

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

_____)	
JANET JENKINS, ET AL.,)	
)	
Plaintiffs,)	
)	
v.)	Docket No. 2:12-CV-00184
)	
KENNETH L. MILLER, ET AL.)	
)	
Defendants.)	
_____)	

**DEFENDANTS LIBERTY COUNSEL, INC. AND RENA LINDEVALDSEN’S
RESPONSE IN OPPOSITION TO PLAINTIFF’S SECOND MOTION TO COMPEL**

AND

**CROSS-MOTION FOR AN AWARD OF \$10,650
AS AND FOR SANCTIONS AGAINST PLAINTIFF AND HER COUNSEL**

Pursuant to Local Rules 7 and 26, and Fed. R. Civ. P. 37(a)(5), Defendants Liberty Counsel, Inc. (“Liberty Counsel”) and Rena M. Lindevaldsen (“Lindevaldsen”) (collectively, “Defendants”), by and through the undersigned counsel, hereby file their response in opposition to Plaintiff’s Second Motion to Compel. (Dkt. 472, “Second Motion”), and cross-move for sanctions against Plaintiff in the amount of \$10,650.00 for filing an unnecessary and misleading motion, without first engaging in the required meet-and-confer as to the majority of issues raised, and for refusing to withdraw said motion even after it became moot.

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INTRODUCTION

In these trying times of national crisis amidst a global pandemic, some courts are issuing orders calling attorneys and litigants to “be kind,” and most counsel are gaining a new perspective and heeding those calls, ushering in “a level of collegiality and cooperation that has been refreshing.”¹ Jenkins’ counsel, however, are content to play discovery games. Having failed to find any evidence to implicate Lindevaldsen and Liberty Counsel in their concocted conspiracy, and knowing that they will never find such evidence because it does not exist, the new tactic adopted by Jenkins’ counsel now is to make this case about something else – contrived discovery disputes and alleged discovery deficiencies.

Jenkins’ Second Motion to Compel is a monumental waste of the Court’s time. First, the motion is premised on misleading half-truths and outright misrepresentations designed to peddle Jenkins’ false and insulting narrative that Defendants have dragged their feet and delayed their discovery duties, when the whole demonstrable truth is that Defendants have worked around the clock to produce tens of thousands of pages and to comply fully with this Court’s discovery order, **in record time**. Second, Jenkins devotes two-thirds of her motion to complaining about supposed “inadequate detail” in Liberty Counsel’s first privilege log served on January 10, 2020, and to requesting the ultimate and most draconian sanction of privilege waiver, even though: (a) Jenkins never bothered to raise any issue about Liberty Counsel’s privilege log in the six weeks between receiving it and filing her motion; (b) Jenkins never bothered to raise any issue about a previous and very similar privilege log she received from Liberty Counsel and Lindevaldsen nine months ago; (c) Jenkins’ own counsel provide less detailed privilege logs in other civil cases; and (d)

¹ *In Stressed Legal Industry, Calls For Kindness During Crisis*, Law360 (March 20, 2020) (available at <https://www.law360.com/corporate/articles/1254685>).

Jenkins' hands are unclean, because she has herself completely (and admittedly) failed to provide any privilege log (detailed or not), even after committing in writing to providing a log, and she remains in default of that obligation even as of today.

As demonstrated herein, Defendants have spent almost 500 hours of attorney and staff time to review and produce almost 42,000 pages of documents – in full compliance with this Court's October 29, 2019 Order – and in a record time of just four-and-a-half months. Throughout this arduous process, Defendants' counsel were professional, responsive, worked in good faith to obtain necessary information and search terms from Jenkins, and kept Jenkins' counsel informed and apprised at regular intervals. Jenkins' counsel, on the other hand, imposed arbitrary, unilateral, and fatuous “deadlines,” irrespective of any litigation or discovery deadlines, and then mercilessly filed their Second Motion to Compel even after receiving written assurance that Defendants would complete their gigantic document review and production before the deadline to respond to that motion would expire, thus rendering the motion moot.

To make matters worse, even after Defendants completed their document production and fully complied with the Court's discovery order, and even after Defendants pointed out Jenkins' failure to engage in the required meet-and-confer process, Jenkins refused to withdraw her improper, misleading, and moot motion, requiring Defendants to expend over 29.5 hours and \$10,650.00 worth of attorney time to respond.

This is no way to litigate at any time, let alone in **these** times. The Court should deny Jenkins' Second Motion to Compel and should sanction Jenkins and her counsel in the amount of \$10,650.00 for filing an unnecessary and misleading motion, without first engaging in the required meet-and-confer as to the majority of issues raised, and for refusing to withdraw the improper motion even after it became moot.

VERIFIED FACTS²

Defendants respectfully submit to the Court the following facts, verified by Horatio G. Mihet, the undersigned counsel for Defendants who was principally involved in Defendants' document search, review and production, both personally and in supervision of other attorneys and staff. (*See* Verification, p.39, *infra*.)

A. Liberty Counsel and Lindevaldsen Have Fully Complied With the Court's October 29, 2019 Order, Producing 41,785 Pages of Documents, Two Privilege Logs Containing 280 Entries, and Expending Over 492 Hours of Attorney and Staff Time Within Only Four-And-A-Half Months.

1. On June 27, 2018, Jenkins served an exceedingly broad set of **sixty-nine** document requests upon Lindevaldsen (dkt. 361-1), and a separate set of **sixty-nine** document requests upon Liberty Counsel. (Dkt. 361-2).

2. Counsel for Lindevaldsen and Liberty Counsel then spent over 65 hours searching for responsive documents (Mihet Decl. in Opp. to Pl. First Mot. to Compel, dkt. 375, ¶ 12), produced 571 pages of documents (dkt. 361 at 2), certified that no responsive documents were found in response to many requests (Mihet Decl., dkt. 375, ¶ 12), and objected on undue burden, lack of proportionality, and other grounds to conducting further searches or providing a privilege log, until Jenkins narrowed her requests.

² Because the nature and disposition of Plaintiff's Second Motion to Compel is so fact-intensive and fact-driven, Defendants respectfully submit that it is more efficient for them to provide the facts to the Court imbedded within this response, rather than in a separate Declaration as is more typical in other contexts, so that the Court is not required to needlessly comb through different documents. Without the Verified Facts, this response is only 12 pages in length, complying with the 15-page limit in Local Rule 7(a)(4)(B). Thus, because the Verified Facts could be provided in a separate Declaration not subject to page limits, *see id.*, Defendants do not believe leave of Court is necessary for this response, but if it is, Defendants respectfully request it.

3. After the parties could not resolve their disagreements, Jenkins filed her First Motion to Compel on July 23, 2019 (dkt. 361), to which Liberty Counsel and Lindevaldsen responded (dks. 374, 375), and Jenkins replied. (Dkt. 380).

4. On October 29, 2019, the Court resolved the parties' disagreements, entering an Order that **substantially narrowed** some of Jenkins' overbroad document requests (limiting them to "communications" instead of "all documents") and required Liberty Counsel and Lindevaldsen to search for and produce non-privileged documents responsive to **twenty** out of the **sixty-nine** requests. (Dkt. 395).

5. **The Court's Order did not impose a deadline** for the document search, review, and production that Liberty Counsel and Lindevaldsen would need to undertake, which was still massive albeit not as broad as Jenkins had been seeking. (*Id.*)

6. The Court's Order did not find any bad faith in the discovery dispute, and did not impose any discovery sanction or fee-shifting. (*Id.*)

7. Defendants took the Court's Order seriously and undertook the laborious task of searching for responsive documents within their internal files, reviewing **tens of thousands of pages** in paper and digital format, producing responsive non-privileged documents, and logging responsive privileged documents on privilege logs.

8. Over the next four-and-a-half months, attorneys and staff at Liberty Counsel expended **492.10 hours** on this task, specifically **422.40 hours of attorney time**, and **69.70 hours of staff time**.

9. This Herculean effort yielded a total production of **41,785 pages** of responsive, non-privileged documents. Of these, 13,261 pages of documents from Liberty Counsel's Miller-Jenkins custody litigation paper file were produced on January 10, 2020, along with a 71-entry

privilege log; 23,707 pages of documents from Liberty Counsel’s electronic files, along with a supplemental privilege log containing 190 new entries (261 total entries) were produced on March 9, 2020; and 4,817 pages of documents from Lindevaldsen’s files, along with a privilege log containing 19 entries were produced also on March 9, 2020.

10. Combined with the documents produced prior to Jenkins’ First Motion to Compel, Defendants have now produced **42,356 pages** of documents in this litigation.

11. Defendants’ massive document production is no mere “filler.” The documents produced are responsive to Jenkins’ broad document requests (as narrowed by the Court) and/or contain search terms that the parties negotiated and agreed upon during the document review and production process.

12. More importantly, the documents produced by Defendants fully comply with and satisfy each of the twenty production requirements in the Court’s October 29, 2019 Order (dkt. 395), as follows:

Request Nos.	Production Ordered by the Court in the October 29, 2019 Order	Liberty Counsel’s and Lindevaldsen’s Full Compliance
4-7	“[A]ll ‘communications’ concerning Jenkins, Isabella Miller-Jenkins and Lisa Miller, as well as all communications with Isabella Miller-Jenkins.” (Dkt. 395 at 8).	Defendants have produced all responsive, non-privileged communications in their custody, possession or control, ³ and have catalogued all responsive privileged communications in their privilege logs.
8	“[A]ll communications between Defendants and Lisa Miller.” (Dkt. 395 at 8-10).	Defendants have produced all responsive, non-privileged communications in their custody, possession or control, and have catalogued all responsive privileged communications in their privilege logs.

³ Defendants did not separately search their publicly available websites and social medial accounts, because the material available there is equally searchable by, and available to, Jenkins.

11-12	“[A]ll communications between Defendants and zeusdesfor@aol.com, an email address used by Lisa Miller, ‘concerning ...’ [five topics]” and “communications on the same subject from [god1ofchild@live.com], ⁴ another address used by Lisa Miller.” (Dkt. 395 at 10-12).	Defendants have produced all responsive, non-privileged communications in their custody, possession or control, and have catalogued all responsive privileged communications in their privilege logs.
17-18	“[A]ll documents and communications concerning the child custody dispute between Plaintiff Janet Jenkins and Defendant Lisa Miller concerning Isabella Miller-Jenkins ... as well as the Court Orders involved in that dispute.” (Dkt. 395 at 12).	Defendants have produced all responsive, non-privileged documents and communications in their custody, possession or control, and have catalogued all responsive privileged communications in their privilege logs.
19, 35-36, 47-48	“[A]ll communications” on November 20, 2009, and “all communications from” and “all documents and communications concerning events that happened, or were planned or expected to happen” on September 20-22 and November 8-13, 2009. (Dkt. 395 at 12-14).	Defendants have produced all responsive, non-privileged documents and communications in their custody, possession or control, and have catalogued all responsive privileged communications in their privilege logs.
64-69	“[A]ll documents and communications concerning Defendants’ policies or positions about same-sex marriage, civil unions, or relationships; whether homosexual persons should have custody of or visitation with children; the relative supremacy of secular law over religion, morality, ethics, or conscience, or vice versa; compliance with the Court Orders; and whether Janet Jenkins should have custody of or visitation with Isabella Miller-Jenkins.” (Dkt. 395 at 14-18).	Defendants have produced all responsive, non-privileged documents and communications in their custody, possession or control, which contain search terms negotiated and agreed upon by Defendants and Jenkins, and Defendants have catalogued all responsive privileged communications in their privilege logs.

⁴ The Court’s Order refers to an incorrect email address. Defendants have searched for communications with the correct address, as requested by Jenkins.

B. The Accelerated Four-And-A-Half-Month Timeline for Liberty Counsel and Lindevaldsen's Massive Document Review and Production Was Eminently Reasonable Under the Circumstances.

13. Counsel for Lindevaldsen and Liberty Counsel moved with all deliberate speed to complete as quickly as possible the massive document search, review, production, and logging described above.

14. When the Court's October 29, 2019 Order was issued, Defendants' counsel were in the last two weeks of back-to-back criminal and civil jury trial proceedings in San Francisco, California, which began on September 3, 2019 and ended on November 15, 2019, and which required lead counsel to be in California and consumed counsel's time around the clock.

15. Defendants' counsel advised Jenkins' counsel of this scheduling conflict, and committed to working expeditiously after the imminent completion of the California trial to undertake and timely complete the document review and production required by this Court. (Mihet-Clemons email, Nov. 10, 2019, dkt. 472-2 at 1).

16. On November 25, 2019, just six business days after the California trial was completed, and when the mountain of paper that had accumulated on counsel's desk during the trial had not yet been cleared, Defendants' counsel met-and-conferred with Jenkins' counsel to establish a plan and timeline for the document review and production.

17. At the November 25, 2019 meet-and-confer, counsel for Defendants advised Jenkins' counsel that, in their estimate, and in light of the impending Thanksgiving holiday, the voluminous documents involved and other pressing deadlines, it would take defense counsel approximately one month to review the huge, 17-bankers-boxes **paper** file from the Miller-Jenkins custody dispute, to identify responsive non-privileged items for production, and catalog responsive privileged documents in a log. Defendants' counsel **estimated** that they might be able to produce

the responsive documents from that **paper** file, and a privilege log, by December 23, 2019. (Clemons-Mihet email, Dec. 3, 2019, dkt. 472-3 at 1).

18. Jenkins grossly misrepresents the facts when she claims that, at this November 25, 2019 meet-and-confer, Defendants' counsel also committed to searching their electronic files and records, and completing the document production therefrom, within the same one-month timeframe. (Second Motion to Compel, dkt. 472 at 2; Clemons Decl, dkt. 472-13, ¶¶ 6-7).

19. In fact, at the November 25, 2019 meet-and-confer, Defendants' counsel advised Jenkins' counsel that they would first focus on reviewing, cataloging, and producing items from their **paper** custody litigation file, knowing that it could take **several hundred attorney and staff hours** to accomplish that task – an enormous project to be undertaken and completed in under one month, and during the busy holiday season. As for the even larger search of **electronic** records, Defendants' counsel advised Jenkins' counsel that the parties would first need to agree upon a set of search terms, after which, depending on the number of hits generated by those search terms, Defendants' counsel would advise Jenkins' counsel how long they would estimate the review and production process to take. Defendants' counsel confirmed all of this in a December 10, 2019 email, which Jenkins naturally failed to mention or attach to her Second Motion to Compel. A true and correct copy of this email is attached hereto as **Exhibit 1**. Defendants' counsel told Jenkins counsel:

... our primary focus is on the voluminous paper file, which is taking us longer to inventory and scan than we anticipated. ... That said, we have also started to look at and work with the search terms you proposed, and **I hope to know (also by the end of the week)** whether the results obtained are manageable, whether further narrowing is necessary, and **the necessary timeframe for reviewing those hits**.

(*Id.* (emphasis added)).

20. Defendants' counsel later again confirmed this understanding and agreement to Jenkins' counsel, in an email on January 7, 2020:

As previously discussed and agreed, the review of our electronic file and production therefrom will take longer, because we have been focusing on the paper file thus far, and because we are still working on search terms for the electronic file.

(Mihet-Clemons email, Jan. 7, 2020, dkt. 472-9 at 2 (emphasis added)).

21. In both instances, Jenkins' counsel did not dispute the understanding and agreement being confirmed by Defendants' counsel in writing. Yet now, Jenkins brazenly misrepresents to the Court that Defendants had somehow committed to completing review and production from their electronic file by December 23, 2019. (Second Motion to Compel, dkt. 472 at 2; Clemons Decl, dkt. 472-13, ¶¶ 6-7).

22. That the electronic search and production could not possibly be undertaken, let alone completed, within the same December 23, 2019 anticipated timeframe as the paper custody litigation file is also evident from the fact that Jenkins' counsel did not even provide suggested search terms for the electronic search until December 3, 2019. (Clemons email to Mihet, Dec. 3, 2019, dkt. 472-3 at 1-2). As initially proposed on that date, these search terms were too broad and contained faulty connectors not compatible with Defendants' electronic system, and thus required negotiation and narrowing. (Mihet-Clemons emails, Jan. 6, 2020, dkt. 472-5 at 1-2; Mihet-Clemons emails Jan. 6, 7, 8, 16, 2020, dkt. 472-9 at 1-4). **This process was not even completed until January 16, 2020.** (Dkt. 472-9 at 1). It would have been therefore a factual impossibility for Defendants to search their electronic records, and complete that gigantic undertaking by December 23, 2019, when in January 2020 Jenkins and Defendants were still negotiating the search terms to be employed.

23. In December 2019, as Defendants' counsel were working around the clock to review and catalog the 17 bankers boxes composing their paper custody litigation file, it became apparent to them that they might need a little more time to complete that task, beyond the December 23, 2019 date they had previously **estimated**. Reviewing and cataloging tens of

thousands of pages of documents is not an exact “science,” the completion of which can be calculated with exact precision weeks in advance. Some documents and some boxes take more time to review and catalog than others.

24. On December 10, 2019, Defendants’ counsel advised Jenkins’ counsel that the process was ongoing but taking longer than anticipated, and indicated that “a modest extension [may] be necessary.” (Exhibit 1, Mihet-Clemons email, Dec. 10, 2019, at 1). **This is the communication Jenkins decided to withhold from this Court.**

25. Jenkins’ counsel did not object or otherwise complain upon receiving this email.

26. On December 23, 2019, Defendants’ counsel confirmed to Jenkins’ counsel that they would, indeed, need a little additional time to complete their review of the paper custody litigation file and production therefrom, and estimated that, with “the intervening holidays, we believe we can have the document production and privilege log ready by January 10 [2020], if not earlier.” (Mihet-Clemons email, Dec. 23, 2019, dkt. 472-4 at 1).

27. In immediate response, Defendants’ counsel received an automated email notification advising that counsel for Jenkins was “out of the office for the holidays until Monday, January 6, 2019 [*sic*].” (Clemons-Mihet email, Dec. 23, 2019, attached hereto as **Exhibit 2**). Defendants’ counsel understood from this that Jenkins’ counsel would not have been reviewing a document production over the holidays, even if Defendants’ counsel could have met their original, December 23 estimate for completion.

28. As anticipated and estimated, on January 10, 2020, Defendants’ counsel completed their review of the paper custody litigation file, and produced 13,261 pages of documents therefrom, along with a 71-entry privilege log.

29. To complete this task, Defendants' counsel worked as quickly as possible, expending **203 attorney hours** and **21.5 staff hours** within the span of only 45 days (since November 25, 2019), which included the Thanksgiving, Christmas, and New Year's holidays. The accusation that Defendants' counsel were somehow dragging their feet and purposefully delaying their discovery obligations is not only baseless – it is personally insulting and offensive to Defendants' counsel.

30. The 13,261 pages produced on January 10, 2020, coupled with the 71 entries on that privilege log, **compose the entirety of Defendants' paper file from the Miller-Jenkins custody litigation.**

31. Jenkins now assumes, incorrectly, that because Defendants' counsel had previously **estimated** that the paper custody litigation file might contain over 42,500 pages, there must be “30,000 pages of paper documents” unaccounted for, or somehow lumped into the 71-entry privilege log. (Second Motion to Compel, dkt. 472 at 6).

32. The reason for Jenkins' incorrect assumption is that her counsel never bothered to meet-and-confer with Defendants' counsel before raising this issue with the Court.

33. Had Jenkins raised this issue with Defendants first, as this Court's rules plainly require, Defendants' counsel would have explained that:

- a) The 42,500-page figure Defendants previously provided was only an “**estimate**,” based on the number of bankers boxes (17), the total linear feet (25.5), and the average number of documents that a linear foot typically holds. (Mihet Decl. in Opp. to Jenkins' First Mot. to Compel, dkt. 375, ¶ 5). Defendants clearly delineated this figure as an “estimate,” and did not

purport to have actually counted the number of pages in the paper custody litigation file. (*Id.*)

- b) As they were reviewing and cataloging the documents in the paper custody litigation file, Defendants learned that numerous documents, especially voluminous briefs, had been printed in multiple copies – two, three, four and even five identical copies at times. Defendants did not produce multiple identical copies of the same document.
- c) Defendants also learned during their review that some of the boxes were not entirely full, and that document folders and redwells also took up space within the boxes.

34. Jenkins now also charges that “Plaintiff[] [has] repeatedly informed Defendants that it is not necessary to produce documents that are in the public record,” and thus Defendants did not have to produce the 13,261 pages from the paper litigation file. (Second Motion to Compel, dkt. 472 at 3). Defendants’ counsel do not recall this supposedly “repeated information,” and Jenkins does not cite to any emails or other communications to back up her claim. (*Id.*; *see also*, Clemons Decl., dkt. 472-13, ¶ 10).

35. Defendants reasonably believed that they were required to produce the entirety of the paper file from the Miller-Jenkins custody litigation, except for privileged documents, because:

- a. Jenkins’ Document Requests Nos. 17 and 18 requested “**all documents** ... concerning the Dispute” and “the Court Orders,” (dkt. 361-1 at 9) which Jenkins purported to define to include every non-identical piece of paper from all Vermont and Virginia proceedings, without excepting publicly-filed documents (dkt. 361-1 at “Definitions” 5, 7, 8, 17, 18);

- b. Jenkins herself has produced **many thousands** of pages of publicly-filed documents from the Miller-Jenkins custody litigation (and from other cases as well) to Defendants in this case; and
- c. In opposing Jenkins' First Motion to Compel, Defendants objected to having to produce the publicly-filed documents from the paper custody litigation file (dkt. 374 at 5), but the Court's October 29, 2019 Order, ordering production for Requests Nos. 17 and 18 did not exclude publicly-filed documents from the ordered production. (Dkt. 395 at 12-13).

36. In any event, whether or not they physically produced the publicly-filed documents in the paper custody litigation file to Jenkins, Defendants' counsel were **still** required to review each one of those documents individually (*i.e.*, the entire file) to determine what the file contains, to determine what is privileged, and to catalog privileged documents. This is the burden that Jenkins' broad discovery requests imposed on Defendants, and one that Defendants undertook in good faith and timely completed, after more than 200 hours of work.

37. After completing the custody litigation paper file review and production on January 10, 2020, and after confirming agreement on the search terms to be run on the electronic records on January 16, 2017, Defendants turned their attention in earnest to the laborious task of searching their electronic records, reviewing hits, and cataloging privileged items. (Mihet-Clemons email, Jan. 16, 2020, dkt. 472-9 at 1).

38. As of January 16, 2020, Defendants' counsel **hoped** that they could be equally efficient and speedy on the electronic file review as they were on the paper custody litigation file, and **estimated** to Jenkins' counsel that they might be able to complete the task by February 14, 2020 – about a month later. (Mihet-Clemons email, Jan. 16, 2020, dkt. 472-8 at 1).

39. Once again, however, the “science” of prediction proved inexact, and Defendants ended up needing a little more time to complete their hundreds of hours of reviewing tens of thousands of pages. Thus, on February 14, 2020, Defendants’ counsel wrote Jenkins’ counsel to assure them that the project was diligently and significantly progressing, to advise that the additional production would be “comparable in size to our last production,” (meaning thousands of pages of documents), and to advise that they “hope to have this completed by February 28, or within a few days of that,” meaning just another two weeks later than originally estimated. (Mihet-Clemons email, Feb. 14, 2020, dkt. 472-10 at 1).

40. Jenkins’ counsel at this time purported to impose an unreasonable, unilateral “deadline” of February 21, 2020, which was fatuously unanchored in the reality of the size of the document review project, and not driven by any litigation or discovery deadline in the case. (Clemons-Mihet email, Feb. 14, 2020, dkt. 472-11 at 1).

41. Nevertheless, Defendants’ counsel attempted to meet Jenkins’ unreasonable and unilateral deadline, and worked around the clock to do so, but could not. On February 21, 2020, Defendants’ counsel asked Jenkins’ counsel not to trouble the Court, assuring them that they were working hundreds of hours to complete the production, and assuring them that Defendants’ production would be complete “**before our response to your [threatened second] motion [to compel] is due.**” (Mihet-Clemons email, Feb. 21, 2020, Dkt. 472-12 at 1 (emphasis added)).

42. Undeterred, Jenkins mercilessly filed her Second Motion to Compel on February 24, 2020. (Dkt. 472).

43. Thereafter, Defendants’ counsel continued to work around the clock to complete the document review and production. Although, because of the size of the project, they were not able to make their February 28, 2020 estimate as they had “hoped,” they **did** complete the

document review and production on the morning of March 9, 2020, the morning “before our response to your motion is due.”

44. On March 9, 2020, Defendants produced **23,707 additional pages** of documents from Liberty Counsel’s electronic files, **4,817 additional pages** of documents from Lindevaldsen’s files, and two privilege logs – one of 261 entries (190 of which were new) for Liberty Counsel and one of 19 entries for Lindevaldsen.

45. To complete this task, Defendants’ counsel had to expend an additional **219.40 attorney hours** and **48.20 staff hours** between January 11 and March 9, 2020.

46. All told, in the four-and-a-half months between the Court’s October 29, 2019 Order and the March 9, 2020 completion date, Defendants expended **492.10 hours** to review tens of thousands of pages, produce **41,785 pages**, and log 280 privileged entries.

C. Defendants’ Document Review and Production Was Not Only Reasonable but Speedy and Efficient Compared to Other Litigants in Other Cases.

47. Defendants’ counsel are unaware of any other case where a mammoth production of this size (in excess of 40,000 pages) was undertaken and completed in less than twenty-one months, let alone in four-and-a-half months.

48. In one recent case venued in a Massachusetts federal court, a litigation party opposing Defendants’ counsel took **twenty-one months** to search and produce 33,761 pages of documents. That party was represented by two law firms, including one mega law firm with almost 700 lawyers, with **fourteen** lawyers entering an appearance and actively participating in discovery.

49. In another recent case venued in a San Francisco federal court, the party opposing Defendants’ counsel took over **twenty-four months** to search and produce 17,500 pages of documents. That party was represented by one of the world’s largest law firms, boasting nearly 1,000 lawyers, over **two dozen** of which were active in that litigation.

50. In contrast, Defendants' counsel are part of a small, public interest litigation department at Liberty Counsel, which has only a handful of attorneys exceedingly busy in pro bono First Amendment litigation throughout the nation.

51. Defendants' accelerated timeline to comply with this Court's October 29, 2019 Order by reviewing and producing almost 42,000 pages of documents in four-and-a-half months was therefore speedy, efficient, and eminently reasonable under these circumstances.

D. Because There Is Nothing Left for the Court to Compel Liberty Counsel and Lindevaldsen to Produce, Jenkins' Motion Is Moot and Was Not Necessary.

52. When Jenkins filed her improvident Second Motion to Compel, there were no discovery deadlines of any sort, and no trial date set, because the Court had previously vacated the litigation schedule to give some other defendants time to secure replacement counsel. (Dkts. 450, 456). Instead, the parties had until March 9, 2020 to submit a discovery schedule, which would have permitted several months of additional discovery. (Dkt. 456). The Court has now moved the March 9, 2020 deadline for submission of a discovery schedule even farther, to May 15, 2020, meaning that discovery is not going to close for several more months. (Dkt. 474).

53. In light of the above facts and circumstances, there was no legitimate need or basis for Jenkins to file her Second Motion to Compel.

54. Moreover, there is nothing left for the Court to order Defendants to produce, since Defendants have fully complied with the Court's October 29, 2020 Order.

55. As detailed in paragraph 12, above, Defendants fully complied with the Court's October 29, 2020 Order, and did so before their deadline to respond to Jenkins' Second Motion to Compel. The motion therefore became moot on March 9, 2020, and remains moot today.

E. Jenkins Had Liberty Counsel’s Privilege Log for Six Weeks, but Failed to Raise Any Privilege Log Issues Prior to Filing Her Second Motion to Compel, and Then Failed to Withdraw Her Improper Second Motion to Compel.

56. Jenkins devotes **two-thirds** (four out of the six pages of argument) of her Second Motion to Compel to an issue that she has **never** raised with Defendants in any meet and confer prior to filing. Jenkins claims that “Defendants’ Privilege Log Is Inadequately Detailed to Permit A Fair Evaluation of Their Privilege Claims.” (Dkt. 472 at 6).

57. The privilege log about which Jenkins now complains for the first time is the 71-entry privilege log provided by Liberty Counsel to Jenkins **on January 10, 2020**. (Dkt. 472-7).

58. In the **six weeks** between January 10, 2020 and February 24, 2020 when Jenkins filed her Second Motion to Compel, the parties had numerous communications about discovery issues, including terms to be used for searching electronic records and the timing of Defendants’ review and production from the electronic records. (Dkts. 472-6, 472-8, 472-9, 472-10, 472-11, 472-12).

59. In not a single one of these communications did Jenkins’ counsel raise **any** concerns whatsoever regarding the adequacy of the privilege log served by Liberty Counsel on January 10, 2020. (*See id.*) The first (and only) complaints about the “detail” of that log, or about any other aspect of that log, were raised by Jenkins in her Second Motion to Compel, filed with the Court on February 24, 2020.

60. Jenkins now claims that she believes it would have been “futile” to meet and confer with Defendants about alleged privilege log deficiencies. That is not true. Had Jenkins’ counsel raised any alleged privilege log deficiencies, Defendants’ counsel would have worked in good faith to attempt to resolve them, just as they worked in good faith to reach agreement with Jenkins’ counsel over electronic search terms.

61. Further evidencing that a meet-and-confer would not have been futile, when Defendants' counsel read Jenkins' previously-unaired privilege log complaints in her Second Motion to Compel, Defendants' counsel endeavored to provide more "detail" in the subsequent privilege log entries served on March 9, 2020. A true and correct copy of Liberty Counsel's March 9, 2020 privilege log is attached hereto as **Exhibit 3**, and of Lindevaldsen's March 9, 2020 privilege log is attached hereto as **Exhibit 4**.

62. Comparing the post—complaint entries (##72-261 in Liberty Counsel's log, and ##1-19 in Lindevaldsen's log) with the pre-complaint entries (##1-71 in Liberty Counsel's log) evidences a clear, good-faith attempt by Defendants' counsel to address and resolve Jenkins' "lack of detail" charge, which could and would have happened with the first 71 entries if Jenkins had bothered to raise any issue with Defendants' counsel.

63. Following the filing of Jenkins' Second Motion to Compel, Defendants' counsel made repeated requests that Jenkins withdraw her improper motion and engage in good faith attempts to resolve alleged privilege log issues, **without an improper motion to compel pending**, but Jenkins has steadfastly refused. A true and correct copy of this course of communication between counsel is attached hereto as **Exhibit 5**.

F. Jenkins Failed to Complain About Defendants' Privilege Log for Liberty University's Documents, and Deems That Log Adequate Even Though It Has the Same Information and Detail as the Challenged Privilege Log.

64. That Jenkins' unaired complaints about Liberty Counsel's January 10, 2020 privilege log are contrived is evidenced by the fact that Defendants' counsel previously served a very similar privilege log upon Jenkins' counsel – on June 18, 2019 – asserting privilege over 82 documents identified by non-party Liberty University in its response to Plaintiff's document subpoena. (*See* Jenkins' Reply in Support of Her First Motion to Compel, dkt. 380 at 12). Jenkins attached that privilege log to her First Motion to Compel Reply. (Dkt. 380-1).

65. In her first motion to compel, **Jenkins did not raise any issues with any “lack of detail” in those privilege log entries**, arguing instead only that Defendants lacked an expectation of privacy in documents and communications maintained or exchanged over Liberty University’s servers. (Dkt. 380 at 12-14). In ruling upon Jenkins’ First Motion to Compel, the Court impliedly rejected Jenkins’ substantive arguments on privilege and did not breach any privileges asserted by Defendants. (Dkt. 395).

66. At no point from receiving Defendants’ privilege log over Liberty University documents on June 18, 2019 until the filing of this response **more than nine months later**, did Jenkins ever raise **any** complaints regarding the level of “detail” or the substance of the information provided in that privilege log, which can only mean that Jenkins is satisfied with the detail and substance of that privilege log.

67. A cursory comparison between the June 18, 2019 privilege log (dkt. 380-1) and the January 10, 2020 privilege log (dkt. 472-7) reveals that the two privilege logs are **identical** in the categories of information provided, and **materially the same** in the level of detail provided. This is not surprising at all, since it was the same Defendants’ counsel who prepared both privilege logs.

G. Jenkins’ Counsel Typically Provide Less Information and Detail in Their Privilege Logs Than Defendants’ Counsel Have Provided.

68. Further evidencing that Jenkins’ unaired privilege log complaints are contrived is the fact that Jenkins’ own counsel typically provide privilege logs in civil litigation that contain **less detail** than was provided by Defendants in this case.

