On July 27, 2016, defendant agreed to produce any documents concerning procedures for hiring coaches, and agreed to provide and identify any documents not produced on the basis of attorney-client privilege and/or work product doctrine. On September 27, 2016, we requested that defendant either provide all of the responsive documents by October 7, 2016, or state that no other documents exist.

Defendant has not produced a privilege log identifying documents that it does not plan to produce nor has defendant produced documents memorializing its criteria for hiring coaches.

**DOCUMENT REQUEST NUMBER 5:**



Plaintiff requested line item budgets for each year from 2010-11 to the present for the UMD Athletics Department including, but not limited to, final drafts and revisions.

On July 27, 2016, defendant agreed to produce any documents responsive to this request, including line item budgets. On September 27, 2016, we requested that defendant either provide all of the responsive documents by October 7, 2016, or state that no other documents exist.

Defendant has not produced all responsive documents regarding the Athletics Department.

**DOCUMENT REQUEST NUMBER 6:**

Plaintiffs requested all Documents filed with any governmental or regulatory entity, or maintained by UMD, relating to Title IX and UMD's obligations thereunder with respect to UMD's athletics department from 2010 to the present, including, but not limited to, any attachments, any Documents providing support for the information contained therein, and any drafts and revisions of the same, and specifically including any such Documents relating to the Equity in Athletics Disclosure Act.

Defendant did produce some Title IX responses, but not the underlying documents related to those reports, nor did they provide the Equity in Athletics Data Analysis and the underlying documents.

Because of the manner in which the documents were provided, it is not clear if all the underlying documents were produced. Therefore, we request that defendant either state that it has provided all of the responsive documents or state that no other documents exist. If other documents exist that have not been produced, defendant must produce those documents.

**DOCUMENT REQUEST NUMBER 7:**

Plaintiffs requested all Documents reflecting the salaries, including the title, percent of full time equivalent (FTE), and salary of all coaches and assistant coaches in the men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs in the UMD Athletics Department, including for each year from 2010 to the present, and including, but not limited to, any contracts for each such coach or assistant coach.

This request includes, but is not limited to, base salary, annuities, augmentations, media bonuses, stipends, and specific car allowances.

On July 27, 2016, defendant agreed to provide the requested information. On September 27, 2016, plaintiffs requested that defendant

provide all of the responsive Documents by October 7, 2016. Defendant has failed to produce all responsive documents.

**DOCUMENT REQUEST NUMBER 8:**

Plaintiffs requested all Documents reflecting, evidencing, referring to, or otherwise related to any complaint made by any plaintiff, formal or informal, concerning any actual or alleged discrimination, disparate treatment, retaliation/reprisal, hostile work environment, and/or any conduct alleged in the pleadings, including, but not limited to, complaints, responses, notes, investigations, reports, drafts, documents reviewed, witness statements, and Correspondence and Communications to or from Joshua Berlo, Lendley Black, Jay Finnerty, Karen Stromme, Abbey Strong, Mary Cameron, Lisa Erwin, Angie Nichols, Linda Kinnear, Bob Nygaard, Bob Nielson, Mike Wendinger, and/or William Wade, or copied or blind-copied to the same, from 2010 to the present, including, but not limited to, any such complaints relating to conduct allegedly based on any plaintiff's sex, sexual orientation, national origin, and/or age.

On July 27, 2016, defendant agreed to produce all documents responsive to this request. Defendant stated that it was still reviewing emails and would be providing emails responsive to this request. On September 27, 2016, plaintiffs requested that defendant either provide all of the responsive documents by October 7, 2016, or state that no other documents exist.

Defendant has subsequently produced additional responsive documents, including, but not limited to, Bates Nos. UM 6680-6688. Defendant is obligated to either produce all responsive documents or state that no other documents exist.

**DOCUMENT REQUEST NUMBER 9:**

Plaintiffs requested all Documents referring or relating to merit increases for all staff in the men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs in the UMD Athletics Department for each year from 2010-11 to the present.

On July 27, 2016, plaintiffs agreed to narrow this request to information related to merit increases for head and assistant coaches in the men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs in the UMD Athletics Department for each year from 2010-11 to the present.

