

**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 REVISED SECOND MOTION TO COMPEL DISCOVERY**

AND

**DEFENDANTS’ RENEWED CROSS-MOTION
FOR SANCTIONS AGAINST PLAINTIFF**

Pursuant to Local Rules 7 and 26, Fed. R. Civ. P. 37(a)(5), and this Court’s Order entered on September 14, 2020 (dkt. 563), 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 Janet Jenkins’s (“Plaintiff” or “Jenkins”) Revised Second Motion to Compel (Dkt. 591), and renew their previous cross-motion for sanctions against Plaintiff (dks. 485, 513) for continually filing unnecessary and unmerited discovery motions, based on deceptive narratives and fabrications. For the reasons that follow, Plaintiff’s Revised Second Motion to Compel should be denied, and Defendants’ Renewed Cross-Motion for Sanctions should be granted.

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INTRODUCTION

Plaintiff's Revised Second Motion to Compel (dkt. 591), like her previous installment, is yet another colossal waste of the Court's time. It is based principally, if not entirely, on Plaintiff's debunked and demonstrably false narrative that Defendants have been "purposefully sluggish," when in fact Defendants have expended a massive 500-hour effort to provide a comprehensive, complete and gigantic 42,000-page document production that fully addresses the pending document requests, all in record time. Plaintiff's motion is chock-full of yet another round of brand-new complaints that Plaintiff has never bothered to meet and confer about with Defendants prior to filing, as she was plainly required to do, which is reason alone to reject them. And Plaintiff also reprises some of her older complaints, even after they were shown to lack merit.

One such complaint is Plaintiff's incessant charge that Defendants are not providing sufficient "detail" in their privilege log subject-matter descriptions. But Plaintiff herself told Defendants that she would be willing to accept "broad" subject-matter descriptions that say nothing beyond the fact that withheld documents are "concerning the Vermont litigation." In the face of that representation, and in light of Defendants' providing Plaintiff with significantly more detail than she said would suffice, Plaintiff's never-ending complaints about the "lack of detail" are not just without merit, but fraudulent. Plaintiff is asking the Court to impose the most serious and draconian sanction of privilege waiver upon Defendants, even when Plaintiff agreed to receive significantly less detail than Defendants provided.

Plaintiff is also now suggesting brand new ESI search terms that she has never suggested before, and she claims Defendants were "unreasonable" for not employing them on their own. But Plaintiff's new terms are so common, broad and general, that they would result in over a **half million hits**, which would take Defendants literally thousands of hours and many months, if not a

year, to review and produce. An overwhelming number of those hits would have absolutely nothing to do with this case. It is Plaintiff's new demands—never before shared, much less negotiated with Defendants—that are “unreasonable” and should be rejected.

Finally, when (and because) all else fails, Plaintiff now casually requests, in drive-by fashion, the most severe of case-ending sanctions, including adverse inference instructions and claim or argument preclusion, because Defendants could not keep every single routine email in an underlying case that spanned a half decade. Plaintiff does not bring to the Court even a hint of culpability or bad faith, and has nothing to dispute Defendants' explanation that they were forced to discard routine emails in **all** of their cases because of size limitations, and they did so in this case many **years** before Plaintiff filed suit against them. Plaintiff also offers not even a hint that any “inculpatory” emails ever existed (of course they did not), and is content to just speculate that they did. Plaintiff's roughshod spoliation claim is only her latest attempt to prevail on tactics and discovery games, where she cannot prevail on the merits.

For all of the reasons that follow, the Court should deny Plaintiff's Revised Second Motion to Compel, deny her request for sanctions, and grant Defendants' Renewed Cross-Motion for Sanctions.

LEGAL ARGUMENT

I. DEFENDANTS' DOCUMENT PRODUCTION WAS TIMELY, COMPREHENSIVE AND COMPLETE.

A. Defendants' Comprehensive and Massive Document Search and Production Was Not Only Timely, but Significantly Speedier Than Plaintiff's Smaller and Slower Document Search and Production.

Jenkins premises her Revised Second Motion, just as she did her previous motion, on her contention that Defendants engaged in “foot-dragging and purposeful sluggishness,” and that Defendants took too long to provide their 42,356-page document production. (Revised Second

Motion, dkt. 591 at 10). Indeed, Jenkins devotes the first ten pages—almost half of her current installment—to reprising her selective recitation of “facts” and recycling her tiresome argument that Defendants were too slow. (*See id.*) For at least five reasons, Jenkins’ argument—and the lynchpin to her motion—is not just meritless, but outright frivolous and worthy of sanctions.