69. Attached hereto as **Exhibit 6** and **Exhibit 7** are a “Privilege Log” and a “Redaction Log,” respectively, provided by the Southern Poverty Law Center (the firm representing Jenkins)

in another civil case, which the undersigned counsel have obtained from counsel for a party in that case.

70. While the SPLC logs contain essentially the same columns and categories of information as Liberty Counsel's January 10, 2020 log, the SPLC's "Description" of the allegedly privileged items is **less** detailed. The SPLC's description merely states things like "providing legal advice regarding statements related to litigation," "reflecting legal advice," and "providing information to counsel in connection with request for legal advice, regarding facts relating to the litigation." (Exhibits 6 and 7).

71. Even a cursory review of the descriptions provided in Liberty Counsel's January 10, 2020 privilege log reveals that Liberty Counsel's descriptions are far more detailed, and therefore proper. (Dkt. 472-7).

72. Confronted with the transparent hypocrisy in demanding more detail than they themselves provide, Jenkins' counsel retorted that the other case was different because there the "SPLC specifically negotiated the form that this log would take, and all parties agreed that this level of detail was sufficient under the circumstances of that case." (Clemons-Mihet email, March 11, 2020, Exhibit 5 at 4).

73. However, Jenkins' counsel never attempted to "negotiate" the form of any privilege log with Defendants' counsel in this case, and never attempted to reach any agreement on the level of detail that would be sufficient for this case.

H. Jenkins Has Unclean Hands: She Altogether Failed to Provide Her Own Privilege Log for Four Months, Then Promised to Provide a Privilege Log by March 18, 2020, Then on March 18, 2020 Reneged on That Promise, and Now Remains in Default of Her Obligation to Provide a Privilege Log.

74. On October 31, 2019, Jenkins provided her responses and objections to Liberty Counsel's Interrogatories, Lindevaldsen's Interrogatories, and Liberty Counsel's Requests for Production, copies of which are attached here as **Exhibits 8, 9, and 10**, respectively.

75. Jenkins invoked the attorney-client or work product privilege, generally and specifically, numerous times within her responses. (*See e.g.*, Exh. 8 at 3-4, "General Objections" 9 and 13; Exh. 9 at 3-4 "General Objections" 9 and 13; Exh. 10 at 3-4, "General Objections" 10 and 11; *id.* at 17-18 (asserting blanket privilege and producing no documents to Requests 65, 66, 67, and 68); *id.* at 4-18 (indicating that only "non-privileged documents" will be produced in response to virtually all Requests).

76. As of March 9, 2020, more than **four months** later, Jenkins still had failed to provide the required privilege log.

77. On March 9, 2020, Defendants' counsel asked Jenkins' counsel to provide a privilege log by March 18, 2020. (Mihet-Soto/Clemons email, March 9, 2020, Exh. 5 at 5).

78. Confirming Jenkins' failure to provide a privilege log, on March 11, 2020 Jenkins' counsel promised "to produce a privilege log for all productions made thus far on or before March 18 [2020]." (Clemons-Mihet email, March 11, 2020, Exh. 5 at 3-4).

79. However, on March 18, 2020, Jenkins reneged on her promise, and did not provide any privilege log. Instead, Jenkins purported to serve an amended response to Liberty Counsel's document requests, a copy of which is attached hereto as **Exhibit 11**. In a "General Objection 11" Jenkins now claims that providing any privilege log is "unduly burdensome" because "such

documents would span more than fifteen years of litigation and would likely contain little to no relevant information.” (*Id.* at 4).

80. Thus, when Jenkins decided to bring her previously unaired privilege log complaints to this Court on February 24, 2020, Jenkins herself was in default of her obligation to provide a privilege log, and Jenkins remains in default as of this filing, despite promising a cure.

I. Jenkins’ Second Motion to Compel Is Also Sanctionable Because It Is Premised on Demonstrable Misrepresentations and Half-Truths Designed to Mislead the Court.

81. Because the facts decisively refute Jenkins’ unsupported and offensive narrative that Defendants’ counsel engaged in “delays, obfuscation ... stonewalling ... [and] foot-dragging and bad faith” (dkt. 472 at 4), Jenkins must rely on demonstrable misrepresentations and half-truths⁵ to mislead the Court.

82. On the front end, Jenkins attempts to paint Defendants’ counsel as non-responsive to her counsel’s discovery communications, asserting that they sent an inquiry on October 31, 2019, and “receiv[ed] no response [by] November 6, 2019.” (Dkt. 472 at 2). Attorney Clemons dramatically highlights this supposed lack of response as a separate paragraph in his Declaration. (Dkt. 472-13, p.1, ¶ 3). This assertion is only half-true, however. The other half, which Jenkins omits, is that for unexplained reasons, she decided to send her October 31, 2019 communication **only via regular (paper) mail**. Despite the fact that communications to that point and since then have been via email, Jenkins did not send this communication by email – not even as a courtesy copy to the paper mail communication. **Defendants’ counsel therefore did not even receive Jenkins’ mailed letter until November 7, 2019**, and thus they could not have responded by November 6, as Jenkins apparently expected. Even though they were then engaged in a multi-

⁵ “Half the Truth is often a great Lie.” Benjamin Franklin, *Poor Richard’s Almanac*, July 1758.

month jury trial in California, Defendants' counsel responded a mere **three days** later – **on a Sunday** no less. (Dkt. 472-2). Contrary to Jenkins' misleading assertions, Defendants' counsel have been responsive, attentive, and diligent throughout.

83. On the back end, Jenkins ends her supposed recitation of the “facts” by telling the Court that she had to file her Second Motion to Compel because “[o]n February 21, 2020, Defendants informed Plaintiffs that they would not produce any documents that day.” (Dkt. 472 at 4). That is also only half-true. Jenkins does not tell the Court that Defendants also “informed Plaintiffs” that they were spending hundreds of hours to comply with the Court’s order on document production, and that – although they would need a little more time – they would be able to comply “before our response to your motion is due.” (Mihet-Clemons email, Feb. 21, 2020, dkt. 472-12).

84. Jenkins' motion is not only book-ended by misrepresentations and half-truths, but rather is full of them.

85. Jenkins asserts, incredibly, that “[o]n January 16, 2020, Defendants sent Plaintiff[] an email clarifying that the January 10, 2020 production [from the paper custody litigation file] was also intended to represent Lindevaldsen’s full paper production.” (Clemons Decl., dkt. 472-13, p.3, ¶ 12; *see also*, dkt. 472 at 3). This was designed to mislead the Court into believing that Lindevaldsen’s entire production would be limited to the documents served through that date, and therefore deficient. But on the contrary, responding to Jenkins’ question as to whether “the January 10 production [was] intended to represent Ms. Lindevaldsen’s production pursuant to the Court’s October 29 order as well as Liberty Counsel’s production,” (Clemons-Mihet email, January 13, 2020, dkt. 472-8 at 2), Defendants’ counsel advised (a) that the January 10 production “can also be regarded as [Lindevaldsen’s]” **only** to the extent Liberty Counsel’s documents could also be

deemed to be in her custody, possession or control “by virtue of her professional relationship with LC”; (b) that there was an “ongoing review of the electronic documents” of Lindevaldsen; and (c) that a “supplemental production should be forthcoming” from Lindevaldsen as well as Liberty Counsel. (Mihet-Clemons email, January 16, 2020, dkt. 472-8 at 1). Thus, Jenkins **knew** when she filed her Second Motion to Compel that Lindevaldsen would be producing more documents, but she misled the Court into thinking otherwise. Indeed, as noted above, on March 9, 2020 Lindevaldsen produced an additional 4,817 pages of documents.

86. Finally, as already demonstrated in paragraphs 17-22, *supra*, Jenkins badly misrepresented that Defendants’ counsel somehow agreed to conduct and conclude the search of (and production from) both their paper custody litigation file and their electronic records, all within the same one-month timeframe – a factual impossibility.

J. Jenkins’ Filing of an Unnecessary, Misleading and Improper Second Motion to Compel, and Her Refusal to Withdraw That Motion Even After It Clearly Became Moot, Has Required Defendants’ Counsel to Expend Over 29.5 Hours to Respond, Valued at \$10,650.

87. As demonstrated above, Jenkins has filed a misleading and unnecessary second motion to compel that is now moot, failed to meet and confer in good faith about a two-thirds majority of the content of her motion prior to filing, and then steadfastly refused to withdraw the motion, even after it clearly became moot.

88. To respond to Jenkins’ motion, Defendants’ counsel were required to expend a substantial amount of attorney time.

89. Attorney Daniel Schmid expended in excess of 17.5 hours⁶ reviewing Jenkins’ motion, researching the issues raised and cases cited, researching cases for the opposition, and

⁶ This figure represents a voluntary reduction of the actual time spent, as a result of exercising billing judgment.

drafting a portion of the opposition. Mr. Schmid is admitted to the Virginia bar and six federal circuit courts of appeal, and has over 7 years of experience in litigating First Amendment and civil rights cases. A reasonable hourly rate for Mr. Schmid's time is \$300, and Mr. Schmid has recovered court-awarded attorney's fees at this and higher rates.

90. Attorney Horatio Mihet expended in excess of 12 hours⁷ reviewing Jenkins' motion, attempting to secure a voluntary withdrawal of the improper and moot motion, researching the factual record, drafting the Verified Facts for the opposition, and reviewing and revising the legal argument. Mr. Mihet is admitted to the United States Supreme Court, the Florida and Ohio bars, and eleven federal circuit courts of appeal. He has over 17 years of experience, is a recognized expert who lectures frequently on First Amendment and civil rights law, and is Chief Litigation Counsel at Liberty Counsel where he supervises and directs the public interest litigation program. Although an hourly rate of \$550 is reasonable for Mr. Mihet, and he has obtained fee awards at this rate and higher, Mr. Mihet requests that the Court award his fees at a lower, \$450 hourly rate in this case.

91. The combined value of the attorney time Defendants' counsel were required to expend on this response, at the above hourly rates, is in excess of \$10,650.

92. This time was reasonably expended in responding to Jenkins' motion. Because they were required to expend this amount of time on this matter, Defendants' counsel were precluded from spending this time on other civil rights litigation where they are able to recover fees at these hourly rates or higher.

⁷ This figure also represents a voluntary reduction of the actual time spent, as a result of exercising billing judgment.

LEGAL ARGUMENT

I. THE COURT SHOULD SANCTION JENKINS AND HER COUNSEL FOR FILING AN UNNECESSARY AND MISLEADING SECOND MOTION TO COMPEL, AND FOR REFUSING TO WITHDRAW IT AFTER IT BECAME MOOT.

Jenkins filed her Second Motion to Compel essentially because she was unwilling to wait a few more days for Defendants to complete a massive document review project that took almost 500 hours and yielded almost 42,000 documents. (VF ¶¶ 13-46). There was no need for her to file the motion, because Defendants' counsel were responsive, diligent, kept Jenkins' counsel apprised at regular intervals of their progress, and assured Jenkins' counsel that they would soon complete the arduous task. (*Id.*) At the end of the day, Defendants produced all responsive documents in their custody, possession or control, and complied fully with each of the 20 items on which the Court ordered production in its October 29, 2019 Order. (*Id.* at ¶¶ 1-12). Defendants did so in just four-and-a-half months, which is likely **record time**, since other litigants represented by giant law firms take close to two years to make such voluminous productions. (*Id.* at ¶¶ 47-51). Even if an imminent discovery cut-off had been in place, Plaintiff's fatuous "deadline" that she unilaterally imposed on Defendants would be unreasonable. But here, **there were no discovery or other litigation deadlines in place** (*id.* at ¶ 52), making Plaintiff's "deadline" capricious in the extreme.

Federal Rule of Civil Procedure 37(a)(5)(B) requires the Court to impose a monetary fee sanction against, and shift the burden of responding to a motion to compel upon, Plaintiff unless Plaintiff's "motion was substantially justified." *Id.* That Jenkins' motion was not justified in these circumstances is beyond cavil. If the facts had justified Plaintiff's Second Motion to Compel, Plaintiff would not have felt the need to contort the facts and mislead the Court as she has done repeatedly in her motion. (VF ¶¶ 81-86).

Given Defendants' demonstrated full compliance with the Court's October 29, 2019 Order, Jenkins' motion quibbling about the timing of that compliance is moot, and there is nothing left for the Court to order Defendants to produce. **Defendants produced all that they had.** They did so willingly. And **they told Jenkins that they were doing so**, if only Jenkins had given them sufficient, reasonable time.

Merely denying Jenkins' motion as moot at this point would not serve the ends of justice because Jenkins refused to withdraw her motion (VF ¶ 63 and Exh. 5), and instead willingly forced Defendants' counsel to expend \$10,650.00 in attorney time to respond to her baseless, misleading, and moot filing. The Court should deny the motion and shift the response burden to Jenkins and her counsel, as Civil Rule 37 requires.

II. THE COURT SHOULD SANCTION JENKINS AND HER COUNSEL FOR THEIR ADMITTED FAILURE TO RAISE PRIVILEGE LOG ISSUES IN A REQUIRED MEET AND CONFER PRIOR TO FILING, FOR COMING TO THE COURT WITH UNCLEAN HANDS, AND FOR MANUFACTURING CONTRIVED ISSUES REGARDING LIBERTY COUNSEL'S PRIVILEGE LOG.

A. Jenkins Was Required to Meet and Confer With Defendants and to Raise Specific Issues With Defendants as to Alleged Lack of Detail in Liberty Counsel's Privilege Log.

This Court's Local Rules and the Federal Rules of Civil Procedure require a party to engage in a good faith effort to resolve issues in a meet and confer prior to involving the court in any discovery disputes. *See* Local Rule 7(a)(7) ("A party filing a non-dispositive motion must certify that the party has made a good faith attempt to obtain the opposing party's agreement to the requested relief."); Fed. R. Civ. P. 37(a)(1) ("On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. The motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action."); *see*

also *Elhannon LLC v. F.A. Bartlett Tree Expert Co.*, No. 2:14-cv-262, 2017 WL 1382024, *9 (D. Vt. Apr. 18, 2017) (SESSIONS, J.) (noting that parties are mandated to engage in a good faith effort to meet and confer to resolve issues pertaining to discovery prior to troubling the court with discovery motions).

Not only was Jenkins mandated by this Court's Local Rules and the federal discovery rules to engage in a good faith meet and confer prior to filing her motion, but that duty imposed upon her an affirmative obligation to raise **each and every issue** she contends merits court intervention. *See, e.g., Prescient Partners, L.P. v. Fieldcrest Cannon, Inc.*, No. 96 Civ. 7590 (DAB)JCF, 1998 WL 67672, *2-3 (S.D.N.Y. Feb. 18, 1998) (noting that the meet-and-confer requirement requires a "live exchange of ideas and opinions" as to "specific genuine issues"); *Automobile Club of N.Y., Inc. v. Port Auth. of N.Y. & N.J.*, No. 11 Civ. 6746(RKE)(HBP), 2012 WL 4791804, *6 (S.D.N.Y. Oct. 9, 2012) (holding that "some discussion regarding the general scope of discovery going forward [**without**] **indication that any attempts were made to resolve any specific discovery disputes as they relate to particular demands or responses**" was "alone sufficient ground for denying the motion" (bold emphasis added; italics original)); *Express Ins. Co., Ltd. v. Rochdale Ins. Co.*, No. 05 Civ. 10174, 2007 WL 2900217, *1 (S.D.N.Y. Oct. 4, 2007) (holding that meet-and-confer requirement mandates good faith attempt to reach resolution of each specific issue requesting party contends is unsatisfactory); *Deckon v. Chiddebere*, No. 93Civ7845(LMM)(BAL), 1994 WL 494885, *5 (S.D.N.Y. Sept. 9, 1994) ("Counsel are required to confer in good faith in an effort to resolve or narrow **all discovery disputes** before seeking judicial intervention." (emphasis added)); *United States Bancorp Equip. Fin., Inc. v. Babylon Transit, Inc.*, 270 F.R.D. 136, 140 (E.D.N.Y. Aug. 4, 2010) (same); *Big Apple Pyrotechnics v. Sparktacular Inc.*, No. 05 Civ. 9994, 2006 WL 587331, *1 (S.D.N.Y. Sept. 9, 1994) (parties must

“confer in good faith in an effort to resolve or narrow all discovery disputes before seeking judicial intervention.”).

B. Jenkins’ Transparently Pretextual “Futility” Excuse Is Worse Than Her Admitted Total Failure to Meet and Confer.

There is no question that, prior to filing her Second Motion to Compel on February 24, 2020, Jenkins utterly failed to raise any issue with the supposed “inadequate detail” in the 71 entries of Liberty Counsel’s January 10, 2020 privilege log, which Jenkins had in her possession for six weeks. Jenkins’ counsel readily admitted this much, but then claimed that a meet and confer would have been “futile.” (VF ¶¶ 56-63 and Exh. 5 at 2).

Jenkins’ claim of “futility” is transparently pretextual and, in a word, futile. In the six weeks that Jenkins had Liberty Counsel’s privilege log, the parties were communicating regularly about many other discovery issues. (*Id.* at ¶ 58; *see also*, dks. 472-6, 472-8, 472-9, 472-10, 472-11, 472-12). In their numerous communications, the parties were able to negotiate and agree upon search terms to be used in Defendants’ search of their electronic records. (*Id.*) There is no reason why Jenkins’ counsel could not have even **mentioned** their purported problems with Liberty Counsel’s privilege log. Indeed, after learning of Jenkins’ purported complaints for the first time in her Second Motion to Compel, Defendants’ counsel endeavored to provide more detail in subsequent privilege log entries (VF ¶ 61 and Exhs. 3 and 4). Although, in the absence of the required meet and confer, it is still difficult to decipher what additional detail Jenkins seeks, Defendants’ efforts to provide more detail for subsequent privilege log entries further demonstrate that the required meet-and-confer would have been anything but “futile.”

Ultimately, Jenkins’ futility arguments, like much of the rest of her Second Motion to Compel, rest upon her transparent efforts to re-litigate the issues raised in her **First** Motion to Compel. But no matter how hard Jenkins attempts to paint Defendants’ discovery positions prior

to her First Motion to Compel as unreasonable, the undeniable facts remain that: (a) the Court settled those disputes without finding bad faith and without imposing any sanctions (dkt. 395); (b) the Court actually narrowed some of Jenkins' discovery requests, demonstrating that Defendants' positions and resistance to Jenkins' exceedingly broad discovery requests were justified (*id.*); and (c) Jenkins herself is now claiming an exemption from having to provide **any** privilege log, on grounds of undue burden – which is the same position Defendants took prior to the First Motion to Compel. (VF ¶¶ 74-80 and Exh. 11).

Jenkins' futility argument makes a mockery of the discovery rules and this Court's local rules mandating meaningful meet-and-confers, and brazenly seeks to shift upon **Defendants** Plaintiff's own demonstrable and inexcusable flouting of the rules. The Court should not countenance these tactics.

C. Jenkins' Admitted and Inexcusable Failure to Meet and Confer Mandates Denial of Jenkins' Motion to Compel.

Jenkins' admitted and utter failure to even attempt to satisfy her meet and confer obligations warrants denial of her second motion to compel. A legion of cases so hold. *See e.g.*, *Boyd v. Petralis*, No. 16-CV-6286W, 2019 WL 1103852, *2 (W.D.N.Y. Mar. 8, 2019) ("Plaintiff's failure to comply with the conferral requirement before filing the pending motion to compel constitutes an independent basis for denying the motion."); *Vaigasi v. Solow Mgmt. Corp.*, No. 11 Civ. 5088 (RMB)(HBP), 2016 WL 616386, *11 (S.D.N.Y. Feb. 16, 2016) ("Plaintiff's failure to meet and confer with defense counsel in good faith is sufficient reason by itself to deny plaintiff's motion to compel."); *Prescient Partners, L.P. v. Fieldcrest Cannon, Inc.*, No. 96 Civ. 7590 (DAB)JCF, 1998 WL 67672, *3 (S.D.N.Y. Feb. 18, 1998) ("[T]he failure to meet and confer mandates denial of a motion to compel."); *Veleron Holding, B.V. v. BNP Paribas SA*, No. 12-CV-5966 (CM)(RLE), 2014 WL 4184806, *2 (S.D.N.Y. Aug. 22, 2014) ("[A] motion to compel must

be denied where the parties have failed to meet and confer.”); *Automobile Club of N.Y., Inc. v. Port Auth. of N.Y. & N.J.*, No. 11 Civ. 6746(RKE)(HBP), 2012 WL 4791804, *6 (S.D.N.Y. Oct. 9, 2012) (failure to meet and confer requires denying motion to compel); *Williams v. City of Rochester*, No. 13-CV-6152W, 2018 WL 739097, *1 (W.D.N.Y. Feb. 7, 2018) (“The failure to meet and confer is unacceptable, contravenes the parties’ obligations under the Federal Rules of Civil Procedure, and justifies the denial of Williams’s motion.”); *Brown v. Clayton*, No. 3:11CV714(JJCH), 2013 WL 1409884, *2 (D. Conn. Apr. 8, 2013) (“**The failure to follow the meet and confer requirement is a sufficient basis for denying the motion to compel.**” (emphasis added)); *Dorchester Fin. Holdings Corp. v. Banco BRJ, S.A.*, No. 11-CCV-1529(KMW)((KNF), 2014 WL 3747160, *5 (S.D.N.Y. July 3, 2014) (same); *AIU Ins. Co. v. TIG Ins. Co.*, No. 07 Civ. 7052(SHS)(HBP), 2008 WL 4067437, *4 (S.D.N.Y. Aug. 28, 2008) (same).

This Court should not reward Jenkins for her admitted and open flouting of the Court’s rules and the rules of discovery. Entertaining Jenkins’ motion absent good faith meet and confer efforts prior to filing will incentivize Jenkins, and perhaps other parties, to continue to defy the rules. The Court should deny Jenkins’ improper motion.

D. As a Matter of Law, This Court Must Deny Jenkins’ Motion for Waiver of Privilege or Monetary Sanctions Because Jenkins Failed to Meet and Confer.

Where a party fails to satisfy the clear mandates of the federal rules governing meet-and-confer efforts, the plain language of the rules mandates denial of any request for sanctions, such as waiver of privilege or imposition of attorney’s fees and costs. *See e.g.*, Fed. R. Civ. P. 37(a)(5)(A)(i) (“[T]he court **must not order this payment [of attorney’s fees] if ... the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action.**” (emphasis added)). *See also, Valentin v. City of Rochester*, No. 11–CV–6238CJS, 2014 WL 4804684, *7 (W.D.N.Y. Sept. 26, 2014) (federal rules mandate denial of sanctions where

moving party failed to meet and confer prior to seeking court intervention); *Marsh v. Rensselaer Cnty.*, 218 F.R.D. 367, 371 (N.D.N.Y. 2003) (noting that the federal rules clearly prohibit the imposition of discovery sanctions when moving party fails to meet and confer prior to seeking judicial intervention); *see also Tiberi v. CIGNA Ins. Co.*, 40 F.3d 110, 112-12 (5th Cir. 1994) (noting that a party's failure to meet and confer prior to filing motion to compel precludes the award of fees).

In light of Jenkins' admitted failure to meet and confer about her objections to Liberty Counsel's privilege log, not to mention her own unclean hands in failing to provide any privilege log (VF ¶¶ 74-80), she cannot be heard to ask now for the extremely drastic remedy of privilege waiver or for monetary sanctions. Jenkins' request for sanctions must be denied under the plain language of the federal rules and clear precedent. (*See also* Section III.B., *infra*).

E. Jenkins' Failure to Meet and Confer With Defendants Prior to Filing Her Motion Warrants Sanctions Against Jenkins.

Not only is the denial of a motion to compel warranted when a party fails to meet and confer, but the moving party should actually itself be sanctioned for its failure to abide by clear obligations. *See, e.g., Local 30, Int'l Union of Operating Eng'rs, AFL-CIO v. Wood Grp. Power Operations, LLC*, No. CV 13-2499 (JS)(GRB), 2017 WL 9939042, *4 (E.D.N.Y. Dec. 22, 2017) (imposing sanctions upon moving party for failure to abide by court-mandated meet-and-confer requirements); *Window Headquarters, Inc. v. Mat Basic Four, Inc.*, No. 91 Civ. 1816(MBM), 1996 WL 63046, *1 (S.D.N.Y. Feb. 9, 1996) (holding that party's filing of motion to compel without completing the meet-and-confer requirement mandated the denial of the motion and imposition of monetary sanctions); *Campbell v. U.S. Dept. of Justice*, 231 F. Supp. 2d 1, 16 (D.D.C. 2002) (ordering sanctions against the moving party for failure to satisfy meet-and-confer requirement prior to seeking court intervention).

Here, merely denying Jenkins' motion is not a sufficient remedy, where a meet and confer would have avoided this issue, and where Jenkins' stubborn refusal to withdraw her improper motion has caused Defendants' counsel to needlessly expend substantial time to respond. As detailed above, Jenkins' recalcitrance has caused Defendants to expend over 29.5 hours of attorney time, valued at \$10,650.00 using reasonable hourly rates. (VF ¶¶ 87-92). The Court should shift this burden upon Jenkins and her counsel, to encourage and incentivize their future compliance with the Court's rules and the rules of discovery, and to make Defendants whole.

III. LIBERTY COUNSEL'S PRODUCTION OF A DETAILED PRIVILEGE LOG IS SUFFICIENT UNDER THE FEDERAL RULES AND BINDING PRECEDENT, AND CANNOT BE SANCTIONED WITHOUT AN OPPORTUNITY TO CURE ALLEGED DEFICIENCIES.

A. Liberty Counsel's Production of a Detailed Privilege Log Is Sufficient to Satisfy the Federal Rules.

Defendants again urge the Court not to engage in a substantive analysis of Jenkins' unaired objections to the 71 entries in Liberty Counsel's January 10, 2020 privilege log, because doing so would reward Jenkins' failure to comply with her clear legal obligations. However, if the Court does decide to entertain Jenkins' improper objections, the Court should reject them and find that Liberty Counsel's privilege log is sufficient and adequate.

Rule 26 provides that a party withholding documents from production based on a claim of privilege must "(i) expressly make the claim; and (ii) describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing the information itself privileged or protected, will enable the other parties to assess the claim." Fed. R. Civ. P. 26(b)(5)(A). The "purpose of a privilege log is . . . to enable the [parties] to assess the claim of privilege." *One Source Envm't, LLC v. M+W Zander, Inc.*, No. 2:12-cv-145, 2015 WL 13505324, *2 (D. Vt. Apr. 16, 2015) (SESSIONS, J.); *see also Horace Mann Ins. Cor.*

v. Nationwide Mutual Ins. Co., 240 F.R.D. 44, 47 (D. Conn. 2007) (“The purpose of the privilege log is to assist the court and the parties in performing the careful analysis that a privilege or immunities evaluation demands.”).

The standard for testing the adequacy of the privilege log is whether, as to each document, it sets forth specific facts that, if credited, would suffice to establish each element of the privilege or immunity that is claimed. **The focus is on the specific descriptive portion of the log**, and not on the conclusory invocations of the privilege or work-product rule, since the burden of the party withholding documents cannot be discharged by mere conclusory or ipse dixit assertions.

Bowne of N.Y.C., Inc. v. AmBASE Corp., 150 F.R.D. 465, 474 (S.D.N.Y. 1993) (emphasis added) (internal quotation marks omitted).

Here, the 71 entries in the privilege log served by Liberty Counsel on January 10, 2020 contain more than sufficient descriptive detail to enable Jenkins (or the Court) to determine that the documents or communications withheld contain the work product of counsel or were exchanged between counsel and client for the purpose of seeking or providing or receiving legal advice during an active litigation. Indeed, it is difficult for Defendants to imagine what more they could say about the withheld documents, without disclosing their contents – but then again, that is what a required meet-and-confer could have hashed out in this case, had Jenkins bothered to follow the rules.

Tellingly, Jenkins’ Second Motion to Compel itself does not identify any specific additional information that she wanted from Defendants, other than perhaps an “explanation” of the identity of some of the authors or recipients listed on privilege log. (Dkt. 472 at 7). Defendants would have been happy to provide this information to Jenkins in a meet-and-confer, so that she can determine that all listed individuals are part of the attorney-client or attorney work product privilege circle. Indeed, supplemental information such as the identity of individuals in a privilege log is routinely provided after the log itself, either informally in discovery or through an affidavit

or deposition testimony. *See e.g., Bowne of N.Y.C., Inc.*, 150 F.R.D. at 474 (noting that information allegedly lacking to sufficiently identify claimed privilege may be supplied by affidavit); *Favors v. Cuomo*, 285 F.R.D. 187, 224 (E.D.N.Y. 2012) (noting that additional information may be supplied via updated privilege logs or “where appropriate, evidentiary submissions”); *A.I.A. Holdings, S.A. v. Lehman Bros., Inc.*, No. 97 Civ. 4978(LMM)(HB), 2002 WL 31385824, *6 (S.D.N.Y. Oct. 21, 2002) (“If the assertions of privilege are challenged and the dispute cannot be resolved informally, the withholding party then has to submit evidence, by way of affidavit, deposition testimony or otherwise, establishing only the challenged elements of the applicable privilege or protection....”) Here, **had Jenkins made any request for this information prior to filing her improvident motion, Defendants would have gladly and promptly provided it.**

Moreover, as noted in the Verified Facts, the 71 privilege log entries challenged by Jenkins actually contain **more** descriptive detail than Jenkins’ own counsel provide in other cases. (VF ¶¶ 68-71). And Jenkins’ clever retort that the information provided by her counsel in other cases was sufficient because it was “negotiated” between the parties in those cases (VF ¶¶ 72-73) serves only to highlight the fact that Jenkins never provided Defendants in this case with the same litigation courtesies and opportunity to “negotiate” privilege log details that her counsel were provided in other cases.

Finally, Jenkins’ acceptance of the substantially similar privilege log provided by Defendants **nine months ago** in connection with the document production of non-party Liberty University, and her failure to raise any issue whatsoever regarding the almost identical level of “detail” in that log (VF ¶¶ 72-73), gave Defendants every reason to believe that what Liberty Counsel was providing to Jenkins in its January 10, 2020 log was sufficient. Jenkins’ instant complaints are contrived.

B. Liberty Counsel Must Be Given a Fair Opportunity to Cure Any Alleged Deficiencies in Its January 10, 2020 Privilege Log.

Setting aside Jenkins' failure to meet and confer as to any privilege log deficiencies – which is reason alone to deny her request for the exceedingly drastic waiver of privilege sanction (*see* Section II.D, *supra*) – Jenkins' request must also be denied so that Liberty Counsel has a fair and meaningful opportunity to correct any deficiencies that may be found by the Court.

Numerous courts, including this Court, have refused to impose a blanket waiver of privilege sanction where a privilege log was provided in good faith, even if that log was found to be substantively insufficient. *See, e.g., Favors*, 285 F.R.D. at 224 (though the privilege log was insufficient, the producing party would be given opportunity to supplement descriptive portions of privilege log before any blanket waiver of privilege could be found); *id.* (“declin[ing] to hold that defendants thereby waived all their privilege claims” and ordering producing party to submit “revised privilege logs . . . that cure the inadequacies described above”); *A.I.A. Holdings, S.A.*, 2002 WL 31385824 at *6 (refusing to find a blanket waiver of privilege, but instead permitting the producing party – once the privilege log was challenged – to submit evidentiary materials that “fill in the gaps” concerning alleged deficiencies in the privilege assertions).

In fact, where – as here – there is no discovery deadline, imminent or otherwise, courts have held that even a failure to produce a privilege log is not a flagrant violation warranting waiver of privilege. *See, e.g., Pem-America, Inc. v. Sunham Home Fashions, LLC*, No. 03 Civ. 1377(JFK)(RLE), 2007 WL 3226156, * (S.D.N.Y. Oct. 31, 2007) (holding that even a failure to produce any privilege log is **“not a ‘flagrant’ violation especially considering there is not a discovery deadline set at this time”** (emphasis added)).

Finally, even where a party has completely failed to produce a privilege log, this Court and others have refused to find that a blanket waiver of privilege is warranted prior to allowing the

producing party a chance to adequately assert privilege. *See, e.g., One Source Env't'l, LLC v. M+W Zander, Inc.*, 2015 WL 13505324, *6 (D. Vt. Apr. 16, 2015 (SESSIONS, J.)); *see also Trzeciak v. Apple Computers, Inc.*, No. 94 CCiv. 1251 (LAK), 1995 WL 20329, *3 (S.D.N.Y. Jan. 19, 1995) (requiring party to produce previously omitted privilege log prior to imposing waiver sanction); *Grossman v. Schwarz*, 125 F.R.D. 376, 386, 390 (S.D.N.Y. 1989) (same).