On September 27, 2016, plaintiffs requested that defendant either provide all of the responsive documents by October 7, 2016, or state that no other documents exist.

Defendant has not produced all responsive documents.

**DOCUMENT REQUEST NUMBER 10:**

Plaintiffs requested all Documents relating to or referring to all donations to any UMD athletic team, including the name of the donor, the date of each individual donation, the amount of each individual donation, any condition(s) placed upon such donation by the donor, and all Documents showing the distribution or use of each such donation, including, but not limited to, which UMD athletics team received the donation, the portion of the donation received by each team, and all Correspondence relating to any such donation, from 2010 to the present.

Defendant did not provide any documents related to this request. Plaintiffs agreed to narrow this request from 2010 to present that includes the name of the donor, the amount of each individual donation, any conditions placed on the donation, and documents showing the distribution or use of each such donation, which UMD athletic teams received the donation, the portions of the donation received by each team, how each donation was spent, and correspondence related to such donations. On July 27, 2016, defendant agreed to produce the requested documents.

On September 27, 2016, plaintiffs requested that defendant provide all of the responsive documents by October 7, 2016. To date, defendant provided a list of grants but has not provided the Documents requested regarding all donations as listed above.

**DOCUMENT REQUEST NUMBER 11:**

Plaintiffs requested all Documents and Correspondence reflecting, relating to, or referring to the budgets, including, but not limited to, the staffing, travel, equipment/apparel, scholarship, summer financing, and recruiting budgets for each team, men's and women's, in the UMD Athletics Department from 2010 to the present.

On July 27, 2016, defendant agreed to produce the requested documents. On September 27, 2016, plaintiffs requested that defendant either provide all of the responsive documents by October 7, 2016, or state that no other documents exist.

Defendant has not produced all responsive documents regarding each team, men's and women's, in the Athletics Department.

**DOCUMENT REQUEST NUMBER 12:**

Plaintiffs requested all Documents including, but not limited to, press releases, and other information released relating or referring to men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs from Defendant, including from the UMD sports information office, from 2010 to the present, including any drafts of the same.

Defendant produced some articles and advertisements but did not provide the press releases. On July 27, 2016, defendant agreed to produce the requested documents. On September 27, 2016, plaintiffs requested that defendant either provide all of the responsive documents by October 7, 2016, or state that no other documents exist.

Defendant has produced some responsive documents, but must either produce all responsive documents or state that no other documents exist.

**DOCUMENT REQUEST NUMBER 13:**

Plaintiffs requested all Documents, Correspondence, and Communications related or referring to Miller's contract as the UMD women's hockey coach not being renewed for the 2015-16 academic year, including, but not limited to, any such Documents, Correspondence, and Communications relating to the decision whether or not to renew Miller's contract, and any notes relating to the same.

On July 27, 2016, defendant agreed to produce any responsive documents concerning individuals who had input in reviewing Miller's contract. On September 27, 2016, plaintiffs requested that defendant either provide all of the responsive documents by October 7, 2016, or state that no other documents exist.

Defendant produced some memos and letters related to the termination of Miller but did not produce documents related to the decision not to renew Miller's contract.

**DOCUMENT REQUEST NUMBER 14:**

Plaintiffs requested all Documents, Correspondence, and Communications related or referring to Banford's contract as the director of operations for the UMD women's hockey team and/or contract as the UMD women's softball coach not being renewed for the 2015-16 academic year, including, but not limited to, any such Documents, Correspondence, and Communications relating to the decision whether or not to renew either of Banford's contracts, and any notes relating to the same.

Defendant provided some documents but did not provide any emails or notes before December 2014.

On July 27, 2016, defendant agreed to produce any responsive documents concerning individuals who had input in reviewing Banford's contracts. On September 27, 2016, plaintiffs requested that defendant either provide all of the responsive documents by October 7, 2016, or state that no other documents exist. Defendant has failed to provide all responsive documents.

**DOCUMENT REQUEST NUMBER 17:**

Plaintiffs requested all Documents, Communications, or Correspondence referring to or relating to Wiles' decision to leave UMD, including any such Documents evidencing any reasons for Wiles' decision.

