

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT**

JANET JENKINS, et al.,

Plaintiffs,

v.

No. 2:12-cv-184-WKS

KENNETH L. MILLER, et al.,

Defendants.

[PROPOSED] [STIPULATED] DISCOVERY SCHEDULE/ORDER

Plaintiffs submit the following Discovery Schedule pursuant to Local Rule 26(a)(2):

INTRODUCTION

1. In this case, discovery may be needed on the following subjects (inclusion of a topic is not necessarily agreement by all parties that the topic is an appropriate one for discovery):
 - a. Defendant Lisa Ann Miller's noncompliance with court orders, including but not limited to Vermont court orders, concerning custody of Isabella Miller-Jenkins, including activities of any defendant.
 - b. Aid to Defendant Lisa Ann Miller from any source, which assisted her noncompliance with court orders concerning custody of Isabella Miller-Jenkins.
 - c. The extent to which any such aid was knowing, intentional, deliberate, or in violation of any law.
 - d. The relationship between and among Janet Jenkins, Lisa Miller, Isabella Miller-Jenkins, and others.
 - e. Janet Jenkins' conduct towards Lisa Miller and Isabella Miller-Jenkins.

- f. The life experience of Janet Jenkins.
- g. Plaintiffs' proof of claims.

Unless noted herein to the contrary and in more detail, discovery in this matter shall not be conducted in phases or limited to particular, enumerated issues. The parties agree that they and counsel will work cooperatively and show flexibility during the discovery process.

2. The parties have conferred about disclosure, discovery, and preservation of electronically stored information ("ESI"). The parties agree to meet and confer further regarding the production of ESI to determine the most reasonable form of production based on the specific circumstances. This section does not preclude a party from providing further instructions as part of its discovery requests. Nor does it limit any party's right to object to such further instructions.

3. The parties have conferred about claims of privilege and claims of protection as trial-preparation materials. For every document or part of document withheld from production because of a claim of privilege or a claim of protection as trial-preparation material, the withholding party will provide a single privilege log that complies with Federal Rule of Civil Procedure, R. 26(b)(5), including but not necessarily limited to identifying the person asserting the privilege; and the nature of the claimed privilege (including work product) and, if the privilege is governed by state law, the state's privilege rule being invoked. This section does not preclude a party from providing further instructions as part of its discovery requests. Nor does it limit any party's right to object to such further instructions.

If a party learns that it inadvertently disclosed a privileged document, it may assert the privilege as promptly as possible upon discovering the inadvertent disclosure by making a written request and updating the privilege log. All copies of that document shall be returned or destroyed by the non-producing parties, and such destruction shall be confirmed to the producing party in writing. Such return or destruction does not affect the receiving party's right to challenge the assertion of privilege.

Unless specifically requested in a filing with this Court, the parties' agreed procedure will not be the subject of a court order under Federal Rule of Evidence 502.

4. Any changes in the limitations on discovery imposed under the Federal Rules of Civil Procedure or the Local Rules for this District shall be specifically described below.

5. The parties agree that service of documents, including but not limited to discovery requests and responses, may be effected through email to lead counsel or counsel designated by that party to receive email service, except that defendants Liberty Counsel, Rena Lindevaldsen and Kenneth Miller do not so agree.

DEADLINES

6. Defendants shall serve initial disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) no later than as directed by the Court at the status conference. (Plaintiffs served initial disclosures on July 9, 2018.)

7. The parties shall serve all interrogatories and requests for production on or before **six weeks before the close of fact discovery.**

8. Depositions of all witnesses (fact and expert) shall be completed by [**one year from the date of service of the final answer**] [**if there is a ruling at the status conference: one year from the date set by the Court for commencement of discovery**]. Plaintiffs collectively may notice depositions of up to [10 (defendants' proposal) 20 (plaintiffs' proposal)] non-party witnesses and Defendants collectively may notice depositions of up to [10 (some defendants' proposal) 20 (plaintiffs' proposal)] non-party witnesses, except for good cause shown or agreement of the parties. The parties agree to cooperate and consider in good faith any request for additional depositions of fact witnesses. Each party may take the deposition of any other party, but these depositions shall be scheduled so that an individual party need appear only once for deposition. Where a party is an organization, subject to objections available through the Federal Rules of Civil Procedure, depositions of up to five individuals associated with that

organization plus a deposition pursuant to Federal Rule of Civil Procedure 30(b)(6) may be noticed, separately and in addition to the number of non-party depositions. The parties agree that the location and the timing of depositions will be subject to the Federal Rules of Civil Procedure.