Here, Liberty Counsel has worked in good faith to provide Jenkins with a privilege log that satisfies the civil rules. Liberty Counsel has provided a log that has more detail than logs provided by other counsel in civil litigation (including Jenkins' counsel), and has similar detail as another log that Jenkins has deemed adequate in this case and has not challenged. If the Court were to entertain Jenkins' unaided complaints and find that Liberty Counsel's log is still deficient somehow, the Court should provide Liberty Counsel an opportunity to cure any deficiency. Jenkins' request for a waiver sanction in the first instance is ludicrous.

CONCLUSION

For the foregoing reasons, Plaintiff's Second Motion to Compel should be denied in its entirety, and the Court should impose a sanction of \$10,650.00 against Jenkins and her counsel, for filing an unnecessary and misleading motion, without first engaging in the required meet-and-confer as to the majority of issues raised, and for refusing to withdraw said motion even after it became moot.

Respectfully submitted,

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*Attorneys for Defendants Liberty Counsel, Inc.
And Rena M. Lindevaldsen*

*Admitted pro hac vice

VERIFICATION

I declare under penalty of perjury under the laws of the United States of America that the factual assertions in the foregoing document are true and correct.

Executed on March 24, 2020

/s/ Horatio G. Mihet _____
Horatio G. Mihet

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of March, 2020, I caused a true and correct copy of the foregoing to be electronically filed with this Court. Service will be effectuated on all counsel of record via this Court's ECF/electronic notice system.

/s/ Horatio G. Mihet

Horatio G. Mihet

From: [Horatio Mihet](#)
To: [Tyler Clemons](#)
Cc: [Roger Gannam](#); [Daniel Schmid](#); [Claudia Huerta](#); [Diego Soto](#); [Emily Joselson](#); [flangrock](#); [Jessica Stone](#); [jswift](#); [Julie Jackman](#); [Maya Rajaratnam](#); [Sarah Star](#); [Scott McCoy](#); [srs](#); [Beth Littrell](#)
Subject: RE: Jenkins: Meet & Confer Follow-up
Date: Tuesday, December 10, 2019 2:38:00 PM

Tyler – a simple follow up would have been sufficient, especially considering that your own post-conferral communication was delayed, and that we’re in a busy season. Nevertheless, I am able to confirm that Mr. Staver does not have any documents in his custody, possession or control that are not also in the custody, possession or control of Liberty Counsel.

As for Liberty Counsel’s production, our primary focus is on the voluminous paper file, which is taking us longer to inventory and scan than we anticipated. I should know by the end of this week whether we can meet the December 23 goal, or whether a modest extension will be necessary. That said, we have also started to look at and work with the search terms you proposed, and I hope to know (also by the end of the week) whether the results obtained are manageable, whether further narrowing is necessary, and the necessary timeframe for reviewing those hits.

Thus, let us touch base on Friday afternoon, or perhaps on Monday.

Kind Regards,

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From: Tyler Clemons <Tyler.Clemons@splcenter.org>
Sent: Monday, December 9, 2019 1:20 PM
To: Horatio Mihet <hmihet@lc.org>
Cc: Roger Gannam <rgannam@lc.org>; Daniel Schmid <daniel@lc.org>; Claudia Huerta <claudia.huerta@splcenter.org>; Diego Soto <Diego.Soto@splcenter.org>; Emily Joselson <ejoselson@langrock.com>; flangrock <flangrock@langrock.com>; Jessica Stone <jessica.stone@splcenter.org>; jsswift <jswift@langrock.com>; Julie Jackman <jjackman@langrock.com>; Maya Rajaratnam <maya.rajaratnam@splcenter.org>; Sarah Star <sarahstar.esq@gmail.com>; Scott McCoy <Scott.McCoy@splcenter.org>; srs <srs@sarahstarlaw.com>; Beth Littrell <beth.littrell@splcenter.org>

EXHIBIT 1

Subject: RE: Jenkins: Meet & Confer Follow-up

Good afternoon Harry,

I have not received any response from you regarding my email below, despite your agreement during our meet & confer to inform me by Wednesday, December 4, of the extent to which the responsive documents in Mathew Staver's possession, custody, or control are different from those to be produced by Liberty Counsel.

The recent scheduling crunch highlighted the importance of moving forward with discovery promptly to ensure that we are ready to close discovery on March 2, 2020. At a minimum, this includes complying with agreed-upon deadlines.

Plaintiffs have prepared a motion to compel Mr. Staver to comply with our subpoena to be filed in the Middle District of Florida. Please provide me with the information we discussed by **5 p.m. Eastern tomorrow** (Tuesday, December 10) or we will move forward with filing.

Best,

Tyler



J. Tyler Clemons *they/them/mx*
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From: Tyler Clemons
Sent: Tuesday, December 3, 2019 12:09 PM
To: Horatio Mihet
Cc: Roger Gannam; dschmid@lc.org; Beth Littrell; Claudia Huerta; Diego Soto; Emily Joselson; flangrock; Jessica Stone; jswift; Julie Jackman; Maya Rajaratnam; Sarah Star; Scott McCoy; srs; Tyler Clemons
Subject: Jenkins: Meet & Confer Follow-up

Hi Harry,

Thanks for talking with me last Monday, November 25. This email is to memorialize our agreements and provide the information you requested. Apologies for the delay on this—I fell ill last Tuesday and am just now recovering.

First, you asked me to provide you with a list of topics for the 30(b)(6) of Liberty Counsel so that you could begin identifying (a) designee(s). Those topics are as follows:

- Supervision of attorneys
- Screening and selection of new clients
- Document—including but not limited to electronic documents, emails, and phone records—preservation and retention
- Phone logs and numbers, including assignment of phone numbers and access to calls made to those phone numbers
- Organizational position on same-sex marriage, same-sex civil unions, and same-sex relationships; parenting by gay or lesbian adults and same-sex couples; and the relative supremacy of secular law over religion, morality, or conscience
- Relationship with Liberty University

We will of course include these in a formal 30(b)(6) notice in the near future.

Second, you agreed to produce paper documents responsive to Plaintiffs' requests to Liberty Counsel and Lindevaldsen, together with a privilege log, by December 23. We also agreed to work toward that date as a goal for producing electronic documents. To that end, we agreed to engage in an iterative process using search terms to narrow the universe of responsive electronic documents. Specifically, I agreed to provide search terms for Plaintiffs' Requests 64 through 69:

- For Requests 64 and 65:
 - ("same-sex" or "same sex" or homosexual! or gay or lesbian or LGBT!) and (unnatural or abomination or abus! or damag! or destr! or molest! or pedophil! or disease or perver! or terror! or threat! or demon! or child!)
 - fag! or queer!
- For Requests 66 and 67:
 - "civil disobedience"
 - (disobe! or disregard or ignor!) /s (court or order)
 - (high! or God or heaven! or Bibl! or suprem! or moral! or conscience) /3 law
- Documents responsive to Requests 68 and 69 should be included in the results for Requests 4 (re: Janet Jenkins) and 18 (re: the Court Orders).

Note that these use Westlaw's terms and connectors; I don't know what kind of Boolean capabilities your search software has. These may need to be adjusted to account for that.

Third, we discussed Plaintiffs' subpoena to Mathew Staver. You agreed to ask Mr. Staver to conduct a search to whether he has any responsive documents that are not also in Liberty Counsel's possession and will let us know by December 4 (tomorrow).

Fourth, with regard to that subpoena, you asked for Eleventh Circuit authority for the proposition that Mr. Staver has an affirmative obligation to request his phone records from his provider to comply with Request 20 of Plaintiffs' subpoena. The Eleventh Circuit defines "control" for the purposes of discovery as "'the legal right to obtain the documents requested upon demand.'" *Sergeeva v. Triplton Int'l Ltd.*, 834 F.3d 1194, 1201 & n.6 (11th Cir. 2016) (quoting *SeaRock v. Stripling*, 736 F.2d 650, 653-54) (11th Cir. 1984)). For example, a party to a contract must produce a

copy of it even if the party is not currently in possession of a copy, because the party has the legal right to request a copy from their contractual partners. *Mayan v. Mayan*, No: 6:15-cv-2183, 2017 WL 1426631, at *5 (M.D. Fla. Apr. 21, 2017). Because Mr. Staver has the legal right to obtain his cell phone records from his provider on command, they are within his control for the purposes of responding to Plaintiffs' subpoena.

Best,

Tyler



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From: [Tyler Clemons](#)
To: [Horatio Mihet](#)
Subject: Automatic reply: document production
Date: Monday, December 23, 2019 4:14:11 PM

Thanks for your email. I'm out of the office for the holidays until Monday, January 6, 2019. I will respond to your message as soon as I can.

Best,

J. Tyler Clemons

Pronouns: they/them/mx

Staff Attorney, LGBTQ Rights/Special Litigation

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EXHIBIT 2

7	Correspondence	10/20/2004	Judy Barone	Rena Lindevaldsen	Facsimile letter between counsel discussing strategy, research, and impression for legal briefing on Uniform Parentage Act in Miller/Jenkins Vermont litigation	Work Product
8.	Research/Notes/Strategy	Undated	Rena Lindevaldsen, David Corry	n/a	Vermont caselaw, statutes, and misc. research concerning attorney thoughts, impressions, highlights, notes, and comments for Miller/Jenkins custody litigation in Vermont	Work Product
9.	Research/Notes/Strategy	Undated	Rena Lindevaldsen, David Corry	n/a	Vermont caselaw, statutes, and misc. research concerning attorney thoughts, impressions, highlights, notes, and comments for upcoming briefing in Miller/Jenkins custody litigation in Vermont	Work Product
10.	Notes/Research/Strategy/Impressions	Undated	David Corry	n/a	Vermont caselaw, statutes, and misc. research concerning attorney thoughts, impressions, highlights, notes, and comments for Miller/Jenkins custody litigation in Vermont	Work Product
11.	Notes/Research/Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Vermont caselaw, statutes, and misc. research concerning attorney thoughts, impressions, highlights, notes, and comments for Miller/Jenkins custody litigation in Vermont	Work Product
12.	Correspondence	1/25/2005	Kevin Blier	Rena Lindevaldsen	Electronic mail communication with letter between counsel discussing strategy, research, and impression for legal briefing in Miller/Jenkins Vermont litigation	Work Product
13.	Notes/Research/Strategy/Impressions	Undated	David Corry		Attorney notes, thought, impressions and argument outline for oral argument in Miller/Jenkins litigation in Vermont	Work Product
14.	Notes/Research/Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of hearing in Miller/Jenkins custody litigation in Vermont	Work Product
15.	Notes/Research/Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of hearing in Miller/Jenkins custody litigation in Vermont	Work Product
16.	Notes/Research/Strategy/Impressions	Undated	David Corry	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of hearing in Miller/Jenkins custody litigation in Vermont	Work Product
17.	Notes/Research/Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of hearing in Miller/Jenkins custody litigation in Vermont	Work Product

18.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of hearing in Miller/Jenkins custody litigation in Vermont	Work Product
19.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of hearing in Miller/Jenkins custody litigation in Vermont	Work Product
20.	Notes/Research/ Strategy/Impressions	Undated	David Corry	n/a	Vermont caselaw, statutes, and misc. research concerning attorney thoughts, impressions, highlights, notes, and comments for Miller/Jenkins custody litigation in Vermont	Work Product
21.	Notes/Research/ Strategy/Impressions	Undated	David Corry	n/a	Vermont caselaw, statutes, and misc. research concerning attorney thoughts, impressions, highlights, notes, and comments for Miller/Jenkins custody litigation in Vermont	Work Product
22.	Notes/Research/ Strategy/Impressions	Undated	Law Clerk	David Corry, Erik Stanley, Rena Lindevaldsen	Legal research memorandum with attorney highlights, comments, thoughts, and impressions concerning full faith and credit arguments in Miller/Jenkins custody litigation in Vermont	Work Product
23.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Vermont caselaw, statutes, and misc. research concerning attorney thoughts, impressions, highlights, notes, and comments for Miller/Jenkins custody litigation in Vermont	Work Product
24.	Notes/Research/ Strategy/Impressions	Undated	Law Clerk	Rena Lindevaldsen, Erik Stanley	Legal research memorandum with attorney highlights, comments, thoughts, and impressions concerning potential arguments in Miller/Jenkins custody litigation in Vermont	Work Product
25.	Notes/Research/ Strategy/Impressions	Undated	Matthew Krause	David Corry	Legal research memorandum with attorney highlights, comments, thoughts, and impressions concerning potential arguments concerning witness testimony in Miller/Jenkins custody litigation in Vermont	Work Product
26.	Correspondence	4/5/2007	Mathew Krause	David Corry	Legal research e-mail memorandum with attorney highlights, comments, thoughts, and impressions concerning potential arguments in Miller/Jenkins custody litigation in Vermont	Work Product
27.	Notes/Research/ Strategy/Impressions	Undated	Law Clerk	David Corry	Legal research memorandum with attorney highlights, comments, thoughts, and impressions concerning potential arguments in Miller/Jenkins custody litigation in Vermont	Work Product

28.	Notes/Research/ Strategy/Impressions	Undated	David Corry	n/a	Vermont caselaw, statutes, and misc. research concerning attorney thoughts, impressions, highlights, notes, and comments for Miller/Jenkins custody litigation in Vermont	Work Product
29.	Notes/Research/ Strategy/Impressions	Undated	Law Clerk	David Corry	Legal research memorandum with attorney highlights, comments, thoughts, and impressions concerning potential arguments concerning witness testimony in Miller/Jenkins custody litigation in Vermont	Work Product
30.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Vermont caselaw, statutes, and misc. research concerning attorney thoughts, impressions, highlights, notes, and comments for Miller/Jenkins custody litigation in Vermont	Work Product
31.	Correspondence	4/22/2009	Bonnie Gentry	Norm Smith, Stephen Crampton	Attorney research, notes, comments, discussion, and strategy re pleadings and briefings in Vermont trial court	Work Product
32.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney research, notes, comments, discussion, and strategy re pleadings and briefings in Vermont trial court	Work Product
33.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen, Norman Smith	n/a	Attorney research, notes, comments, discussion, and strategy re pleadings and briefings in Vermont trial court	Work Product
34.	Notes/Research/ Strategy/Impressions	April 2007	Rena Lindevaldsen	n/a	Attorney research, notes, comments, discussion, and strategy re pleadings and briefings in Vermont trial court	Work Product
35.	Correspondence	10/25/2004	Judy Barone	Rena Lindevaldsen	Facsimile letter between counsel discussing strategy, research, and impression for legal briefing in Miller/Jenkins Vermont litigation	Work Product
36.	Correspondence	1/25/2008	Stephen Crampton	Belinda Wetherington	Email correspondence from counsel to paralegal regarding motion to dismiss appeal with notes, comments, thoughts, and discussion of strategy	Work Product
37.	Correspondence	12/21/2007	Belinda Wetherington	Stephen Crampton, Rena Lindevaldsen, Mathew Staver	Email correspondence from legal staff to counsel memorializing instructions concerning motion to dismiss appeal with notes, comments, thoughts, and discussion of strategy	Work Product
38.	Correspondence	12/21/2007	David Corry	Belinda Wetherington	Email correspondence from counsel to paralegal providing instructions for finalizing motion to dismiss appeal and motions for pro hac vice issues with notes, comments, thoughts, and discussion of strategy	Work Product

39.	Notes/Research/ Strategy/Impressions	5/8/2009	Rena Lindevaldsen	n/a	Attorney research, notes, comments, discussion, and strategy re hearing in Vermont trial court	Work Product
40.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney research, notes, comments, discussion, and strategy re briefs at the Court of Appeals of Virginia	Work Product
41.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney research, notes, comments, discussion, strategy, and oral argument outlines for argument at the Court of Appeals of Virginia	Work Product
42.	Correspondence	2/16/2010	Rena Lindevaldsen	Mathew Staver, Stephen Crampton, Mary McAlister, Bonnie Gentry	Email correspondence among counsel discussing subpoena issues and strategy and documentation for upcoming hearing	Work Product
43.	Correspondence	2/26/2010	Stephen Crampton	Mathew Staver, William McRorie, Rena Lindevaldsen	Email correspondence concerning discovery issues and strategy and discussion concerning response to same	Work Product
44.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney research, notes, comments, discussion, strategy, and argument impressions for motion to stay enforcement pending appeal in Virginia Trial Court parentage action	Work Product
45.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney research, notes, comments, discussion, strategy, and argument impressions for briefing on registration appeal in Virginia Trial Court	Work Product
46.	Notes/Research/ Strategy/Impressions	2/2007	Rena Lindevaldsen, Mathew Staver, Mary McAlister	n/a	Attorney research, notes, comments, discussion, strategy, and argument impressions for Petition for Writ of Certiorari to U.S. Supreme Court	Work Product
47.	Correspondence	12/15/2009	Norman Smith	Bonnie Gentry	Attorney email correspondence concerning logistics and filing of Docketing Statement for appeal to Vermont Supreme Court	Work Product
48.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen, Mary McAlister	n/a	Attorney research, notes, comments, discussion, strategy, and argument impressions for Petition for Appeal to Virginia Supreme Court re registration action	Work Product
49.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/s	Attorney research, notes, comments, discussion, strategy, and argument impressions for oral argument at Virginia Supreme Court, attorney oral argument outline for same	Work Product
50.	Correspondence	11/5/2007	Rena Lindevaldsen	Stephen Crampton, Belinda Wetherington	Attorney research, notes, comments, discussion, strategy, and argument impressions for Petition for Writ of Certiorari to U.S. Supreme Court	Work Product
51.	Notes/Research/ Strategy/Impressions	Undated	Mathew Staver	n/a	Attorney thoughts, impressions, notes, comments, and edits on Petition for Writ of Certiorari to US Supreme Court	Work Product

52.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney research, notes, comments, discussion, strategy, and argument impressions for oral argument at Virginia Court of Appeals, attorney oral argument outline for same	Work Product
53.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney research, notes, comments, cases, thoughts, impressions, and strategy for pleadings in Virginia declaratory judgment action	Work Product
54.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney research, notes, comments, thoughts, impression, and oral argument preparation and outline for Vermont Supreme Court argument	Work Product
55.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney research, notes, comments, thoughts, impression, and oral argument preparation and outline for Vermont trial court in custody litigation	Work Product
56.	Notes/Research/ Strategy/Impressions	2007	Rena Lindevaldsen	n/a	Attorney research, notes, comments, thoughts, impressions, pleadings binder, case law binder, and oral argument preparation and outline for Vermont Supreme Court argument	Work Product
57.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney research, statutes, caselaw, notes, comments, cases, thoughts, impressions, and strategy for pleadings in Vermont litigation	Work Product
58.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, highlighted pleadings, research, statutes, and working file for all Vermont and Virginia litigation and appeals	Work Product
59.	Notes/Research/ Strategy/Impressions	Undated	Mathew Staver	n/a	Attorney notes, highlighted pleadings, research, statutes, and working file for all Virginia litigation and appeals	Work Product
60.	Correspondence	10/11/2007	Rena Lindevaldsen	Stephen Crampton, Erik Stanley, Mathew Staver	Attorney impressions, thoughts, strategy, and discussion of fee dispute between Lisa Miller and former attorney in the Virginia in custody litigation in Virginia	Work Product
61.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney research, notes, thoughts, comments, impressions on matters concerning fee dispute between Lisa Miller and former attorney in custody litigation in Virginia	Work Product
62.	Notes/Research/ Strategy/Impression	Undated	David Corry	n/a	Attorney research, notes, comments, thoughts, impression, and trial preparation and outline for Vermont trial court in custody litigation	Work Product
63.	Notes/Research/ Strategy/Impression	4/2-5/2007	David Corry	n/a	Attorney handwritten trial notes, thoughts, comments, and strategy from trial in Vermont custody litigation	Work Product

64.	Notes/Research/ Strategy/Impression	Undated	David Corry	n/a	Attorney highlights, notes, thoughts, impressions, comments, and strategy on Vermont Supreme Court briefs	Work Product
65.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of hearing in Miller/Jenkins custody litigation in Vermont	Work Product
66.	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning Printed Case for Vermont Supreme Court in Miller/Jenkins custody litigation	Work Product
67.	Unsigned Attorney Draft Pleadings	Undated	Rena Lindevaldsen	n/a	Attorney draft pleadings concerning proposed orders in Miller/Jenkins custody litigation in Vermont	Work Product
68.	Unsigned Attorney Correspondence	7/31/2007	David Corry	n/a	Draft attorney correspondence memorializing telephone conferral regarding witnesses at August 3, 2007 hearing in Miller/Jenkins custody litigation	Work Product
69.	Unsigned Attorney Draft Pleadings	Undated	Rena Lindevaldsen	n/a	Attorney draft pleadings in Miller/Jenkins custody litigation in Vermont	Work Product
70.	Unsigned Attorney Draft Pleadings	Undated	Rena Lindevaldsen, Norman Smith	n/a	Attorney draft pleadings in Miller/Jenkins custody litigation in Vermont	Work Product
71.	Unsigned Attorney Draft Pleadings	Undated	Rena Lindevaldsen, Norman Smith	n/a	Attorney draft pleadings in Miller/Jenkins custody litigation in Vermont	Work Product
72.	Correspondence	10/30/2007 – 10/31/2007	Rena Lindevaldsen, Stephen Crampton, Lisa Miller	Rena Lindevaldsen, Stephen Crampton, Lisa Miller	Email correspondence chain discussing upcoming visitation issues and providing legal advice and discussion concerning appeals in custody litigation	Attorney-Client
73.	Correspondence	10/30/2007 – 10/31/2007	Rena Lindevaldsen, Stephen Crampton, Lisa Miller	Rena Lindevaldsen, Stephen Crampton, Lisa Miller	Email correspondence chain discussing upcoming visitation issues and providing legal advice and discussion concerning appeals in custody litigation	Attorney-Client
74.	Correspondence	8/7/2007 – 8/8/2007	Rena Lindevaldsen, Stephen Crampton, Lisa Miller	Rena Lindevaldsen, Stephen Crampton, Lisa Miller	Email correspondence chain discussing visitation problems and communication issues surrounding custody litigation	Attorney-Client
75.	Correspondence	8/8/2007	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence chain discussing visitation problems and communication issues surrounding Vermont custody litigation	Attorney-Client
76.	Correspondence	11/13/2007	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence providing draft letter for legal review, advice and discussion	Attorney-Client
77.	Correspondence	11/13/2007	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence providing draft letter for legal review, advice and discussion	Attorney-Client

78.	Correspondence	11/11/2007	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence providing letter for legal review, advice, and discussion concerning visitation issues in custody litigation	Attorney-Client
79.	Correspondence	11/11/2007	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence requesting legal advice and providing instructions to counsel for representation in custody litigation	Attorney-Client
80.	Correspondence	11/14/2007 – 11/15/2007	Lisa Miller, Stephen Crampton	Rena Lindevaldsen, Stephen Crampton, Lisa Miller	Email correspondence chain discussing legal issues regarding visitations and child welfare in ongoing custody litigation	Attorney-Client
81.	Correspondence	11/15/2007	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence requesting legal advice concerning welfare of child and concerning public messaging surrounding custody litigation	Attorney-Client
82.	Correspondence	12/21/2007	Lisa Miller	Stephen Crampton	Email correspondence requesting advice and providing information and instructions to counsel regarding visitation issues in custody litigation	Attorney-Client
83.	Correspondence	12/21/2007	Lisa Miller	Stephen Crampton	Email correspondence requesting advice and providing information and instructions to counsel regarding visitation issues in custody litigation	Attorney-Client
84.	Correspondence	12/21/2007	Lisa Miller	Stephen Crampton	Email correspondence providing information and instructions to counsel regarding visitation issues in custody litigation	Attorney-Client
85.	Correspondence	12/21/2007	Lisa Miller	Stephen Crampton	Email correspondence providing information and instructions to counsel regarding visitation issues in custody litigation	Attorney-Client
86.	Correspondence	3/29/2008 – 3/31/2008	Lisa Miller, Stephen Crampton	Lisa Miller, Rena Lindevaldsen, Stephen Crampton	Email correspondence providing information and instructions to counsel regarding visitation issues in custody litigation	Attorney-Client
87.	Correspondence	4/15/2008	Lisa Miller	Rena Lindevaldsen, Stephen Crampton, David Corry, Mathew Staver	Email correspondence requesting legal advice concerning visitation problems and issues, and concerning potential hearings in custody litigation.	Attorney-Client
88.	Correspondence	4/15/2008	Lisa Miller	Rena Lindevaldsen, Stephen Crampton, David Corry, Mathew Staver	Email correspondence requesting legal advice concerning visitation problems and issues, and concerning potential hearings in custody litigation.	Attorney-Client
89.	Correspondence	5/4/2008	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence providing information requested by counsel concerning past visitation issues and problems	Attorney-Client
90.	Correspondence	6/12/2008 - 6/13/2008	Lisa Miller, Stephen Crampton	Rena Lindevaldsen, Stephen Crampton, Mathew Staver, Lisa Miller	Email correspondence chain advising client of legal obligations regarding court-ordered visitation, requesting client intentions and instructions, and receiving same from client.	Attorney-Client

91.	Correspondence	7/30/2008	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence providing information requested by counsel concerning past visitation issues and problems, discussing court hearing, and providing instruction for further representation	Attorney-Client
92.	Correspondence	10/16/2008 – 10/17/2008	Rena Lindevaldsen, Stephen Crampton, Lisa Miller	Rena Lindevaldsen, Stephen Crampton, Lisa Miller	Email correspondence chain providing legal advice to client, and receiving information and instruction from client for representation in custody litigation.	Attorney-Client
93.	Correspondence	11/27/2008 – 12/3/2008	Lisa Miller, Mathew Staver	Lisa Miller, Mathew Staver, Bonnie Gentry	Email correspondence chain requesting information and instruction from client regarding visitation issues, and providing advice to client regarding same.	Attorney-Client
94.	Correspondence	12/1/2008 – 12/3/2008	Lisa Miller, Mathew Staver	Lisa Miller, Mathew Staver, Rena Lindevaldsen, Stephen Crampton, Bonnie Gentry	Email correspondence chain receiving from client information requested by counsel for use in representing client in custody litigation	Attorney-Client
95.	Correspondence	12/12/2008 – 12/19/2008	Rena Lindevaldsen, Stephen Crampton, Lisa Miller	Lisa Miller, Mathew Staver, Rena Lindevaldsen, Stephen Crampton, Bonnie Gentry	Email correspondence chain discussing hearing in custody litigation, and discussing efforts to modify visitation schedule	Attorney-Client
96.	Correspondence	1/19/2009	Rena Lindevaldsen	Lisa Miller, Stephen Crampton, Michelle Kenny	Email correspondence discussing issues occurring at visitation, client needs/interests and welfare of child	Attorney-Client and Work-Product
97.	Correspondence	3/6/2009	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence discussing issues surrounding visitation, and child wishes and welfare	Attorney-Client
98.	Correspondence	3/11/2009 - 3/12/2009	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence chain providing information and instruction to counsel for representation at upcoming hearing in custody litigation	Attorney-Client
99.	Correspondence	3/12/2009	Rena Lindevaldsen, Stephen Crampton	Rena Lindevaldsen, Stephen Crampton, Lisa Miller	Email correspondence chain discussing hearing in custody litigation	Attorney-Client
100.	Correspondence	3/9/2009 – 3/9/2009	Rena Lindevaldsen, Lisa Miller	Rena Lindevaldsen, Lisa Miller	Email correspondence chain requesting and receiving information from client for drafting court documents.	Attorney-Client
101.	Correspondence	3/6/2009	Lisa Miller, Stephen Crampton	Lisa Miller, Rena Lindevaldsen, Stephen Crampton	Email correspondence discussing issues surrounding visitation, and child wishes and welfare	Attorney-Client
102.	Correspondence	3/6/2009	Stephen Crampton, Lisa Miller	Lisa Miller, Stephen Crampton, Rena Lindevaldsen, Bonnie Gentry	Email correspondence chain requesting and receiving from client information necessary for motion practice and upcoming hearing.	Attorney-Client
103.	Correspondence	3/17/2009 – 3/20/2009	Rena Lindevaldsen, Lisa Miller, Stephen Crampton	Lisa Miller, Rena Lindevaldsen, Stephen Crampton, Bonnie Gentry	Email correspondence chain advising client of potential outcomes and requesting information and instruction from client	Attorney-Client

104.	Correspondence	3/17/2009 – 3/20/2009	Rena Lindevaldsen, Lisa Miller, Stephen Crampton	Lisa Miller, Rena Lindevaldsen, Stephen Crampton, Bonnie Gentry	Email correspondence chain further advising client of potential outcomes and requesting client intention and instructions.	Attorney-Client
105.	Correspondence	3/17/2009	Rena Lindevaldsen, Lisa Miller	Rena Lindevaldsen, Lisa Miller, Bonnie Gentry	Email correspondence chain further advising client of potential outcomes and requesting client intention and instructions.	Attorney-Client
106.	Correspondence	4/8/2009	Lisa Miller, Stephen Crampton, Rena Lindevaldsen	Lisa Miller, Stephen Crampton, Rena Lindevaldsen	Email correspondence chain further advising client of potential outcomes and requesting client intention and instructions.	Attorney-Client
107.	Correspondence	4/15/2009	Rena Lindevaldsen	Lisa Miller, Bonnie Gentry	Email correspondence chain requesting information from client necessary for responding to visitation issues	Attorney-Client
108.	Correspondence	4/9/2009	Rena Lindevaldsen, Lisa Miller	Lisa Miller, Stephen Crampton, Rena Lindevaldsen, Bonnie Gentry	Email correspondence chain confirming client intentions and instructions, and advising client of potential outcomes and legal consequences of same.	Attorney-Client
109.	Correspondence	4/9/2009	Rena Lindevaldsen, Lisa Miller	Lisa Miller, Rena Lindevaldsen, Stephen Crampton, Bonnie Gentry	Email correspondence chain confirming client intentions and instructions, advising client of potential outcomes and legal consequences of same, and receiving further instructions and questions from client.	Attorney-Client
110.	Correspondence	5/8/2009	Rena Lindevaldsen, Lisa Miller, Horatio Mihet	Lisa Miller, Rena Lindevaldsen, Horatio Mihet, Stephen Crampton, Bonnie Gentry	Email correspondence chain confirming information and instructions from client regarding visitation, and confirming advice to client regarding potential outcomes and legal consequences of same.	Attorney-Client
111.	Correspondence	7/6/2007 – 9/7/2007	Lisa Miller, Stephen Crampton, Rena Lindevaldsen	Lisa Miller, Stephen Crampton, Rena Lindevaldsen, Eric Stanley, Mathew Staver	Selected email correspondences between attorney and client in custody litigation, compiled for use in court documents and hearings	Attorney-Client Work-Product
112.	Correspondence	9/22/2009	Rena Lindevaldsen	Lisa Miller	Attempted email correspondence with client to remind client of outstanding need for information and instruction regarding visitation that must be conveyed to opposing party in custody litigation.	Attorney-Client
113.	Correspondence	12/30/2004	Rena Lindevaldsen	Lisa Miller	Letter correspondence transmitting contract of representation and discussing representation	Attorney-Client
114.	Correspondence	9/28/2005	Rena Lindevaldsen	Lisa Miller	Letter correspondence transmitting document and information related to custody litigation	Attorney-Client
115.	Correspondence	4/12/2007	Rena Lindevaldsen	n/a	Draft letter correspondence concerning visitation issues arising from Vermont custody litigation	Work-Product