Defendant provided some documents. On July 27, 2016, defendant agreed to produce any responsive documents concerning individuals who had input in reviewing Wiles' contracts. On September 27, 2016, plaintiffs requested that defendant either provide all of the responsive documents by October 7, 2016, or state that no other documents exist. Defendant has failed to provide all responsive documents.

**DOCUMENT REQUEST NUMBER 19:**

Plaintiffs requested all Documents constituting, referring to, or relating to any survey or interview, including, without limitation, any student survey or senior exit interview conducted by Defendant concerning any plaintiffs from 2010 to the present.

On July 27, 2016, defendant agreed to produce any responsive documents. On September 27, 2016, plaintiffs requested that defendant either provide all of the responsive documents by October 7, 2016, or state that no other documents exist.

Defendant provided only student survey summaries and did not provide the surveys themselves for all three plaintiffs.

Defendant has subsequently produced responsive documents, including, but not limited to, Bates Nos. UM 6719-6744. Defendant is obligated to produce all responsive documents.

**DOCUMENT REQUEST NUMBER 20:**

Plaintiffs requested all Documents constituting, referring to, or relating to the PowerPoint presentation created by or presented by Josh Berlo at the December 9, 2014 UMD Athletics Department staff meeting regarding department finances and fundraising.

On July 27, 2016, defendant agreed to produce any responsive documents. On September 27, 2016, plaintiffs requested that defendant either provide all of the responsive documents by October 7, 2016. Defendant did not provide all documents responsive to this request.

**DOCUMENT REQUEST NUMBER 21:**

Plaintiffs requested all Documents relating to Joshua Berlo and/or Lendley Black's respective employments with UMD, including, but not limited to, records, memoranda, or notes, including, but not limited to, computer printouts, which were part of each's respective employment at any time related to complaints, discipline documents, corrective action, and referring or related to sexual harassment or retaliation.

Defendant has produced some responsive documents. Please state whether defendant has produced all documents responsive to this request.

**DOCUMENT REQUEST NUMBER 22:**

Please produce all Documents, Correspondence, and Communications related to or concerning Defendant's search for and hiring of the head coach for UMD's women's hockey team, women's softball team, and/or women's basketball team for the 2015-16 season. This includes, but is not limited to, the job posting; the job description; candidate lists; any Correspondence, Communications, Documents, notes, memoranda, or other internal communications regarding the hiring process; any outlines, notes, memoranda, or other Documents prepared for, during, or after the interviews of candidates; and all communications with candidates regardless of the date of the communication.

Defendant has produced some responsive documents. Please state whether defendant has produced all documents responsive to this request.

**DOCUMENT REQUEST NUMBER 23:**

Plaintiffs requested all Documents related to or concerning UMD's decision to hire Miller as head coach of the women's hockey team, Banford as head coach of the women's softball team, or Wiles as the head coach of the women's basketball team. This includes, but is not limited to, any Documents, Correspondence, Communications, notes, memoranda, or other internal communications regarding plaintiffs; any emails or other written communications between UMD and plaintiffs; any outlines, notes, memoranda, or other Documents prepared for, during, or after plaintiffs' interviews; and any emails or other written communications between

UMD and plaintiffs.

Defendant has produced some responsive documents. Please state whether defendant has produced all documents responsive to this request.

**DOCUMENT REQUEST NUMBER 24:**

Plaintiffs requested all Correspondence and Communications to or from Joshua Berlo and/or Lendley Black, or copied or blind-copied to the same, and all Documents, including notes and memos, created or prepared by or for the same individuals, before, during, or after any meeting with Miller, including, but not limited to, meetings dated July 14, 2014; July 29, 2014; October 2, 2014; November 25, 2014; November 26, 2014; December 9, 2014; December 11, 2014; December 12, 2014; and December 14, 2014.

On July 27, 2016, defendant agreed to produce all responsive documents. On September 27, 2016, plaintiffs requested that defendant either provide all of the responsive documents by October 7, 2016, or state that no other documents exist.

Defendant did not provide all documents responsive to this request.