First, there is no world in which a party who spends 422 attorney hours and 69 staff hours—nearly 500 hours total—to produce about 42,000 pages of documents **in just four-and-a-half months** (Mihet Decl., dkt. 580 ¶¶ 7-14) could be fairly characterized as “purposefully sluggish” and “dragging its feet.” This is the exact opposite of “slow.” Even if there were no other considerations, and if counsel had no other cases but this one, the size of the effort compared with the abbreviated time is extraordinary. But here, when this Court issued its Order granting Plaintiff’s first motion to compel on October 29, 2019, counsel for Defendants were still involved in a jury trial on the West Coast which had started many weeks earlier, and which fully consumed their time until November 15, 2019. (Verified Facts in Defendants’ Opp. to Pl. Second Mot. to Compel, dkt. 485, p. 7, ¶ 14). With two weeks thus already gone, Defendants’ counsel then worked expeditiously, many days around the clock, to complete the massive document review and production, having to contend not only with their other caseload, but also with the Thanksgiving, Christmas and New Years holidays. (*Id.*, dkt. 485, pp. 7-15, ¶¶ 13-46). Defendants’ counsel met with Jenkins’ counsel just six business days after their long-running California jury trial was completed, provided estimates of completion, engaged in good faith negotiations over search terms for some of the requests, and kept Jenkins’ counsel apprised throughout the process. (*Id.*) As previously detailed, Defendants’ counsel were attentive, responsive and professional throughout,

attempting as best they could to meet the unilateral and unforgiving, but entirely artificial,¹ deadlines imposed by Jenkins' counsel. (*Id.*)

Second, Defendants' 18-week timing in locating, reviewing and producing 42,000 pages was much faster than is typical for similar productions undertaken even by mega litigation firms with hundreds of lawyers at their disposal. (*Id.* at pp. 15-16, ¶¶ 47-51). Defendants have recounted other cases in which a 700-lawyer firm, with 14 lawyers appearing in the case, took twenty-one months to produce 33,761 pages; and a 1,000-lawyer firm, two dozen of which were involved in the case, took twenty-four months to locate, review and produce 17,500 pages. (*Id.*) Defendants' counsel are part of a small pro bono legal department at a public interest firm, and do not have hundreds, or even more than three, attorneys available to assist in this case, and yet they searched for, reviewed and produced **more** documents in significantly less time. 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.

Third, the absurdity of Jenkins' contention of "purposeful sluggishness" is evidenced not only by the amount of time it takes for similar document productions in other cases, but also by Jenkins' own document production in this case, which was smaller and significantly slower than Defendants' production. As previously demonstrated, Defendants served their document requests on Jenkins on August 29, 2019. (Dkt. 485-10). Jenkins provided her written responses two months later, on October 31, 2019, indicating that she "will produce responsive, nonprivileged documents in her possession, custody, or control" at some unspecified time in the future. (*Id.*) Thereafter,

¹ As previously demonstrated, this Court did not impose any deadlines for compliance in its October 29, 2019 Order, and there were no discovery deadlines, no dispositive motion deadlines, and no trial dates set. (*Id.* at p. 4, ¶ 5; p. 16, ¶ 52).

Plaintiff's document production took place in fits and starts every few weeks, sputtering along for many months. (*See e.g.*, dkt. 427, dkt. 460, dkt. 482, dkt. 490, dkt. 535, dkt. 551).

Indeed, **seven months** after Defendants served their document requests, even as Jenkins was already complaining to this Court of **Defendants'** "sluggishness" (that is, one month **after** filing her Second Motion to Compel on February 24, 2020), Jenkins produced some 3,436 pages of documents on March 20, 2020. (Dkt. 513-1; dkt. 482). Then, the following month, on April 10, 2020, **eight months** after Defendants' document requests, Jenkins produced yet another 1,569 pages of documents. (Dkt. 513-2; dkt. 490). Two-and-a-half months later still, on June 25, 2020, **ten months** after Defendants' document requests, Jenkins produced yet another 171 pages of documents (dkt. 535), which she admitted should have been produced earlier but were not because of "oversight." (Supplemental Declaration of Horatio G. Mihet (hereinafter "Supp. Mihet Decl."), ¶ 4 and Exh. 1) (attached hereto as **Exhibit A**). Then, another two months later, on August 25, 2020, Jenkins produced yet another 935 pages of documents. (Dkt. 551; *see also*, Supp. Mihet Decl. ¶ 5 and Exh. 2). It was only then, four days shy of **one year** after Defendants' document requests, that Jenkins certified in amended discovery responses that her document production was complete. (Supp. Mihet Decl., ¶ 6 and Exh. 3). But three months later, on November 17, 2020, (and now almost **15 months** after Defendants' document requests) during the deposition of one of Plaintiff's experts, Plaintiff discovered yet another oversight in her previous document productions, and produced still more. (*Id.* at ¶ 7 and Exh. 4).