116.	Correspondence	10/30/2007 – 10/31/2007	Lisa Miller, Rena Lindevaldsen, Stephen Crampton	Lisa Miller, Rena Lindevaldsen, Stephen Crampton	Email correspondence chain requesting client information and instruction regarding negotiation of visitation issues	Attorney-Client
117.	Correspondence	10/31/2007	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence chain discussing visitation issues, and requesting and receiving client instructions	Attorney-Client
118.	Correspondence	9/10/2007 – 9/13/2007	Rena Lindevaldsen, Stephen Crampton, Steve Cable	Rena Lindevaldsen, Stephen Crampton, Steve Cable	Email correspondence chain discussing potential witnesses for custody litigation, and appeal status	Work-Product
119.	Correspondence	9/19/2007	Stephen Crampton	Steve Cable	Email correspondence discussing potential witness testimony in custody litigation	Work-Product
120.	Correspondence	8/7/2007 – 8/8/2007	Rena Lindevaldsen, Lisa Miller	Lisa Miller, Rena Lindevaldsen, Stephen Crampton	Email correspondence chain discussing information and documents needed for custody litigation	Attorney-Client
121.	Correspondence	8/7/2007 – 8/8/2007	Stephen Crampton, Lisa Miller	Lisa Miller, Stephen Crampton, Rena Lindevaldsen	Email correspondence chain requesting legal advice and discussion concerning visitation issues and child welfare	Attorney-Client
122.	Correspondence	8/8/2007	Lisa Miller	Stephen Crampton Rena Lindevaldsen	Email correspondence providing counsel information regarding visitation issues and child welfare	Attorney-Client
123.	Correspondence	11/13/2007	Lisa Miller	Stephen Crampton, Rena Lindevaldsen	Email correspondence providing draft letter to counsel for review	Attorney-Client
124.	Correspondence	11/13/2007	Lisa Miller	Stephen Crampton, Rena Lindevaldsen	Email correspondence providing draft letter to counsel for review	Attorney-Client
125.	Correspondence	11/11/2007	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence providing draft letter to counsel for review	Attorney-Client
126.	Correspondence	11/11/2007	Lisa Miller	Stephen Crampton, Rena Lindevaldsen	Email correspondence providing counsel with instructions for representation in custody litigation and requesting information and advice from counsel	Attorney-Client
127.	Correspondence	11/19/2007	Tammy Canfield	Stephen Crampton	Email correspondence providing information and potential testimony regarding visitation issues and child welfare	Work-Product
128.	Correspondence	12/21/2007	Lisa Miller	Stephen Crampton	Email correspondence providing information and instructions to counsel regarding visitation issues in custody litigation	Attorney-Client
129.	Correspondence	3/29/2008 – 3/31/2008	Lisa Miller, Stephen Crampton	Lisa Miller, Stephen Crampton, Rena Lindevaldsen	Email correspondence providing information and instructions to counsel regarding visitation issues in custody litigation	Attorney-Client
130.	Correspondence	4/15/2008	Lisa Miller	Rena Lindevaldsen, Stephen Crampton, David Corry	Email correspondence requesting legal advice concerning visitation problems and issues, and concerning potential hearings in custody litigation.	Attorney-Client

131.	Correspondence	4/15/2008	Lisa Miller	Rena Lindevaldsen, Stephen Crampton, David Corry	Email correspondence requesting legal advice concerning visitation problems and issues, and concerning potential hearings in custody litigation.	Attorney-Client
132.	Correspondence	5/4/2008	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence providing information requested by counsel concerning past visitation issues and problems	Attorney-Client
133.	Correspondence	6/12/2008 – 6/13/2008	Lisa Miller, Stephen Crampton	Lisa Miller, Stephen Crampton, Rena Lindevaldsen	Email correspondence chain advising client of legal obligations regarding court-ordered visitation, requesting client intentions and instructions, and receiving same from client.	Attorney-Client
134.	Correspondence	7/30/3008	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence providing information requested by counsel concerning past visitation issues and problems, discussing court hearing, and providing instruction for further representation	Attorney-Client
135.	Correspondence	10/16/2008 - 10/17/2008	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence chain providing legal advice to client, and receiving information and instruction from client for representation in custody litigation.	Attorney-Client
136.	Correspondence	11/27/2008 – 12/03/2008	Lisa Miller, Mathew Staver	Mathew Staver, Lisa Miller, Bonnie Gentry	Email correspondence chain requesting information and instruction from client regarding visitation issues, and providing advice to client regarding same.	Attorney-Client
137.	Correspondence	12/1/2008 – 12/3/2008	Lisa Miller, Mathew Staver	Mathew Staver, Lisa Miller, Bonnie Gentry	Email correspondence chain receiving from client information requested by counsel for use in representing client in custody litigation	Attorney-Client
138.	Correspondence	12/12/2008 – 12/19/2008	Stephen Crampton, Lisa Miller, Rena Lindevaldsen	Lisa Miller, Rena Lindevaldsen, Stephen Crampton, Mathew Staver	Email correspondence chain discussing court hearing, visitation issues and schedule negotiations, and requesting and receiving client intentions and instructions regarding same	Attorney-Client
139.	Correspondence	1/19/2009	Rena Lindevaldsen	Michelle Kenny, Lisa Miller, Stephen Crampton	Email correspondence discussing issues occurring at visitation, client needs/interests and welfare of child	Work-Product
140.	Correspondence	3/6/2009	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence discussing issues surrounding visitation, and child wishes and welfare	Attorney-Client
141.	Correspondence	1/19/2010	Rena Lindevaldsen	Norman Smith	Draft letter transmitting to local counsel pleadings for filing in custody litigation	Work-Product
142.	Correspondence	2/17/2010	Mary McAlister	Stephen Crampton, Rena Lindevaldsen, Mathew Staver, Anita Staver, Bonnie Gentry	Email correspondence providing update, discussion, attorney thoughts and impressions, and other information concerning hearing in custody litigation	Work-Product

143.	Correspondence	2/23/2010	Rena Lindevaldsen, Stephen Crampton	Rena Lindevaldsen, Stephen Crampton	Email correspondence chain discussing strategy for upcoming hearing, and discussing unsuccessful attempts to contact client	Work-Product
145.	Correspondence	12/15/2016	Horatio Mihet	Judge William K. Sessions, Counsel of Record in current litigation	Attorney draft correspondence concerning Plaintiff's motion to lift stay and join additional defendants	Work-Product
146.	Correspondence	5/6/2009	Rena Lindevaldsen	Lisa Miller, Stephen Crampton, Horatio Mihet, Mathew Staver	Email correspondence providing update on upcoming hearing and instructions to client regarding same	Attorney-Client
147.	Correspondence	5/27/2009	Rena Lindevaldsen	Lisa Miller, Stephen Crampton, Horatio Mihet, Mathew Staver	Email correspondence forwarding and discussing documents filed in custody litigation	Attorney-Client Work-Product
148.	Correspondence	11/13/2009 (and other dates in Oct. and Dec. 2009)	David Corry, Nina Hampton, Anthony Quaranta	David Corry, Nina Hampton	Email correspondence chain discussing client information and documents needed for beginning legal representation and attorney advice in unrelated client matter in California	Attorney-Client, Work-Product
149.	Correspondence	11/12/2009	David Corry	Dr. John Harper, Tom Hernandez, Rod Westfall, Roger Bonuchi, Michael Kelly, Stuart Bledsoe, David Obrzut, Eric Gault, Michelle Smith, Stephen Fox	Draft of attorney demand letter and legal strategy, thoughts, and impressions for unrelated client matter in Illinois	Work-Product
150.	Correspondence	11/20/2009 – 12/2/2009	Michelle Kenny, Rena Lindevaldsen	Rena Lindevaldsen, Michelle Kenny, Stephen Crampton, Bonnie Gentry	Email correspondence chain discussing attempts to reach client.	Work-Product
151.	Correspondence	8/12/2009 – 9/21/2009	David Corry, Stephen Crampton, Richard Boyer	Goran Hunjak, Stephen Crampton, Rick Boyer, Bonnie Gentry	Email correspondence chain requesting information from client concerning unrelated legal matter in Missouri	Attorney-Client, Work-Product
152.	Correspondence	9/19/2009 – 9/21/2009 - 9/22/2009	Mathew Staver, Patricia Mauceri, David Corry	Patricia Mauceri, David Corry, Mathew Staver, Jeff Thorpe, Anthony Quaranta, Richard Boyer	Email correspondence chain requesting information from client concerning unrelated legal matter involving contract and conscience issues	Attorney-Client, Work-Product
153.	Correspondence	9/19/2009 – 9/21/2009 - 10/7/2009	Mathew Staver, Patricia Mauceri	Patricia Mauceri, Mathew Staver, Richard Boyer, Anthony Quaranta	Email correspondence chain requesting information from client concerning unrelated legal matter involving contract and conscience issues	Attorney-Client, Work-Product

154.	Correspondence	9/21/2009	Nina Hampton	n/a	Draft letter from client to school district provided to Liberty Counsel attorneys for review, thoughts, impressions, editing, and legal advice in unrelated client matter in California	Attorney-Client Work-Product
155.	Correspondence	9/22/2009	Rena Lindevaldsen	Lisa Miller, Bonnie Gentry	Attempted email correspondence with client to remind client of outstanding need for information and instruction regarding visitation that must be conveyed to opposing party in custody litigation.	Attorney-Client
156.	Correspondence	9/19/2009 - 9/21/2009 - 9/22/2009	Mathew Staver, Patricia Mauceri, David Corry	Patricia Mauceri, David Corry, Mathew Staver, Jeff Thorpe, Anthony Quaranta, Richard Boyer	Email correspondence chain requesting information from client concerning unrelated legal matter involving contract and conscience issues	Attorney-Client, Work-Product
157.	Correspondence	9/22/2009 (and other dates in earlier Sept)	David Corry, Jeff Thorpe, Mathew Staver	David Corry, Jeff Thorpe, Mathew Staver, Anthony Quaranta	Email correspondence chain discussing internal research, thoughts, impressions, strategy, and caselaw on unrelated client matter involving contract and conscience issues	Work-Product
158.	Correspondence	9/22/2009	David Corry	Beth Russell	Email correspondence to client providing attorney thoughts, impressions, research, and legal memorandum in unrelated legal matter involving equal access and literature distribution issues	Attorney-Client Work-Product
159.	Correspondence	9/15/2009 and 9/22/2009	Anthony Quaranta, David Corry	Anthony Quaranta, David Corry	Email correspondence chain from Liberty Counsel client intake personnel providing information for potential unrelated client matter involving equal access and literature distribution issues	Work-Product
160.	Correspondence	5/4/2009	Rena Lindevaldsen	Horatio Mihet, Stephen Crampton, Erin Harre	Email correspondence discussing strategy and arguments for upcoming hearing in custody litigation	Work-Product
161.	Correspondence	6/23/2009	Stephen Crampton, Rena Lindevaldsen, David Corry	Rena Lindevaldsen, Stephen Crampton, Mathew Staver, Anita Staver, David Corry, Matthew Krause, Horatio Mihet, Mary McAlister	Email correspondence chain discussing decision from Virginia Court of Appeals in the custody litigation, discussing thoughts, impressions, strategy	Work-Product
162.	Correspondence	5/6/2009	Rena Lindevaldsen	Horatio Mihet	Email correspondence providing pleading in Vermont custody litigation and discussing same	Work-Product
163.	Correspondence	5/6/2009	Stephen Crampton, Mathew Staver	Rena Lindevaldsen, Stephen Crampton, Horatio Mihet, Mathew Staver	Email correspondence chain discussing strategy for upcoming hearing in custody litigation	Work-Product

164.	Correspondence	5/6/2009	Stephen Crampton, Rena Lindevaldsen	Rena Lindevaldsen, Stephen Crampton, Mathew Staver, Horatio Mihet	Email correspondence chain discussing strategy for upcoming hearing in custody litigation	Work-Product
165.	Correspondence	5/6/2009	Rena Lindevaldsen, Horatio Mihet	Rena Lindevaldsen, Stephen Crampton, Mathew Staver, Horatio Mihet	Email correspondence chain discussing strategy for upcoming hearing in custody litigation	Work-Product
166.	Correspondence	5/6/2009	Bonnie Gentry	Norman Smith, Rena Lindevaldsen, Stephen Crampton, Horatio Mihet	Email correspondence providing draft motions in Vermont custody litigation and discussing procedure and strategy for filing same	Work-Product
167.	Correspondence	3/13/2009	Bonnie Gentry	Horatio Mihet	Email correspondence providing legal documents and pleadings for preparation in custody litigation	Work-Product
168.	Correspondence	1/5/2010	Bonnie Gentry	Horatio Mihet, Stephen Crampton, Mathew Staver, Rena Lindevaldsen, David Corry, Mary McAlister	Email correspondence to legal team providing pleadings filed in custody litigation	Work-Product
169.	Correspondence	9/4/2009	Rena Lindevaldsen, Bonnie Gentry	Anita Staver, Mathew Staver, Stephen Crampton, Mary McAlister, David Corry, Matthew Krause, Mihet Horatio	Email correspondence providing update on order issued in custody litigation	Work-Product
170.	Correspondence	5/1/2009	Bonnie Gentry	Horatio Mihet	Email correspondence providing instructions and internal strategy for pleadings being filed in custody litigation	Work-Product
171.	Correspondence	11/20/2009	Janie Tedeschi	Horatio Mihet, Bonnie Gentry	Email correspondence chain providing information concerning unrelated litigation matter for Liberty Counsel client in Florida litigation	Work-Product
172.	Correspondence	11/20/2009	Cherry Chism	Horatio Mihet	Email correspondence providing pleadings to lead attorney on unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
173.	Correspondence	11/20/2009	Bonnie Gentry	Mathew Staver, Rena Lindevaldsen, Stephen Crampton, David Corry, Horatio Mihet, Mary McAlister, Anita Staver, Mathew Krause	Email correspondence providing court orders in custody litigation	Work-Product

174.	Correspondence	11/20/2009	Bonnie Gentry	Horatio Mihet	Email correspondence discussing telephone call from counsel in unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
175.	Correspondence	9/20/2009	Horatio Mihet	Stephen Crampton, David Corry, Mathew Staver, Bonnie Gentry, Liberty Counsel clients in unrelated legal matter in Florida	Email correspondence providing orders and judgments in unrelated litigation matter for Liberty Counsel clients in Florida	Attorney-Client Work-Product
176.	Correspondence	9/20/2009	Horatio Mihet, Bonnie Gentry	Horatio Mihet, Bonnie Gentry, Stephen Crampton	Email correspondence chain discussing updates, strategy, and impressions on upcoming conference call and pleadings in unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
177.	Correspondence	9/20/2009	Horatio Mihet, Liberty Counsel client in unrelated litigation matter	Horatio Mihet, Liberty Counsel client in unrelated litigation matter	Email correspondence chain discussing orders and status in unrelated litigation matter for Liberty Counsel client in Florida litigation	Attorney-Client Work-Product
178.	Correspondence	9/21/2009	Stephen Crampton, Horatio Mihet, David Corry, Mathew Staver, Liberty Counsel client in unrelated litigation matter in Florida litigation,	Stephen Crampton, Horatio Mihet, David Corry, Mathew Staver, Liberty Counsel client in unrelated litigation matter in Florida litigation,	Email correspondence chain containing numerous emails (17) providing information for draft pleadings, providing client information for same, discussing research, strategy, thoughts, impressions, and discussion of draft pleadings for unrelated litigation matter for Liberty Counsel client in Florida	Attorney-Client Work-Product
179.	Correspondence	9/20/2009 – 9/21/2009	Stephen Crampton, Horatio Mihet, Bonnie Gentry	Stephen Crampton, Horatio Mihet, Bonnie Gentry	Email correspondence chain discussing subpoena and misc. discovery issues for Liberty Counsel client in unrelated litigation matter in Florida	Work-Product
180.	Correspondence	9/21/2009	Cherry Chism, Horatio Mihet	Cherry Chism, Horatio Mihet, Bonnie Gentry	Email correspondence chain providing letters concerning investigation and related discovery issues for Liberty Counsel client in unrelated litigation matter in Florida	Work-Product
181.	Correspondence	9/21/2009	Cherry Chism	Horatio Mihet	Email correspondence chain providing letters concerning investigation and related discovery issues for Liberty Counsel client in unrelated litigation matter in Florida	Work-Product
182.	Correspondence	9/21/2009	Anita Staver	David Corry, Horatio Mihet, Liberty Counsel client in unrelated litigation matter in Florida	Email correspondence chain discussing attorney thoughts, impressions, and opinions for unrelated litigation matter in Florida	Attorney-Client Work-Product

183.	Correspondence	9/21/2009	Anita Staver	Horatio Mihet, David Corry	Email correspondence chain discussing attorney thoughts, impressions, and opinions in connection with unrelated litigation in Florida	Work-Product
184.	Correspondence	9/21/2009	Horatio Mihet	Bonnie Gentry	Email correspondence providing instructions and comments concerning litigation issues for Liberty Counsel client in unrelated litigation matter in Florida	Work-Product
185.	Correspondence	9/21/2009	Horatio Mihet	Stephen Crampton, David Corry, Bonnie Gentry	Email correspondence chain discussing pleadings filed in unrelated litigation matter for Liberty Counsel client in federal litigation in Florida	Work-Product
186.	Correspondence	9/22/2009	Horatio Mihet, David Corry, Mathew Saver, Anita Staver, Stephen Crampton, Liberty Counsel Client in unrelated matter	Horatio Mihet, David Corry, Mathew Saver, Anita Staver, Stephen Crampton, Liberty Counsel Client in unrelated matter	Email correspondence chain containing numerous (18) emails discussing unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
187.	Correspondence	9/22/2009	David Corry, Horatio Mihet, Mathew Staver, Stephen Crampton	David Corry, Horatio Mihet, Mathew Staver, Stephen Crampton	Email correspondence chain containing numerous (9) emails discussing unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
188.	Correspondence	9/22/2009	Horatio Mihet, Bonnie Gentry	Horatio Mihet, Bonnie Gentry	Email correspondence chain containing numerous (8) emails discussing draft pleadings and correspondence to federal district court in unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
189.	Correspondence	9/22/2009	Horatio Mihet, David Corry, Stephen Crampton	Horatio Mihet, David Corry, Stephen Crampton	Email correspondence chain containing several emails discussing research, impressions, thoughts, strategy, arguments, and responses to motion filed in federal litigation for unrelated Liberty Counsel client in Florida	Work-Product
190.	Correspondence	9/22/2009	Cherry Chism	Horatio Mihet	Email correspondence providing order and filing in unrelated litigation matter in Florida	Work-Product
191.	Correspondence	9/22/2009	Horatio Mihet, Mathew Staver, Stephen Crampton, David Corry	Horatio Mihet, Mathew Staver, Stephen Crampton, David Corry	Email correspondence chain containing numerous emails (12) discussing draft pleadings, strategy, thoughts, impressions, and discussion with client in unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
192.	Correspondence	9/22/2009	Horatio Mihet, David Corry, Stephen Crampton	Horatio Mihet, David Corry, Stephen Crampton, Mathew Staver, Anita Staver	Email correspondence chain containing several (5) emails discussing strategy for responding to pleading filed in unrelated federal litigation for Liberty Counsel client in Florida,	Work-Product

193.	Correspondence	9/22/2009	Horatio Mihet, Stephen Crampton, Bonnie Gentry, Cherry Chism	Horatio Mihet, Stephen Crampton, Bonnie Gentry, Cherry Chism	Email correspondence chain discussing subpoena and other discovery matters relating to unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
194.	Correspondence	9/22/2009	Horatio Mihet, Stephen Crampton, David Corry, Mathew Staver	Horatio Mihet, Stephen Crampton, David Corry, Mathew Staver, Anita Staver	Email correspondence containing numerous (10) email communications discussing draft pleadings in unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
195.	Correspondence	9/22/2009	Horatio Mihet, Bonnie Gentry, David Corry	David Corry, Horatio Mihet, Stephen Crampton, Mathew Staver, Anita Staver	Email correspondence chain discussing draft letter and communication to opposing counsel in unrelated federal litigation for Liberty Counsel client in Florida	Work-Product
196.	Correspondence	9/22/2009	David Corry, Horatio Mihet	Horatio Mihet, David Corry, Stephen Crampton, Mathew Staver, Rena Lindevaldsen, Mary McAlister, Matthew Krause, Matthew Barber, Richard Boyer, Amber Haskew, Tessa Sturgill, and Anthony Quaranta	Email correspondence chain containing several (5) emails discussing status of unrelated matter for Liberty Counsel client in South Dakota	Work-Product
197.	Correspondence	9/22/2009	David Corry	Horatio Mihet, David Corry, Stephen Crampton, Mathew Staver, Rena Lindevaldsen, Mary McAlister, Matthew Krause, Matthew Barber, Richard Boyer, Amber Haskew, Tessa Sturgill, and Anthony Quaranta	Email correspondence discussing status of unrelated matter for Liberty Counsel client in California;	Work-Product

198.	Correspondence	9/22/2009	David Corry	Horatio Mihet, David Corry, Stephen Crampton, Mathew Staver, Rena Lindevaldsen, Mary McAlister, Matthew Krause, Matthew Barber, Richard Boyer, Amber Haskew, Tessa Sturgill, and Anthony Quaranta	Email correspondence discussing status and potential settlement of unrelated matter for Liberty Counsel client in Idaho	Work-Product
199.	Correspondence	9/22/2009	David Corry	Horatio Mihet, David Corry, Stephen Crampton, Mathew Staver, Rena Lindevaldsen, Mary McAlister, Matthew Krause, Matthew Barber, Richard Boyer, Amber Haskew, Tessa Sturgill, and Anthony Quaranta	Email correspondence discussing status and potential settlement of unrelated matter for Liberty Counsel client in Florida	Work-Product
200.	Correspondence	9/22/2009	David Corry, Stephen Crampton, Horatio Mihet	David Corry, Stephen Crampton, Horatio Mihet	Email correspondence chain containing several (6) emails discussing pleadings, strategy, thoughts, impressions and research for unrelated matter for Liberty Counsel client in federal litigation in Florida	Work-Product
201.	Correspondence	6/22/2009	Stephen Crampton, Lisa Miller, Rena Lindevaldsen	Stephen Crampton, Lisa Miller, Rena Lindevaldsen, Horatio Mihet	Email correspondence chain discussing pleading filed in custody litigation, and requesting and receiving information for responding to same	Attorney-Client Work-Product
202.	Correspondence	5/6/2009	Stephen Crampton, Rena Lindevaldsen	Lisa Miller, Rena Lindevaldsen, Mathew Staver, Stephen Crampton	Email correspondence providing update on upcoming hearing and instructions to client regarding same	Attorney-Client Work-Product
203.	Correspondence	5/6/2009	Lisa Miller, Rena Lindevaldsen	Rena Lindevaldsen, Lisa Miller, Horatio Mihet	Email correspondence chain discussing strategy for upcoming hearing in custody litigation	Attorney-Client Work-Product
204.	Correspondence	5/5/2009	Rena Lindevaldsen, Lisa Miller	Rena Lindevaldsen, Lisa Miller, Horatio Mihet	Email correspondence chain discussing upcoming hearing in custody litigation	Attorney-Client Work-Product

205.	Correspondence	5/12/2009 – 5/13/2009	Horatio Mihet, Rena Lindevaldsen	Rena Lindevaldsen, Lisa Miller, Mathew Staver, Stephen Crampton, Bonnie Gentry	Email correspondence chain discussing visitation order in custody litigation	Attorney-Client Work-Product
206.	Correspondence	5/6/2009	Rena Lindevaldsen	Lisa Miller, Horatio Mihet	Email correspondence providing GAL requests to client and requesting instructions	Attorney-Client
207.	Correspondence	5/15/2009	Rena Lindevaldsen	Lisa Miller, Horatio Mihet, Stephen Crampton, Mathew Staver	Email correspondence providing and discussing recently filed pleadings in custody litigation	Attorney-Client Work-Product
208.	Correspondence	5/8/2009	Rena Lindevaldsen	Lisa Miller, Horatio Mihet	Email correspondence confirming previous communications relating to proposed visitation schedule	Attorney-Client Work-Product
209.	Correspondence	3/17/2009 – 3/20/2009	Rena Lindevaldsen, Lisa Miller, Stephen Crampton	Rena Lindevaldsen, Lisa Miller, Stephen Crampton, Bonnie Gentry	Email correspondence chain regarding visitation issues, and requesting and receiving information and instructions from client regarding same	Attorney-Client Work-Product
210.	Correspondence	11/8- 9/2009	Horatio Mihet, Michael Chionopolus	Horatio Mihet, Michael Chionopolus	Email correspondence chain discussing collaboration with local counsel on unrelated federal litigation in Florida, arranging meeting to discuss specifics of potential litigation re same	Work-Product
211.	Correspondence	11/8- 9/2009	Horatio Mihet, Michael Chionopolus	Horatio Mihet, Michael Chionopolus	Email correspondence chain discussing collaboration with local counsel on unrelated federal litigation in Florida, arranging meeting to discuss specifics of potential litigation re same	Work-Product
212.	Correspondence	11/6/2009 and 11/8/2009	Stephen Crampton, Horatio Mihet	Horatio Mihet, Stephen Crampton, David Corry, Rena Lindevaldsen, Matthew Krause, Anthony Quaranta	Email correspondence chain discussing trial preparation, staffing and strategy for unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
213.	Correspondence	11/9/2009	Rena Lindevaldsen	Horatio Mihet	Email correspondence providing update on research for potential motions in unrelated litigation for Liberty Counsel client in Florida	Work-Product
214.	Correspondence	11/9/2009	Rena Lindevaldsen, Horatio Mihet	Rena Lindevaldsen, Horatio Mihet	Email correspondence chain discussing research on potential motions for unrelated litigation for Liberty Counsel client in Florida	Work-Product
215.	Correspondence	11/9/2009	Horatio Mihet, Liberty Counsel client in unrelated litigation matter in Florida	Horatio Mihet, Liberty Counsel client in unrelated litigation matter in Florida	Email correspondence chain discussing recent court order in unrelated litigation for Liberty Counsel client in federal litigation in Florida	Attorney-Client Work-Product

216.	Correspondence	11/9/2009	Horatio Mihet, Bonnie Gentry	Horatio Mihet, Bonnie Gentry	Email correspondence chain discussing documents for unrelated federal litigation for Liberty Counsel client in Florida	Work-Product
217.	Correspondence	11/9/2009	Horatio Mihet	Liberty Counsel clients in unrelated federal litigation in Florida	Email correspondence chain discussing upcoming deposition schedule and strategy in unrelated litigation for Liberty Counsel clients in Florida	Attorney-Client Work-Product
218.	Correspondence	11/9/2009	Horatio Mihet, Michael Chionopoulos	Horatio Mihet, Michael Chionopoulos	Email correspondence chain discussing collaboration with local counsel on unrelated federal litigation in Florida, arranging meeting to discuss specifics of potential litigation re same	Work-Product
219.	Correspondence	11/8/2009 – 11/9/2009	Horatio Mihet, Bonnie Gentry	Horatio Mihet, Bonnie Gentry	Email correspondence chain discussing documents for unrelated federal litigation for Liberty Counsel client in Florida	Work-Product
220.	Correspondence	11/8/2009 – 11/9/2009	Horatio Mihet, Bonnie Gentry	Horatio Mihet, Bonnie Gentry	Email correspondence chain discussing documents for unrelated federal litigation for Liberty Counsel client in Florida, providing instructions and discussion of documents re same	Work-Product
221.	Correspondence	11/6/2009 – 11/9/2009	Horatio Mihet, Stephen Crampton, David Corry	Horatio Mihet, Stephen Crampton, David Corry, Rena Lindevaldsen, Matthew Krause, Anthony Quaranta	Email correspondence chain discussing trial preparation, staffing and strategy for unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
222.	Correspondence	11/9/2009	Horatio Mihet, Liberty Counsel clients in unrelated federal litigation in Florida	Liberty Counsel clients in unrelated federal litigation in Florida, Horatio Mihet	Email correspondence chain discussing depositions in unrelated litigation for Liberty Counsel clients in federal court in Florida	Attorney-Client Work-Product
223.	Correspondence	11/9/2009	Cherry Chism	Horatio Mihet	Email correspondence providing information and discussion of upcoming telephone call for unrelated litigation for Liberty Counsel client in Florida	Work-Product
224.	Correspondence	11/9/2009	Cherry Chism	Horatio Mihet	Email correspondence providing documents filed in unrelated litigation for Liberty Counsel client in Florida	Work-Product
225.	Correspondence	11/9/2009	Richard Boyer	Horatio Mihet	Email correspondence providing research memorandum and thoughts, impressions, and strategy for unrelated Liberty Counsel client matter in Florida	Work-Product
226.	Correspondence	11/4/2009 – 11/9/2009	Horatio Mihet, Government official with Florida Election Commission	Horatio Mihet, Government official with Florida Election Commission	Email correspondence chain discussing investigation and upcoming hearings concerning unrelated litigation matter for Liberty Counsel client in Florida	Work-Product Confidentiality and privilege mandated by Florida statute governing proceeding

227.	Correspondence	11/9/2009	Horatio Mihet, Mathew Staver	Mathew Staver, Stephen Crampton, Horatio Mihet	Email correspondence chain discussing draft pleadings, research, impressions, and strategy for unrelated litigation for Liberty Counsel client in Florida	Work-Product
228.	Correspondence	11/9/2009	Mathew Staver, Stephen Crampton, Horatio Mihet, Bonnie Gentry, Liberty Counsel client in unrelated litigation matter in Florida	Mathew Staver, Anita Staver, Stephen Crampton, Horatio Mihet, Bonnie Gentry, Liberty Counsel client in unrelated litigation matter in Florida	Email correspondence chain containing numerous emails discussing investigation, response, and potential pleadings in unrelated matter for Liberty Counsel client in Florida	Work-Product Confidentiality and privilege mandated by Florida statute governing proceeding
229.	Correspondence	11/9/2009	Rena Lindevaldsen	Horatio Mihet	Email correspondence discussing billing and case matters for unrelated litigation for Liberty Counsel client in Florida	Work-Product
230.	Correspondence	11/9/2009	Stephen Crampton	Mathew Staver, Anita Staver, David Corry, Mary McAlister, Horatio Mihet, Mathew Krause, Anthony Quaranta, Bonnie Gentry	Email correspondence providing internal deliberations, discussions, thoughts, and strategy for Liberty Counsel litigation matters and discussing upcoming meeting related to Liberty Counsel clients	Work-Product
231.	Correspondence	11/10/2009	Horatio Mihet, Liberty Counsel client in unrelated litigation	Horatio Mihet, Liberty Counsel client in unrelated litigation	Email correspondence chain containing several emails discussing trial outcome and financial matters regarding unrelated litigation for Liberty Counsel client in federal court in Florida	Attorney-Client
232.	Correspondence	11/10/2009	Cherry Chism, Horatio Mihet, Bonnie Gentry	Cherry Chism, Horatio Mihet, Bonnie Gentry	Email correspondence chain containing several emails discussing upcoming depositions in unrelated litigation for Liberty Counsel client in federal litigation in Florida	Work-Product
233.	Correspondence	11/10/2009	Horatio Mihet	Liberty Counsel client in unrelated litigation matter	Email correspondence discussing unrelated litigation matter for Liberty Counsel client in Florida	Attorney-Client
234.	Correspondence	11/11/2009	Horatio Mihet, Liberty Counsel client in unrelated litigation	Horatio Mihet, Liberty Counsel client in unrelated litigation	Email correspondence chain discussing drafts of pleadings for unrelated litigation matter for Liberty Counsel client in federal litigation in Florida	Attorney-Client Work-Product
235.	Correspondence	11/10/2009	Horatio Mihet, David Corry, Stephen Crampton	Horatio Mihet, David Corry, Stephen Crampton	Email correspondence chain containing several emails discussing strategy, impressions, and thoughts for draft pleadings and responses for upcoming trial in unrelated litigation matter for Liberty Counsel client in federal litigation in Florida	Work-Product