**DOCUMENT REQUEST NUMBER 25:**

Plaintiffs requested all Documents relating to any and all allegations, claims, charges, or complaints of discrimination, harassment, or retaliation (including, but not limited to, discrimination based upon sex, sexual orientation, national origin, and/or age) made against UMD's athletic department from 1995 to the present, including, but not limited to, informal and/or internal complaints or allegations of discrimination, harassment, or retaliation, as well as formal charges of discrimination and lawsuits, and including, but not limited to, documents relating to investigations of such complaints.

On July 27, 2016, defendant agreed to produce all responsive documents. On September 27, 2016, plaintiffs requested that defendant either provide all of the responsive documents by October 7, 2016, or state that no other documents exist.

Defendant did not provide all documents responsive to this request.

**INTERROGATORY NUMBER 4:**

Plaintiff requested that Defendant describe each fringe benefit

received by any coach and/or assistant coach in UMD's men's or women's athletics departments between 2010-11 to the present. For each benefit, state whether it was provided to each plaintiff, state the cost of the fringe benefit to you, and state the cost to the employee as of the date of each plaintiff's termination and/or resignation.

On July 27, 2016, defendant agreed to produce responsive information concerning plaintiffs' fringe benefits, including, but not limited to, the amount UMD paid for all coaches and assistant coaches in men's and women's interscholastic basketball, ice hockey, softball, baseball, and football programs, including the cost to plaintiffs for any benefits received and any documents or manuals showing what benefits responsive individuals received.

On September 27, 2016, defendant provided a supplemental answer to Interrogatory No. 4 but did not provide all the requested information.

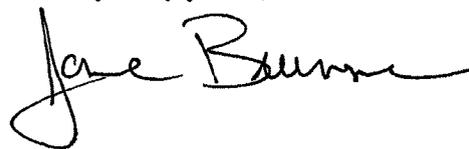
In addition to the above items, defendant needs to provide a privilege log for all documents that they claim are privilege, plus state for all document requests that they have produced all responsive document.

We have scheduled a telephone conference for October 17, 2016 to discuss the above-described deficiencies. Because of the tight timeline for plaintiffs' expert witness reports and depositions, if we do not resolve all of the above described documents, information, and privilege log and receive them no later than **October 20, 2016**, we will be forced to file a Motion to Compel.

To that end, as a courtesy, please be advised that plaintiffs have reserved a hearing date on November 17, 2016 for a motion to compel. That hearing will take place at the federal courthouse in Duluth, Minnesota. Plaintiffs will supplement this notice with additional details, including the time of the hearing and the courtroom number.

To the extent your answer is that any of the above-requested documents have already been produced in discovery, please identify those documents by Bates Number(s).

Very truly yours,

A handwritten signature in black ink that reads "Jane Brunner". The signature is written in a cursive style with a large, looping initial "J".

Jane Brunner

cc: Andrew James



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October 20, 2016

**VIA EMAIL**

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Re: *Miller, et al. v. Regents of the University of Minnesota*  
Our File No. 02025-00035

Dear Counsel:

Served upon you please find documents Bates numbered UM\_000008397 - UM\_000012707 in the above-referenced matter. This production was transmitted electronically via our secure file transfer system. Please note that we have labeled most of these documents as CONFIDENTIAL pursuant to the terms of our stipulated protective order in order to hasten the production; however, we anticipate removing that designation for many of the documents following a more detailed review.

Very truly yours

A handwritten signature in black ink that reads "Jeanette M. Bazis".

Jeanette M. Bazis

JB:sdm  
Enclosures

**Andrew T. James**

---

**From:** Jeanette Bazis <JBazis@greeneespel.com>  
**Sent:** Friday, October 28, 2016 10:42 AM  
**To:** Andrew T. James  
**Cc:** danmsiegel@gmail.com; Jane Brunner (janebrunner@hotmail.com); Donald Mark; Katherine M. Swenson; 'Tim Pramas (pram0001@umn.edu)' (pram0001@umn.edu); Debra Jones  
**Subject:** RE: Miller, et al. v. UMD: Discovery Production

Dear Andrew,

We still await production of promised information and documents and a privilege log from Plaintiffs, as discussed during our October 17 call. We trust that you and your clients--like the University--are working diligently and in good faith to fulfill your commitments. We also await Plaintiffs' written confirmation that it has produced all responsive documents and information (other than as specifically stated upon objection).

