

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)

**AFFIDAVIT OF
JEANETTE M. BAZIS**

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Jeanette M. Bazis, being first duly sworn, on oath, states as follows:

1. I am an attorney with the law firm of Greene Espel PLLP, and one of the attorneys retained to represent Defendant The Board of Regents of the University of Minnesota (“the University”) in the above-referenced matter. I offer this Affidavit based on my personal knowledge and in support of the University’s motion to compel discovery.

2. Attached hereto as exhibits are true and correct copies of the following documents:

Exhibit A	Excerpt from Plaintiff Shannon Miller’s Response to Defendant’s First Set of Requests for Production of Documents (May 31, 2016)
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Exhibit B	Excerpt from Plaintiff Jen Banford's Response to Defendant's First Set of Requests for Production of Documents (May 31, 2016)
Exhibit C	Excerpt from Plaintiff Annette Wiles's Response to Defendant's First Set of Requests for Production of Documents (May 31, 2016)
Exhibit D	Excerpt from Plaintiff Shannon Miller's Amended Answers to Defendant's First Set of Interrogatories (Aug. 19, 2016)
Exhibit E	Excerpt from Plaintiff Jen Banford's Second Amended Answerer [sic] to Defendant's First Set of Interrogatories to Plaintiffs (Oct. 7, 2016)
Exhibit F	Plaintiffs' Expert Witness Disclosures (Sept. 30, 2016)
Exhibit G	Plaintiffs' Privilege Log (Nov. 2, 2016)
Exhibit H	Letter from Jeanette Bazis to all counsel (Oct. 25, 2016)
Exhibit I	Email from Jane Brunner to Jeanette Bazis and Timothy Pramas (Oct. 31, 2016 at 1:51 p.m.)
Exhibit J	Email from Jane Brunner to Jeanette Bazis (Nov. 1, 2016 at 6:16: p.m.)

FURTHER AFFIANT SAYETH NOT.

Dated: November 3, 2016

s/ Jeanette M. Bazis
 Jeanette M. Bazis

Subscribed and sworn to before me
 this 3rd day of November, 2016.

s/ Stacy D. Mattingly
 Notary Public
 My Commission Expires: January 31, 2020

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Shannon Miller,
Jen Banford, and
Annette Wiles,

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

Plaintiffs,

**PLAINTIFF SHANNON MILLER'S
RESPONSE TO DEFENDANT'S
FIRST SET OF REQUESTS
FOR PRODUCTION OF
DOCUMENTS**

vs.

The Board of Regents of the
University of Minnesota,

Defendant.

To: Defendant The Board of Regents of the University of Minnesota, and its attorneys of record, **WILLIAM P. DONOHUE, ESQ., UNIVERSITY OF MINNESOTA GENERAL COUNSEL**, Timothy J. Pramas, Esq., 360 McNamara Alumni Center, 200 Oak Street SE, Minneapolis, MN 55455; and to **GREENE ESPEL P.L.L.P.**, Jeannette M. Bazis, Esq. and Katherine M. Swenson, Esq., 222 South Ninth Street, Suite 2200, Minneapolis, MN 55402:

Pursuant to Federal Rules of Civil Procedure, Rules 26 and 34, plaintiff Shannon Miller (plaintiff) hereby responds as follows to Defendant The Board of Regents of the University of Minnesota's First Set of Requests for Production of Documents.

INTRODUCTORY STATEMENT

Plaintiff responds to Defendant's Requests for Production only as specifically provided for in the Federal Rules of Civil Procedure. To the extent defendant seeks to impose upon plaintiff any requirement to provide responses to any other scope or in any other manner, plaintiff objects to these Requests as being outside the scope of the Federal Rules of Civil Procedure.

Plaintiff objects to each Request: (1) insofar as it calls for the production of documents not in plaintiff's possession, custody, or control; (2) insofar as it calls for the production of documents that were prepared for or in anticipation of litigation, constitute attorney work-product, contain attorney-client communications, or are otherwise privileged; (3) insofar as it calls for the production of documents which are

RESPONSE TO REQUEST NO. 4:

Plaintiff objects to this request on the grounds that it is overbroad, seeks documents protected by the attorney-client privilege and/or work product doctrine, is ambiguous as to the documents requested, seeks to invade plaintiff's right to privacy, and, to the extent that this request seeks the production of plaintiff's medical records, plaintiff incorporates herein as if stated in full the objections contained in her response to Request No. 13. Subject to and without waiving the foregoing objections, plaintiff will produce non-privileged documents in her possession that are responsive to this request.

REQUEST NO. 5:

Produce all documents that constitute, explain, describe, or in any other way relate to or pertain to your income and your household income, from any source whatsoever, for the years 2011 to the present, including but not limited to a copy of your federal and state tax returns, W-2 forms, schedules and related forms, copies of any unemployment insurance, disability insurance, and/or social security disability payments made to you, and copies of the financial statements (monthly, quarterly and annual balance sheets, profit and loss statements, income statements, etc.) and tax returns and Schedule K-1s of any businesses owned in whole or in part by you.

RESPONSE TO REQUEST NO. 5:

Plaintiff objects to this request on the grounds that it requests documents not relevant to any claim or defense in this matter, is overbroad, is not likely to lead to the discovery of admissible evidence, seeks documents that are beyond the scope of permissible discovery, and seeks to invade plaintiff's right to privacy. Subject to and without waiving the foregoing objections, plaintiff will produce responsive W-2 forms, 1099 forms, and documents reflecting plaintiff's income for the years 2011 to present.

REQUEST NO. 6:

Produce all contracts, notes, memoranda, diaries, journals, calendars, appointment books, logs, correspondence, emails, files, or other documents which

REQUEST NO. 17:

Produce copies of all audio recordings or conversations of current and former University employees, agents and students.

RESPONSE TO REQUEST NO. 17:

Plaintiff objects to this request on the grounds that it is overbroad, requests documents in the possession and/or control of third parties, and is vague as to the phrase "copies of all audio recordings." Subject to and without waiving the foregoing objections, plaintiff will produce documents in her possession that are responsive to this request.

Dated: May 31, 2016

SIEGEL & YEE

By: 
Jane Brunner (admitted *pro hac vice*)
Daniel M. Siegel (admitted *pro hac vice*)
Jalle Dafa (admitted *pro hac vice*)
499 14th Street, Suite 300
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and

FAFINSKI MARK & JOHNSON, P.A.
Donald Chance Mark, Jr., Reg. No. 67659
Andrew T. James, Reg. No. 0390982
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(952) 995-9500

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

EXHIBIT B

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Shannon Miller,
Jen Banford, and
Annette Wiles,

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

Plaintiffs,

**PLAINTIFF JEN BANFORD'S
RESPONSE TO DEFENDANT'S
FIRST SET OF REQUESTS
FOR PRODUCTION OF
DOCUMENTS**

vs.