236.	Correspondence	11/10/2009	Horatio Mihet, Bonnie Gentry	Horatio Mihet, Bonnie Gentry, Liberty Counsel client in unrelated litigation	Email correspondence chain containing several emails discussing strategy, impressions, and thoughts for responses to subpoena and document requests in unrelated litigation matter for Liberty Counsel client in federal litigation in Florida	Attorney-Client Work-Product
237.	Correspondence	11/10/2009	Horatio Mihet, Amber Haskew	Amber Haskew, Horatio Mihet	Email correspondence chain discussing personal client-related information in unrelated litigation matter for Liberty Counsel client in Florida state courts	Work-Product
238.	Correspondence	11/8/2009 – 11/10/2009	Horatio Mihet, Liberty Counsel client in unrelated litigation matter	Horatio Mihet, Liberty Counsel client in unrelated litigation matter	Email correspondence chain containing several emails discussing upcoming depositions for unrelated litigation matter for Liberty Counsel clients in Florida	Attorney-Client Work-Product
239.	Correspondence	11/10/2009	Horatio Mihet, Liberty Counsel client in unrelated litigation matter	Horatio Mihet, Liberty Counsel client in unrelated litigation matter	Email correspondence chain containing several emails discussing upcoming telephonic hearing concerning unrelated matter for Liberty Counsel client in Florida	Attorney-Client Work-Product
240.	Correspondence	11/10/2009	Rena Lindevaldsen	Horatio Mihet	Email correspondence discussing research, thoughts, impressions, and strategy concerning potential motions and intervention in unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
241.	Correspondence	11/11/2009	Bonnie Gentry	Horatio Mihet	Email correspondence discussing exhibit preparation for motion in unrelated litigation matter for Liberty Counsel client in federal litigation in Florida	Work-Product
242.	Correspondence	11/11/2009	Bonnie Gentry, Horatio Mihet	Bonnie Gentry, Horatio Mihet	Email correspondence chain discussing exhibit preparation for motion in unrelated litigation matter for Liberty Counsel client in federal litigation in Florida	Work-Product
243.	Correspondence	11/11/2009	Stephen Crampton, Horatio Mihet, Mathew Staver	Stephen Crampton, Horatio Mihet, Mathew Staver	Email correspondence chain discussing draft pleadings for motion practice in unrelated litigation matter for Liberty Counsel client in federal litigation in Florida	Work-Product
244.	Correspondence	11/11/2009	Horatio Mihet, Stephen Crampton	Horatio Mihet, Stephen Crampton	Email correspondence chain discussing draft pleadings for motion practice in unrelated litigation matter for Liberty Counsel client in federal litigation in Florida	Work-Product
245.	Correspondence	11/11/2009	Anita Staver, Stephen Crampton	Stephen Crampton, Anita Staver, Angie Salas, Bonnie Gentry	Email correspondence chain discussing status of unrelated litigation matter for Liberty Counsel client, discussing potential draft amicus brief re same	Work-Product
246.	Correspondence	11/11/2009	Richard Boyer	Horatio Mihet	Email correspondence discussing research, thoughts, impressions, and potential pleadings for unrelated litigation for Liberty Counsel client in Florida	Work-Product

247.	Correspondence	11/11/2009	Horatio Mihet, Liberty Counsel client in unrelated litigation matter	Horatio Mihet, Liberty Counsel client in unrelated litigation matter	Email correspondence chain containing several emails discussing draft pleadings and strategy for Liberty Counsel client in unrelated federal litigation in Florida	Work-Product
248.	Correspondence	11/10/2009 – 11/11/2009	Horatio Mihet, David Corry	Stephen Crampton, David Corry, Horatio Mihet	Email correspondence chain discussing research pertaining to subpoena issued in unrelated litigation matter for Liberty Counsel client in Ohio	Work-Product
249.	Correspondence	11/11/2009	Horatio Mihet, Liberty Counsel client in unrelated litigation matter	Horatio Mihet, Liberty Counsel client in unrelated litigation matter	Email correspondence discussing upcoming depositions in unrelated litigation matter for Liberty Counsel clients in Florida	Attorney-Client Work-Product
250.	Correspondence	11/11/2009	Horatio Mihet, Stephen Crampton	Horatio Mihet, Stephen Crampton	Email correspondence discussing draft pleadings, edits, thoughts, and impressions for unrelated litigation matter for Liberty Counsel client in Florida	Work-Product
251.	Correspondence	11/11/2009	Anita Staver, Horatio Mihet	Horatio Mihet, Mathew Staver, Stephen Crampton, Anita Staver	Email correspondence chain containing several emails discussing status of unrelated litigation matter for Liberty Counsel client in state litigation in Florida	Work-Product
252.	Correspondence	11/12/2009	Horatio Mihet, Mathew Staver, Stephen Crampton	Horatio Mihet, Mathew Staver, Stephen Crampton, Liberty Counsel client in unrelated litigation	Email correspondence chain discussing draft pleadings, strategy, edits, and factual information for upcoming motion practice in unrelated federal litigation for Liberty Counsel client in Florida	Attorney-Client Work-Product
253.	Correspondence	11/12/2009	Stephen Crampton, Horatio Mihet	Stephen Crampton, Horatio Mihet	Email correspondence chain discussing draft pleadings, strategy, edits, and arguments for upcoming motion practice in unrelated federal litigation for Liberty Counsel client in Florida	Work-Product
254.	Correspondence	11/12/2009	Anita Staver, Anthony Quaranta	Horatio Mihet, Anita Staver, Anthony Quaranta	Email correspondence chain discussing upcoming hearing in unrelated litigation for Liberty Counsel client in federal litigation in Florida	Work-Product
255.	Correspondence	11/12/2009	Anita Staver	Mathew Staver, Horatio Mihet, Stephen Crampton, Matthew Krause, David Corry, Mary McAlister, Bonnie Gentry	Email correspondence discussing upcoming change to internal electronic server and upcoming educational seminars related to Liberty Counsel litigation efforts, discussing internal operations re same	Work-Product

256.	Correspondence	11/5/2009 – 11/12/2009	Horatio Mihet, David Corry, Stephen Crampton	Horatio Mihet, David Corry, Stephen Crampton	Email correspondence chain containing several emails discussing upcoming trial preparations for two separate unrelated litigation matters for Liberty Counsel clients in federal litigation in Florida	Work-Product
257.	Correspondence	11/12/2009	Horatio Mihet, Stephen Crampton	Horatio Mihet, David Corry, Stephen Crampton, Mathew Staver	Email correspondence chain discussing depositions in unrelated litigation for Liberty Counsel client in federal litigation in Florida	Work-Product
258.	Correspondence	11/13/2009	Bonnie Gentry	Horatio Mihet	Email correspondence providing court orders and discussing upcoming hearings in unrelated litigation for Liberty Counsel client in federal litigation in Florida	Work-Product
259.	Correspondence	11/13/2009	Horatio Mihet	Stephen Crampton	Email correspondence chain discussing opposing counsel request for consent to motion and oral arguments in unrelated Florida litigation matter	Work-Product
260.	Correspondence	11/13/2009	Cherry Chism	Horatio Mihet	Email correspondence providing and discussing subpoena issued in unrelated litigation matter for Liberty Counsel client in federal litigation in Florida	Work-Product
261.	Correspondence	11/13/2009	Stephen Crampton, Bonnie Gentry	Horatio Mihet, Stephen Crampton, Bonnie Gentry	Email correspondence discussing recent order issued by court in unrelated litigation for Liberty Counsel client in Florida state court	Work-Product

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*Attorneys for Defendants Liberty Counsel, Inc.
 And Rena M. Lindevaldsen*

*Admitted pro hac vice

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of March, 2020, a true and correct copy of the foregoing Privilege Log was served via electronic mail on all counsel of record for Plaintiff and Defendants, including:

Diego A. Soto, Esq. (diego.soto@splcenter.org)
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Counsel for Defendant Linda Wall

/s/ Horatio G. Mihet
Horatio G. Mihet

*Attorney for Defendants Liberty Counsel
and Rena Lindevaldsen*

5.	Correspondence	6/5/2009	Rena Lindevaldsen, Lisa Miller	Lisa Miller, Rena Lindevaldsen, Bonnie Gentry, Erin Harre	Email correspondence chain requesting and receiving information and instruction from client regarding upcoming visitation in custody litigation.	Attorney-Client
6.	Correspondence	6/5/2009	Rena Lindevaldsen, Lisa Miller	Rena Lindevaldsen, Lisa Miller	Email correspondence chain requesting and receiving information and instruction from client regarding upcoming visitation in custody litigation, and receiving client questions regarding legal issues surrounding same.	Attorney-Client
7.	Correspondence	6/5/2009	Rena Lindevaldsen, Lisa Miller	Lisa Miller, Rena Lindevaldsen, Mathew Staver, Stephen Crampton	Email correspondence chain discussing visitation and hearing issues in custody litigation.	Attorney-Client
8.	Correspondence	6/18/2009	Lisa Miller	Rena Lindevaldsen	Email correspondence requesting legal advice concerning healthcare law and healthcare coverage.	Attorney-Client
9.	Correspondence	7/2/2009	Lisa Miller	Rena Lindevaldsen	Email correspondence providing counsel with client wishes and instructions for visitation issues in custody litigation.	Attorney-Client
10.	Correspondence	7/4/2009	Lisa Miller	Rena Lindevaldsen	Email correspondence providing information to counsel regarding past and future visitation issues.	Attorney-Client
11.	Correspondence	7/29/2009	Lisa Miller	Rena Lindevaldsen	Email correspondence providing information for attorney review and comment concerning ongoing custody litigation, answering attorney questions concerning same, and asking attorney questions regarding same.	Attorney-Client
12.	Presentation	8/11/2006	Rena Lindevaldsen	n/a	Presentation prepared by counsel for law clerks and interns working on custody litigation and same-sex marriage litigation, to provide them with attorney comments, thoughts, impressions, and research issues pertaining to ongoing litigation.	Work-Product
13.	Notes/Research/ Thoughts/Impressions/ Strategy	9/23/2011	Rena Lindevaldsen	n/a	Document containing attorney notes, thoughts, impressions, research, comments, and strategy for upcoming conference call on ongoing litigation involving same-sex marriage.	Work-Product
14.	Notes/Research/ Thoughts/Impressions/ Strategy	7/7/2008	Legal Intern	Sarah Seitz	Draft legal memorandum discussing recent developments in same-sex marriage litigation, providing legal research, thoughts, impressions, and strategy concerning implications for various religious and non-profit institutions as a result of court decisions.	Work-Product

15.	Notes/Research/ Thoughts/Impressions/ Strategy	undated	Rena Lindevaldsen	n/a	Legal research, thoughts, impressions, comments, and potential strategy concerning potential causes of action and defenses involved in sexual orientation change efforts litigation.	Work-Product
16.	Presentation	undated	Rena Lindevaldsen	n/a	Presentation prepared by counsel for law clerks and interns working on custody litigation and same- sex marriage litigation, to provide them with attorney comments, thoughts, impressions, and research issues pertaining to ongoing litigation.	Work-Product
17.	Presentation	undated	Rena Lindevaldsen	n/a	Presentation prepared by counsel for law clerks and interns working on custody litigation and same- sex marriage litigation, to provide them with attorney comments, thoughts, impressions, and research issues pertaining to ongoing litigation.	Work-Product
18.	Presentation	7/9/2008	Rena Lindevaldsen	n/a	Presentation prepared by counsel for law clerks and interns working on custody litigation and same- sex marriage litigation, to provide them with attorney comments, thoughts, impressions, and research issues pertaining to ongoing litigation.	Work-Product
19.	Presentation	7/9/2008	Rena Lindevaldsen	n/a	Presentation prepared by counsel for law clerks and interns working on custody litigation and same- sex marriage litigation, to provide them with attorney comments, thoughts, impressions, and research issues pertaining to ongoing litigation.	Work-Product

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*Attorneys for Defendants Liberty Counsel, Inc.
 And Rena M. Lindevaldsen*

*Admitted pro hac vice

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of March, 2020, a true and correct copy of the foregoing Lindevaldsen Privilege Log was served via electronic mail on all counsel of record for Plaintiff and Defendants, including:

Diego A. Soto, Esq. (diego.soto@splcenter.org)
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Adam Hochschild (adam@hochschildlaw.com)

Counsel for Defendant Linda Wall

/s/ Horatio G. Mihet
Horatio G. Mihet

Attorney for Defendant Rena Lindevaldsen

From: [Horatio Mihet](#)
To: [Tyler Clemons](#)
Cc: [Beth Littrell](#); [Claudia Huerta](#); [Emily Joselson](#); [flangrock](#); [Jessica Stone](#); [jswift](#); [Julie Jackman](#); [Maya Rajaratnam](#); [Sarah Star](#); [Scott McCoy](#); [srs](#); [Brooks G. McArthur](#); [Anthony Duprey](#); [Daniel Schmid](#); [Roger Gannam](#); [Adam Hochschild](#); [Norman C. Smith](#); [Toddy Ferguson](#); [Michael J. Tierney](#); [Diego Soto](#)
Subject: RE: Lindevaldsen and LC Supplemental Document Production and Privilege Logs
Date: Friday, March 13, 2020 10:35:00 AM

Tyler:

Nice try. We previously had a good faith disagreement about whether we were required to produce a privilege log in response to what we believed to be exceedingly broad and improper requests. The Court resolved that disagreement and ordered a production, while limiting some of Plaintiff's requests. We then began that production, and provided a privilege log, which had quite a bit more detail than what SPLC lawyers provide on their privilege logs, and what is typically provided in civil litigation. You had that log for two months, and never raised any issue whatsoever about its contents, until you filed the second motion to compel. Thus, in this entire litigation, we have never had any "previous negotiations" about the contents of, or level of detail in, any privilege log, and the pretext you now raise is transparently ludicrous.

After we read your surprising complaints about our privilege log, we endeavored to provide more detail in the subsequent entries we added to our log, as you have now seen, thus demonstrating that we have always been, and remain, quite willing to work with you in good faith on discovery disagreements. What we are unwilling to do is give you carte blanche on filing frivolous discovery motions with the Court, and then attempting to cure your obvious rule violations, without withdrawing those motions.

Therefore, your unfounded accusations of futility, delay and deflect are offensive. The only thing that is "futile" are Plaintiff's attempts to justify her brazen violation of the discovery rules.

Add to all that Plaintiff's own unclean hands in completely failing to provide a privilege log many months after her document production, even while purporting to raise previously un-aired privilege log issues with the Court, and you have exhibited truly sanctionable conduct, in our view.

We now understand that Plaintiff is unwilling to withdraw any portion of her second motion to compel, and to engage with us in good faith discussions without a pending motion to compel, as the rules plainly contemplate and require. We are preparing our response, and will ask the Court for sanctions on both, the privilege log issues and the others aspects of Plaintiff's improvident, unnecessary and moot motion.

HGM

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EXHIBIT 5

From: Tyler Clemons <Tyler.Clemons@splcenter.org>

Sent: Friday, March 13, 2020 9:45 AM

To: Horatio Mihet <hmihet@lc.org>

Cc: Beth Littrell <beth.littrell@splcenter.org>; Claudia Huerta <claudia.huerta@splcenter.org>; Emily Joselson <ejoselson@langrock.com>; flangrock <flangrock@langrock.com>; Jessica Stone <jessica.stone@splcenter.org>; jswift <jswift@langrock.com>; Julie Jackman <jjackman@langrock.com>; Maya Rajaratnam <maya.rajaratnam@splcenter.org>; Sarah Star <sarahstar.esq@gmail.com>; Scott McCoy <Scott.McCoy@splcenter.org>; srs <srs@sarahstarlaw.com>; Brooks G. McArthur <bmcarthur@jarvismcarthur.com>; Anthony Duprey <anthony@ndp-law.com>; Daniel Schmid <daniel@lc.org>; Roger Gannam <rgannam@lc.org>; Adam Hochschild <adam@hochschildlaw.com>; Norman C. Smith <norman@normansmithlaw.com>; Toddy Ferguson <cs.fergie@myfairpoint.net>; Michael J. Tierney <mtierney@wadleighlaw.com>; Diego Soto <Diego.Soto@splcenter.org>

Subject: RE: Lindevaldsen and LC Supplemental Document Production and Privilege Logs

Good morning Harry,

Based on our previous negotiations, Plaintiffs believed, and continue to believe, that a meet and confer regarding the deficiencies in Defendants' privilege log would be futile. Nevertheless, if Defendants are genuinely interested in addressing these deficiencies, Plaintiffs remain willing to meet and confer and, if a suitable agreement is reached, to withdraw the portion of the motion to compel dealing with the privilege log.

Plaintiffs do not intend, however, to grant Defendants yet another open-ended opportunity to delay and deflect. Thus, Plaintiffs will not withdraw any portion of the motion to compel in the absence of such a negotiated agreement.

Best,

Tyler



J. Tyler Clemons they/them/mx
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From: Horatio Mihet [<mailto:hmihet@lc.org>]

Sent: Wednesday, March 11, 2020 9:13 PM

To: Tyler Clemons

Cc: Beth Littrell; Claudia Huerta; Emily Joselson; flangrock; Jessica Stone; jswift; Julie Jackman; Maya Rajaratnam; Sarah Star; Scott McCoy; srs; Brooks G. McArthur; Anthony Duprey; Daniel Schmid; Roger Gannam; Adam Hochschild; Norman C. Smith; Toddy Ferguson; Michael J. Tierney; Diego Soto

Subject: RE: Lindevaldsen and LC Supplemental Document Production and Privilege Logs

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Tyler:

Your communication confirms that SPLC lawyers were well aware of their legal obligation to meet and confer with

us to discuss and negotiate issues related to our privilege log. You had our privilege log for almost two months, and yet you chose to run to the Court without any mention of any deficiencies whatsoever, let alone any good faith efforts to resolve them. This is in gross violation of the rules.

Under these circumstances, we will not engage in meet and confer discussions while your improvidently-filed motion to compel remains pending. Please withdraw it, and we can then discuss and address your concerns (in addition to our concerns for the months-long, unexplained delay in your providing a privilege log).

As stated earlier, if you do not advise us of your intent to withdraw the motion to compel by Thursday afternoon (3/12), we will immediately expend a substantial amount of time developing our response.

Lastly, I understand your communication to mean that there are no requirements for filing the so-called "redaction log" – or any "privilege log" we obtain from that litigation and others – under seal.

Regards,

Horatio G. Mihet, Esq.*
*Vice President of Legal Affairs and
Chief Litigation Counsel*
Liberty Counsel
PO Box 540774
Orlando, FL 32854
(407) 875-1776 phone
(407) 875-0770 fax
LC.org
Offices in DC, FL, and VA
*Licensed in Florida and Ohio

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From: Tyler Clemons <Tyler.Clemons@splcenter.org>
Sent: Wednesday, March 11, 2020 3:28 PM
To: Horatio Mihet <hmihet@lc.org>
Cc: Beth Littrell <beth.littrell@splcenter.org>; Claudia Huerta <claudia.huerta@splcenter.org>; Emily Joselson <ejoselson@langrock.com>; flangrock <flangrock@langrock.com>; Jessica Stone <jessica.stone@splcenter.org>; jswift <jswift@langrock.com>; Julie Jackman <jjackman@langrock.com>; Maya Rajaratnam <maya.rajaratnam@splcenter.org>; Sarah Star <sarahstar.esq@gmail.com>; Scott McCoy <Scott.McCoy@splcenter.org>; srs <srs@sarahstarlaw.com>; Brooks G. McArthur <bmcarthur@jarvismcarthur.com>; Anthony Duprey <anthony@ndp-law.com>; Daniel Schmid <daniel@lc.org>; Roger Gannam <rgannam@lc.org>; Adam Hochschild <adam@hochschildlaw.com>; Norman C. Smith <norman@normansmithlaw.com>; Toddy Ferguson <cs.fergie@myfairpoint.net>; Michael J. Tierney <mtierney@wadleighlaw.com>; Diego Soto <Diego.Soto@splcenter.org>
Subject: RE: Lindevaldsen and LC Supplemental Document Production and Privilege Logs

Hi Harry,

Plaintiffs are happy to meet and confer regarding the deficiencies in Defendants' privilege log before the now-extended deadline for Defendants' response to Plaintiffs' motion to compel (Thursday, March 19). If we reach an agreement about the privilege log during that meet and confer, Plaintiffs will withdraw the portion of our motion that deals with the privilege log.

Plaintiffs' motion describes two primary deficiencies with the privilege log produced on January 10. First, the categories are too broad and thus purport to cover too many documents; for the 71 entries in the privilege log to cover all 30,000 unproduced pages in the paper litigation file, each entry would have to cover roughly 420 pages of documents. Second and relatedly, the document descriptions are too vague. Both of these deficiencies make it impossible for Plaintiffs or the Court to evaluate whether the asserted privileges actually apply to the withheld documents.

Regarding the log from *Ferguson v. JONAH*: no, it is not sufficiently detailed for the purposes of this case. It is also completely inapposite. First, that log is a redaction log from a New Jersey state consumer fraud case in which no lawyer or law firm was a defendant. It does not comport to comply with the stringent privilege log requirements set forth by the Second Circuit and detailed in our motion to compel. More pertinently, Plaintiffs' counsel, including SPLC, specifically negotiated the form that this log would take, and all parties agreed that this level of detail was sufficient under the circumstances of that case. Notably, that log catalogues 45 entries for a period spanning ten months, whereas Defendants' privilege log catalogues 71 entries for a period spanning ten years.

Finally, Plaintiffs will endeavor to produce a privilege log for all productions made thus far on or before March 18.

Best,

Tyler



J. Tyler Clemons *they/them/mx*
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tyler.clemons@splcenter.org | www.splcenter.org
Admitted in Louisiana & Maryland

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From: Horatio Mihet [<mailto:hmihet@lc.org>]

Sent: Monday, March 9, 2020 4:23 PM

To: Diego Soto; Tyler Clemons

Cc: Beth Littrell; Claudia Huerta; Emily Joselson; flangrock; Jessica Stone; jswift; Julie Jackman; Maya Rajaratnam; Sarah Star; Scott McCoy; srs; Brooks G. McArthur; Anthony Duprey; Daniel Schmid; Roger Gannam; Adam Hochschild; Norman C. Smith; Toddy Ferguson; Michael J. Tierney

Subject: RE: Lindevaldsen and LC Supplemental Document Production and Privilege Logs

Thanks Diego for the response and the consent.

As you will see from our extension motion (copy attached) we remain firm in our belief that Plaintiff's second motion to compel is substantively and procedurally deficient, for multiple reasons, not the least of which is your complete failure to raise any privilege log issues with us prior to running to the Court. Also, since we have now produced all responsive and non-privileged documents, the motion is now moot and amounts to nothing more than a disagreement over timing. We believe our timing was quite reasonable given the task at hand, and given the lack of any discovery or litigation deadlines.

Request is hereby made that Plaintiff withdraw her second motion to compel, and that you instead work with us to resolve any remaining issues, in the unlikely event that any issues do remain. If the motion is not withdrawn **by COB on this Thursday**, we will understand that Plaintiff has no intention to withdraw it, and will proceed with preparing our response, which will include a request for monetary sanctions for failure to meet-and-confer and for other deficiencies.

While we don't intend to engage in any meet-and-confer efforts with a motion to compel pending, in the event that it remains necessary for us to litigate the privilege log issue on the basis of your current motion, we would appreciate your thoughts on whether or not the attached privilege log, served by SPLC counsel in another case, has sufficient "detail" to meet the concerns you raise with our privilege log. We are unaware of any protective order in that case or elsewhere that would require us to file this document under seal, and intend to file it publicly with our response. If you believe a sealed filing is required, please advise and provide the basis.

Finally, speaking of privilege logs, Plaintiff asserted privilege in response to several of our discovery requests. As you know, Plaintiff was required to produce a privilege log identifying all responsive documents withheld on the basis of privilege, but to date – many months later – no such log has been provided. Please let us know by COB this Thursday whether Plaintiff will provide a full and complete privilege log by March 18, 2020, or whether we will need to seek relief from the Court.

HGM

Horatio G. Mihet, Esq.*
*Vice President of Legal Affairs and
Chief Litigation Counsel*
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From: Diego Soto <Diego.Soto@splcenter.org>
Sent: Monday, March 9, 2020 3:52 PM
To: Horatio Mihet <hmihet@lc.org>; Tyler Clemons <Tyler.Clemons@splcenter.org>
Cc: Beth Littrell <beth.littrell@splcenter.org>; Claudia Huerta <claudia.huerta@splcenter.org>; Emily Joselson <ejoselson@langrock.com>; flangrock <flangrock@langrock.com>; Jessica Stone <jessica.stone@splcenter.org>; jswift <jswift@langrock.com>; Julie Jackman <jjackman@langrock.com>; Maya Rajaratnam <maya.rajaratnam@splcenter.org>; Sarah Star <sarahstar.esq@gmail.com>; Scott McCoy <Scott.McCoy@splcenter.org>; srs <srs@sarahstarlaw.com>; Brooks G. McArthur <bmcarthur@jarvismcarthur.com>; Anthony Duprey <anthony@ndp-law.com>; Daniel Schmid <daniel@lc.org>; Roger Gannam <rgannam@lc.org>; Adam Hochschild <adam@hochschildlaw.com>; Norman C. Smith <norman@normansmithlaw.com>; Toddy Ferguson <cs.fergie@myfairpoint.net>; Michael J. Tierney <mtierney@wadleighlaw.com>
Subject: RE: Lindevaldsen and LC Supplemental Document Production and Privilege Logs

Harry, Plaintiffs do not oppose your motion.



Diego Soto he/him/his
Staff Attorney | LGBTQ Rights & Special Litigation
Southern Poverty Law Center
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From: Horatio Mihet <hmihet@lc.org>
Sent: Monday, March 9, 2020 2:29 PM
To: Tyler Clemons <Tyler.Clemons@splcenter.org>; Diego Soto <Diego.Soto@splcenter.org>
Cc: Beth Littrell <beth.littrell@splcenter.org>; Claudia Huerta <claudia.huerta@splcenter.org>; Emily Joselson <ejoselson@langrock.com>; flangrock <flangrock@langrock.com>; Jessica Stone <jessica.stone@splcenter.org>; jswift <jswift@langrock.com>; Julie Jackman <jjackman@langrock.com>; Maya Rajaratnam <maya.rajaratnam@splcenter.org>; Sarah Star <sarahstar.esq@gmail.com>; Scott McCoy <Scott.McCoy@splcenter.org>; srs <srs@sarahstarlaw.com>; Brooks G. McArthur <bmcarthur@jarvismcarthur.com>; Anthony Duprey <anthony@ndp-law.com>; Daniel Schmid <daniel@lc.org>; Roger Gannam <rgannam@lc.org>; Adam Hochschild <adam@hochschildlaw.com>; Norman C. Smith <norman@normansmithlaw.com>; Toddy Ferguson <cs.fergie@myfairpoint.net>; Michael J. Tierney <mtierney@wadleighlaw.com>
Subject: RE: Lindevaldsen and LC Supplemental Document Production and Privilege Logs

Tyler: if I'm to disregard your earlier email, I guess I still need an official response. May we tell the Court that our motion is unopposed? We would like to file shortly.

Thanks,

Horatio G. Mihet, Esq.*
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Chief Litigation Counsel*
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*Licensed in Florida and Ohio

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From: Tyler Clemons <Tyler.Clemons@splcenter.org>
Sent: Monday, March 9, 2020 9:51 AM
To: Horatio Mihet <hmihet@lc.org>; Diego Soto <Diego.Soto@splcenter.org>
Cc: Beth Littrell <beth.littrell@splcenter.org>; Claudia Huerta <claudia.huerta@splcenter.org>; Emily Joselson <ejoselson@langrock.com>; flangrock <flangrock@langrock.com>; Jessica Stone <jessica.stone@splcenter.org>; jswift <jswift@langrock.com>; Julie Jackman <jjackman@langrock.com>; Maya Rajaratnam <maya.rajaratnam@splcenter.org>; Sarah Star <sarahstar.esq@gmail.com>; Scott McCoy <Scott.McCoy@splcenter.org>; srs <srs@sarahstarlaw.com>; Brooks G. McArthur <bmcarthur@jarvismcarthur.com>; Anthony Duprey <anthony@ndp-law.com>; Daniel Schmid <daniel@lc.org>; Roger Gannam <rgannam@lc.org>; Adam Hochschild <adam@hochschildlaw.com>; Norman C. Smith <norman@normansmithlaw.com>; Toddy Ferguson <cs.fergie@myfairpoint.net>; Michael J. Tierney <mtierney@wadleighlaw.com>
Subject: Re: Lindevaldsen and LC Supplemental Document Production and Privilege Logs

Counsel: Please disregard my prior email, which was intended only for Plaintiffs' counsel.

J. Tyler Clemons (they/them/mx)
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Admitted in Louisiana and Maryland.

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From: Tyler Clemons <Tyler.Clemons@splcenter.org>
Sent: Monday, March 9, 2020 9:50:00 AM
To: Horatio Mihet <hmihet@lc.org>; Diego Soto <Diego.Soto@splcenter.org>
Cc: Beth Littrell <beth.littrell@splcenter.org>; Claudia Huerta <claudia.huerta@splcenter.org>; Emily Joselson <ejoselson@langrock.com>; flangrock <flangrock@langrock.com>; Jessica Stone <jessica.stone@splcenter.org>; jswift <jswift@langrock.com>; Julie Jackman <jjackman@langrock.com>; Maya Rajaratnam <maya.rajaratnam@splcenter.org>; Sarah Star <sarahstar.esq@gmail.com>; Scott McCoy <Scott.McCoy@splcenter.org>; srs <srs@sarahstarlaw.com>; Brooks G. McArthur <bmcarthur@jarvismcarthur.com>; Anthony Duprey <anthony@ndp-law.com>; Daniel Schmid <daniel@lc.org>; Roger Gannam <rgannam@lc.org>; Adam Hochschild <adam@hochschildlaw.com>; Norman C. Smith <norman@normansmithlaw.com>; Toddy Ferguson <cs.fergie@myfairpoint.net>; Michael J. Tierney <mtierney@wadleighlaw.com>
Subject: Re: Lindevaldsen and LC Supplemental Document Production and Privilege Logs

Team: I'm traveling today and Diego is out too. I'll let Harry know we don't oppose his extension request unless someone feels strongly to the contrary.

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From: Horatio Mihet <hmihet@lc.org>
Sent: Monday, March 9, 2020 9:05:29 AM
To: Tyler Clemons <Tyler.Clemons@splcenter.org>; Diego Soto <Diego.Soto@splcenter.org>
Cc: Beth Littrell <beth.littrell@splcenter.org>; Claudia Huerta <claudia.huerta@splcenter.org>; Emily Joselson <ejoselson@langrock.com>; flangrock <flangrock@langrock.com>; Jessica Stone <jessica.stone@splcenter.org>; jswift <jswift@langrock.com>; Julie Jackman <jjackman@langrock.com>; Maya Rajaratnam

<maya.rajaratnam@splcenter.org>; Sarah Star <sarahstar.esq@gmail.com>; Scott McCoy <Scott.McCoy@splcenter.org>; srs <srs@sarahstarlaw.com>; Brooks G. McArthur <bmcarthur@jarvismcarthur.com>; Anthony Duprey <anthony@ndp-law.com>; Daniel Schmid <daniel@lc.org>; Roger Gannam <rgannam@lc.org>; Adam Hochschild <adam@hochschildlaw.com>; Norman C. Smith <norman@normansmithlaw.com>; Toddy Ferguson <cs.fergie@myfairpoint.net>; Michael J. Tierney <mtierney@wadleighlaw.com>

Subject: Lindevaldsen and LC Supplemental Document Production and Privilege Logs

Tyler and Diego:

Liberty Counsel's supplemental document production, consisting of documents bates stamped LC 13262 – LC 36969 can be accessed here: <https://drive.google.com/drive/folders/1wA0-kVzg4xMVhSUMchm6Q2RRYd3A2c7Q?usp=sharing>

Rena Lindevaldsen's supplemental document production, consisting of documents bates stamped RL 00347 – RL 05164 can be accessed here: <https://drive.google.com/drive/folders/1q5l4kIJIE4axj1AwwcHckUeKrl3i845E?usp=sharing>

Attached is a privileged log for Lindevaldsen, and an updated privilege log for Liberty Counsel.

This afternoon, we will file a motion asking the Court for a 10-day extension, to and including March 19, 2020, to respond to Plaintiff's second motion to compel. Among the grounds for our motion is that we have been consumed over the last two months with this massive document review and production, and with other litigation work, travel and professional commitments. Please let us know **by 2 pm today** whether we may represent to the Court that our extension motion is unopposed.