The University expects to make an additional document production on Monday afternoon or Tuesday morning, and to provide its privilege log by Friday. It is continuing to investigate whether additional responsive budget documents exist, and to locate additional information and documents regarding donations to UMD's intercollegiate athletics programs and the distribution of those donations. With regard to the University's remaining discovery responses and document production, the University has conducted a reasonable search and, to the best of our knowledge, its production is complete or will be complete by Monday or Tuesday. As we stated during our call, we invite you to let us know if there are specific documents you believe are missing. (For instance, Jane began reading a list of budgets that she believes are missing, but has not yet provided us with that list.)

Finally, while not material, I'll note for the record that your statement that the University has produced 4,800 since October 20 is inaccurate. Also, our production also included a bates-labeled copy of Ms. Wiles' ~300-page medical record, which already was in your possession but which needed to be numbered for tracking purposes going forward. Your clients, incidentally, produced almost 1,400 pages in October. Please let us know when we can expect Plaintiffs' additional supplemental production and interrogatory responses, and their privilege log.

Best regards,  
Jeanette

Jeanette M. Bazis  
612.373.8358 *phone*  
[jbazis@greeneespel.com](mailto:jbazis@greeneespel.com)

**GREENE ESPEL PLLP** 222 South Ninth Street, Suite 2200, Minneapolis, MN 55402-3362  
612.373.0830 *phone* 612.373.0929 *fax* [www.greeneespel.com](http://www.greeneespel.com)

---

**From:** Andrew T. James [mailto:[andrew.james@fmjlaw.com](mailto:andrew.james@fmjlaw.com)]  
**Sent:** Thursday, October 27, 2016 3:35 PM  
**To:** Jeanette Bazis; 'Tim Pramas (pram0001@umn.edu)' (pram0001@umn.edu)  
**Cc:** danmsiegel@gmail.com; Jane Brunner (janebrunner@hotmail.com); Donald Mark; Katherine M. Swenson  
**Subject:** Miller, et al. v. UMD: Discovery Production

Jeanette and Tim,

During our meet and confer telephone conference on October 17, 2016, we discussed several of Plaintiffs' requests for production of documents and Defendant agreed to provide: (1) written confirmation that all responsive documents have been produced for each document request; (2) written confirmation if no responsive documents exist for any document request; and (3) a privilege log for any documents withheld from production on the basis of attorney-client privilege and/or the attorney work product doctrine. Although you produced an additional ~4,800 documents between October 20 and today, we have not received the information described above, including confirmation that all responsive documents have been produced or an indication as to which document requests remain outstanding.

We are entitled to (1) and (2) for all requests for production. Please advise immediately if you are expecting to produce any additional documents, including the date on which those documents will be produced. As we discussed on October 17, our experts are awaiting a full document production and we need to prepare for depositions, so we need production of all responsive documents as soon as possible. As part of your response, please indicate whether all responsive documents have been produced in response to Requests Nos. 3, 8, 10-11, 13-14, 17, 21, and 24-25.

Very truly yours,

**Andrew T. James**

*Associate*

**Fafinski Mark & Johnson, P.A.**

Flagship Corporate Center

775 Prairie Center Drive, Suite 400

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Jeanette M. Bazis  
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May 13, 2016

**VIA EMAIL**

Donald Chance Mark, Jr.  
Andrew T. James  
Christopher R. Sall  
Tyler P. Brimmer  
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[jalle@siegelyee.com](mailto:jalle@siegelyee.com)

Re: *Miller, et al. v. Regents of the University of Minnesota*  
Our File No. 02025-00035

Dear Counsel:

Defendant University of Minnesota hereby serves upon you by e-mail documents in response to Plaintiffs' First Set of Document Requests numbered UM\_000000001 – UM\_000002849.

Very truly yours

A handwritten signature in black ink that reads "Jeanette M. Bazis".