The Board of Regents of the
University of Minnesota,

Defendant.

To: Defendant The Board of Regents of the University of Minnesota, and its attorneys of record, **WILLIAM P. DONOHUE, ESQ., UNIVERSITY OF MINNESOTA GENERAL COUNSEL**, Timothy J. Pramas, Esq., 360 McNamara Alumni Center, 200 Oak Street SE, Minneapolis, MN 55455; and to **GREENE ESPEL P.L.L.P.**, Jeannette M. Bazis, Esq. and Katherine M. Swenson, Esq., 222 South Ninth Street, Suite 2200, Minneapolis, MN 55402:

Pursuant to Federal Rules of Civil Procedure, Rules 26 and 34, plaintiff Jen Banford (plaintiff) hereby responds as follows to defendant The Board of Regents of the University of Minnesota's First Set of Requests for Production of Documents.

INTRODUCTORY STATEMENT

Plaintiff responds to Defendant's Requests for Production only as specifically provided for in the Federal Rules of Civil Procedure. To the extent defendant seeks to impose upon plaintiff any requirement to provide responses to any other scope or in any other manner, plaintiff objects to these Requests as being outside the scope of the Federal Rules of Civil Procedure.

Plaintiff objects to each Request: (1) insofar as it calls for the production of documents not in plaintiff's possession, custody, or control; (2) insofar as it calls for the production of documents that were prepared for or in anticipation of litigation, constitute attorney work-product, contain attorney-client communications, or are

claimed attorneys' fees, emotional distress and mental anguish, personal injury, physical injury, loss of reputation, or any other damages claimed in your Complaint.

RESPONSE TO REQUEST NO. 4:

Plaintiff objects to this request on the grounds that it is overbroad, seeks documents protected by the attorney-client privilege and/or work product doctrine, is ambiguous as to the documents requested, seeks to invade plaintiff's right to privacy, and, to the extent that this request seeks the production of plaintiff's medical records, plaintiff incorporates herein as if stated in full the objections contained in her response to Request No. 13. Subject to and without waiving the foregoing objections, plaintiff will produce non-privileged documents in her possession that are responsive to this request.

REQUEST NO. 5:

Produce all documents that constitute, explain, describe, or in any other way relate to or pertain to your income and your household income, from any source whatsoever, for the years 2011 to the present, including but not limited to a copy of your federal and state tax returns, W-2 forms, schedules and related forms, copies of any unemployment insurance, disability insurance, and/or social security disability payments made to you, and copies of the financial statements (monthly, quarterly and annual balance sheets, profit and loss statements, income statements, etc.) and tax returns and Schedule K-1s of any businesses owned in whole or in part by you.

RESPONSE TO REQUEST NO. 5:

Plaintiff objects to this request on the grounds that it requests documents not relevant to any claim or defense in this matter, is overbroad, is not likely to lead to the discovery of admissible evidence, seeks documents that are beyond the scope of permissible discovery, and seeks to invade plaintiff's right to privacy. Subject to and without waiving the foregoing objections, plaintiff will produce responsive W-2 forms, 1099 forms, and documents reflecting plaintiff's income for the years 2011 to present.

waiving the foregoing objections, plaintiff will produce documents in her possession that are responsive to this request.

REQUEST NO. 17:

Produce copies of all audio recordings or conversations of current and former University employees, agents and students.

RESPONSE TO REQUEST NO. 17:

Plaintiff objects to this request on the grounds that it is overbroad, requests documents in the possession and/or control of third parties, and is vague as to the phrase "copies of all audio recordings." Subject to and without waiving the foregoing objections, Plaintiff will produce documents in her possession that are responsive to this request.

REQUEST NO. 18 (BANFORD):

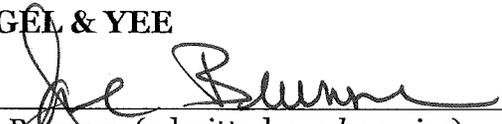
Produce all documents relating to your decision to decline the University's offer of the head-softball-coach position made in 2015.

RESPONSE TO REQUEST NO. 18:

Plaintiff objects to this request to the extent that it seeks documents protected by the attorney-client privilege and/or work product doctrine, is ambiguous as to the documents requested, and requests documents equally available to the propounding party. Subject to and without waiving the foregoing objections, plaintiff will produce non-privileged documents in her possession that are responsive to this request.

Dated: May 31, 2016

SIEGEL & YEE

By: 
Jane Brunner (admitted *pro hac vice*)
Daniel M. Siegel (admitted *pro hac vice*)
Jalle Dafa (admitted *pro hac vice*)
499 14th Street, Suite 300
Oakland, CA 94612
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and

FAFINSKI MARK & JOHNSON, P.A.

Donald Chance Mark, Jr., Reg. No. 67659

Andrew T. James, Reg. No. 0390982

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(952) 995-9500

Attorneys for Plaintiffs

Shannon Miller, Jen Banford,

and Annette Wiles

EXHIBIT C

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Shannon Miller,
Jen Banford, and
Annette Wiles,

Plaintiffs,

vs.

The Board of Regents of the
University of Minnesota,

Defendant.

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

**PLAINTIFF ANNETTE WILES'
RESPONSES TO DEFENDANT'S
FIRST SET OF REQUESTS
FOR PRODUCTION OF
DOCUMENTS**

To: Defendant The Board of Regents of the University of Minnesota, and its attorneys of record, **WILLIAM P. DONOHUE, ESQ., UNIVERSITY OF MINNESOTA GENERAL COUNSEL**, Timothy J. Pramas, Esq., 360 McNamara Alumni Center, 200 Oak Street SE, Minneapolis, MN 55455; and to **GREENE ESPEL P.L.L.P.**, Jeannette M. Bazis, Esq. and Katherine M. Swenson, Esq., 222 South Ninth Street, Suite 2200, Minneapolis, MN 55402:

Pursuant to Federal Rules of Civil Procedure, Rules 26 and 34, plaintiff Annette Wiles hereby responds as follows to Defendant The Board of Regents of the University of Minnesota's First Set of Requests for Production of Documents.

INTRODUCTORY STATEMENT

Plaintiff responds to Defendant's Requests for Production only as specifically provided for in the Federal Rules of Civil Procedure. To the extent defendant seeks to impose upon plaintiff any requirement to provide responses to any other scope or in any other manner, plaintiff objects to these Requests as being outside the scope of the Federal Rules of Civil Procedure.

Plaintiff objects to each Request: (1) insofar as it calls for the production of documents not in plaintiff's possession, custody, or control; (2) insofar as it calls for the production of documents that were prepared for or in anticipation of litigation, constitute attorney work-product, contain attorney-client communications, or are

claimed attorneys' fees, emotional distress and mental anguish, personal injury, physical injury, loss of reputation, or any other damages claimed in your Complaint.