Kind Regards,

Horatio G. Mihet, Esq.*
*Vice President of Legal Affairs and
Chief Litigation Counsel*

Liberty Counsel
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Orlando, FL 32854
(407) 875-1776 phone
(407) 875-0770 fax

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Ferguson v. JONAH**Plaintiffs' Privilege Log**

Doc ID	Date	Doc Type	From	Recipients	Privilege Basis*	Description
Priv 1	11/20/2012	Email	S. Wolfe (Esq.)	B. Unger; A. Hartsfield**	A-C	Providing legal advice regarding statements relating to the litigation
Priv 2	7/15/2012	Email with attachments	S. Wolfe (Esq.)	B. Unger; C. Levin; C. Sun (Esq.); and A. Hartsfield**	A-C	Providing legal advice regarding statements relating to the litigation
Priv 3	7/15/2012	Email with attachments	S. Wolfe (Esq.)	B. Unger; C. Levin; C. Sun (Esq.); and A. Hartsfield**	A-C	Providing legal advice regarding statements relating to the litigation
Priv 4	5/23/2012	Email	C. Levin	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
Priv 5	3/28/2012	Email	C. Levin	A. Zalkin (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
Priv 6	2/16/2012	Email	C. Levin	A. Hartsfield**	A-C	Reflecting legal advice regarding statements relating to the litigation
Priv 7	2/16/2012	Email	C. Levin	A. Hartsfield**	A-C	Reflecting legal advice regarding statements relating to the litigation
Priv 8	2/16/2012	Email	C. Levin	A. Hartsfield**	A-C	Reflecting legal advice regarding statements relating to the litigation
Priv 9	11/2/2011	Email with attachments	C. Levin	V. Downes**	A-C	Providing information to counsel in connection with request for legal advice regarding statements relating to the litigation

* A-C = Attorney-Client Privilege

* WP = Work Product Privilege

** A. Hartsfield and V. Downes are on staff at the SPLC and work at the direction and under the supervision of counsel.

EXHIBIT 6

Ferguson v. JONAH**Plaintiffs' Privilege Log**

Doc ID	Date	Doc Type	From	Recipients	Privilege Basis*	Description
Priv 10	11/26/2012	Email	S. Wolfe (Esq.)	C. Levin	A-C	Requesting information in connection with a request for legal advice regarding facts relating to the litigation
Priv 11	11/26/2012	Email	S. Wolfe (Esq.)	C. Levin	A-C	Requesting information in connection with request for legal advice regarding facts relating to the litigation
Priv 12	11/20/2012	Email with attachments	S. Wolfe (Esq.)	C. Levin; A. Hartsfield**	A-C	Providing legal advice regarding statements relating to the litigation
Priv 13	2/16/2012	Email	A. Hartsfield**	C. Levin	A-C	Reflecting legal advice regarding statements relating to the litigation
Priv 14	2/16/2012	Email	A. Hartsfield**	C. Levin	A-C	Reflecting legal advice regarding statements relating to the litigation
Priv 15	2/16/2012	Email	A. Hartsfield**	C. Levin	A-C	Reflecting legal advice regarding statements relating to the litigation
Priv 16	2/16/2012	Email with attachments	A. Hartsfield**	C. Levin	A-C	Reflecting legal advice regarding statements relating to the litigation
Priv 17	11/2/2011	Email	V. Downes**	C. Levin	A-C	Reflecting information provided to counsel in connection with request for legal advice regarding statements relating to the litigation
Priv 18	11/20/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding statements relating to the litigation
Priv 19	11/20/2012	Email with attachments	S. Wolfe (Esq.)	M. Ferguson; A. Hartsfield**	A-C	Providing legal advice regarding statements relating to the litigation

* A-C = Attorney-Client Privilege

* WP = Work Product Privilege

** A. Hartsfield and V. Downs are on staff at the SPLC and work at the direction and under the supervision of counsel.

Ferguson v. JONAH**Plaintiffs' Privilege Log**

Doc ID	Date	Doc Type	From	Recipients	Privilege Basis*	Description
Priv 20	11/5/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
Priv 21	11/5/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
Priv 22	11/20/2012	Email with attachment	S. Wolfe (Esq.)	M. Ferguson; A. Hartsfield**	A-C	Providing legal advice regarding statements relating to the litigation

* A-C = Attorney-Client Privilege

* WP = Work Product Privilege

** A. Hartsfield and V. Downs are on staff at the SPLC and work at the direction and under the supervision of counsel.

Ferguson v. JONAH**Plaintiffs' Redaction Log**

Doc ID	Date	Doc Type	From	Recipients	Privilege Basis*	Description
FGSN00000013-A	11/15/2012	Email	S. Wolfe (Esq.)	S. Bruck	A-C	Requesting information to provide legal advice regarding facts relating to the litigation
FGSN00006956-A	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00000012-A	11/15/2012	Email	S. Wolfe (Esq.)	S. Bruck	A-C	Requesting information to provide legal advice regarding facts relating to the litigation
FGSN00007085	3/22/2013	Email	C. Levin	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00007087	3/23/2013	Email	C. Levin	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00007089	1/15/2013	Email	C. Levin	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00007340	1/15/2013	Email	C. Levin	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00007344	1/15/2013	Email	C. Levin	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00007346	3/28/2012	Email	C. Levin	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation

EXHIBIT 7

* A-C = Attorney-Client Privilege

* WP = Work Product Privilege

Ferguson v. JONAH**Plaintiffs' Redaction Log**

Doc ID	Date	Doc Type	From	Recipients	Privilege Basis*	Description
FGSN00007479	3/27/2012	Email	S. Wolfe (Esq.)	C. Levin	A-C	Requesting information in connection with request for legal advice regarding facts relating to the litigation
FGSN00008230	7/27/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008248	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008249	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008250	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008254	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008256	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008257	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008275	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation

* A-C = Attorney-Client Privilege

* WP = Work Product Privilege

Ferguson v. JONAH**Plaintiffs' Redaction Log**

Doc ID	Date	Doc Type	From	Recipients	Privilege Basis*	Description
FGSN00008277	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008280	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008282	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008283	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008284	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008285	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008288	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008289	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008290	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation

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Ferguson v. JONAH**Plaintiffs' Redaction Log**

Doc ID	Date	Doc Type	From	Recipients	Privilege Basis*	Description
FGSN00008293	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008295	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008300	7/26/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008335	7/9/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Requesting legal advice regarding facts relating to the litigation
FGSN00008339	7/8/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Requesting legal advice regarding facts relating to the litigation
FGSN00008349	3/30/2012	Email	M. Ferguson	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008403	7/27/2012	Email	S. Wolfe (Esq.)	M. Ferguson	A-C	Requesting information in connection with request for legal advice regarding facts relating to the litigation
FGSN00008432	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008440	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008448	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation

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Ferguson v. JONAH**Plaintiffs' Redaction Log**

Doc ID	Date	Doc Type	From	Recipients	Privilege Basis*	Description
FGSN00008453	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008461	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008466	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00006948-A	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008474	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008482	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008487	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008495	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation
FGSN00008500	11/15/2012	Email	S. Bruck	S. Wolfe (Esq.)	A-C	Providing information to counsel in connection with request for legal advice regarding facts relating to the litigation

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

JANET JENKINS, et al.,

Plaintiffs,

v.

KENNETH L. MILLER, et al.,

Defendants.

No. 2:12-cv-184-WKS

**PLAINTIFF JANET JENKINS'S ANSWERS TO
DEFENDANT LIBERTY COUNSEL'S
FIRST SET OF INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff Janet Jenkins, through undersigned counsel, submits the following answers and objections to Defendant Liberty Counsel ("Defendant")'s first set of interrogatories ("Interrogatories"):

GENERAL OBJECTIONS AND RESERVATION OF RIGHTS

Plaintiff expressly incorporates all of the general objections and reserved rights set forth below into each and every response and objection to the Interrogatories. Specific objections provided below are made in addition to these general objections and reserved rights, and a failure to reiterate a general objection or reserved right shall not constitute a waiver of that or any other objection.

1. These answers and objections are made without in any way waiving or intending to waive: (a) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, of any information produced in response to the Interrogatories; (b) the right to object on any ground to the use of the information produced in response to the Interrogatories at any hearing, trial, or other proceeding in this action; (c) the

right to object on any ground at any time to a demand for further responses to the interrogatories; or (d) the right at any time to revise, correct, add to, supplement, or clarify any of the answers or objections contained herein.

2. The information supplied herein and any documents produced are for use in this action and for no other purpose.

3. The answers and objections made herein are based on Plaintiff's investigation to date of those sources within her control where she reasonably believes responsive information might exist.

4. Plaintiff's investigation and discovery efforts in this action are ongoing. Plaintiff reserves the right to amend or supplement these answers and objections with additional information that might become available or come to her attention, and to rely upon such information at any hearing, trial, or other point during this action consistent with the applicable Federal Rules of Civil Procedure and the local rules of this Court.

5. Plaintiff objects to Defendant's Definitions and Instructions to the extent they impose additional or greater obligations than those imposed by the Federal Rules of Civil Procedure, this Court's local rules, or the discovery schedule approved by the Court (ECF 320, 329, 355).

6. Plaintiff objects to each Interrogatory to the extent it seeks discovery that is outside the scope permitted by the Federal Rules of Civil Procedure.

7. Plaintiff objects to the Interrogatories to the extent the discovery sought is unreasonably cumulative or duplicative, is publicly available, or can be obtained from some other source that is more convenient, less burdensome, or less expensive.

8. Plaintiff objects to the Interrogatories to the extent the discovery sought is available to Defendant and the burden on Defendant to obtain the discovery sought is no greater than the burden on Plaintiff.

9. Plaintiff objects to the Interrogatories to the extent they demand the production of information that is privileged or otherwise protected against discovery pursuant to the attorney–client privilege, the work-product doctrine, the psychotherapist–patient privilege, the consulting expert rule, or any other legally recognized privilege, immunity, or exemption from discovery under any other applicable rule or statutory or common-law protection against disclosure, including the laws of the country or countries where such documents are located. To the extent that any such protected information is inadvertently produced in response to the Interrogatories, the production of such information shall not constitute a waiver of Plaintiff’s right to assert the applicability of any privilege or immunity to the information, and any such information shall be returned to Plaintiff’s counsel immediately upon discovery thereof.

10. Plaintiff objects to the service of more than 25 interrogatories, which is defined by Rule 33 of the Federal Rules of Civil Procedure to include all discrete subparts. Plaintiff’s responses to the excess interrogatories is not a waiver of her objection to the excess interrogatories and to her objection to any effort by Defendant to serve additional interrogatories.

11. Plaintiff objects to Defendant’s definition of “Document” to the extent it imposes greater obligations on Plaintiff than those imposed on her by the Federal Rules of Civil Procedure. Plaintiff interprets the term to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” (ESI) in Federal Rule of Civil Procedure 34(a)(1)(A).

12. Plaintiff objects to the Interrogatories to the extent they are premature contention interrogatories that ask her to state what she contends, to state all the facts on which she bases her contentions, to state all the evidence on which she bases her contentions, or to explain how the law applies to the facts. Plaintiff's responses to contention interrogatories represent the extent of her knowledge as of the date of service of these responses. Plaintiff reserves the right to revise her responses to contention interrogatories in the light of new information learned during discovery. Plaintiff will fully answer any such contention interrogatories if necessary at the conclusion of discovery.

13. Plaintiff objects to Defendant's definition of "Jenkins," "Plaintiff," "you," and "your" to the extent that, by including Plaintiff's attorneys and their law firms and extending the Requests to "encompass, without limitation, all responsive documents in the custody, possession or control of such attorneys and law firms" it purports to require production of documents or information that are outside Plaintiff's possession, custody, or control or that are protected by the attorney-client privilege, work product doctrine, or other applicable privilege.

14. Plaintiff objects to Instruction 11 to the extent it purports to impose greater obligations on Plaintiff than Rule 26(b)(5)(A) of the Federal Rules of Civil Procedure.

ANSWERS AND OBJECTIONS

Interrogatory 1. From September 1, 2009 to the present, Identify every effort you have made or have requested, hired or retained others to make, to determine the whereabouts of Lisa Miller or Isabella Miller, and for each such effort Identify: the date of the effort, the nature of the effort, the Communications involved in the effort, the Documents generated by the effort, and the results of the effort.

Objection: Plaintiff objects to this interrogatory as unduly burdensome and impossible to answer because she has tried to locate Isabella almost every day for almost a decade. Plaintiff also objects that much of this information is known to Defendants through discovery, testimony,

and exhibits at the criminal trials of Defendants Philip Zodhiates, *see United States v. Philip Zodhiates*, No. 1:14-cr-175 (W.D.N.Y.) (“Zodhiates”), and Kenneth Miller, *United States v. Kenneth L. Miller*, No. 2:11-cr-161 (D. Vt.) (“*Kenneth L. Miller*”).

Response: Plaintiff’s efforts to locate her daughter have been unceasing and include, but are not limited to:

- contacting and cooperating with law enforcement including Virginia authorities, Vermont authorities, federal authorities including the FBI and the United States Attorney Offices in several states, including but not limited to:
 - Communicating in person and by telephone and fax with the Bedford County, Virginia Sheriff’s Office, 1345 Falling Creek Road, Bedford, Virginia 24523, including Mike Miller and Robbie Nash, in or around November 2009;
 - Asking her sister, Linda Garcia (c/o Sarah Star, Sarah Star, PL, PO Box 106, Middlebury, Vermont 05753), to drive by Defendant Lisa Miller’s house in Virginia;
 - Notifying, through counsel, the Rutland, Vermont Family Court in December 2009 that Defendant Lisa Miller appeared to be missing;
 - Communicating by phone and in person with the Falls Church, Virginia Police Department, 300 Park Avenue, East Wing, Ground Level, Falls Church, Virginia 22046, in or around January 2010;
 - Communicating by phone and in person with the Fair Haven, Vermont Police Department, 3 North Park Place, Fair Haven, Vermont 05743, including Chief William Humphries, in January 2010 and going to the

police station with her father, Claude Jenkins (c/o Sarah Star, Sarah Star, PL, PO Box 106, Middlebury, Vermont 05753);

- Mailing documents to Chief William Humphries of the Fair Haven, Vermont Police Department, on January 6, 2010;
- Communicating by phone and in person with the Castleton, Vermont Police Department, 273 Route 30 North PO Box 727, Castleton, Vermont 05735, including Detective Gary Boutin, in or around January 2010;
- Communicating with the Federal Bureau of Investigation in Burlington, Vermont, including Special Agent Dana Kaegle;
- Giving pictures and descriptions of Isabella and her birthmarks to Special Agent Kaegle;
- Communicating and filing a missing person report with the National Center for Missing and Exploited Children, 333 John Carlyle Street Suite #125, Alexandria, Virginia 22314-5950, including Meredith Morrison, in January 2010;
- Communicating with the United States Attorney's Office for the District of Vermont in Burlington, Vermont, including Assistant United States Attorneys Paul Van de Graaf and Eugenia Cowles in or around April 2011;
- Emailing Vermont court orders to Assistant United States Attorneys Paul Van de Graaf and Eugenia Cowles on August 9, 2012;
- Communicating by phone and email with the United States Department of State, Office of Children's Issues, 2201 C Street, NW, SA-17, 9th Floor,

Washington, DC 20522-1709, including Emily Brown, in 2014 or 2015 and in 2017;

- Seeking a warrant for Lisa Miller's arrest from the Rutland, Vermont Family Court;
- Testifying at enforcement hearings in Virginia convened to locate Isabella;
- Bringing the instant and related lawsuit in the United States District Court for the Western District of Virginia, *Jenkins v. Miller*, No. 6:18-cv-78 (W.D. Va.);
- Conducting countless internet searches;
- Receiving tips from the public and acquaintances of the Defendants and passing that information to lawyers and law enforcement;
- Hiring counsel;
- Giving media interviews.

The result of these efforts is that Isabella remains missing.

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 2. Identify all locations you believe Lisa Miller or Isabella Miller have been at, from September 1, 2009 to the present, and for each such location Identify: the dates you believe Lisa Miller or Isabella Miller were present there, the circumstances of how you believe they got there, the Persons who aided them, and all of the sources of information (including Communications or Documents) from which you determined any of these facts or upon which you base your belief.

Objection: Plaintiff objects to this interrogatory as unduly burdensome and impossible to answer because the object of the conspiracy that is the basis of this lawsuit was to hide Lisa and Isabella's whereabouts from her. Plaintiff also objects that much of this information is known to Defendants through discovery, testimony, and exhibits at the criminal trials *Zodhiates* and *Kenneth L. Miller*.

Answer: Plaintiff has reason to believe that Lisa and Isabella have been present at the following locations since September 1, 2009:

- At 203B Greentree Drive, Forest, Virginia intermittently between September 1 and September 20, 2009. This was Lisa's home where she lived with Isabella until the kidnapping occurred. *See* Testimony of Anthony Phelps on September 23, 2016, in *Zodhiates*.
- At the home of Janet Stasulli in Forest, Virginia on the afternoon of September 20, 2009. Stasulli hosted a cookout at which Lisa and Isabella were present on that date. *See* Testimony of Janet Stasulli on September 23, 2016, in *Zodhiates*.
- At Walmart Supercenter, 3900 Wards Road, Lynchburg, Virginia, on September 20, 2009. *See* Testimony of Terry Miller on September 21, 2016, in *Zodhiates*; Stipulated Testimony of Mary Jones, on September 23, 2016, in *Zodhiates*.
- In Waynesboro, Virginia, from September 20, 2009, to September 21, 2009. *See* JENKINS00927.
- Traveling between Waynesboro, Virginia and Buffalo, New York on September 21, 2009, with Defendant Philip Zodhiates. *See* Testimony of Annie Joyner on September 22, 2016, in *Zodhiates*.
- Crossing the Rainbow Bridge from New York to Canada at 12:23 p.m. EDT on September 22, 2009, in a taxi. Testimony of Ginamarie Jonah on September 21, 2016, in *Zodhiates*.
- At a hotel in Niagara Falls, Ontario, Canada during the early morning hours of September 22, 2009. Testimony of Ervin Horst on September 21, 2016, in *Zodhiates*.

- At Toronto Pearson Airport, 6301 Silver Dart Drive, Mississauga, Ontario, at or around 5 a.m. EDT on September 22, 2009. Lisa and Isabella were driven there from the hotel by Ervin Horst. *Id.*
- Traveling between Toronto and Nicaragua, via El Salvador, on September 22, 2009. *See* Testimony of Linda Rose Miller on September 21, 2019, in *Zodhiates*; CAM0000001. Defendant Timothy Miller purchased Lisa's and Isabella's ticket using his mother-in-law's credit card.
- In Jinotega, Nicaragua between September 22, 2009, and approximately November 3, 2009, living at the home of Jesse Brubaker. *See* Deposition Testimony of Timothy J. Miller on December 20, 2011, in *Kenneth L. Miller*, ECF 48-1 41–45.
- In Managua, Nicaragua from approximately November 3, 2009, until April 2010, sometimes in the home of Timothy Miller. *Id.* at 45–46; Testimony of Jessica Fehr on September 22, 2016, in *Zodhiates*; *see also* CAM0000001; CAM00000015–16; CAM00000025–26; CAM00000028; CAM00000116; CAM00000117.
- In Waslala, Nicaragua for some period beginning in April 2010. CAM0000028.
- In Jinotega, Nicaragua for some period between April 27, 2010 and May 2011. *See* Deposition Testimony of Timothy J. Miller on December 20, 2011, in *Kenneth L. Miller*, ECF 48-1 55; CAM0000042; CAM0000043.

Plaintiff identifies the following persons as likely having discoverable information about this response:

- Miller, Defendant Lisa
- Zodhiates, Defendant Philip

- Miller, Defendant Kenneth
- Miller, Defendant Timothy
- Lindevaldsen, Defendant Rena
- Stasulli, Janet (1338 Jefferson Way, Forest, Virginia 24551; (434) 444-2292; janet.stasulli@areva.com; AREVA Federal Services LLC, 3315 Old Forest Road, Lynchburg, VA 24501 (434) 832-2886)
- Wall, Defendant Linda
- Phelps, Anthony (Lynchburg, Virginia; telephone number and email address unknown; employment unknown)
- Fehr, Jessica (Portland, Oregon; telephone number unknown; jesman21@gmail.com; employment unknown)
- Thurman, Deborah (Madison Heights, Virginia; (434) 929-6320; debbie@debbiethurman.com; employment unknown)
- Brubaker, Jesse (Jinotega, Nicaragua; (505) (2) 782-5665; email address unknown; employment unknown)
- Yoder, Andrew (Ohio; (505) (2) 809-6903; ayoder@camnica.org; Christian Aid Ministries 4464 OH-39, Millersburg, OH 44654 (330) 893-2428)
- Horst, Ervin (Toronto, Ontario, Canada; telephone number and email address unknown; employment unknown)
- Wright, Douglas (Berryville, Virginia; (540) 247-3613; email address unknown
Keystone Baptist Church, 15 Keystone Lane, Berryville, Virginia 22611)

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 3. Identify all requests for investigation or complaints you have made, or that were made on your behalf, to any government entity, law enforcement entity, or prosecutor, concerning any alleged involvement by Liberty Counsel (including without limitation Bill Sidebottom, Lindevaldsen or Staver) in the disappearance of Lisa Miller or Isabella Miller, and for each such request or complaint Identify: that date it was made, the Person who made it, the Person to whom it was made, the nature and substance of the request or complaint, and any action taken or result obtained.

Answer: Plaintiff's attorney Sarah Star filed a professional conduct complaint against Lindevaldsen with the Professional Responsibility Board of the Vermont Supreme Court on September 8, 2015. The complaint was submitted to Beth DeBernardi, disciplinary counsel for the Board. A copy of the complaint was sent to Lindevaldsen on September 15, 2015. The complaint alleged that Lindevaldsen's participation in the conspiracy to kidnap Isabella, as outlined in the Revised Second Amended Complaint, ECF 1, violated Vermont Professional Rules of Conduct 8.4(b), 8.4(c); and 8.4(d). See JENKINS14923–JENKINS14942.

The professional conduct complaint was dismissed without prejudice on April 28, 2017. See JENKINS14941–JENKINKS14942.

Plaintiff identifies the following persons as likely having discoverable information about this response:

- Lindevaldsen, Defendant Rena
- Katz, Sarah (Burlington, Vermont; sarah.katz@vermont.gov; Office of Disciplinary Counsel, 32 Cherry Street, Suite 213, Burlington, Vermont, 05401, (802) 859-3000)
- DeBernardi, Beth (Burlington, Vermont; beth.debernardi@vermont.gov; Office of Disciplinary Counsel, 32 Cherry Street, Suite 213, Burlington, Vermont, 05401, (802) 859-3000)

Interrogatory 4. Separately for Liberty Counsel as an entity, and for Lindevaldsen, Staver, Bill Sidebottom and any other agent, employee or representative of Liberty Counsel, Identify each act, omission, representation or misrepresentation that you contend was done or made by them to assist Lisa Miller or Isabella Miller to disappear or remain undetected, and separately for each act, omission, representation or

misrepresentation Identify: the date it was done or made, how it assisted Lisa Miller or Isabella Miller to disappear or remain undetected, when you (including your attorneys) became aware of it, and all of the sources of information (including Communications or Documents) from which you determined any of these facts or upon which you base your contention.

Answer: Plaintiff answers as follows:

- On January 21, 2009, Bill Sidebottom received an email at his Liberty Counsel email address from Defendant Philip Zodhiates that stated “Bill, is there no legal recourse for Lisa Miller? If not, I’d like to suggest to her some personal options which LC probably should not or would not want to know about. In other words, if there is nothing else LC can do for her, I’d like her contact information.” *See* Testimony of William Sidebottom on September 22, 2016, in *Zodhiates*; RUL0049. Sidebottom subsequently took action that permitted Zodhiates to contact Lisa Miller.
 - This action connected Lisa Miller with Zodhiates, who transported her from Virginia to the Canadian border.
 - Plaintiff learned of this email during the testimony of Bill Sidebottom on September 22, 2016, in *Zodhiates*.
- At some point before September 21, 2009, Liberty Counsel told Lisa Miller that it would be in her best interests to disappear.
 - This statement indicates Liberty Counsel’s agreement with the conspiracy to kidnap Isabella. It aided the conspiracy by indicating her lawyers’ approval.
 - Plaintiff learned of this statement during the testimony of Andrew Yoder in *Zodhiates* on September 26, 2016.

- In late October and early November 2009, Lindevaldsen repeatedly communicated with Lisa Miller via Victoria Hyden and Philip Zodhiates.
 - This communication allowed Lindevaldsen to facilitate the removal of personal items from Lisa Miller's home to be sent to her in Nicaragua.
 - Plaintiff learned of this communication from exhibits introduced in *Zodhiates* in September 2016. See RUL1078–RUL1085, RUL1103–RUL1104, RUL1127, RUL1103–RUL1104.
- In late October or early November 2009, Lindevaldsen, together with Linda Wall, facilitated the removal of personal items from Lisa Miller's home to be sent to Nicaragua.
 - This facilitation provided Lisa with needed and wanted items that eased her transition to Nicaragua and permitted her to remain concealed.
 - Plaintiff learned of this facilitation from exhibits introduced during *Zodhiates* in September 2016. See RUL1103–RUL1104; JENKINS02434–JENKINS02439.
- On December 18, 2009, Liberty Counsel concealed the whereabouts of Lisa Miller and Isabella Miller-Jenkins during a status conference with the Rutland Family Court. Although Liberty Counsel knew, at the very least through Lindevaldsen, that Lisa had kidnapped Isabella to Nicaragua, it did not inform Plaintiff or the court of that fact. Instead, Lindevaldsen falsely told the court that she had had not contact with Lisa. Liberty Counsel persisted in filing an appeal in the Vermont Supreme Court on Lisa Miller's behalf and requested a stay of the

order transferring custody of Isabella to Janet Jenkins. See JENKINS14355–JENKINSY14372.

- This concealment gave Lisa Miller more time to hide Isabella and establish herself in Nicaragua. It also delayed and hindered the efforts of law enforcement in locating Lisa and Isabella and returning them to the United States.
- Plaintiff was present at the December 18, 2009 status conference through her attorney. Plaintiff learned about the concealment during *Zodhiates* in September 2016. See RUL1103–RUL1104; JENKINS02434–JENKINS02439.
- On December 22, 2009, at a hearing on the motion to stay, Lindevaldsen falsely told the Rutland Family Court that she did not know that Lisa Miller and Isabella Miller-Jenkins were missing and misleadingly implied that Lisa was visiting her brother in Wisconsin. See JENKINS14383.
 - This concealment gave Lisa Miller more time to hide Isabella and establish herself in Nicaragua. It also delayed the efforts of law enforcement in locating Lisa and Isabella and returning them to the United States.
 - Plaintiff was present at the December 22, 2009 hearing through her attorney. She learned that Lindevaldsen’s statements were false and misleading during *Zodhiates* in September 2016.
- On January 22, 2010, at another hearing before the Rutland Family Court, Lindevaldsen falsely swore under oath that she did not know where Lisa was,

could not think of anyone who might know where Lisa was, and did not know of anyone who had recent contact with Lisa. See JENKINS14424–JENKINS14425.

- This concealment gave Lisa Miller more time to hide Isabella and establish herself in Nicaragua. It also delayed the efforts of law enforcement in locating Lisa and Isabella and returning them to the United States.
- Plaintiff was present at the January 22, 2010 hearing through her attorney. She learned that Lindevaldsen’s statements were false and misleading during *Zodhiates* in September 2016.
- Liberty Counsel and Lindevaldsen continued to mislead courts in Vermont and Virginia concerning their knowledge of Lisa Miller’s whereabouts as they pressed appeals on her behalf through November 2010. See, e.g., JENKINS12062; JENKINS14476–JENKINS14484; JENKINS14485–JENKINS14525.
 - This concealment gave Lisa Miller more time to hide Isabella and establish herself in Nicaragua. It also delayed the efforts of law enforcement in locating Lisa and Isabella and returning them to the United States.
 - Plaintiff learned of the appeals through her attorney as they occurred. She learned that the appeals were misleading during *Zodhiates* in September 2016.

Plaintiff identifies the following persons as likely having discoverable information about this response:

- Crampton, Stephen (Tupelo, Mississippi; telephone number and email address unknown; Thomas More Society 309 W. Washington Street, Suite 1250, Chicago, IL 60606 (312) 782-1680)
- Lindevaldsen, Defendant Rena
- Staver, Mathew (1809 Bridgewater Drive, Lake Mary, FL 32746; mstaver@lc.org; Liberty Counsel, 1053 Maitland Center Commons, Maitland, FL 32571 (407) 875-1776)
- Cohen, Judge William (83 Center Street, Suite 3, Rutland, Vermont 05701; (802) 775-4394; Vermont Superior Court, Rutland Division)

Interrogatory 5. Identify each agreement that you contend was made or entered into by Liberty Counsel or Lindevaldsen to participate in any conspiracy to assist Lisa Miller or Isabella Miller to disappear or remain undetected, and for each such agreement Identify: the date of the agreement, the substance of the agreement, the Persons among whom the agreement was made, and all of the sources of information (including Communications or Documents) from which you determined any of these facts or upon which you base your contention.

Answer: Plaintiff contends that Liberty Counsel and Lindevaldsen agreed at some point before September 21, 2009, to participate in the conspiracy to keep Isabella Miller-Jenkins away from Janet Jenkins. The substance of the agreement was to conspire with, and aid and abet, Lisa Miller in keeping Isabella away from Jenkins. The agreement was among the co-conspirators named as Defendants in this lawsuit. The acts and statements discussed in answer to Interrogatory 4 form the basis of this contention.

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 6. State the Basis for your contention that Liberty Counsel or Lindevaldsen knew of, participated in, agreed to become co-conspirators in, or assisted in any way the conspiracy you allege in this lawsuit, and Identify all Documents and any other evidence which you contend to show, reflect, demonstrate or prove such knowledge, agreement, participation or assistance.

Answer: Plaintiff refers Defendant to her response to the Interrogatory numbered 4.

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 7. Identify all Documents and any other evidence upon which you base your contention that Liberty Counsel or Lindevaldsen had any advance knowledge of Lisa Miller's plan to leave the United States with Isabella Miller.

Answer: Plaintiff refers Defendant to her response to the Interrogatory numbered 4.

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 8. Identify all Documents and any other evidence that you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen have had any communications, directly or indirectly, with Lisa Miller or Isabella Miller since September 12, 2009.

Answer: Plaintiffs refers Defendant to the response to the Interrogatory numbered 4.

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 9. State the Basis for your contention, in RSAC ¶20, that Liberty Counsel or Lindevaldsen assisted or encouraged Lisa Miller to ignore court orders regarding Jenkins' custody of, or visitation with, Isabella Miller.

Answer: Plaintiff refers Defendant to her response to the Interrogatory numbered 4.

Additionally, Lindevaldsen co-taught a course at Liberty University School of Law with Liberty Counsel President Mathew Staver that instructed students to “[a]ssume that Lisa Miller has asked you for advice, as a friend who is a Christian lawyer” on a midterm exam. *See* UNIV-01330–UNIV-01332. In a document titled “Things to think about concerning the midterm exam,”

Lindevaldsen and/or Staver said about the question “While prayer is the first step, there will be legal issues to address or material to discuss, including, for example, *civil disobedience* a discussion of civil disobedience, when it’s appropriate to obey civil government, what to if civil government commands that which is contrary to God’s law, is perfectly acceptable.” UNIV-01346 (emphasis added).

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Plaintiff identifies the following persons as likely having discoverable information about this response:

- Miller, Defendant Lisa
- Lindevaldsen, Defendant Rena
- Staver, Defendant Mathew

Interrogatory 10. State the Basis for your contention, in RSAC ¶25, that “Defendant Wall and Lisa Miller decided and agreed as early as June of 2008 that Lisa Miller should flee with Isabella.”

Answer: In June 2008, Sandy Sturgill heard Wall, Lisa Miller, and Sturgill’s daughter Deena Robertson talking about kidnapping Isabella. After the kidnapping, Wall publicly admitted in an interview with WSET that she had talked with Lisa Miller about what would happen if Lisa Miller was ordered to give up custody of Isabella knowing that Virginia law was not going to defend Lisa Miller. See LW000035.

Plaintiff identifies the following persons as likely having discoverable information about this response:

- Ehrhorn, Beth (Lynchburg, Virginia; telephone number unknown; behrhorn@aol.com; employment unknown)

- Killingsworth, Tipton (Address unknown; telephone number unknown; employment unknown)
- Lindevaldsen, Defendant Rena
- Miller, Defendant Lisa
- Robertson, Deena (Virginia; telephone number unknown; employment unknown)
- Sturgill, Sandy (Concord, Virginia; (434) 229-8781; email address unknown; employment unknown)

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 11. State the Basis for your contention, in RSAC ¶29, that “Response Unlimited, Inc. was working in conjunction with the lawyers at Liberty Counsel to raise funds in support of the effort to terminate [Jenkins’] contact with her daughter, Isabella,” and Identify all “efforts” to terminate contact between Jenkins and Isabella that you contend Liberty Counsel was working on, including whether the efforts were legal/judicial, political, or unlawful/extra-judicial.

Answer: Beginning in May 2007, RUL designed and distributed, on Liberty Counsel’s behalf, materials to fundraise for Liberty Counsel’s representation of Lisa Miller in the custody dispute over Isabella. See Testimony of William Sidebottom on September 21, 2016, in *Zodhiates*; RUL0825–36; RUL0865–66. At this time, Plaintiff does not contend that this fundraising effort was inherently unlawful.

Liberty Counsel and Lindevaldsen’s other efforts to terminate contact between Plaintiff and Isabella Miller-Jenkins included their legal representation of Lisa Miller in the custody disputes in Vermont and Virginia, which was lawful; and their participation in the conspiracy to kidnap Isabella, which was not. See Plaintiff’s response to the Interrogatory numbered 4.