Importantly, many of the documents belatedly produced by Jenkins between the filing of her second motion to compel on February 24, 2020 and present day go back many years, some to 2009 or earlier. (*Id.* at ¶ 8). Many of them were authored by Jenkins, her immediate family, or her counsel, and thus presumably have been in her possession all along. (*Id.*). Thus, these are not

“supplemental” productions in the true sense of the word, because these are not newly created, acquired or discovered documents. (*Id.*). Instead, these are documents that should and must have been produced long ago. (*Id.*).

So, Jenkins complains bitterly and incessantly that Defendants took four-and-a-half months after this Court granted her first motion to compel to complete their 42,000-page document production, while Jenkins was still producing documents responsive to Defendants’ document requests seven, eight, ten, twelve and fifteen months after those were served. The sheer size of Jenkins’ legal team at least doubles, if not triples, the three attorneys representing these Defendants (*see generally*, docket listing of counsel in this case), and yet Jenkins is demonstrably more “sluggish” than the counsel of which she continually complains. The Court should not entertain such duplicitous tactics.

Fourth, apparently aware that her characterization of Defendants’ 500-hour, 42,000-page, 18-week effort as “sluggish” is as ridiculous as it sounds, Jenkins again redoubles her efforts to cast Defendants’ document search and production as a “two year” ordeal rather than the four-and-a-half months it actually took. (Dkt. 591 at 8-9). But this artifice merely seeks to travel again on Jenkins’ previous arguments that the sixteen months preceding this Court’s October 29, 2019 Order granting in part Jenkins’ first motion to compel—and thus her first motion to compel itself—ought to be counted against Defendants’ timeliness as well, not just the four-and-a-half months that followed, during which Defendants made their production. (*Id.*) This is pure sophistry. Jenkins and Defendants had good faith disagreements about the breadth of Jenkins’ discovery requests, which led to Jenkins’ filing her first motion to compel. (Dkt. 361). This Court decided that motion on October 29, 2019, and resolved the parties’ disagreements, **by substantially narrowing some of Jenkins’ overbroad requests** (significantly limiting them to “communications” instead of “all

documents”). (Dkt. 395). Jenkins did not request sanctions in her motion (dkt. 361), and the Court did not award sanctions. (Dkt. 395). This Court rightfully did not find that Defendants’ discovery objections were brought in bad faith—on the contrary, **it partly agreed with Defendants.** (*Id.*) Defendants could not have made their production as to items disputed in Jenkins’ first motion to compel before that motion was decided by the Court, and therefore Defendants’ response period was the four-and-a-half months that followed that decision, not the sixteen months that preceded it. The Court should reject Jenkins’ attempts to re-litigate her first motion to compel now.

Fifth, and finally, in its recent Order denying Jenkins’ second motion to compel and establishing the procedures for the instant proceedings (dkt. 563), this Court required Jenkins to submit a revised motion to compel as to any outstanding discovery issues, after which “Defendants shall respond ... on or before November 30, 2020 **by either providing the requested discovery** or arguing why they need not do so.” (*Id.* at 3-4 (emphasis added)). By giving Defendants an opportunity to provide additional discovery (or amended privilege logs) to Jenkins even now, this Court sent an unmistakable message that—whether it was four months or 24 months—this Court was interested in resolving substantive discovery issues, and not in contrived discovery complaints about form and timing. Unfortunately, Jenkins did not get the message, and devoted half of her revised motion to rehashing the past, and re-casting “facts” into a false narrative of “purposeful sluggishness,” when Defendants’ production has been demonstrably anything but. And the reason for this will become apparent: without the complaints about “delay,” such as they are, Jenkins has nothing of substance to bring the Court. Jenkins’ motion should be denied, and Jenkins should be sanctioned for continuing to push false and deceptive narratives.

B. Defendants' Document Search and Production Was Comprehensive and Complete.

Among the 42,000 pages of documents Defendants produced in this case, and the almost three hundred documents logged for privilege, are **over 14,750 pages** of Defendants' communications with Lisa Miller and Isabella Miller, Defendants' communications about Lisa Miller, Isabella Miller and Janet Jenkins, Defendants' documents and communications about the child custody dispute between Lisa Miller and Janet Jenkins, and the court orders related to that dispute. (Supp. Mihet Decl., ¶ 22(a)). Included in this subset are Defendants' email communications with and about Lisa Miller (and Isabella Miller and Janet Jenkins), and Defendants' statements, press releases, constituent communications, fundraising appeals and internal communications about the Miller-Jenkins litigation. (*Id.*) And, in addition to this subset, Defendants produced and logged hundreds of pages of communications on the ten specific dates in 2009 requested by Plaintiff. (*Id.* at ¶ 22(b)). And, Defendants produced many thousands of documents containing the search terms agreed-upon with Plaintiff for her Requests 64-69, seeking Defendants' policies and positions on various topics, including **7,598 pages** on "civil disobedience alone." (*Id.* at ¶ 22(c)).