RESPONSE TO REQUEST NO. 4:

Plaintiff objects to this request on the grounds that it is overbroad, seeks documents protected by the attorney-client privilege and/or work product doctrine, is ambiguous as to the documents requested, seeks to invade plaintiff's right to privacy, and, to the extent that this request seeks the production of plaintiff's medical records, plaintiff incorporates herein as if stated in full the objections contained in her response to Request No. 13. Subject to and without waiving the foregoing objections, plaintiff will produce non-privileged documents in her possession that are responsive to this request.

REQUEST NO. 5:

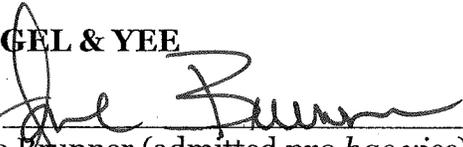
Produce all documents that constitute, explain, describe, or in any other way relate to or pertain to your income and your household income, from any source whatsoever, for the years 2011 to the present, including but not limited to a copy of your federal and state tax returns, W-2 forms, schedules and related forms, copies of any unemployment insurance, disability insurance, and/or social security disability payments made to you, and copies of the financial statements (monthly, quarterly and annual balance sheets, profit and loss statements, income statements, etc.) and tax returns and Schedule K-1s of any businesses owned in whole or in part by you.

RESPONSE TO REQUEST NO. 5:

Plaintiff objects to this request on the grounds that it requests documents not relevant to any claim or defense in this matter, is overbroad, is not likely to lead to the discovery of admissible evidence, seeks documents that are beyond the scope of permissible discovery, and seeks to invade plaintiff's right to privacy. Subject to and without waiving the foregoing objections, plaintiff will produce responsive W-2 forms, 1099 forms, and documents reflecting plaintiff's income for the years 2011 to present.

Dated: May 31, 2016

SIEGEL & YEE

By: 
Jane Brunner (admitted *pro hac vice*)
Daniel M. Siegel (admitted *pro hac vice*)
Jalle Dafa (admitted *pro hac vice*)
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and

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Donald Chance Mark, Jr., Reg. No.67659
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**Attorneys for Plaintiffs
Shannon Miller, Jen Banford,
and Annette Wiles**

EXHIBIT D

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Shannon Miller,
Jen Banford, and
Annette Wiles,

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

Plaintiffs,

**PLAINTIFF SHANNON MILLER'S
AMENDED ANSWERS TO
DEFENDANT'S
FIRST SET OF
INTERROGATORIES**

vs.

The Board of Regents of the
University of Minnesota,

Defendant.

To: Defendant The Board of Regents of the University of Minnesota, and its attorneys of record, **WILLIAM P. DONOHUE, ESQ., UNIVERSITY OF MINNESOTA GENERAL COUNSEL,** Timothy J. Pramas, Esq., 360 McNamara Alumni Center, 200 Oak Street SE, Minneapolis, MN 55455; and to **GREENE ESPEL P.L.L.P.,** Jeannette M. Bazis, Esq. and Katherine M. Swenson, Esq., 222 South Ninth Street, Suite 2200, Minneapolis, MN 55402:

ANSWERS TO INTERROGATORIES

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, plaintiff Shannon Miller (plaintiff) hereby answers defendant The Board of Regents of the University of Minnesota's First Set of Interrogatories as follows:

INTRODUCTORY STATEMENT

Plaintiff answers defendant's Interrogatories only as specifically provided for in the Federal Rules of Civil Procedure. To the extent defendant seeks to impose upon plaintiff any requirement to provide answers to any other scope or in any other manner, plaintiff objects to these Interrogatories as being outside the scope of the Federal Rules of Civil Procedure.

Plaintiff objects to each Interrogatory: (1) insofar as it calls for information

foregoing objections and limitations are included and incorporated in each of the following answers to Interrogatories, regardless of whether they are repeated below.

Subject to these qualifications, plaintiff provides the following answers.

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 3:

For your alleged damages or losses, including but not limited to actual damages, compensatory damages, punitive damages, and reasonable attorneys' fees, itemize in detail:

- a. the amount of such damages;
- b. the calculations used to arrive at such damages; and
- c. all documents which support each damages calculation, the preparations, themselves, of such damages calculations, the person(s) making the calculations, and the date(s) on which such person(s) prepared or assisted in the preparations of such calculations.

ANSWER TO INTERROGATORY NO. 3:

Plaintiff objects to this interrogatory on the grounds that it requests information protected by attorney-client privilege and/or the attorney work-product doctrine, is premature, speculative, is vague, ambiguous, overbroad, and compound. Subject to and without waiving the foregoing objections, plaintiff answers as follows: Miller's salary was \$215,000 per year; she has lost approximately \$215,000 salary to date. This amount is based on her being unemployed since her termination. She also lost \$20,000 in income that UMD contributed to her annuity account. Miller received \$15,360 from unemployment. Miller has not received any income from Sunny Cycle to date; she has received \$54.50 a month for Internet for the last eight months. She has also received

\$224.57 a month for her car payments for the last eight months. Plaintiff's losses related to her benefits and retirement are unknown at this time. Discovery is ongoing and plaintiff reserves the right to supplement this response.

ANSWER TO INTERROGATORY NO. 17:

Plaintiff objects to Interrogatory No. 17 on the grounds that it seeks information protected by attorney-client privilege and/or the attorney work-product doctrine, is overbroad, unduly burdensome, vague, and ambiguous. Subject to and without waiving these objections, plaintiff answers as follows: See Answer to Interrogatories Nos. 9 and 16.

INTERROGATORY NO. 18:

Describe in detail your efforts to mitigate your damages, such as but not limited to any sources of income you have had since your employment with Defendant.

ANSWER TO INTERROGATORY NO. 18:

See Answers to Interrogatory Nos. 3 and 16.

Dated: August 19, 2016

SIEGEL & YEE

By: 
Jane Brunner (admitted *pro hac vice*)
Daniel M. Siegel (admitted *pro hac vice*)
Jalle Dafa (admitted *pro hac vice*)
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(510) 839-1200

and

**FAFINSKI MARK & JOHNSON,
P.A.**
Donald Chance Mark, Jr., Reg. No.

67659

Andrew T. James, Reg. No. 0390982
Christopher R. Sall, Reg. No. 0395633
Flagship Corporate Center
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andrew.james@fmjlaw.com
christopher.sall@fmjlaw.com
(952) 995-9500

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

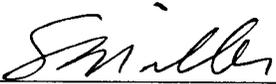
I, SHANNON MILLER, declare as follows:

I have read the foregoing Plaintiff Response to Defendant's Interrogatories, and know the contents thereof.