9. Parties shall submit affirmative expert witness reports on or before **four months before close of all discovery.**

10. Parties shall submit responding expert witness reports on or before **six weeks after service of affirmative expert reports.**

11. If an expert report is served before the date provided in paragraph 9 above, any expert report in response shall be served no later than six weeks after the date of service.

12. The parties shall serve all requests for admission on or before **four weeks after close of all discovery.** Requests for admission are not considered “discovery” with respect to any other deadlines provided in this or other orders for completion of fact or expert discovery. Requests for admission may be served at any time after May 17, 2018.

13. All discovery shall be completed by **one year from the date of service of the final answer or one year from the date set by the Court.**

14. Except for good cause shown, or upon agreement of the parties, motions for joinder of parties and amendments to the pleadings shall be filed on or before **three months after start of discovery.**

15. Motions, including summary judgment motions but excluding motions relating to the conduct of the trial, shall be filed on or before **six weeks after close of all discovery.** Oppositions to dispositive motions shall be filed on or before **five weeks after service of motion.** Replies to oppositions to dispositive motions shall be filed on or before **three weeks after service of oppositions.** There shall be no further briefing on dispositive motions, except with permission of the Court.

16. This case shall be ready for trial by **15 months after start of discovery or as the**

Court directs.

/s/ _____
Frank Langrock
Counsel for Plaintiffs

Date: _____

/s/ _____
Brooks G. McArthur
Counsel for Defendant Kenneth L. Miller

Date: _____

/s/ _____
[NAME]
Counsel for Defendant Timothy D. Miller

Date: _____

/s/ _____
Robert B. Hemley
Counsel for Defendants Philip Zodhiates, Victoria Hyden, and Response Unlimited, Inc.

Date: _____

/s/ _____
Norman C. Smith
Counsel for Defendant Linda M. Wall

Date: _____

/s/ _____
Ritchie E. Berger
Counsel for Defendant Liberty University, Inc.

Date: _____

/s/ _____
Horatio G. Mihet
Counsel for Defendants Liberty Counsel, Inc., and Rena M. Lindevaldsen

Date: _____

APPROVED and SO ORDERED:

U.S. District Judge

Date: _____



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Montgomery, AL 36104
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August 16, 2018

Hon. William K. Sessions III
P.O. Box 928
Burlington, VT 05402-0928

Re: Jenkins v. Miller, 2:12-cv-184-WKS

Dear Judge Sessions,

Together with Sarah Star and Fritz Langrock, we represent the Plaintiffs in the above-captioned case. In anticipation of the status conference scheduled before the Court in this case for Monday, August 20, 2018, we enclose a copy of the Plaintiffs' draft proposed scheduling order, in accordance with Rule 26(f) of the Federal Rules of Civil Procedure and Local Rule 26(a).

We wish to bring to the Court's attention that this is being submitted only by Plaintiffs. Some specific areas of disagreement among the parties (primarily concerning depositions) are identified in the document. But more significantly, counsel for defendants Liberty Counsel, Rena Lindevaldsen, Liberty University, Victoria Hyden, Response Unlimited, and Philip Zodhiates have informed us that they believe submission of the proposed scheduling order is premature. Counsel for Kenneth Miller has not responded concerning submission of the draft scheduling order. (Defendants Timothy Miller and Lisa Miller have not appeared).

The parties met and conferred pursuant to Rule 26(f) on May 3, 2018, and discussed a draft scheduling order that Plaintiffs had circulated in advance of the meeting. Counsel for Response Unlimited, Victoria Hyden, Philip Zodhiates and Linda Wall proposed revisions after the meeting, which we have incorporated into the proposed order.

As the Court is aware, there is no stay of discovery in this matter, although two motions seeking a stay are pending before the Court.

Respectfully,

A handwritten signature in blue ink, appearing to read "Beth D. Jacob", is written over a light blue horizontal line.

Beth D. Jacob

Enc.
cc: all counsel