1. Defendants conducted a complete and comprehensive search and production for Requests 4-8, 11-12, and 17-18.

Not satisfied with literally **thousands** of pages that Defendants have found and produced and logged in these categories, Jenkins now brings five complaints regarding Defendants' search and production for Defendants' communications with and about Janet Jenkins, Lisa Miller and Isabella Miller, and Defendants' documents and communications regarding the Miller-Jenkins custody dispute and the related court orders. (Dkt. 591 at 10-13). None have any merit.

a. Defendants have searched all email accounts in their custody, possession or control.

Jenkins first charges, falsely, that Defendants' search "was woefully inadequate" because Defendants did not search all of their email accounts. (Dkt. 591 at 11).

First, these complaints are brand new. Jenkins has never before raised these issues in any meet-and-confer with Defendants (Supp. Mihet Decl., ¶¶ 9, 15, 19), as she was plainly required to do before filing her revised second motion to compel.² For this reason alone, this Court should reject her complaint.³ And, because Jenkins continually makes a habit of bringing to this Court

² 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).

³ 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. 11Civ. 5088 (RMB)(HBP), 2016 WL 616386, *11 (S.D.N.Y. Fed. 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.**" (emphasis added)); *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).

brand new discovery complaints without first discussing them with Defendants (*see e.g.*, dkt. 485 at 27-33 (detailing Plaintiff's failure to engage in required meet-and-confer prior to filing her last motion to compel)), this Court should sanction Jenkins so that she will stop this abusive practice. (*See* Section IV, *infra*).

Second, if Jenkins **had** met and conferred with Defendants about this complaint, she would have learned that it is baseless, and would (hopefully) not have troubled the Court with yet another unfounded complaint:

- i) The “onlyonemommy@yahoo.com” email account that Plaintiff complains about, to the extent it exists, does not belong to Rena Lindevaldsen, and is not in Defendants’ custody, possession or control. (Supp. Mihet Decl., ¶ 11). Lindevaldsen has no recollection of ever creating such an account, or ever sending or receiving an email on such an account. (*Id.* at ¶ 9). Yahoo.com advises that no such email account exists. (*Id.* at ¶ 10). Neither of the two documents referenced by Plaintiff—JENKINS26474 and JENKINS27106—which Plaintiff says were produced to her by nonparty Debbie Thurman, and which, according to Plaintiff, purport to attribute the “onlyonemommy@yahoo.com” email account to Lindevaldsen (dkt. 591 at 11), were authored or published by either Lindevaldsen or Liberty Counsel, and Defendants do not know what these purported documents are, nor the basis for any claim or assumption that this email account belongs to Lindevaldsen. (*Id.* at ¶ 12). Plaintiff recently spent a full day deposing nonparty Debbie Thurman, but did not ask her a single question about this supposed email account, nor about these two documents Thurman produced, nor about the basis for Thurman’s supposed attribution of this account to Lindevaldsen. (*Id.* at ¶ 13).

ii) Plaintiff's complaint that "Defendants do not specify what email accounts they searched" is even more spurious. Defendants' discovery Declaration very clearly states, repeatedly, that Defendants searched "their email and electronic document databases," to include also Lindevaldsen's "separate email accounts." (*E.g.*, Mihet Decl., dkt. 580, ¶¶ 16, 19, 23, 31.) The **only** way to read these all-inclusive statements is that Defendants searched **all** email accounts in their custody, possession, or control that can even plausibly contain any responsive communications. (Supp. Mihet Decl., ¶ 14). Still, if Plaintiff was truly confused, and needed a clarification, she could have asked Defendants for more information, as she was required to do, instead of coming to the Court with yet another previously un-aided complaint. (*Id.* at ¶ 15). Had she done so, Defendants would have told her that their search included **all** of the email accounts to which Lindevaldsen has access (business and personal), **all** of the email accounts to which Mathew Staver has access (business and personal), and **all** of the Liberty Counsel email accounts of Liberty Counsel employees. (*Id.*). Liberty Counsel did not even limit its search to a handful of document custodians that had actual involvement in the Jenkins-Miller custody litigation, as Liberty Counsel rightfully could have done, but searched all email accounts of all of its employees. (*Id.*)

Moreover, in addition to the document requests she propounded upon Lindevaldsen and Liberty Counsel, Plaintiff served **dozens** of nonparty document subpoenas in this case, including to Liberty University. (Supp. Mihet Decl., ¶ 16). Liberty University independently searched the liberty.edu email accounts of Lindevaldsen and Mathew Staver (among many others), produced all responsive and non-privileged documents, and Plaintiff was provided with a privilege log for

all privileged emails. (*Id.*) **Plaintiff therefore has all responsive and non-privileged emails from liberty.edu and lc.org accounts she requested.**⁴ (*Id.* at ¶ 18).