The information supplied therein is based on my own personal knowledge and/or has been supplied by my attorneys or other agents and is therefore provided as required by law. The information contained in the foregoing document is true, except as to the matters which were provided by my attorneys or other agents, and, as to those matters, I am informed and believe that they are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed in Oakland, on ~~8~~ August 11th, 2016.



Shannon Miller

EXHIBIT E

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Shannon Miller,
Jen Banford, and
Annette Wiles,

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

Plaintiffs,

vs.

The Board of Regents of the
University of Minnesota,

**PLAINTIFF JEN BANFORD'S
SECOND AMENDED ANSWER TO
DEFENDANT'S FIRST SET OF
INTERROGATORIES TO
PLAINTIFFS**

Defendant.

To: Defendant The Board of Regents of the University of Minnesota, and its attorneys of record, **WILLIAM P. DONOHUE, ESQ., UNIVERSITY OF MINNESOTA GENERAL COUNSEL**, Timothy J. Pramas, Esq., 360 McNamara Alumni Center, 200 Oak Street SE, Minneapolis, MN 55455; and to **GREENE ESPEL P.L.L.P.**, Jeannette M. Bazis, Esq. and Katherine M. Swenson, Esq., 222 South Ninth Street, Suite 2200, Minneapolis, MN 55402:

ANSWER TO INTERROGATORIES

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, plaintiff Jen Banford (plaintiff) hereby answers defendant The Board of Regents of the University of Minnesota's First Set of Interrogatories as follows:

INTRODUCTORY STATEMENT

Plaintiff answers defendant's Interrogatories only as specifically provided for in

and consistent with the Federal Rules of Civil Procedure. Plaintiff objects to and will refrain from extending or modifying any words employed in the Interrogatories to comport with expanded definitions or instructions.

All of the specific objections below are hereby expressly reserved and may be interposed at the time of trial or at any other time. To the extent plaintiff agrees to produce information requested by defendant in its Interrogatories, plaintiff does so subject to her objections and without waiving them. The foregoing objections and limitations are included and incorporated in each of the following answers to Interrogatories, regardless of whether they are repeated below.

Subject to these qualifications, plaintiff provides the following Answers.

ANSWERS TO INTERROGATORIES

INTERROGATORY NO. 3:

For your alleged damages or losses, including but not limited to actual damages, compensatory damages, punitive damages, and reasonable attorneys' fees, itemize in detail:

- a. the amount of such damages;
- b. the calculations used to arrive at such damages; and
- c. all documents which support each damages calculation, the preparations, themselves, of such damages calculations, the person(s) making the calculations, and the date(s) on which such person(s) prepared or assisted in the preparations of such calculations.

ANSWER TO INTERROGATORY NO. 3:

Plaintiff objects to this interrogatory on the grounds that it requests information protected by attorney-client privilege and/or the attorney work-product doctrine, is

premature, speculative, is vague, ambiguous, overbroad and compound. Subject to and without waiving the foregoing objections, plaintiff answers as follows: Plaintiff has lost approximately \$35,577 in salary since her coaching contracts were non-renewed by UMD to date and hockey and softball camp income of around \$10,000. This amount is based on four and half months of unemployment and six and half months of making a total of \$14,462.31. Plaintiff's losses related to her benefits and retirement are unknown at this time. Banford received \$3, 564 from Minnesota unemployment. Banford has not received any income from Sunny Cycle to date, she has received \$54.50 for Internet for the last eight months totally, \$436 to date for her Internet and phone. She has also received \$224.57 per month for eight months for payment towards her car, a total of \$1796.60. Discovery is ongoing, and plaintiff reserves the right to supplement this response.

INTERROGATORY NO. 6:

Identify all individuals to whom you reported the alleged incidents of discrimination on the basis of sex, sexual orientation, national origin, and/or age and any other alleged unlawful discrimination, the date on which you made the report, the means by which you made the report (a letter, email, text message, telephone call, in-person meeting, etc.), all persons with knowledge of your report, and identify any communications, correspondence, and/or reports between yourself and the University relating to the alleged incidents.

ANSWER TO INTERROGATORY NO. 6:

Plaintiff objects to Interrogatory No. 6 on the grounds that it seeks information protected by attorney-client privilege and/or the attorney work-product doctrine, is

SIEGEL & YEE

By: 

Dated: September 26, 2016

Jane Brunner (admitted *pro hac vice*)
Daniel M. Siegel (admitted *pro hac vice*)
Jalle Dafa (admitted *pro hac vice*)
499 14th Street, Suite 300
Oakland, CA 94612
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(510) 839-1200

and

FAFINSKI MARK & JOHNSON, P.A.

Donald Chance Mark, Jr., Reg. No. 67659
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Christopher R. Sall, Reg. No. 0395633
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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**

I, JENNIFER BANFORD, declare as follows:

I have read the foregoing Plaintiff Seconded Amended Response to Defendant's Interrogatories, and knows the contents thereof.

The information supplied therein is based on my own personal knowledge and/or has been supplied by my attorneys or other agents and is therefore provided as required by law. The information contained in the foregoing document is true, except as to the matters which were provided by my attorneys or other agents, and, as to those matters, I am informed and believe that they are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed in Palm Springs, on 28th September , 2016.

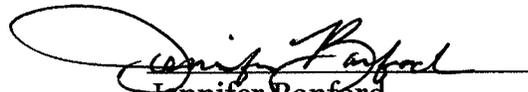

Jennifer Banford

EXHIBIT F

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Shannon Miller,
Jen Banford, and
Annette Wiles,

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

Plaintiffs,

**PLAINTIFFS' EXPERT WITNESS
DISCLOSURES**

vs.

The Board of Regents of the
University of Minnesota,

Defendant.

In compliance with Fed. R. Civ. P. 26(a)(2)(A) and this Court's Pretrial Scheduling Order dated February 1, 2016 [ECF 28], Plaintiffs Shannon Miller, Jen Banford, and Annette Wiles (collectively, "Plaintiffs"), by and through their attorneys of record, hereby provide the following disclosures regarding individuals they expect to call as expert witnesses at trial, as well as areas of anticipated testimony for the same:

1. Arthur H. Cobb, M.A., B.B.A.
President, Cobb & Associates, Ltd.
12701 Whitewater Drive
Minnetonka, Minnesota 55343

Plaintiffs expect Mr. Cobb will offer his expert opinion regarding Plaintiffs' economic and financial losses and damages resulting from Defendant The Board of Regents of the University of Minnesota's ("Defendant") conduct, including those stemming from the hostile work environment at the University of Minnesota-Duluth (the "University"), Defendant's wrongful termination of, or constructive termination of, Plaintiffs, and Defendants' discrimination and retaliation against Plaintiffs.