Jeanette M. Bazis

JB:scf  
Enclosures

**GREENE  
ESPEL<sup>PLLP</sup>**

Jeanette M. Bazis  
612.373.8358 *direct*  
jbazis@greeneespel.com

May 13, 2016

**VIA EMAIL**

Donald Chance Mark, Jr.  
Andrew T. James  
Christopher R. Sall  
Tyler P. Brimmer  
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*jalle@siegelyee.com*

Re: *Miller, et al. v. Regents of the University of Minnesota*  
Our File No. 02025-00035

Dear Counsel:

Served upon you please find documents Bates numbered UM\_000002850 – UM\_000004585 in the above-referenced matter. This production was transmitted electronically via our secure file transfer system. Please note that documents are labeled CONFIDENTIAL pursuant to the terms of our stipulated protective order.

Very truly yours



Jeanette M. Bazis

JB:sdm  
Enclosures

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August 12, 2016

**VIA EMAIL**

Donald Chance Mark, Jr.  
Andrew T. James  
Christopher R. Sall  
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*jalle@siegelyee.com*

*Re: Miller, et al. v. Regents of the University of Minnesota*  
Our File No. 02025-00035

Dear Counsel:

Served upon you please find documents Bates numbered UM\_000004586 – UM\_000005884 in the above-referenced matter. Also included in this production is UM\_000004162.0001 – UM\_000004162.0049 (additional pages from Shannon Miller's Athletic Department personnel file). This production was transmitted electronically via our secure file transfer system. Please note that some of the documents are labeled CONFIDENTIAL pursuant to the terms of our stipulated protective order.

Very truly yours



Jeanette M. Bazis

JB:sdm  
Enclosures

**GREENE  
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jbazis@greeneespe.com

September 12, 2016

**VIA EMAIL**

Donald Chance Mark, Jr.  
Andrew T. James  
Christopher R. Sall  
Tyler P. Brimmer  
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*dansiegel@siegelyee.com*  
*jalle@siegelyee.com*

Re: *Miller, et al. v. Regents of the University of Minnesota*  
Our File No. 02025-00035

Dear Counsel:

Served upon you please find documents Bates numbered UM\_000005885 – UM\_000006513 in the above-referenced matter. This production was transmitted electronically via our secure file transfer system. Please note that some of the documents are labeled CONFIDENTIAL pursuant to the terms of our stipulated protective order.

Very truly yours



Jeanette M. Bazis

JB:sdm  
Enclosures



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October 7, 2016

**VIA EMAIL**

Donald Chance Mark, Jr.  
Andrew T. James  
Christopher R. Sall  
Tyler P. Brimmer  
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*jalle@siegelyee.com*

Re: *Miller, et al. v. Regents of the University of Minnesota*  
Our File No. 02025-00035

Dear Counsel:

Served upon you please find documents Bates numbered UM\_000006514 – UM\_000008396 in the above-referenced matter. This production was transmitted electronically via our secure file transfer system. Please note that we have labeled most of these documents as CONFIDENTIAL pursuant to the terms of our stipulated protective order in order to hasten the production; however, we anticipate removing that designation for many of the documents following a more detailed review.

Very truly yours

A handwritten signature in black ink that reads "Jeanette M. Bazis". Below the signature is the printed name "Jeanette M. Bazis".

Jeanette M. Bazis

JB:sdm  
Enclosures



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October 21, 2016

**VIA EMAIL**

Donald Chance Mark, Jr.  
Andrew T. James  
Christopher R. Sall  
Tyler P. Brimmer  
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Re: *Miller, et al. v. Regents of the University of Minnesota*  
Our File No. 02025-00035

Dear Counsel:

Served upon you please find document Bates numbered UM\_000012708-UM\_000012713 in the above-referenced matter. This production was transmitted electronically via our secure file transfer system.

Very truly yours

A handwritten signature in cursive script that reads "Jeanette M. Bazis".

Jeanette M. Bazis

JB:sdm  
Enclosures



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October 31, 2016

**VIA EMAIL**

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Christopher R. Sall  
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Re: *Miller, et al. v. Regents of the University of Minnesota*  
Our File No. 02025-00035

Dear Counsel:

Served upon you please find document Bates numbered UM\_000012714 - UM\_000013373 in the above-referenced matter. This production was transmitted electronically via our secure file transfer system.

Very truly yours

A handwritten signature in black ink that reads "Jeanette M. Bazis".

Jeanette M. Bazis

JB:sdm  
Enclosures