Therefore, far from being “woefully inadequate,” Defendants’ search was comprehensive, thorough, and complete. By not limiting their search to only a handful of document custodians that had actual involvement in the Miller-Jenkins litigation, and by searching instead the email accounts of all employees, Defendants went far beyond what could reasonably be required of them. What Plaintiff’s complaints boil down to is that Defendants have not searched phantom email accounts, or email accounts to which they have no access. Plaintiff is wasting this Court’s time with bogus complaints that she did not even bother to discuss with Defendants first.

b. Defendants’ search and production comprehensively included all communications with Lisa Miller.

Plaintiff’s second complaint is that Defendants only searched for their communications with the two email addresses for Lisa Miller which Plaintiff provided and requested (zeusdesfor@aol.com and god1ofchild@live.com), but did not search for communications with a third, brand-new email address for Lisa Miller (lamiller6@liberty.edu) which Plaintiff never identified or requested. (Dkt. 591 at 11). This is yet another brand-new discovery dispute that Plaintiff has never raised in any pre-filing meet-and-confer with Defendants (Supp. Mihet Decl., ¶ 19), and should therefore be rejected for this reason alone. (*See* pp. 9 and nn. 2, 3, *supra*).

Be that as it may, if Plaintiff **had** raised this issue with Defendants, and provided them with this additional email address, Defendants would have searched for any additional responsive

⁴ Other than Mathew Staver (who held a position at Liberty University School of Law in the past), and Rena Lindevaldsen (who is an employee of Liberty University School of Law), Liberty Counsel attorneys and staff do not have separate Liberty University email accounts, because they do not teach, are not LU alumni, and do not go to school there. Some have had a liberty.edu address alias in the past, that forwarded or forwards emails to the same Liberty Counsel email accounts that were searched for documents responsive to Plaintiffs’ document requests. (Supp. Mihet Decl., ¶ 17).

communications. Upon receiving Plaintiff's Revised Second Motion to Compel, Defendants searched for responsive communications, and found none in Liberty Counsel's documents and emails. (Supp. Mihet Decl., ¶ 20). The one and only responsive email found in Lindevaldsen's records had already been found previously because it contains multiple other search terms that Defendants searched for, including Lisa Miller's name and her zeusdesfor@aol.com email address. (*Id.*). Because the email is a privileged communication between Lisa Miller and Lindevaldsen, her then-counsel, the email was listed on Lindevaldsen's privilege log previously provided to Plaintiff. (*Id.*). Plaintiff has needlessly troubled the Court when a simple discussion with Defendants would have resolved this issue.

Equally without merit is Plaintiff's related complaint that Defendants searched for Lisa Miller's email addresses only in the To, From and CC fields, and not in the body of emails. (Dkt. 591 at 11). This is also a brand-new complaint that Plaintiff has never raised in any pre-filing meet-and-confer with Defendants (Supp. Mihet Decl., ¶ 21), and should therefore be rejected for this reason alone. (*See* p. 9 and nn. 2, 3, *supra*).

Beyond that fatal failure, Plaintiff now merely speculates that there are emails that contain Lisa Miller's email addresses in their body, but (a) do not contain these email addresses in the To, From and CC fields; (b) do not contain Lisa Miller's name (which would be captured in Defendants' keyword search), either next to the email addresses themselves or anywhere in the document; and (c) do not contain any of the other numerous keywords that Defendants employed (which would likewise have resulted in their capture, review and production, or logging). This is rank speculation upon speculation, designed only to impose additional work and burdens on Defendants, without any reason to believe that it would yield any fruit—that is, additional communications beyond the numerous already produced.

- c. **The search terms employed by Defendants were reasonably calculated to secure the information sought by Jenkins, and Jenkins has never provided any suitable alternatives.**

Jenkins' third and fourth complaints are that Defendants should have used broader search terms to obtain responsive communications with or about Lisa Miller, Isabella Miller, Janet Jenkins, the custody litigation or the attendant court orders. (Dkt. 591). This argument likewise fails, for numerous reasons.

First, as already noted, Defendants' search successfully yielded thousands of responsive documents, and Defendants have produced, among many other things, thousands of pages containing email communications with and about Lisa Miller (and Isabella Miller and Janet Jenkins), and Defendants' statements, press releases, constituent communications, fundraising appeals and internal communications about the Miller-Jenkins litigation. (Supp. Mihet Decl., ¶ 22(a)). The Court can be confident that Plaintiff has a complete set of Defendants' documents on these subjects.