2. Dr. Richard E. Lapchick, B.A., M.A., Ph.D.
Director, The Institute for Diversity and Ethics in Sport
University of Central Florida
College of Business
4000 Central Florida Blvd.
Orlando, Florida 32816

Plaintiffs expect Dr. Lapchick will offer his expert opinion regarding his systematic assessment of Defendant's athletic facilities and programs and the obligations of universities and colleges under Title IX and federal and state educational and athletic statutes, rules, and regulations. Dr. Lapchick will testify as to Defendant's failure to follow its own policies regarding Plaintiffs' employment, orientation, training, and supervision. Dr. Lapchick will also testify that Defendant's conduct in terminating or forcing Plaintiffs' to resign was degrading and hostile, and that Defendant's explanation for its conduct is inconsistent with its employment agreements and University policy. Dr. Lapchick will further testify about the prevalence of homophobia and gender discrimination in college athletics programs, and in the athletics program at the University. Finally, Dr. Lapchick will testify regarding the relatively small college sports coaching community and how Plaintiffs' employment and treatment at the University will make it difficult for each to be hired as a collegiate coach, or otherwise the college sports industry, in the future.

3. Dr. Donna Lopiano, B.S., M.A., Ph.D.
President and Founder, Sports Management Resources
Former CEO, Women's Sports Foundation
452 Fisher Court
Shelton, Connecticut 06484

Plaintiffs expect Dr. Lopiano will offer her expert opinion regarding her systematic assessment of Defendant's athletic facilities and programs and the obligations of universities and colleges under Title IX and federal and state educational and athletic statutes, rules, and regulations. Dr. Lopiano will testify as to Defendant's failure to follow its own policies regarding Plaintiffs' employment, orientation, training, and supervision. Dr. Lopiano will also testify that Defendant's conduct in terminating or forcing Plaintiffs' to resign was degrading and hostile, and that Defendant's explanation for its conduct is inconsistent with its employment agreements and University policy. Dr. Lopiano will further testify about the prevalence of homophobia and gender discrimination in college athletics programs, and in the athletics program at the University. Finally, Dr. Lopiano will testify regarding the relatively small college sports coaching community and how Plaintiffs' employment and treatment at the University will make it difficult for each to be hired as a collegiate coach, or otherwise the college sports industry, in the future.

4. Margo Ogus, B.S., M.A., Ph.D.
Spectrum Economics, Inc.
438 Cambridge Ave.
Palo Alto, California 94306

Plaintiffs expect Dr. Ogus will offer her expert opinion regarding Plaintiffs' economic and financial losses and damages resulting from Defendants' conduct, including those stemming from the hostile work environment at the University, Defendant's wrongful termination of, or constructive termination of, Plaintiffs, and Defendants' discrimination and retaliation against Plaintiffs.

5. Dr. Heather Rose-Carlson, Ph.D.
Northland Psychological Services
1707 Miller Trunk Highway
Duluth, Minnesota 55811

Plaintiffs expect Dr. Rose-Carlson will offer her expert opinion regarding her personal treatment of Plaintiff Wiles, her observations of Plaintiff Wiles' physical, emotional, and psychological health while employed by the University, and Plaintiff Wiles' medical damages stemming from Defendant's conduct.

Plaintiffs reserve the right to supplement this disclosure as documents, witnesses, and/or testimony are obtained through discovery, to rely upon any and all documents listed by other parties in this action, and to identify further expert witnesses who may be called at trial for purposes of rebuttal.

[SIGNATURE PAGE FOLLOWS.]

Dated: September 30, 2016

FAFINSKI MARK & JOHNSON, P.A.

s/ Donald Chance Mark, Jr.,
Donald Chance Mark, Jr., Reg. No. 67659
Andrew T. James, Reg. No. 0390982
Christopher R. Sall, Reg. No. 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

– and –

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

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

EXHIBIT G

Miller, et al., v. University of Minnesota
Plaintiffs Privilege Log, November 2, 2016

General Nature	Authors	Date	Recipients	Present Location	Privilege Asserted
Annette Wiles medial records	Mitchell County Hospital Health System	April 16, 2006	N/A	Siegel & Yee 499 14 th Street, Suite 300, Oakland, CA	Privacy
Annette Wiles medial records	Hays Medical Center - KS	August and September 2005	N/A	Siegel & Yee 499 14 th Street, Suite 300, Oakland, CA	Privacy
Plaintiffs' tax returns	N/A	2011-2015	N/A	Siegel & Yee 499 14 th Street, Suite 300, Oakland, CA	Privacy
Sunny Cycle LLC tax returns	N/A	2015	N/A	Siegel & Yee 499 14 th Street, Suite 300, Oakland, CA	Privacy
Annette Wiles redacted emails (AW 263, 265, 296, 298, 300-303, 305, 307-308, 330, 333-334, 337-338, 340, 343, 345, 347-349, 352, 354, 357, 359, 362)	Annette Wiles, Justi Miller, Dan Siegel, Anne Weills	March through July 2015	Annette Wiles, Justi Miller, Dan Siegel, Anne Weills	Siegel & Yee 499 14 th Street, Suite 300, Oakland, CA	Attorney-client
Annette Wiles calendar entries (AW 468-489, 485-488, 492-496, 498, 502, 508, 510-511, 513, 517, 519-522, 525-527, 541, 548-550, 552, 554-555, 560,	Annette Wiles	2007-2016	N/A	Siegel & Yee 499 14 th Street, Suite 300, Oakland, CA	Third-party, privacy

562, 573-576, 580-581, 592, 595, 597, 600-601, 608, 635, 645, 650-652, 663, 666, 670, 672-673)					
Shannon Miller redacted emails (SM 74)	Shannon Miller	November 11, 2015;	Dan Siegel, Justi Miller	Siegel & Yee 499 14 th Street, Suite 300, Oakland, CA	Attorney-client
Shannon Miller redacted emails (SM 352)	Shannon Miller	February 25, 2015	Dan Siegel, Justi Miller	Siegel & Yee 499 14 th Street, Suite 300, Oakland, CA	Attorney-client
Shannon Miller redacted emails (SM 384)	Shannon Miller	February 11, 2015	Dan Siegel, Justi Miller	Siegel & Yee 499 14 th Street, Suite 300, Oakland, CA	Attorney-client
Shannon Miller supporters' contact information (SM 304, 307-309, 313, 319-320, 322-323, 351, 356, 361, 336-367, 369, 374, 391, 393, 397, 402)	Miller Supporters	December 2014 through April 2015	Shannon Miller	Siegel & Yee 499 14 th Street, Suite 300, Oakland, CA	Third-party privacy
Shannon Miller's calendar entries (SM 1984-1992, 1994-1996, 1998-2003, 2005-2010, 2012-2017, 2019-2037)	Shannon Miller	2015	N/A	Siegel & Yee 499 14 th Street, Suite 300, Oakland, CA	Attorney-client, third-party privacy, privacy
Jen Banford redacted emails (JB 23, 35, 37, 40, 47, 57, 65, 71, 76, 79, 106, 112)	Jen Banford	January through June 2015	Justi Miller, Dan Siegel	Siegel & Yee 499 14 th Street, Suite 300, Oakland, CA	Attorney-client