Plaintiff identifies the following persons as likely having discoverable information about this response:

- Zodiates, Defendant Philip
- Lindevaldsen, Defendant Rena
- Staver, Mathew
- Sidebottom, William (location unknown; telephone number and email address unknown; employment unknown)
- Dolack, William (location unknown; telephone number and email address unknown; employment unknown)

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 12. State the Basis for your contention, in RSAC ¶29, that “in early 2009, Philip Zodiates offered Liberty Counsel a ‘personal option’ for Lisa Miller in the event that her legal fight failed.”

Answer: Plaintiff refers Defendant to her response to the Interrogatory numbered 7.

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 13. State the Basis for your contention, in RSAC ¶34, that “by the late summer of 2009, Lisa Miller and her co-conspirators had devised a plan to kidnap Isabella and avoid detection,” and Identify each and every “co-conspirator” you contend devised this plan, whether you contend that Liberty Counsel or Lindevaldsen were among those “co-conspirators” who devised this plan, and all Documents and any other evidence which you contend to show, reflect, demonstrate or prove the devising of this plan and Liberty Counsel’s or Lindevaldsen’s participation in the devising of this plan.

Answer: Plaintiff refers Defendant to her responses to the Interrogatories number 4, 5, 7, 9, and 10.

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 14. Identify any knowledge, participation, assistance or involvement by Liberty Counsel or Lindevaldsen in the transportation of Lisa Miller and Isabella Miller across the Canadian border, as alleged in RSAC ¶36, and all of the sources of information

(including Communications or Documents) from which you determined any of these facts or upon which you base your contention.

Answer: Between 1 p.m. and 11:30 p.m. Eastern Daylight Time on September 22, 2009, the day that Philip Zodhiates dropped off Lisa Miller and Isabella Miller-Jenkins at the Canadian border, Zodhiates made one call to a cell phone registered to Liberty Counsel and made two calls to a number registered to Liberty University School of Law, where Liberty Counsel and Lindevaldsen have offices. The second call to Liberty University lasted six minutes. See Testimony of Jennie Emmons on September 28, 2016, in *Zodhiates*; JENKINS02089.

Plaintiff identifies the following persons as likely having discoverable information about this response:

- Zodhiates, Defendant Philip
- Lindevaldsen, Defendant Rena
- Staver, Mathew

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 15. Identify any knowledge, participation, assistance or involvement by Liberty Counsel or Lindevaldsen in the purchasing of plane tickets for, or the transportation of Lisa Miller and Isabella Miller, from Canada to Nicaragua, as alleged in RSAC ¶38, and all of the sources of information (including Communications or Documents) from which you determined any of these

Answer: Plaintiff does not contend at this time that Liberty Counsel or Lindevaldsen knew, participated in, assisted, or were involved in the purchasing of plane tickets for the transportation of Lisa Miller and Isabella Miller-Jenkins from Canada to Nicaragua.

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 16. State the Basis for your contention, in RSAC ¶41, that “In Nicaragua in the fall of 2009 Lisa Miller spoke with Andrew Yoder, who worked for a Mennonite

Charity called Christian Aid Ministries [and] She told Andrew Yoder that Liberty Counsel had advised her that it would be in her best interests to disappear.”

Answer: Plaintiff refers Defendant to her response to Interrogatory numbered 4, as well as the Testimony of Andrew Yoder on September 26, 2016, in *Zodhiates*.

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 17. Identify the Communications, and state how and from whom you first learned, allegedly in June of 2010, of Lisa Miller and Isabella Miller-Jenkins’ whereabouts, as you alleged in RSAC ¶43.

Answer: Between June 21 and 23, 2010, Plaintiff’s attorney Sarah Star received several phone calls and text messages from Suzanne Cline regarding the whereabouts of Lisa Miller and Isabella Miller-Jenkins and the participation of various defendants, including Liberty Counsel, in the conspiracy to kidnap Isabella.

Plaintiff identifies the following persons as likely having discoverable information about this response:

- Cline, Suzanne (Madison Heights, Virginia; (240) 602-4818; email address unknown; employment unknown)

Interrogatory 18. State the Basis for your contention, in RSAC ¶44, that in or around 2009 “Victoria Zodhiates delivered emails from her father ... to Rena Lindevaldsen at the Liberty University law school requesting donations for supplies and coordinating the removal of items from Lisa Miller’s apartment to send to Lisa Miller to enable her to remain outside the country.”

Answer: Plaintiff refers Defendant to her response to Interrogatory numbered 4, as well as to RUL1078–RUL1085, RUL1103–RUL1104, RUL1127, RUL1103–RUL1104.

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 19. State the Basis for your contention, in RSAC ¶45, that Lindevaldsen is or was ever an elder of Thomas Road Baptist Church, or that in November 2009

Lindevaldsen “packed up the personal belongings of Lisa Miller” to have them sent to Lisa Miller in Nicaragua.

Objection: Plaintiff objects that this Interrogatory is actually two distinct interrogatories.

Answer: As to the contention that Lindevaldsen is or ever was an elder of Thomas Road Baptist Church, Plaintiff responds that Lindevaldsen routinely attended Thomas Road Baptist Church and sat with Lisa Miller from 2008 to 2009. See Testimony of Janet Stasulli on September 23, 2016, in *Zodhiates*.

As to the contention that Lindevaldsen packed up the personal belongings of Lisa Miller to have them sent to Lisa Miller in Nicaragua, Plaintiff refers Defendant to her response to Interrogatory numbered 4.

Plaintiff identifies the following persons as likely having discoverable information about this response:

- Stasulli, Janet
- Lindevaldsen, Defendant Rena
- Miller, Defendant Lisa
- Wall, Defendant Linda

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 20. State the Basis for your contention, in RSAC ¶46, that “Victoria Hyden used her employment at Liberty University to facilitate Lisa Miller's communication with her lawyer, Rena Lindevaldsen during the time that Lindevaldsen claimed she was unable to communicate with Lisa Miller in an attempt to help her duck service of contempt and enforcement pleadings filed by Janet Jenkins to help locate Isabella,” and Identify all such Communications between Lindevaldsen and Lisa Miller facilitated by Hyden.

Answer: Plaintiff refers Defendant to her response to the Interrogatory numbered 4, as well as to RUL1078–RUL1085, RUL1103–RUL1104, RUL1127, RUL1103–RUL1104.

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

As to objections:

October 31, 2019

Respectfully submitted.

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CERTIFICATE OF SERVICE

I hereby certify that, on this date, the foregoing document was served on the following counsel of record by email:

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October 31, 2019

/s/

J. Tyler Clemons
Counsel for Plaintiffs

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

JANET JENKINS, et al.,

Plaintiffs,

v.

KENNETH L. MILLER, et al.,

Defendants.

No. 2:12-cv-184-WKS

**PLAINTIFF JANET JENKINS'S ANSWERS TO
DEFENDANT RENA LINDEVALDSEN'S
FIRST SET OF INTERROGATORIES**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Plaintiff Janet Jenkins, through undersigned counsel, submits the following answers and objections to Defendant Rena Lindevaldsen ("Defendant")'s first set of interrogatories ("Interrogatories"):

GENERAL OBJECTIONS AND RESERVATION OF RIGHTS

Plaintiff expressly incorporates all of the general objections and reserved rights set forth below into each and every response and objection to the Interrogatories. Specific objections provided below are made in addition to these general objections and reserved rights, and a failure to reiterate a general objection or reserved right shall not constitute a waiver of that or any other objection.

1. These answers and objections are made without in any way waiving or intending to waive: (a) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, of any information produced in response to the Interrogatories; (b) the right to object on any ground to the use of the information produced in response to the Interrogatories at any hearing, trial, or other proceeding in this action; (c) the

right to object on any ground at any time to a demand for further responses to the interrogatories; or (d) the right at any time to revise, correct, add to, supplement, or clarify any of the answers or objections contained herein.

2. The information supplied herein and any documents produced are for use in this action and for no other purpose.

3. The answers and objections made herein are based on Plaintiff's investigation to date of those sources within her control where she reasonably believes responsive information might exist.

4. Plaintiff's investigation and discovery efforts in this action are ongoing. Plaintiff reserves the right to amend or supplement these answers and objections with additional information that might become available or come to her attention, and to rely upon such information at any hearing, trial, or other point during this action consistent with the applicable Federal Rules of Civil Procedure and the local rules of this Court.

5. Plaintiff objects to Defendant's Definitions and Instructions to the extent they impose additional or greater obligations than those imposed by the Federal Rules of Civil Procedure, this Court's local rules, or the discovery schedule approved by the Court (ECF 320, 329, 355).

6. Plaintiff objects to each Interrogatory to the extent it seeks discovery that is outside the scope permitted by the Federal Rules of Civil Procedure.

7. Plaintiff objects to the Interrogatories to the extent the discovery sought is unreasonably cumulative or duplicative, is publicly available, or can be obtained from some other source that is more convenient, less burdensome, or less expensive.

8. Plaintiff objects to the Interrogatories to the extent the discovery sought is available to Defendant and the burden on Defendant to obtain the discovery sought is no greater than the burden on Plaintiff.

9. Plaintiff objects to the Interrogatories to the extent they demand the production of information that is privileged or otherwise protected against discovery pursuant to the attorney–client privilege, the work-product doctrine, the psychotherapist–patient privilege, the consulting expert rule, or any other legally recognized privilege, immunity, or exemption from discovery under any other applicable rule or statutory or common-law protection against disclosure, including the laws of the country or countries where such documents are located. To the extent that any such protected information is inadvertently produced in response to the Interrogatories, the production of such information shall not constitute a waiver of Plaintiff’s right to assert the applicability of any privilege or immunity to the information, and any such information shall be returned to Plaintiff’s counsel immediately upon discovery thereof.

10. Plaintiff objects to the service of more than 25 interrogatories, which is defined by Rule 33 of the Federal Rules of Civil Procedure to include all discrete subparts. Plaintiff’s responses to the excess interrogatories is not a waiver of her objection to the excess interrogatories and to her objection to any effort by Wall to serve additional interrogatories.

11. Plaintiff objects to Defendant’s definition of “Document” to the extent it imposes greater obligations on Plaintiff than those imposed on her by the Federal Rules of Civil Procedure. Plaintiff interprets the term to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” (ESI) in Federal Rule of Civil Procedure 34(a)(1)(A).

12. Plaintiff objects to the Interrogatories to the extent they are premature contention interrogatories that ask her to state what she contends, to state all the facts on which she bases her contentions, to state all the evidence on which she bases her contentions, or to explain how the law applies to the facts. Plaintiff's responses to contention interrogatories represent the extent of her knowledge as of the date of service of these responses. Plaintiff reserves the right to revise her responses to contention interrogatories in the light of new information learned during discovery. Plaintiff will fully answer any such contention interrogatories if necessary at the conclusion of discovery.

13. Plaintiff objects to Defendant's definition of "Jenkins," "Plaintiff," "you," and "your" to the extent that by including Plaintiff's attorneys and their law firms and extending the Requests to "encompass, without limitation, all responsive documents in the custody, possession or control of such attorneys and law firms" it purports to require production of documents or information that are outside Plaintiff's possession, custody, or control or that are protected by the attorney-client privilege, work product doctrine, or other applicable privilege.

14. Plaintiff objects to Instruction 11 to the extent it purports to impose greater obligations on Plaintiff than Rule 26(b)(5)(A) of the Federal Rules of Civil Procedure.

ANSWERS AND OBJECTIONS

Interrogatory 1. Identify each untrue or misleading statement you contend, in RSAC ¶57, that Liberty Counsel made when it "misled courts in two states to delay contempt proceedings aimed at locating Isabela," and for each such untrue or misleading statement Identify: the Person making the statement, the date of the statement, the Court to whom it was made, the pleading or transcript containing the statement, the contents of the statement, all evidence you have to demonstrate that the statement was false or misleading, and all evidence you have to demonstrate that Liberty Counsel knew that the statement was false or misleading at the time the statement was made.

Response: Plaintiff answers as follows:

- On December 18, 2009, Liberty Counsel concealed the whereabouts of Lisa Miller and Isabella Miller-Jenkins during a status conference with the Rutland Family Court. Although Liberty Counsel knew, at the very least through Lindevaldsen, that Lisa had kidnapped Isabella to Nicaragua, it did not inform Plaintiff or the court of that fact. Instead, Lindevaldsen falsely told the court that she had had not contact with Lisa. Liberty Counsel persisted in filing an appeal in the Vermont Supreme Court on Lisa Miller's behalf and requested a stay of the order transferring custody of Isabella to Janet Jenkins. See JENKINS14355–JENKINS14372.
 - Liberty Counsel's knowledge that Lisa Miller was no longer in the United States is demonstrated through its communication with Defendant Philip Zodhiates on September 22, 2009, see Testimony of Jennie Emmons on September 28, 2016, in *United States v. Zodhiates*, No. 1:14-cr-175 (W.D.N.Y.) ("*Zodhiates*"). Lindevaldsen's knowledge of Lisa's whereabouts is demonstrated through her communication with Lisa Miller via Zodhiates and Defendant Victoria Hyden in October and November 2009. See RUL1078–RUL1085, RUL1103–RUL1104, RUL1127, RUL1103–RUL1104.
- On December 22, 2009, at a hearing on the motion to stay, Lindevaldsen falsely told the Rutland Family Court that she did not know that Lisa Miller and Isabella Miller-Jenkins were missing and misleadingly implied that Lisa was visiting her brother in Wisconsin. See JENKINS14383.

- On January 22, 2010, at another hearing before the Rutland Family Court, Lindevaldsen falsely swore under oath that she did not know where Lisa was, could not think of anyone who might know where Lisa was, and did not know of anyone who had recent contact with Lisa. See JENKINS14424–JENKINS14425.
- Liberty Counsel and Lindevaldsen continued to mislead courts in Vermont and Virginia concerning their knowledge of Lisa Miller’s whereabouts as they pressed appeals on her behalf through November 2010. See, e.g., JENKINS12062; JENKINS14476–JENKINS14484; JENKINS14485–JENKINS14525.

Plaintiff identifies the following persons as likely having discoverable information about this response:

- Crampton, Stephen (Tupelo, Mississippi; telephone number and email address unknown; Thomas More Society 309 W. Washington Street, Suite 1250, Chicago, IL 60606 (312) 782-1680)
- Lindevaldsen, Defendant Rena
- Staver, Mathew (1809 Bridgewater Drive, Lake Mary, FL 32746; mstaver@lc.org; Liberty Counsel, 1053 Maitland Center Commons, Maitland, FL 32571 (407) 875-1776)
- Cohen, Judge William (83 Center Street, Suite 3, Rutland, Vermont 05701; (802) 775-4394; Vermont Superior Court, Rutland Division)

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 2. State the Basis for your contention, in RSAC ¶57, that Lindevaldsen or Liberty Counsel assisted Lisa Miller to leave the United States in advance of September 25, 2009 and to remain hidden, and identify the date and nature of each specific act of such assistance.

Answer: Plaintiff refers Defendant to her response to the Interrogatory numbered 1.

Additionally, Plaintiff answers as follows:

- At some point before September 21, 2009, Liberty Counsel told Lisa Miller that it would be in her best interests to disappear. See Testimony of Andrew Yoder on September 26, 2016, in *Zodhiates*.
- In late October or early November 2009, Lindevaldsen, together with Linda Wall, facilitated the removal of personal items from Lisa Miller's home to be sent to Nicaragua. See RUL1103–RUL1104; JENKINS02434–JENKINS02439.

Plaintiff identifies the following persons as likely having discoverable information about this response:

- Miller, Defendant Lisa
- Lindevaldsen, Defendant Rena
- Wall, Defendant Linda
- Yoder, Andrew (Ohio; (505) (2) 809-6903; ayoder@camnica.org; Christian Aid Ministries 4464 OH-39, Millersburg, OH 44654 (330) 893-2428)
- Hyden, Defendant Victoria
- Zodhiates, Defendant Philip
- Phelps, Anthony (Lynchburg, Virginia; telephone number and email address unknown; employment unknown)

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 3. Do you contend that on September 22, 2009 Phillip [sic] Zodhiates actually reached by telephone and had a conversation of any length with Staver, Lindevaldsen or anyone at Liberty Counsel? If yes, State the Basis for that contention, and Identify the substance, time, length and participants of each Communication you contend to have taken place.

Answer: Yes. Between 1 p.m. and 11:30 p.m. Eastern Daylight Time on September 22, 2009, Zodhiates made one call to a cell phone registered to Liberty Counsel and made two calls to a number registered to Liberty University School of Law, where Liberty Counsel and Lindevaldsen have offices. The second call to Liberty University lasted six minutes. See Testimony of Jennie Emmons on September 28, 2016, in *Zodhiates*.

Plaintiff lacks sufficient information to determine the participants, other than Zodhiates, involved in the six-minute conversation, or the substance of the conversation.

Plaintiff identifies the following persons as likely having discoverable information about this response:

- Zodhiates, Defendant Philip
- Lindevaldsen, Defendant Rena
- Staver, Mathew

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 4. Identify each untrue or misleading statement you contend, in RSAC ¶61, that Staver or Lindevaldsen made to various courts in Vermont and Virginia and to the press, and for each such untrue or misleading statement Identify: the Person making the statement, the date of the statement, the court or press to whom it was made, the pleading, transcript or article containing the statement, the contents of the statement, all evidence you have to demonstrate that the statement was false or misleading, and all evidence you have to demonstrate that Liberty Counsel knew that the statement was false or misleading at the time the statement was made.

Answer: Plaintiff refers Defendant to her response to the Interrogatory numbered 1.

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 5. State the Basis for your contention, in RSAC ¶61, that Staver or Lindevaldsen represented to Vermont and Virginia Courts that they had advance instructions from Lisa Miller as to her wishes for the ongoing litigation, and State the Basis for your contention that such statements were false or misleading when made.

Answer: Liberty Counsel, including Mathew Staver and Rena Lindevaldsen, represented to the Rutland County Family Court in a motion to withdraw as Lisa Miller's counsel on January 20, 2010, that "clear instructions were given to [Liberty Counsel] shortly after the August 21, 2009 hearing as to [Lisa Miller's] desire to appeal any decision granting [Janet Jenkins's] motion to award [Jenkins] legal and physical custody of [Isabella Miller-Jenkins]." See JENKINS14409.

Plaintiff identifies the following persons as likely having discoverable information about this contention:

- Lindevaldsen, Defendant Rena
- Staver, Mathew
- Miller, Defendant Lisa
- Crampton, Steven (Tupelo, Mississippi; telephone number unknown; current employer unknown)
- Mihet, Harry (Orlando, Florida;

Plaintiff will supplement her response to this contention interrogatory if necessary at the conclusion of discovery.

Interrogatory 6. Separately for yourself and for Isabella Miller, for each item, type or category of damages you seek in this lawsuit, including without limitation the five Categories of "DAMAGES" referred to on page 16 of your Initial Disclosures dated July 9, 2018: State the Basis for your contention that such damages were incurred and for seeking such damages from Liberty Counsel and/or Lindevaldsen; and, for each item,

type or category of damages claimed, Identify the amount of such damages and how you have calculated them.

Objection: Plaintiff objects to this Interrogatory as premature at this stage of the litigation and as seeking expert discovery prematurely.

Interrogatory 7. For every counseling session, therapy session, or mental health intervention you have sought since January 1, 2000, Identify the date, provider, reason and diagnosis.

Objection: Plaintiff objects to this Interrogatory as seeking information that is irrelevant to any party's claim or defense and protected by the psychotherapist-patient privilege. Plaintiff also objects to this Interrogatory as causing embarrassment and annoyance as unduly intrusive and as disproportional to the needs of the case. Plaintiff also objects to this interrogatory in the absence of an appropriate confidentiality order.

Interrogatory 8. Identify the date, nature, matters discussed, and participants of all "meetings with law enforcement" referenced in RSAC ¶69, Identify each date on which you had to close your daycare center to attend court proceedings or law enforcement meetings, and Identify the amount of legal fees and lost business you alleged to have incurred and the manner in which you calculated those amounts.

Objection: Plaintiff notes that this Interrogatory is actually three distinct interrogatories. Plaintiff objects to the request for information regarding the amount of her lost business and each date on which she had to close her daycare center to attend court proceedings or law enforcement meetings as irrelevant. Plaintiff objects to the amount of legal fees she has incurred as premature.

Answer: Plaintiff, either herself or through her attorney, met with law enforcement on the following dates:

- January 1, 2010: Plaintiff and Claude Jenkins met with police officers in Falls Church, Virginia.
- February 2010: Sarah Star met with Rutland County State's Attorney Marc Brierre at his office in Rutland, Vermont.

- April 25, 2011: Sarah Star met with Assistant United States Attorneys Paul Van de Graaf and Tristram Coffin at the U.S. District Courthouse for the District of Vermont in Burlington, Vermont.
- August 24, 2011: Sarah Star met with Paul Van de Graaf and Eugenia Cowles at Sarah Star's office in Middlebury, Vermont.
- August 7, 2012: Plaintiff and Sarah Star met with Paul Van de Graaf at the U.S. Attorney's Office in Burlington, Vermont.
- September 8, 2016: Plaintiff and Sarah Star met with Paul Van de Graaf at Sarah Star's office in Middlebury, Vermont.
- September 25, 2016: Plaintiff and Sarah Star met with Paul Van de Graaf at the U.S. Attorney's Office in Buffalo, New York.
- Various Times: Plaintiff met with police officers in Castleton, Vermont.

Plaintiff refers Defendant to her response to Liberty Counsel's Interrogatory numbered 1 for additional information relevant to this Interrogatory.

Plaintiff identifies the following persons as likely having discoverable information about this contention:

- Van de Graaf, Paul (Burlington, Vermont; U.S. Attorney's Office; 11 Elmwood Avenue, 3rd Floor, Burlington, VT 05402-0570; (802) 951-6725)
- Coffin, Tristram (Burlington, Vermont; U.S. Attorney's Office; 11 Elmwood Avenue, 3rd Floor, Burlington, VT 05402-0570; (802) 951-6725)
- Cowles, Eugenia (Burlington, Vermont; U.S. Attorney's Office; 11 Elmwood Avenue, 3rd Floor, Burlington, VT 05402-0570; (802) 951-6725)

- Brierre, Marc (Vermont; telephone and email address unknown; employment unknown)

Interrogatory 9. Separately for each of the 66 Persons who are likely to have discoverable information that Plaintiff might use to support her claim, which you identify on pages 2-15 of your Initial Disclosures dated July 9, 2018: State the Basis for your belief that that Person likely has the information you describe in your Initial Disclosure, Identify all Communications (including date and content) with that Person by you or on your behalf, Identify all information received from that Person, and Identify all Documents provided by that Person.

Objection: Plaintiff notes that this Interrogatory is actually 66 distinct interrogatories.

Plaintiff objects to this Interrogatory as overly broad, unduly burdensome, harassing, and not proportional to the needs of the case. This Interrogatory would require Plaintiff to list and characterize every communication that Plaintiff has had with her mother and father; every post she has made or interaction she has had on Facebook; every cellphone bill she has received; every search she has made on Google, as well as the results; every piece of mail she has sent or received; and every Walmart receipt she has received since January 1, 2000.

Interrogatory 10. Identify each “unlawful activity” that you contend Lindevaldsen or Liberty Counsel are currently engaging in and that you are asking the Court to enjoin in paragraph 1 of the RSAC Prayer for Relief, and Identify the precise language of the injunction that you seek from the Court.

Objection: Plaintiff objects to the request for the precise language of the injunction sought by Plaintiffs as premature.

Answer: Liberty Counsel and Lindevaldsen agreed to and actively participated in a conspiracy to interfere with Plaintiff’s parental rights and as well as Plaintiff and Isabella Miller-Jenkins’s civil rights. The chief object of that conspiracy was the physical separation of Plaintiff and Isabella. Because Plaintiff and Isabella remained separated, that conspiracy is ongoing.

Plaintiff lacks sufficient information to determine whether Liberty Counsel or Lindevaldsen remain actively involved in that conspiracy and, if so, what such participation entails.

As to objections:

October 31, 2019

Respectfully submitted.

/s/

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CERTIFICATE OF SERVICE

I hereby certify that, on this date, the foregoing document was served on the following counsel of record by email:

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Counsel for Defendants Philip Zodiates, Victoria Hyden, and Response Unlimited, Inc.

and on the following counsel of record by United States mail:

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October 31, 2019

/s/

J. Tyler Clemons
Counsel for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

JANET JENKINS, et al.,

Plaintiffs,

v.

KENNETH L. MILLER, et al.,

Defendants.

No. 2:12-cv-184-WKS

**PLAINTIFF JANET JENKINS'S RESPONSES TO DEFENDANTS LIBERTY
COUNSEL, INC.'S FIRST SET OF REQUESTS FOR PRODUCTION**

Pursuant to Rules 26, 33, and 34 of the Federal Rules of Civil Procedure, Plaintiff Janet Jenkins, by and through her attorneys, submits the following responses to Defendant Liberty Counsel, Inc. ("Defendant")'s first set of requests for production ("Discovery Requests"), served on August 29, 2019.

GENERAL OBJECTIONS AND RESERVATIONS OF RIGHTS

Plaintiff expressly incorporates all of the general objections and reserved rights set forth below into each and every response and objection to the Discovery Requests. Specific objections provided below are made in addition to these general objections and reserved rights, and a failure to reiterate a general objection or reserved right shall not constitute a waiver of that or any other objection.

1. These responses and objections are made without in any way waiving or intending to waive: (a) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, of any information produced in response to the Discovery Requests; (b) the right to object on any ground to the use of the information produced in response to the Discovery Requests at any hearing, trial, or other proceeding in this action; (c)

the right to object on any ground at any time to a demand for further responses to the interrogatories or further document productions; or (d) the right at any time to revise, correct, add to, supplement, or clarify any of the responses or objections contained herein.

2. The information supplied herein and any documents produced are for use in this action and for no other purpose.

3. Any statement by Plaintiff that she will produce documents or information responsive to any Discovery Request does not mean that she possesses responsive materials or that such materials exist, only that she will conduct a reasonable search and produce responsive, non-objectionable, nonprivileged information. No response or objection made herein, or lack thereof, is an admission by Plaintiff as to the existence or non-existence of any documents or information.

4. The responses and objections made herein are based on Plaintiff's investigation to date of those sources within her control where she reasonably believes responsive information might exist.

5. Plaintiff's investigation and discovery efforts in this action are ongoing. Plaintiff reserves the right to amend or supplement these responses and objections with additional information that might become available or come to her attention, and to rely upon such information at any hearing, trial, or other point during this action consistent with the applicable Federal Rules of Civil Procedure and the local rules of this Court.

6. Plaintiff objects to Defendant's Definitions and General Instructions to the extent they impose additional or greater obligations than those imposed by the Federal Rules of Civil Procedure, this Court's local rules, or the discovery schedule approved by the Court (ECF 320, 329, 355).

7. Plaintiff objects to each request to the extent it seeks discovery that is outside the scope permitted by the Federal Rules of Civil Procedure.

8. Plaintiff objects to the Discovery Requests to the extent the discovery sought is unreasonably cumulative or duplicative, is publicly available, or can be obtained from some other source that is more convenient, less burdensome, or less expensive.

9. Plaintiff objects to the Discovery Requests to the extent the discovery sought is available to Defendant and the burden on Defendant to obtain the discovery sought is no greater than the burden on Plaintiff. If necessary, Plaintiff will produce any such documents at Defendant's expense.

10. Plaintiff objects to the Discovery Requests to the extent they demand the production of documents or information that are privileged or otherwise protected against discovery pursuant to the attorney–client privilege, the work product doctrine, the consulting expert rule, or any other legally recognized privilege, immunity, or exemption from discovery under any other applicable rule or statutory or common-law protection against disclosure, including the laws of the country or countries where such documents are located. To the extent that any such protected documents or information are inadvertently produced in response to the Discovery Requests, the production of such documents or information shall not constitute a waiver of Plaintiff's right to assert the applicability of any privilege or immunity to the documents or information, and any such documents or information shall be returned to Plaintiff's counsel immediately upon discovery thereof.

11. Plaintiff objects to Defendant's definition of "Jenkins," "Plaintiff," "you," and "your" to the extent that it includes Plaintiff's attorneys and their law firms and that it purports to extend the Requests to "encompass, without limitation, all responsive documents in the custody,

possession or control of such attorneys and law firms.” To the extent that such documents concern this litigation, they are protected by the attorney–client and work product privileges. To the extent that they do not concern this litigation, such documents are outside of Plaintiff’s “possession, custody, or control.” Fed. R. Civ. P. 34(a)(1); *see also Bhasker v. Kemper Cas. Ins. Co.*, 361 F. Supp. 3d 1045, 1118 (D.N.M. 2019).

RESPONSES AND OBJECTIONS

Request to Produce 1. All Documents identified or referred to in Category 1 of “DOCUMENTS” on page 15 of your Initial Disclosures dated July 9, 2018.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 2. All Documents identified or referred to in Category 2 of “DOCUMENTS” on page 16 of your Initial Disclosures dated July 9, 2018.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 3. All Documents identified or referred to in Category 3 of “DOCUMENTS” on page 16 of your Initial Disclosures dated July 9, 2018.

Response: Plaintiff will produce responsive, non-privileged documents in her possession, custody, or control that have not been previously filed or produced in this case, and which are not publicly or equally available to Defendant.

Request to Produce 4. All Documents identified or referred to in Category 4 of “DOCUMENTS” on page 16 of your Initial Disclosures dated July 9, 2018.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 5. All Documents sent by you or on your behalf to, or received by you or on your behalf from, each of the 66 Persons you identify on pages 2–15 of your Initial Disclosures dated July 9, 2018 as likely to have discoverable information that you might use to support your claim.

Objection: This request is overly broad, unduly burdensome, harassing, and not proportional to the needs of this case. Documents responsive to this request include—but are not limited to—every communication that Plaintiff has had with her mother and father; every post she has made or interaction she has had on Facebook; every search she has made on Google, as well as the results; every piece of mail she has sent or received; and every Walmart receipt she has received since January 1, 2000.

Response: Plaintiff will not search for responsive documents unless and until Defendant amends this request to address Plaintiff's objections adequately.

Request to Produce 6. All Documents you have received from any party to this lawsuit, in connection with a request you made while prosecuting this lawsuit, whether via subpoena, document request or otherwise. This request also includes the request you made and the Communications between you and the party regarding your request and the documents produced.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 7. All Documents you have received from any non-party or third party in connection with a request you made while prosecuting this lawsuit, whether via subpoena or otherwise. This request also includes the request you made and the Communications between you and the nonparty or third-party regarding your request and the documents produced.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 8. All Documents you have received from any government entity, law enforcement entity, or prosecutor in connection with a request you made while prosecuting this lawsuit, whether via subpoena or otherwise. This request also includes the request you made and the Communications between you and the non-party or third-party regarding your request and the documents they produced.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 9. All Documents sent to or received from, including all Communications you have had with, any investigator, government entity, law enforcement entity, or prosecutor regarding (a) the disappearance of Lisa Miller or Isabella Miller, (b) the search for Lisa Miller or Isabella Miller, (c) the whereabouts of Lisa Miller or Isabella Miller; and (d) the Persons allegedly involved in assisting Lisa Miller or Isabella Miller to disappear from the United States or to remain undetected.

Objection: This request seeks information irrelevant to any party's claim or defense.

This request is also overly broad, unduly burdensome, harassing, and not proportional to the needs of this case.

Response: Plaintiff will not produce documents responsive to this request.