Second, as with most of the complaints she raises, prior to filing any of her motions to compel Plaintiff has never attempted to meet and confer with Defendants about any alleged deficiencies in the search terms they used to respond to Requests 4-8, 11-12, and 17-18 (*id.* at ¶ 23), which is reason alone to reject her complaint. (*See* p. 9 and nn. 2, 3 *supra*).

Third, and even more egregiously, prior to filing her instant Revised Second Motion to Compel, Plaintiff has never proposed **any** search terms for Defendants to locate documents responsive to her Requests 4-8, 11-12, and 17-18. (Supp. Mihet Decl., ¶ 24). As the previously filed December 3, 2019 email from Plaintiff's own counsel confirms, at their November 25, 2019 discovery conference, Plaintiff and Defendants "agreed to engage in an iterative process using search terms to narrow the universe of responsive electronic documents." (Dkt. 472-3 at page 2 of 3). However, Plaintiff has only ever provided suggested search terms for her Requests 64-69,

dealing with Defendants' policies and positions on various topics, but **has never provided any suggested search terms for her Requests 4-8, 11-12, and 17-18**, of which she now complains. (*See id.* ("Specifically, I agreed to provide search terms for Plaintiffs' Requests 64 through 69"); *see also* Supp. Mihet Decl., ¶ 24).

Courts, including specifically this Court, routinely reject complaints about a party's ESI search terms, and deny motions to compel by parties who, like Plaintiff here, never provided any suggestions or alternatives. *See e.g., Elhannon LLC v. F.A. Bartlett Tree Expert Co.*, No. 2:14-CV-262, 2017 WL 1382024, at *9 (D. Vt. Apr. 18, 2017) (Sessions, J.) (denying motion to compel by party who complained about search terms employed by opponent but had not proposed alternative search terms in prior meet and confer sessions); *E.E.O.C. v. McCormick & Schmick's Seafood Restaurants, Inc.*, No. WMN-08-0984, 2012 WL 380048, at *4 (D. Md. Feb. 3, 2012) ("If the producing party generates the search terms on its own, the inevitable result will be complaints that the search terms were inadequate. For that reason, this Court will require the parties to confer on the development of reasonable search terms ...") (denying part of motion to compel directed to search terms); *Green v. Harbor Freight Tools USA, Inc.*, No. 09-2380-JAR, 2011 WL 13086613, at *3 (D. Kan. Aug. 24, 2011) ("Because plaintiffs have failed to adequately confer with defendant about the scope of ESI discovery, and instead prematurely dumped their problem in the court's lap, the court denies plaintiffs' motion with respect to the ESI discovery...") (denying motion to compel by party who failed to provide suggested ESI search terms to its opponent).

As noted, Plaintiff provided suggested search terms for Defendants to use for her Requests 64-69, and Plaintiff and Defendants worked cooperatively to refine those terms to their mutual satisfaction. There is no reason why Plaintiff could not have done the same for her other Requests. The Court should not hear Plaintiff's complaints **now**—after Defendants have already spend 500

hours to comply with Plaintiff's discovery requests, when it would be profoundly unfair to force Defendants to go back to the drawing board and start anew. Indeed, any newly and belatedly crafted search terms by Plaintiff would, at this juncture, presumably comprehend the 42,000 documents already found and produced by Defendants. It would be unconscionable to require Defendants to double the 500 hours they have already expended to comply with Plaintiff's request, merely because Plaintiff does not like the search terms employed, and especially when Plaintiff could have provided input into the process at an earlier stage.

Fourth, and finally, that Plaintiff's belated and brand-new charge of "unreasonable search terms" is itself unreasonable, is evidenced by the breathtaking breadth of the terms she now proposes (for the first time). Plaintiff suggests that Defendants were "unreasonable" because they did not employ very common first names **alone** ("Lisa," "Janet," "Isabella," "Sarah," or "Lydia"), or very common last names **alone** ("Miller," "Jenkins," "Sessions," "Sharp," or "Cohen"), or very common nouns alone ("Vermont" or "visitation"). (Dkt. 591 at 12). These search terms epitomize "unreasonableness," and Defendants were entirely **reasonable** for **not** employing them.

A cursory search for these terms on Defendants' ESI has produced an astounding combined total of **524,876 hits**. (Supp. Mihet Decl., ¶ 26). This includes literally tens of thousands of hits for **each** of such common names as "Lisa," "Janet," "Isabella," "Sarah," or "Lydia," and also tens of thousands of hits (and even 160,000 in one case) for **each** of such common names as "Miller," "Jenkins," "Sessions," "Sharp," or "Cohen." (*Id.* at ¶ 25). The number of hits for each of these unreasonable proposals is detailed in Defendants' Supplemental Declaration, submitted herewith. (*Id.*).