EXHIBIT H



Jeanette M. Bazis

612.373.8358 direct
jbazis@greeneespel.com

October 25, 2016

VIA EMAIL

Donald Chance Mark, Jr.
Andrew T. James
Christopher R. Sall
Tyler P. Brimmer
FAFINSKI MARK & JOHNSON, P.A.
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
tyler.brimmer@fmjlaw.com

Jane Brunner
Dan Siegel
Jalle Dafa
SIEGEL & YEE
499 14th Street, Suite 300
Oakland, CA 94612
janebrunner@hotmail.com
dansiegel@siegelyee.com
Jalle@siegelyee.com

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

Dear Counsel:

As we discussed during our meet-and-confer call on October 17, 2016, there remain a number of respects in which Plaintiffs' discovery responses and document production are problematic. These are outlined below.

The University's Requests for Production to Plaintiffs

Requests for Production Nos. 4, 5, 9 & 15

The University continues to seek documents relating to Sunny Cycle, the pedal pub business that Ms. Miller and Ms. Banford own and operate in Palm Springs, California. During our October 17 conference call you indicated that Plaintiffs produced "tax documents" and information about their expenses being paid by the business, but will not produce any documents relating to Sunny Cycle, such as monthly, quarterly, and annual financial statements (P&L statements, income statements, and balance sheets), K-1s, Sunny Cycle tax returns, business plans, pro formas, projections, and loan-application documents. You stated that your clients are withholding this information because it is confidential. For all of the reasons we have already stated, the University will move to compel production of this information absent a shift in your position.

October 25, 2016

Page 2

With regard to the “tax documents” you have agreed to produce, it is our impression that you are referring to W-2s and 1099s—not Plaintiffs’ tax returns. The only such “tax documents” that appear to have been produced to date are Ms. Wiles’s W-2s from the University (AW 396–99). Accordingly, it does not appear that you have produced even the documents responsive to Requests Nos. 4 and 5 that Plaintiffs have agreed to produce.

In addition to W-2s and 1099s, the University continues to seek other documents that show Plaintiffs’ income since their departure from the University, including copies of federal and state tax returns and schedules, copies of any unemployment insurance, disability insurance, and/or social security disability payments made to any Plaintiff, and the like. Please specify whether you will be producing such documents. If not, we will include these in our motion to compel as well.

Nor have you produced documents related to Ms. Wiles’s new position as a high-school athletic director—a position she obtained at least as early as August 2016 and which was not disclosed in her September 20, 2016 sworn supplemental interrogatory responses. During our conference call, you agreed to produce Wiles’s offer letter, “tax information,” paystubs related to Ms. Wiles’s new job, and the value of the benefits she is receiving, and to update her interrogatory responses accordingly. Please provide that information forthwith.

As for other responsive documents related to Plaintiffs’ employment-seeking efforts, the documents produced do not reflect the efforts that the Plaintiffs testified to in their interrogatory responses. By way of example only, Ms. Banford stated in response to Interrogatory No. 16 that she sent résumés to Kirk Walker at UCLA, Sue Enquist at UCLA, Lisa Dobb at UNLV, Amanda Lehotek at Penn State, and to Softball Canada. No documents have been produced showing Ms. Banford’s transmission of her résumé to those individuals or entities, such as cover letters or emails. Nor has Ms. Banford produced documents related to her travel to China in summer 2015 as part of her job search. Similar deficiencies exist for the other Plaintiffs. Please supplement Plaintiffs’ documents accordingly, or state that no other documents exist—and why.

Requests for Production Nos. 6 & 7

The University continues to seek, and you agreed to produce, documents concerning the termination of Plaintiffs’ employment with the University (whether by non-renewal or resignation) and the claims set forth in the Complaint. You agreed that you would look into whether your clients have produced all responsive emails, text messages, and other communications. Please confirm that you have done so and produce all other responsive documents.

Request for Production No. 19 (Wiles)

Ms. Wiles initially took the position that she would produce documents only for the time period right before her resignation from UMD. We objected to this, and it does not appear that the documents

October 25, 2016

Page 3

sought have been produced. By way of example only, Ms. Wiles did not even produce documents showing when she and her spouse put their Duluth residence on the market. Please state whether Ms. Wiles will maintain her objection, or whether she will produce all responsive documents. If not, we will include this issue in our motion to compel, as well.

Text messages

The University continues to seek text messages that are responsive to any and all of its document requests. As noted during our meet-and-confer call, there is a dearth of text messages in your document production. For example, you have produced no text messages between Ms. Miller and Ms. Banford that are related to the core allegations in the Complaint—the claims of discrimination and retaliation. We also find it difficult to believe that Ms. Miller and Ms. Banford exchanged no emails during the time period when Ms. Miller was discussing the topic of her renewal with Chancellor Black and Josh Berlo, nor after they received their non-renewal notices in December 2014, nor in January or February 2015 when Ms. Banford was awaiting her head-softball-coach appointment letter. Also by way of example only, Ms. Wiles did not produce text messages between her and Abbey Strong post-dating the Coming Out Luncheon. During our conference call, we asked to be given access to Plaintiffs' text-message data or, alternatively, that a member of Plaintiffs' legal team review the data for responsive text messages. Please let us know whether you will do so.

Other Document Requests

For each and all of the other document requests, please confirm in writing that you have produced all responsive documents.

The University's Interrogatories to Plaintiffs

Although Plaintiffs have certified their amended/supplemental interrogatory responses, we have not received certifications for the first set of Plaintiffs' interrogatory responses (dated May 31, 2016). We raised this issue in our July 25, 2016 conference call, and Ms. Brunner agreed to provide the certifications as noted in her August 8, 2016 letter. Please supply the signed certifications forthwith.

Interrogatories Nos. 6 & 15

Although Plaintiffs have supplied some additional details regarding their alleged complaints, their answers continue to be deficient in terms of consistently identifying the means by which the reports were made, the substance of the complaints, the approximate timing of the complaints, and the like. We will plan to cover these matters in the Plaintiffs' depositions, but reserve the right to insist on more detailed responses, consistent with the information sought in the interrogatories.

October 25, 2016

Page 4

Interrogatory No. 8 (Wiles)

Please let us know whether Ms. Wiles has sought mental-health counseling since she has moved to Kansas. (No Kansas mental-health provider has been identified to date.) If so, please have Ms. Wiles sign a records-authorization form for that provider.