Request to Produce 10. All Documents concerning any requests for investigation or complaints you have made, or that were made on your behalf, to any government entity, law enforcement entity, or prosecutor, concerning any alleged involvement by Liberty Counsel (including without limitation Bill Sidebottom, Lindevaldsen or Staver) in the disappearance of Lisa Miller or Isabella Miller.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 11. Documents sent to or received from, including all Communications you have had with, the National Center for Missing and Exploited Children, regarding Isabella Miller.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 12. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen did or made any act, omission, representation or misrepresentation to assist Lisa Miller or Isabella Miller to disappear or remain undetected.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 13. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen agreed to participate in any conspiracy to assist Lisa Miller or Isabella Miller to disappear or remain undetected.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 14. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen knew of, participated in, or assisted in any way the conspiracy you allege in this lawsuit.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 15. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen had any advance knowledge of Lisa Miller's plan to leave the United States with Isabella Miller.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 16. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen have had any communications, directly or indirectly, with Lisa Miller or Isabella Miller since September 12, 2009.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 17. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen assisted or encouraged Lisa Miller to ignore or violate court orders regarding Jenkins' custody of, or visitation with, Isabella Miller, as you allege in RSAC ¶20.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 18. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen supported or encouraged Lisa Miller to move with Isabella Miller from Winchester to Lynchburg, as you allege in RSAC ¶24.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 19. All Documents which you contend show, reflect, demonstrate or prove that Defendant Wall and Lisa Miller decided and agreed as early as June of 2008 that Lisa Miller should flee with Isabella, as you allege in RSAC ¶25.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 20. All Documents which you contend show, reflect, demonstrate or prove that Response Unlimited, Inc. was working in conjunction with the lawyers at Liberty Counsel to raise funds in support of the effort to terminate contact between Jenkins and Isabella Miller, as you allege in RSAC ¶29.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 21. All Documents which you contend show, reflect, demonstrate or prove that in early 2009, Philip Zodiates offered Liberty Counsel a 'personal option' for Lisa Miller in the event that her legal fight failed, as you allege in RSAC ¶29.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 22. The emails between Lisa Miller and Debbie Thurman, the Facebook post and the Lifesitenews.com article referenced in RSAC ¶33.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 23. All Documents which you contend show, reflect, demonstrate or prove that that by the late summer of 2009, Lisa Miller and her co-conspirators had devised a plan to kidnap Isabella and avoid detection, as you allege in RSAC ¶34.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 24. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen participated in devising, knew of, agreed to, or in any way participated in the purported, plan to kidnap Isabella and avoid detection, as you allege in RSAC ¶34.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 25. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen had advance knowledge, participated, assisted or were otherwise involved in the transportation of Lisa Miller and Isabella Miller across the Canadian border, as you allege in RSAC ¶36.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 26. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen had advance knowledge, participated, assisted or were otherwise involved in the purchasing of plane tickets for, or the transportation of Lisa Miller and Isabella Miller, from Canada to Nicaragua, as you allege in RSAC ¶38.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 27. All Documents which you contend show, reflect, demonstrate or prove that Lisa Miller told Andrew Yoder that Liberty Counsel had advised her that it would be in her best interest to disappear, as you allege in RSAC ¶38.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 28. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel in fact had advised Lisa Miller that it would be in her best interest to disappear.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 29. All Communications with or about Andrew Yoder.

Response: Plaintiff has no responsive, nonprivileged documents in her possession, custody, or control that have not already been produced.

Request to Produce 30. All Communications between you and the police in connection with the welfare check you arranged at Lisa Miller's last known address in Forest, Virginia in December 2009, as you allege in RSAC ¶42, and all Documents, including without limitation police reports, concerning that welfare check.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 31. All Documents concerning your learning, allegedly in June 2010, of Lisa Miller and Isabella Miller-Jenkins' whereabouts, as you allege in in RSAC ¶43.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 32. All Documents which you claim, in RSAC ¶44, were delivered by Victoria Zodhiates from her father to Lindevaldsen at Liberty University School of Law, together with any Documents or evidence demonstrating that they were actually so delivered and when.

Response: Plaintiff has no responsive, nonprivileged documents in her possession, custody, or control that have not already been produced.

Request to Produce 33. All Documents which you contend show, reflect, demonstrate or prove that Lindevaldsen is or was an elder of Thomas Road Baptist Church, as you allege in in RSAC ¶45.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 34. All Documents which you contend show, reflect, demonstrate or prove that Lindevaldsen packed up the personal belongings of Lisa Miller to have them sent to Lisa Miller in Nicaragua, as you allege in in RSAC ¶45.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 35. All Documents which you contend show, reflect, demonstrate or prove that Victoria Hyden used her employment at Liberty University to facilitate Lisa Miller's communication with her lawyer, Rena Lindevaldsen during the time that Lindevaldsen claimed she was unable to communicate with Lisa Miller in an attempt to help her duck service of contempt and enforcement pleadings filed by Janet Jenkins to help locate Isabella, as you allege in RSAC ¶45.

Response: Plaintiff has no responsive, nonprivileged documents in her possession, custody, or control that have not already been produced.

Request to Produce 36. All Communications between Lindevaldsen and Lisa Miller facilitated by Hyden.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 37. The transcript of the testimony of Andrew Yoder which you reference and quote from in RSAC ¶56.

Objection: This request calls for documents that are equally available to Defendant.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, at Defendant's expense.

Request to Produce 38. Each false or misleading statement made by Liberty Counsel to "courts in two states" as you allege in RSAC ¶57, and all Documents which you contend show, reflect, demonstrate or prove that the statement in question was false or misleading, or that Liberty Counsel knew that the statement was false or misleading at the time the statement was made.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, and which are not publicly or equally available to Defendant.

Request to Produce 39. All Documents which you contend show, reflect, demonstrate or prove that Lindevaldsen or Liberty Counsel assisted Lisa Miller to leave the United States in advance of September 25, 2009 and to remain hidden, as you allege in RSAC ¶57.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 40. The phone records introduced at the trial of Kenneth Miller, which you reference in RSAC ¶60.

Objection: This request calls for documents that are equally available to Defendant.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, at Defendant's expense.

Request to Produce 41. All Documents which you contend show, reflect, demonstrate or prove that on September 22, 2009 Phillip Zodiates called Staver, Lindevaldsen or anyone at Liberty Counsel.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 42. All Documents which you contend show, reflect, demonstrate or prove that on September 22, 2009 Phillip Zodhiates actually reached by telephone and had a conversation of any length with Staver, Lindevaldsen or anyone at Liberty Counsel.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 43. All Documents which you contend show, reflect, demonstrate or prove the substance, time, length and participants of each Communication you contend to have taken place between Phillip Zodhiates and Lindevaldsen, Staver or anyone at Liberty Counsel on September 22, 2009.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 44. Each false or misleading statement made by Staver or Lindevaldsen to various courts in Vermont and Virginia and to the press, as you allege in RSAC ¶61, and all Documents which you contend show, reflect, demonstrate or prove that the statement in question was false or misleading, or that Liberty Counsel knew that the statement was false or misleading at the time the statement was made.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, and which are not publicly or equally available to Defendant.

Request to Produce 45. The entire statement issued by the Nicaragua Brethren, which you reference in RSAC ¶63.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 46. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen knew of, participated in, agreed to, or in any way assisted the alleged conspiracy because of alleged animus towards Jenkins' sexual orientation or towards same-sex couples, as you allege in RSAC ¶67.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 47. All Documents which you have used, or upon which you have relied, to calculate any of the damages you seek in this lawsuit, including, without limitation, any of the damages referred to on page 16 of your Initial Disclosures dated July 9, 2018.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 48. All Documents which you contend show, reflect, demonstrate or prove that you have suffered extreme emotional distress as a result of any act, omission, representation or misrepresentation of Liberty Counsel or Lindevaldsen.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 49. All Documents concerning any therapy, counseling or medical intervention you have sought or received in connection with the extreme emotional distress you allege to have suffered, including but not limited to medical provider notes, diagnoses, prescriptions, invoices, or correspondence.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 50. All Documents concerning the legal fees you allege to have incurred in RSAC ¶69.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 51. All Documents concerning the lost business damages you allege in RSAC ¶69.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 52. A profit and loss statement for your daycare business from January 1, 2000 to the present.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 53. Your tax returns from January 1, 2000 to the present.

Objection: Plaintiff's tax returns before 2004 are irrelevant to any party's claim or defense.

Response: Plaintiff will produce her tax returns from 2004 once an appropriate confidentiality order has been entered.

Request to Produce 54. The tax returns for your daycare business from January 1, 2000 to the present.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 55. Any journal or diary you have kept from January 1, 2000 to the present.

Objection: This request is overly broad, unduly burdensome, harassing, and not proportional to the needs of this case. It is unreasonable and needlessly intrusive to require Plaintiff to produce every journal or diary entry, regardless of subject matter, since January 1, 2000.

Response: Plaintiff will produce responsive, non-privileged documents in her possession, custody, or control upon which she intends to rely at trial.

Request to Produce 56. Any transcript from any trial related to the disappearance of Lisa Miller or Isabella Miller.

Objection: This request calls for documents that are equally available to Defendant.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, at Defendant's expense.

Request to Produce 57. Any exhibits or other evidence presented at any trial related to the disappearance of Lisa Miller or Isabella Miller.

Objection: This request calls for documents that are equally available to Defendant.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, at Defendant's expense.

Request to Produce 58. Any Communications you have had with any prosecutor prosecuting any trial related to the disappearance of Lisa Miller or Isabella Miller.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 59. All Documents you have obtained from any trial related to the disappearance of Lisa Miller or Isabella Miller.

Objection: This request calls for documents that are equally available to Defendant.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, at Defendant's expense.

Request to Produce 60. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel has or has had sufficient contacts with Vermont to enable the United States District Court for the District of Vermont to exercise personal jurisdiction over it.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, and which are not publicly or equally available to Defendant.

Request to Produce 61. All Documents which you contend show, reflect, demonstrate or prove that Lindevaldsen has or has had sufficient contacts with Vermont to enable the United States District Court for the District of Vermont to exercise personal jurisdiction over her.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 62. All Documents which you contend show, reflect, demonstrate or prove Staver has or has had sufficient contacts with Vermont to enable the United States District Court for the District of Vermont to exercise personal jurisdiction over him.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 63. All Documents and Communications concerning the designation of Liberty Counsel as a “hate group” by the Southern Poverty Law Center.

Objection: This request seeks information irrelevant to any party’s claim or defense.

Response: Plaintiff has no responsive documents in her possession, custody, or control.

Request to Produce 64. All Documents or Communications regarding the goal, desire or intention of the Southern Poverty Law Center to “destroy” or “completely destroy” Liberty Counsel, or organizations like Liberty Counsel, or organizations whom the Southern Poverty Law Center has designated as “hate groups.”

Objection: This request seeks information irrelevant to any party’s claim or defense.

Response: Plaintiff has no responsive documents in her possession, custody, or control.

Request to Produce 65. All documents concerning any solicitation or request from you to Southern Poverty Law Center, or from Southern Poverty Law Center to you, to represent you in this litigation.

Objection: This request seeks information protected by the attorney–client privilege.

Response: Plaintiff will not produce documents responsive to this request.

Request to Produce 66. Any retainer agreement or engagement letter between you and the Southern Poverty Law Center.

Objection: This request seeks information irrelevant to any party’s claim or defense.

Response: Plaintiff will not produce documents responsive to this request.

Request to Produce 67. All Communications you have had with Southern Poverty Law Center prior to the time they became your attorneys in this lawsuit.

Objection: This request seeks information protected by the attorney–client privilege.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 68. All Communications you have had with any organization advocating for LGBT rights, including without limitation the Southern Poverty Law Center or the National Center for Lesbian Rights, regarding Liberty Counsel, Lindevaldsen, Staver or the disappearance of Lisa Miller or Isabella Miller.

Objection: This request seeks information protected by the attorney–client privilege and the work product doctrine.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 69. All statements you have provided to the media regarding this lawsuit or the disappearance of Lisa Miller or Isabella Miller.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 70. All Documents you reviewed, consulted or relied upon in answering any interrogatories or document requests propounded upon you by Liberty Counsel or Lindevaldsen.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

October 31, 2019

Respectfully submitted.

/s/

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Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that, on this date, the foregoing document was served on the following counsel of record by email:

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October 31, 2019

/s/ _____
J. Tyler Clemons
Counsel for Plaintiffs

From: [Tyler Clemons](#)
To: [Horatio Mihet](#); [Roger Gannam](#); [Daniel Schmid](#)
Cc: [Beth Littrell](#); [Claudia Huerta](#); [Emily Joselson](#); [flangrock](#); [Jessica Stone](#); [jswift](#); [Julie Jackman](#); [Maya Rajaratnam](#); [Sarah Star](#); [Scott McCoy](#); [srs](#); [Brooks G. McArthur](#); [Anthony Duprey](#); [Adam Hochschild](#); [Norman C. Smith](#); [Toddy Ferguson](#); [Michael J. Tierney](#); [Diego Soto](#)
Subject: Jenkins: Plaintaiff's Supplemental Responses to Liberty Counsel's RFPs
Date: Wednesday, March 18, 2020 5:11:44 PM
Attachments: [Jenkins Pls Supp Responses to Liberty Counsel's 1st RFPs.pdf](#)

Hi Harry,

Please find attached Plaintiff Janet Jenkins's First Supplemental Responses to Liberty Counsel's First Requests for Production. As you will see, Plaintiff has withdrawn her objection to Request 9 and plans to make a supplemental document production by early next week at the latest.

At this time, and subject to General Objection 11, Plaintiffs are not withholding any document responsive to Liberty Counsel's requests on the basis of privilege.

Best,

Tyler



J. Tyler Clemons *they/them/mx*
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**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.

**PLAINTIFF JANET JENKINS'S FIRST SUPPLEMENTAL
RESPONSES TO DEFENDANTS LIBERTY COUNSEL, INC.'S
FIRST SET OF REQUESTS FOR PRODUCTION**

Pursuant to Rules 26, 33, and 34 of the Federal Rules of Civil Procedure, Plaintiff Janet Jenkins, by and through her attorneys, submits the following responses to Defendant Liberty Counsel, Inc. ("Defendant")'s first set of requests for production ("Discovery Requests"), served on August 29, 2019.

GENERAL OBJECTIONS AND RESERVATIONS OF RIGHTS

Plaintiff expressly incorporates all of the general objections and reserved rights set forth below into each and every response and objection to the Discovery Requests. Specific objections provided below are made in addition to these general objections and reserved rights, and a failure to reiterate a general objection or reserved right shall not constitute a waiver of that or any other objection.

1. These responses and objections are made without in any way waiving or intending to waive: (a) any objections as to the competency, relevancy, materiality, privilege, or admissibility as evidence, for any purpose, of any information produced in response to the Discovery Requests; (b) the right to object on any ground to the use of the information produced

in response to the Discovery Requests at any hearing, trial, or other proceeding in this action; (c) the right to object on any ground at any time to a demand for further responses to the interrogatories or further document productions; or (d) the right at any time to revise, correct, add to, supplement, or clarify any of the responses or objections contained herein.

2. The information supplied herein and any documents produced are for use in this action and for no other purpose.

3. Any statement by Plaintiff that she will produce documents or information responsive to any Discovery Request does not mean that she possesses responsive materials or that such materials exist, only that she will conduct a reasonable search and produce responsive, non-objectionable, nonprivileged information. No response or objection made herein, or lack thereof, is an admission by Plaintiff as to the existence or non-existence of any documents or information.

4. The responses and objections made herein are based on Plaintiff's investigation to date of those sources within her control where she reasonably believes responsive information might exist.

5. Plaintiff's investigation and discovery efforts in this action are ongoing. Plaintiff reserves the right to amend or supplement these responses and objections with additional information that might become available or come to her attention, and to rely upon such information at any hearing, trial, or other point during this action consistent with the applicable Federal Rules of Civil Procedure and the local rules of this Court.

6. Plaintiff objects to Defendant's Definitions and General Instructions to the extent they impose additional or greater obligations than those imposed by the Federal Rules of Civil

Procedure, this Court's local rules, or the discovery schedule approved by the Court (ECF 320, 329, 355).

7. Plaintiff objects to each request to the extent it seeks discovery that is outside the scope permitted by the Federal Rules of Civil Procedure.

8. Plaintiff objects to the Discovery Requests to the extent the discovery sought is unreasonably cumulative or duplicative, is publicly available, or can be obtained from some other source that is more convenient, less burdensome, or less expensive.

9. Plaintiff objects to the Discovery Requests to the extent the discovery sought is available to Defendant and the burden on Defendant to obtain the discovery sought is no greater than the burden on Plaintiff. If necessary, Plaintiff will produce any such documents at Defendant's expense.

10. Plaintiff objects to the Discovery Requests to the extent they demand the production of documents or information that are privileged or otherwise protected against discovery pursuant to the attorney–client privilege, the work product doctrine, the consulting expert rule, or any other legally recognized privilege, immunity, or exemption from discovery under any other applicable rule or statutory or common-law protection against disclosure, including the laws of the country or countries where such documents are located. To the extent that any such protected documents or information are inadvertently produced in response to the Discovery Requests, the production of such documents or information shall not constitute a waiver of Plaintiff's right to assert the applicability of any privilege or immunity to the documents or information, and any such documents or information shall be returned to Plaintiff's counsel immediately upon discovery thereof.

11. Plaintiff objects to Defendant’s definition of “Jenkins,” “Plaintiff,” “you,” and “your” to the extent that it includes Plaintiff’s attorneys and their law firms and that it purports to extend the Requests to “encompass, without limitation, all responsive documents in the custody, possession or control of such attorneys and law firms.” To the extent that such documents concern this litigation, they are protected by the attorney–client and work product privileges. To the extent that they do not concern this litigation, such documents are outside of Plaintiff’s “possession, custody, or control.” Fed. R. Civ. P. 34(a)(1); *see also Bhasker v. Kemper Cas. Ins. Co.*, 361 F. Supp. 3d 1045, 1118 (D.N.M. 2019). Plaintiffs object to the production of a privilege log for such communications as unduly burdensome; such documents would span more than fifteen years of litigation and would likely contain little to no relevant information. *See Edmonson v. RCI Hospitality Holdings, Inc.*, No. 16-cv-2242, 2018 WL 4112816, at *2 & n.2 (S.D.N.Y. Aug. 29, 2018).

RESPONSES AND OBJECTIONS

Request to Produce 1. All Documents identified or referred to in Category 1 of “DOCUMENTS” on page 15 of your Initial Disclosures dated July 9, 2018.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 2. All Documents identified or referred to in Category 2 of “DOCUMENTS” on page 16 or your Initial Disclosures dated July 9, 2018.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 3. All Documents identified or referred to in Category 3 of “DOCUMENTS” on page 16 or your Initial Disclosures dated July 9, 2018.

Response: Plaintiff will produce responsive, non-privileged documents in her possession, custody, or control that have not been previously filed or produced in this case, and which are not publicly or equally available to Defendant.

Request to Produce 4. All Documents identified or referred to in Category 4 of “DOCUMENTS” on page 16 or your Initial Disclosures dated July 9, 2018.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 5. All Documents sent by you or on your behalf to, or received by you or on your behalf from, each of the 66 Persons you identify on pages 2–15 of your Initial Disclosures dated July 9, 2018 as likely to have discoverable information that you might use to support your claim.

Objection: This request is overly broad, unduly burdensome, harassing, and not proportional to the needs of this case. Documents responsive to this request include—but are not limited to—every communication that Plaintiff has had with her mother and father; every post she has made or interaction she has had on Facebook; every search she has made on Google, as well as the results; every piece of mail she has sent or received; and every Walmart receipt she has received since January 1, 2000.

Response: Plaintiff will not search for responsive documents unless and until Defendant amends this request to address Plaintiff’s objections adequately.

Request to Produce 6. All Documents you have received from any party to this lawsuit, in connection with a request you made while prosecuting this lawsuit, whether via subpoena, document request or otherwise. This request also includes the request you made and the Communications between you and the party regarding your request and the documents produced.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 7. All Documents you have received from any non-party or third party in connection with a request you made while prosecuting this lawsuit, whether via subpoena or otherwise. This request also includes the request you made and the Communications between you and the nonparty or third-party regarding your request and the documents produced.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 8. All Documents you have received from any government entity, law enforcement entity, or prosecutor in connection with a request you made while prosecuting this lawsuit, whether via subpoena or otherwise. This request also includes the request you made and the Communications between you and the non-party or third-party regarding your request and the documents they produced.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 9. All Documents sent to or received from, including all Communications you have had with, any investigator, government entity, law enforcement entity, or prosecutor regarding (a) the disappearance of Lisa Miller or Isabella Miller, (b) the search for Lisa Miller or Isabella Miller, (c) the whereabouts of Lisa Miller or Isabella Miller; and (d) the Persons allegedly involved in assisting Lisa Miller or Isabella Miller to disappear from the United States or to remain undetected.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 10. All Documents concerning any requests for investigation or complaints you have made, or that were made on your behalf, to any government entity, law enforcement entity, or prosecutor, concerning any alleged involvement by Liberty Counsel (including without limitation Bill Sidebottom, Lindevaldsen or Staver) in the disappearance of Lisa Miller or Isabella Miller.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 11. Documents sent to or received from, including all Communications you have had with, the National Center for Missing and Exploited Children, regarding Isabella Miller.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 12. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen did or made any act, omission, representation or misrepresentation to assist Lisa Miller or Isabella Miller to disappear or remain undetected.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 13. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen agreed to participate in any conspiracy to assist Lisa Miller or Isabella Miller to disappear or remain undetected.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 14. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen knew of, participated in, or assisted in any way the conspiracy you allege in this lawsuit.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 15. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen had any advance knowledge of Lisa Miller's plan to leave the United States with Isabella Miller.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 16. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen have had any communications, directly or indirectly, with Lisa Miller or Isabella Miller since September 12, 2009.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 17. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen assisted or encouraged Lisa Miller to ignore or violate court orders regarding Jenkins' custody of, or visitation with, Isabella Miller, as you allege in RSAC ¶20.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 18. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen supported or encouraged Lisa Miller to move with Isabella Miller from Winchester to Lynchburg, as you allege in RSAC ¶24.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 19. All Documents which you contend show, reflect, demonstrate or prove that Defendant Wall and Lisa Miller decided and agreed as early as June of 2008 that Lisa Miller should flee with Isabella, as you allege in RSAC ¶25.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 20. All Documents which you contend show, reflect, demonstrate or prove that Response Unlimited, Inc. was working in conjunction with the lawyers at Liberty Counsel to raise funds in support of the effort to terminate contact between Jenkins and Isabella Miller, as you allege in RSAC ¶29.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 21. All Documents which you contend show, reflect, demonstrate or prove that in early 2009, Philip Zodhiates offered Liberty Counsel a ‘personal option’ for Lisa Miller in the event that her legal fight failed, as you allege in RSAC ¶29.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 22. The emails between Lisa Miller and Debbie Thurman, the Facebook post and the Lifesitenews.com article referenced in RSAC ¶33.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 23. All Documents which you contend show, reflect, demonstrate or prove that that by the late summer of 2009, Lisa Miller and her co-conspirators had devised a plan to kidnap Isabella and avoid detection, as you allege in RSAC ¶34.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 24. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen participated in devising, knew of, agreed to, or in any way participated in the purported, plan to kidnap Isabella and avoid detection, as you allege in RSAC ¶34.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 25. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen had advance knowledge, participated, assisted or were otherwise involved in the transportation of Lisa Miller and Isabella Miller across the Canadian border, as you allege in RSAC ¶36.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 26. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen had advance knowledge, participated, assisted or were otherwise involved in the purchasing of plane tickets for, or the transportation of Lisa Miller and Isabella Miller, from Canada to Nicaragua, as you allege in RSAC ¶38.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 27. All Documents which you contend show, reflect, demonstrate or prove that Lisa Miller told Andrew Yoder that Liberty Counsel had advised her that it would be in her best interest to disappear, as you allege in RSAC ¶38.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 28. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel in fact had advised Lisa Miller that it would be in her best interest to disappear.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 29. All Communications with or about Andrew Yoder.

Response: Plaintiff has no responsive, nonprivileged documents in her possession, custody, or control that have not already been produced.

Request to Produce 30. All Communications between you and the police in connection with the welfare check you arranged at Lisa Miller's last known address in Forest, Virginia in December 2009, as you allege in RSAC ¶42, and all Documents, including without limitation police reports, concerning that welfare check.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 31. All Documents concerning your learning, allegedly in June 2010, of Lisa Miller and Isabella Miller-Jenkins' whereabouts, as you allege in in RSAC ¶43.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 32. All Documents which you claim, in RSAC ¶44, were delivered by Victoria Zodiates from her father to Lindevaldsen at Liberty University School of Law, together with any Documents or evidence demonstrating that they were actually so delivered and when.

Response: Plaintiff has no responsive, nonprivileged documents in her possession, custody, or control that have not already been produced.

Request to Produce 33. All Documents which you contend show, reflect, demonstrate or prove that Lindevaldsen is or was an elder of Thomas Road Baptist Church, as you allege in in RSAC ¶45.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 34. All Documents which you contend show, reflect, demonstrate or prove that Lindevaldsen packed up the personal belongings of Lisa Miller to have them sent to Lisa Miller in Nicaragua, as you allege in in RSAC ¶45.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 35. All Documents which you contend show, reflect, demonstrate or prove that Victoria Hyden used her employment at Liberty University to facilitate Lisa Miller's communication with her lawyer, Rena Lindevaldsen during the time that Lindevaldsen claimed she was unable to communicate with Lisa Miller in an attempt to help her duck service of contempt and enforcement pleadings filed by Janet Jenkins to help locate Isabella, as you allege in RSAC ¶45.

Response: Plaintiff has no responsive, nonprivileged documents in her possession, custody, or control that have not already been produced.

Request to Produce 36. All Communications between Lindevaldsen and Lisa Miller facilitated by Hyden.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 37. The transcript of the testimony of Andrew Yoder which you reference and quote from in RSAC ¶56.

Objection: This request calls for documents that are equally available to Defendant.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, at Defendant's expense.

Request to Produce 38. Each false or misleading statement made by Liberty Counsel to "courts in two states" as you allege in RSAC ¶57, and all Documents which you contend show, reflect, demonstrate or prove that the statement in question was false or misleading, or that Liberty Counsel knew that the statement was false or misleading at the time the statement was made.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, and which are not publicly or equally available to Defendant..

Request to Produce 39. All Documents which you contend show, reflect, demonstrate or prove that Lindevaldsen or Liberty Counsel assisted Lisa Miller to leave the United States in advance of September 25, 2009 and to remain hidden, as you allege in RSAC ¶57.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 40. The phone records introduced at the trial of Kenneth Miller, which you reference in RSAC ¶60.

Objection: This request calls for documents that are equally available to Defendant.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, at Defendant's expense.

Request to Produce 41. All Documents which you contend show, reflect, demonstrate or prove that on September 22, 2009 Phillip Zodhiates called Staver, Lindevaldsen or anyone at Liberty Counsel.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 42. All Documents which you contend show, reflect, demonstrate or prove that on September 22, 2009 Phillip Zodhiates actually reached by telephone and had a conversation of any length with Staver, Lindevaldsen or anyone at Liberty Counsel.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 43. All Documents which you contend show, reflect, demonstrate or prove the substance, time, length and participants of each Communication you contend to have taken place between Phillip Zodhiates and Lindevaldsen, Staver or anyone at Liberty Counsel on September 22, 2009.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 44. Each false or misleading statement made by Staver or Lindevaldsen to various courts in Vermont and Virginia and to the press, as you allege in RSAC ¶61, and all Documents which you contend show, reflect, demonstrate or prove that the statement in question was false or misleading, or that Liberty Counsel knew that the statement was false or misleading at the time the statement was made.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, and which are not publicly or equally available to Defendant..

Request to Produce 45. The entire statement issued by the Nicaragua Brethren, which you reference in RSAC ¶63.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 46. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel or Lindevaldsen knew of, participated in, agreed to, or in any way assisted the alleged conspiracy because of alleged animus towards Jenkins' sexual orientation or towards same-sex couples, as you allege in RSAC ¶67.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 47. All Documents which you have used, or upon which you have relied, to calculate any of the damages you seek in this lawsuit, including, without limitation, any of the damages referred to on page 16 of your Initial Disclosures dated July 9, 2018.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 48. All Documents which you contend show, reflect, demonstrate or prove that you have suffered extreme emotional distress as a result of any act, omission, representation or misrepresentation of Liberty Counsel or Lindevaldsen.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 49. All Documents concerning any therapy, counseling or medical intervention you have sought or received in connection with the extreme emotional distress you allege to have suffered, including but not limited to medical provider notes, diagnoses, prescriptions, invoices, or correspondence.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 50. All Documents concerning the legal fees you allege to have incurred in RSAC ¶69.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 51. All Documents concerning the lost business damages you allege in RSAC ¶69.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 52. A profit and loss statement for your daycare business from January 1, 2000 to the present.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 53. Your tax returns from January 1, 2000 to the present.

Objection: Plaintiff's tax returns before 2004 are irrelevant to any party's claim or defense.

Response: Plaintiff will produce her tax returns from 2004 once an appropriate confidentiality order has been entered.

Request to Produce 54. The tax returns for your daycare business from January 1, 2000 to the present.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 55. Any journal or diary you have kept from January 1, 2000 to the present.

Objection: This request is overly broad, unduly burdensome, harassing, and not proportional to the needs of this case. It is unreasonable and needlessly intrusive to require Plaintiff to produce every journal or diary entry, regardless of subject matter, since January 1, 2000.

Response: Plaintiff will produce responsive, non-privileged documents in her possession, custody, or control upon which she intends to rely at trial.

Request to Produce 56. Any transcript from any trial related to the disappearance of Lisa Miller or Isabella Miller.

Objection: This request calls for documents that are equally available to Defendant.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, at Defendant's expense.

Request to Produce 57. Any exhibits or other evidence presented at any trial related to the disappearance of Lisa Miller or Isabella Miller.

Objection: This request calls for documents that are equally available to Defendant.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, at Defendant's expense.

Request to Produce 58. Any Communications you have had with any prosecutor prosecuting any trial related to the disappearance of Lisa Miller or Isabella Miller.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 59. All Documents you have obtained from any trial related to the disappearance of Lisa Miller or Isabella Miller.

Objection: This request calls for documents that are equally available to Defendant.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, at Defendant's expense.

Request to Produce 60. All Documents which you contend show, reflect, demonstrate or prove that Liberty Counsel has or has had sufficient contacts with Vermont to enable the United States District Court for the District of Vermont to exercise personal jurisdiction over it.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control, and which are not publicly or equally available to Defendant.

Request to Produce 61. All Documents which you contend show, reflect, demonstrate or prove that Lindevaldsen has or has had sufficient contacts with Vermont to enable the United States District Court for the District of Vermont to exercise personal jurisdiction over her.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 62. All Documents which you contend show, reflect, demonstrate or prove Staver has or has had sufficient contacts with Vermont to enable the United States District Court for the District of Vermont to exercise personal jurisdiction over him.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 63. All Documents and Communications concerning the designation of Liberty Counsel as a “hate group” by the Southern Poverty Law Center.

Objection: This request seeks information irrelevant to any party’s claim or defense.

Response: Plaintiff has no responsive documents in her possession, custody, or control.

Request to Produce 64. All Documents or Communications regarding the goal, desire or intention of the Southern Poverty Law Center to “destroy” or “completely destroy” Liberty Counsel, or organizations like Liberty Counsel, or organizations whom the Southern Poverty Law Center has designated as “hate groups.”

Objection: This request seeks information irrelevant to any party’s claim or defense.

Response: Plaintiff has no responsive documents in her possession, custody, or control.

Request to Produce 65. All documents concerning any solicitation or request from you to Southern Poverty Law Center, or from Southern Poverty Law Center to you, to represent you in this litigation.

Objection: This request seeks information protected by the attorney–client privilege.

This request also seeks information irrelevant to any party’s claim or defense.

Response: Plaintiff will not produce documents responsive to this request.

Request to Produce 66. Any retainer agreement or engagement letter between you and the Southern Poverty Law Center.

Objection: This request seeks information irrelevant to any party's claim or defense.

Response: Plaintiff will not produce documents responsive to this request.

Request to Produce 67. All Communications you have had with Southern Poverty Law Center prior to the time they became your attorneys in this lawsuit.

Objection: This request seeks information protected by the attorney–client privilege.

This request also seeks information irrelevant to any party's claim or defense.

Response: Plaintiff will not produce documents responsive to this request.

Request to Produce 68. All Communications you have had with any organization advocating for LGBT rights, including without limitation the Southern Poverty Law Center or the National Center for Lesbian Rights, regarding Liberty Counsel, Lindevaldsen, Staver or the disappearance of Lisa Miller or Isabella Miller.

Objection: This request seeks information protected by the attorney–client privilege and the work product doctrine. This request also seeks information irrelevant to any party's claim or defense. This request is also vague, overly broad, unduly burdensome, harassing, and not proportional to the needs of this case. "Any organization advocating for LGBT rights" could include not only organizations for which Plaintiff's attorneys have worked during their representation of her, but also hundreds of other organizations.

Response: Plaintiff will not produce documents responsive to this request.

Request to Produce 69. All statements you have provided to the media regarding this lawsuit or the disappearance of Lisa Miller or Isabella Miller.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

Request to Produce 70. All Documents you reviewed, consulted or relied upon in answering any interrogatories or document requests propounded upon you by Liberty Counsel or Lindevaldsen.

Response: Plaintiff will produce responsive, nonprivileged documents in her possession, custody, or control.

March 18, 2020

Respectfully submitted.

/s/ J. Tyler Clemons

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