Critically, an **overwhelming** number of these **half million+** hits involve Liberty Counsel's donors, constituents, clients, former clients, initiatives and undertakings which have nothing

whatsoever to do with the Miller-Jenkins litigation or this case. (*Id.*). Among these non-relevant and wildly over-inclusive hits are the entire files of numerous former and current clients, donors and constituents of Liberty Counsel that have “Lisa” or “Janet” or “Isabella” or “Miller” or “Sarah” etc., in their names, but not a single one of which actually has any relation to the cast of characters in this litigation (or in the Miller-Jenkins custody dispute). (*Id.*). Also caught up in this overinclusive dragnet would be numerous communications of current or former Liberty Counsel employees (and even job applicants) having one of those names, without any relation to this litigation. (*Id.*). And, because some of these terms are common, everyday nouns, they would yield all kinds of unreasonable and unrelated results, if used as Plaintiff suggests. (*E.g.*, “Sessions” would include documents about “sessions of congress,” and “Sharp” would include documents discussing “sharp contrasts,” “sharp pains,” and “sharp focus.” (*Id.*). A more comprehensive list of the untold number of unrelated hits that would be included in Plaintiff’s proposed search terms is provided in Defendants’ Supplemental Declaration, submitted herewith. (*Id.*).

While the amount of time and resources that it would take to review these results for privilege and to prepare them for production is incalculable, it is a safe assumption that it would take in excess of 2,000 attorney and staff hours, which would keep Defendants’ counsel occupied for months—possibly over a year—even if they worked on nothing else. (*Id.* at ¶ 27). Perhaps this is precisely what Plaintiff seeks to impose upon Defendants—a process that is itself the punishment. But there is no basis in the law for the Court to grant Plaintiff’s wish. *See e.g., Digital Ally, Inc. v. TASER Int’l, Inc.*, No. 16-CV-2032-CM-TJJ, 2018 WL 4334297, at *2 (D. Kan. Sept. 11, 2018) (“The Court sustains Plaintiff’s overbreadth objections to Defendant’s ESI Request 2. Generally, search terms for ESI are overly broad when they could conceivably encompass information relevant to the litigation **but would also likely encompass a significant amount of**

information unrelated to issues in the case. Defendant’s inclusion of many **generic and commonly used words** (and derivatives of those words) as search-term combinations renders Request 2 overly broad on its face.” (emphasis added)).

Indeed, courts routinely reject requests, just like the one Plaintiff makes here, for parties to use first names or last names alone in ESI searches, where, as here, such names are common and the searches are likely to yield numerous unrelated hits. *See e.g., Alexander v. F.B.I.*, 194 F.R.D. 316, 328 (D.D.C. 2000) (“The EOP argues that the plaintiffs’ inclusion of a number of ‘and/or’ searches such as ‘Tony’ ... is overbroad. **The EOP argues that a search for all e-mails mentioning common names like ‘Tony’ ... will retrieve a large number of e-mail messages, many of which do not even refer to the particular individuals at issue. Rather, the EOP proposes to perform the search for only the first and last names together. ... The court agrees that the term ‘Anthony,’ a common first name, is likely to generate a large number of irrelevant e-mails.**”)

And, on remarkably similar facts, one court rejected the claim of a plaintiff’s who, like Plaintiff here, sought to expand search terms with common, generic terms that would have yielded numerous unrelated hits **after** defendant, like Defendants here, had already expended a significant amount of time responding to the plaintiff’s discovery requests:

Plaintiff claims that Defendant failed to conduct proper email searches, as evidenced by emails in Plaintiff’s possession that were not uncovered in Defendant’s search. Plaintiff asserts that Defendant should demonstrate that it has done a diligent search and that Defendant should conduct additional searches using terms requested by Plaintiff. Plaintiff requests that these new searches be conducted without including Plaintiff’s first or last name

Defendant claims that it has already reviewed 21,000 emails from 17 custodians, at a cost of \$48,074 ... Defendant asserts that a search using the 88 new search terms—which include annoy*, bull, click*, dad, date*, hand, rack, rod, box—in conjunction with removing Plaintiff’s name from the search **would result in hundreds of thousands of irrelevant emails.**

Plaintiff's request for email searches is overly broad and not proportional to the case. ... While the additional search terms could possibly yield some relevant results, Plaintiff has not provided specifics about what Plaintiff reasonably expects such a search to show, and Plaintiff has not shown that this information could not be found through other means. For example, Plaintiff has not shown that she would be unable to uncover the same information by asking additional questions of witnesses already scheduled to be deposed. As to this discovery issue, **Plaintiff's motion should be denied.**

Moore v. Lowe's Home Centers, LLC, No. 14-1459 RJB, 2016 WL 687111, at *5 (W.D. Wash. Feb. 19, 2016) (emphasis added) (internal record citations omitted). Defendants here have spent even more time, hours and resources to produce even more documents before Plaintiff decided to supply her own, purportedly “reasonable” but in reality supremely **unreasonable** search terms.