Redactions/Missing Pages

It appears that many of your clients' documents are improperly redacted—that is, no redaction stamp appears on the documents, or pages are clearly missing. For instance, there are documents where the entire top half of the page is redacted, and an email string begins in the bottom half of the page, and there is no indication that the redacted portion is, in fact, redacted or any indication of the reason for the redaction (e.g., attorney-client privilege). There are many places in which Miller's and Wiles's calendars appear to be redacted, again without any "redacted" stamp or other indication. We are entitled to know when redactions are made, and the reasons for the redactions. Please also provide missing pages. A few examples are as follows:

- Wiles – improper redactions: AW 4; AW 263–65; AW 294–95; AW 296–308; AW 333–41; AW 343–50; AW 357–62.
- Banford – improper redactions: JB 23–24; JB 35–37; JB 40–41; JB 47–49; JB 57–58.
- Miller – improper redactions: SM 289–295.
- Miller – emails missing: SM 205–08; SM 289–95; SM 301; SM 331–332; SM 400–01.

Confidentiality Designations of Plaintiffs' Documents

We have heard nothing in response to our August 30, 2016 and October 13, 2016 letters regarding the need for confidentiality designations on certain documents produced by Plaintiffs. Please confirm that you will mark them as confidential, and reproduce the documents with those designations.

Privilege Log

Plaintiffs have not produced their privilege log. Please let us know when we can expect it.

October 25, 2016

Page 5

We look forward to hearing from you before **Tuesday, November 1**, insofar as our brief in support of our motion to compel is due on November 3, 2016.

Very truly yours



Jeanette M. Bazis

JB:sdm

cc: All counsel of record

EXHIBIT I

Stacy D. Mattingly

From: Jane Brunner <janebrunner@hotmail.com>
Sent: Monday, October 31, 2016 1:51 PM
To: Jeanette Bazis; Timothy J. Pramas
Cc: Liz Johnson; Jalle Dafa; 'danmsiegel@gmail.com'; Donald Mark; Andrew T. James
Subject: October 25, 2016 letter

Jeanette,

Below is a response to your October 25, 2016 letter.

1. If not provided already we will provide official documents that show what each plaintiff earned. If you believe that plaintiffs are obligated to provide business records, please cite your authority.

2. If not provided already we will provide unemployment insurance, disability insurance and any social security disability payments.

3. We will provide documents related to Ms. Wiles new position, along with a pay stub.

4. We have produced all of the resumes from the plaintiffs except for a few we received after the last production. We will produce those.

5. We are reviewing all emails and texts from plaintiffs' phones and will provide responsive documents.

6. We have produced all documents regarding Ms. Wiles move from Duluth.

7. We have provided all certifications for the first set of interrogatory responses.

8. We will provide a list of all bates stamped pages that have redactions on them and provide the reason.

9. We will not agree to marking the documents that you listed in your August 30, 2016 and October 13, 2016 letters as confidential. Per the protective order, if there is no agreement, the party that wants the documents which are being treated as confidential may seek the change from the court. The party asserting that the material is “confidential” then shall have the burden of proving that the information in question is within the scope of protection afforded by Fed. R. Civ. P. 26(c) or other federal, state or local laws.

If you have any questions, feel free to call.

Jane

EXHIBIT J

Stacy D. Mattingly

From: Jane Brunner <janebrunner@hotmail.com>
Sent: Tuesday, November 1, 2016 6:16 PM
To: Jeanette Bazis
Cc: Andrew T. James; Jalle Dafa (jalle.siegelyee@gmail.com); Liz Johnson (lizjohnson.siegelyee@gmail.com); Dan Siegel (danmsiegel@gmail.com); pram0001@umn.edu; Katherine M. Swenson; Debra Jones; Donald Mark
Subject: Re: Miller/UMD: October 25, 2016 letter

Jeannette,

In response to your questions in your November 1, 2016 email see below.

1. Ms. Wiles has not sought a new mental-health counselor since she moved to Kansas.
2. We will provide plaintiffs privilege log Wednesday November 3, 2016.
3. Plaintiffs have produced all documents responsive to defendants' document requests except for any emails, text on their phones, W-2s and transmission of job applications for Banford. As stated before we are reviewing those documents, we have provided them for Wiles and will be providing them for Miller and Banford shortly. We also will produce W-2s for all plaintiffs and Banford's transmissions of job applications.

See responses to your other issues.

No. 3. You stated: It is unclear from this response whether you will be producing Ms. Wiles' offer letter and information and documents regarding the benefits and the value of the benefits she is receiving. Please recall that you specifically requested—and the University produced—information regarding the value of the benefits Ms. Wiles received from the University. In order to calculate her alleged damages, the information about the value of the benefits Ms. Wiles receives at the school district is required. Absent a clear, affirmative response that this information and documents will be produced, we will move to compel.

Answer: We will provide documents showing Wiles benefits in her new position.

4. You stated my October 25 letter was not focused on "resumes," but rather on proof of Ms. Banford's transmission of her résumé to those individuals or entities, such as cover letters or emails. I assume you will be producing those as well?

Answer: We will produced all transmission of letters and resume to individuals for jobs.

6. You stated your email does not respond to the crux of the dispute: documents relating to Ms. Wiles' plans and preparations for moving to Duluth. Are you agreeing to produce all such documents?

Answer: I am not sure what you are looking for, in one of our phone conversations you stated that Ms. Wiles was investigating moving from Duluth before she decided to resign. According to Ms. Wiles she did not investigate moving until shortly before she resigned. We have no documents regarding a move from Duluth before she and her partner started to look for houses in Kansas. We have provided text related to that. Ms. Wiles did not start discussing the move form Duluth until on or about March-April 2015.

7. You stated no one on our team is able to locate those certifications. Please email copies of those along with the original transmission correspondence.

Answer: We will provide these certifications.

8. **Answer: In response to your request regarding redacted pages in plaintiffs' production please see below:**

Redactions/Missing Pages

Wiles:

AW 4 – this document was in plaintiff's personnel file, which she obtained from the University. She has no other copy.

On pages AW 1-99, the social security number and date of birth are redacted.

On pages AW 263, 265, 296, 298, 300, 301, 302, 303, 305, 307, 308, 330, 333, 334, 337, 338, 340, 343, 345, 337, 338, 340, 343, 345, 347, 348, 349, 352, 354, 357, 359, and 362, attorney-client communications are redacted.

Banford:

On pages JB 23, 35, 37, 40, 47, 57, 65, 71, 76, 79, 106, and 112, attorney-client communications are redacted.

On pages JB 162-659, the social security number and date of birth are redacted.

Miller:

SM 289-295 – (pages 283-284 have redacted attorney-client communications)

SM 74, 352, 384, have redacted attorney –client communications.

SM 304, 307, 308, 309, 313, 319, 320, 322, 323, 351, 356, 361, 36, 367, 369, 374, 391, 393, 397, and 402 have redacted third-party information.

Missing emails:

SM 205-208: SM 203-208 is an article in the Duluth News Tribune, nothing is missing.

The remaining missing pages are not in Miller's possession. They are from her UMD email account, to which she no longer has access.

SM 289-295: we have no page 7.

SM 301: we have no page 2.

SM 331-331: we have no page 3.

SM 400-401: we have only pp. 6 & 7

Miller's calendar:

SM 1984-1992, 1994-1996, 1998-2003, 2005-2010, 2012-2017, 2019-2037 are all redacted based on non responsive, third party privacy, medical privacy and financial privacy.

9. You requested that we confirm we intend to comply with the Protective Order and refrain from filing any of the Plaintiff-produced that the University has designated as Confidential until after proper notice and an opportunity to make a motion has been provided.

Answer: We will comply with the Protective Order.

If you would like to discuss any of these issues please call.

Jane

From: Jeanette Bazis <JBazis@greeneespel.com>

Sent: Tuesday, November 1, 2016 9:51 AM

To: Jane Brunner

Cc: Andrew T. James; Jalle Dafa (jalle.siegelyee@gmail.com); Liz Johnson (lizjohnson.siegelyee@gmail.com); Dan Siegel (danmsiegel@gmail.com); pram0001@umn.edu; Katherine M. Swenson; Debra Jones

Subject: FW: Miller/UMD: October 25, 2016 letter

Dear Jane,

Thank you for your email of last evening. My reactions are found below in blue. There are a few items that your email fails to address altogether:

- Has Ms. Wiles has sought mental-health counseling since she moved to Kansas? If so, please identify any additional providers(s) and have Ms. Wiles sign a records authorization form.
- When can we expect Plaintiffs' privilege log?
- For each and all of the other document requests, please confirm in writing that you have produced all responsive documents except where you've specifically noted otherwise.

Our brief in support of our motion to compel is due on Thursday, so we ask to hear from you by midday Wednesday on the remaining points.

Thank you,

Janette

From: Jane Brunner [<mailto:janebrunner@hotmail.com>]

Sent: Monday, October 31, 2016 1:51 PM

To: Jeanette Bazis; Timothy J. Pramas

Cc: Liz Johnson; Jalle Dafa; 'danmsiegel@gmail.com'; Donald Mark; Andrew T. James

Subject: October 25, 2016 letter

Jeanette,

Below is a response to your October 25, 2016 letter.

1. If not provided already we will provide official documents that show what each plaintiff earned. If you believe that plaintiffs are obligated to provide business records, please cite your authority.

We have explained numerous times in writing and orally why these documents are discoverable under Rule 26 as highly pertinent to Ms. Miller's and Ms. Banford's damages claims. We will move to compel.

2. If not provided already we will provide unemployment insurance, disability insurance and any social security disability payments.

By this, I understand that you will not agree to produce plaintiffs' federal and state tax returns and schedules. We will move to compel.

3. We will provide documents related to Ms. Wiles new position, along with a pay stub.

It is unclear from this response whether you will be producing Ms. Wiles's offer letter and information and documents regarding the benefits and the value of the benefits she is receiving. Please recall that you specifically requested—and the University produced—information regarding the value of the benefits Ms. Wiles received from the University. In order to calculate her alleged damages, the information about the value of the benefits Ms. Wiles receives at the school district is required. Absent a clear, affirmative response that this information and documents will be produced, we will move to compel.

4. We have produced all of the resumes from the plaintiffs except for a few we received after the last production. We will produce those.

My October 25 letter was not focused on "resumes," but rather on proof of Ms. Banford's transmission of her résumé to those individuals or entities, such as cover letters or emails. I assume you will be producing those as well?

5. We are reviewing all emails and texts from plaintiffs' phones and will provide responsive documents. Thank you.

6. We have produced all documents regarding Ms. Wiles move from Duluth.

Your email does not respond to the crux of the dispute: documents relating to Ms. Wiles's plans and preparations for moving to Duluth. Are you agreeing to produce all such documents?

7. We have provided all certifications for the first set of interrogatory responses.

As I stated, no one on our team is able to locate those certifications. Please email copies of those along with the original transmission correspondence.

8. We will provide a list of all bates stamped pages that have redactions on them and provide the reason. Thank you.

9. We will not agree to marking the documents that you listed in your August 30, 2016 and October 13, 2016 letters as confidential. Per the protective order, if there is no agreement, the party that wants the documents which are being treated as confidential may seek the change from the court. The party asserting that the material is "confidential" then shall have the burden of proving that the information in question is within the scope of protection afforded by Fed. R. Civ. P. 26(c) or other federal, state or local laws.

You misapprehend the protective order. The University has a right to designate documents produced by your clients as "Confidential" at this stage of the proceedings. The burden of proof requirement that you reference comes at a later stage. Paragraph 11 requires that if you wish to file one of the documents the University has designated as "Confidential," then you must provide us reasonable advance notice and give us the opportunity to move that the documents be filed under seal. It reads:

If a party intends to file with the Court a document designated by another party as protected pursuant to the terms of this Order, then that filing party shall provide reasonable advance notice to the designating party of such intent so that the designating party may determine whether or not they should bring a motion before the Court which seeks to require the protected documents to be filed under seal. Any party which seeks to assert that a document should be filed with the Court under seal shall have the burden of demonstrating that the document should be filed under seal.

The information we have designated as confidential is within the scope of protection afforded by both the Minnesota Government Data Practices Act (MGDPA), Minn. Stat. §§ 13.001–13.99, and the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. The University and its employees are bound to maintain certain documents and information relating to personnel and students as confidential under the MGDPA and FERPA. Only limited categories of personnel data are public under the MGDPA. Minn. Stat. § 13.43, subds. 2, 5a. As for student information, the only educational data that is public under the MGDPA is "directory information." Minn. Stat. § 13.32, subds. 3, 5; *see also* 20 U.S.C. § 1232g(a)(5) (addressing "directory information"); Univ. of Minn. Bd. of Regents Policy, Student Education Records, http://regents.umn.edu/sites/regents.umn.edu/files/policies/Student_Education_Records.pdf. And under FERPA,

education records or personally identifiable information other than public “directory information” cannot be released without written consent, with limited exceptions not applicable here. 20 U.S.C. § 1232g(b). Disclosure of MGDPA and FERPA protected information can subject offenders to criminal and civil penalties. That Plaintiffs may have forwarded to themselves or retained the data after their employment ended does not relieve them of their obligations under the MGDPA and FERPA.

Please confirm your intent to comply with the Protective Order and refrain from filing any of the Plaintiff-produced that the University has designated as Confidential until after proper notice and an opportunity to make a motion has been provided.

If you have any questions, feel free to call.

Jane