Lastly, Plaintiff suggests that “if such individual terms returned too many results, Defendants could create various combinations of terms with the AND connector.” (Dkt. 591 at 12). Plaintiff does not suggest what those “combinations” should be, and what would satisfy her. Plaintiff, of course, never made such suggestions to Defendants, either at the beginning of their ESI searches, or even prior to filing any of her motions to compel. Plaintiff is also aware, from negotiating with Defendants search terms for other Requests, that Defendants’ system is fairly limited in the types of “combination” ESI searches it can support. (Dkt. 591 at 3). This is all the more reason why Plaintiff should have voiced her expectations or concerns earlier, when Defendants could have done something about them, not now, after Defendants have already expended 500 hours to respond to her discovery requests. As already discussed, **the insertion of new search terms at this late stage would essentially require a do-over, because new hits will overlap with the 42,000 pages already reviewed and produced.** It would be profoundly unfair to require Defendants now to at least double (and maybe triple or quadruple) the already massive effort they have expended.

In any event, the Court can be assured that no matter what “combinations” Defendants would have tried (such as their system would even allow), Plaintiff would have been unsatisfied and cried foul. This is the name of her discovery game. The Court should deny Plaintiff’s motion.

d. Defendants produced all responsive communications with other individuals.

Plaintiff’s fifth and final complaint with respect to her Requests 4-8, 11-12, and 17-18 is that “Defendants did not search for communications with other individuals involved in the custody dispute or the kidnapping,” of which she lists seven. (Dkt. 591 at 13). Plaintiff is incorrect on several fronts.

First, Plaintiff is apparently now claiming that Defendants should have searched for all communications with these seven individuals on **any** topic. (*Id.*) This is evidenced by the fact that the only search terms Plaintiff suggests now (which she has never suggested before) are the individuals’ names and nicknames alone, without any subjects or topics. (*Id.*) But Plaintiff did not request anything like this in her Requests 4-8, 11-12 and 17-18, which is what **these** complaints are about. According to Plaintiff’s own description of those Requests, they seek only (a) communications with Lisa and Isabella Miller, (b) communications concerning Janet Jenkins, Lisa Miller and Isabella Miller, and (c) communications concerning the custody dispute and the court orders therein. (Dkt. 591 at 10-11 (Plaintiff describing her Requests 4-8, 11-12 and 17-18)). Communications with these seven other individuals about which Plaintiff now complains, on any subject, is clearly not even on Plaintiff’s own list. (*Id.*)

Second, because Plaintiff never requested all of Defendants’ communications with these seven individuals on any subject under the sun, it was never the subject of Plaintiff’s first motion to compel (dkt. 361), the Court never ordered any such production (dkt. 395), Plaintiff then never moved for such production in her second motion to compel (dkt. 472), the Court never required

Defendants to explain their efforts to provide such a production (dkt. 563), and, therefore, Defendants did not include this topic in their discovery Declaration. (Dkt. 580). Plaintiff therefore cannot plausibly state that “Defendants did not search for communications with [these] individuals” (dkt. 591 at 13) based on a discovery Declaration that was never intended to cover this subject.

Third, Plaintiff is just plain wrong: Defendants **did** search for communications with these individuals, **on topics related to this litigation**, because Plaintiff asked Defendants to do so in **other** requests that were **not** the subject of her second motion to compel, and are therefore **not** the subject of her revised second motion to compel. Indeed, in other requests not before the Court, Plaintiff asked Defendants to search for communications with the same seven individuals she now complains about (Linda Wall, Debbie Thurman (her various websites and initiatives), Timothy Miller, Ken Miller, and Phillip Zodhiates of Response Unlimited), **on limited subjects** “concerning the Dispute; Defendant Lisa Miller’s whereabouts from September 20, 2009 to date; Plaintiff Isabella Miller-Jenkins’s whereabouts from September 20, 2009, to date; the Beachy Amish Mennonites; or Nicaragua.” (*See* Plaintiff’s Document Requests to Liberty Counsel and Rena Lindevaldsen, dks. 361-1 and 361-2, at Request Nos. 25, 26, 54, 55, 60, 61, 63). **Defendants searched for responsive documents**, and produced responsive, non-privileged documents, if any. As noted, Plaintiff did **not** move to compel anything regarding these requests in her first motion to compel (dkt. 361 (requesting compliance with requests other than these)), nor in her second motion to compel (dkt. 472 (requesting compliance with requests covered by the first motion to compel, which did not include these)), **nor even in her instant revised second motion to compel** (dkt. 591 (requesting compliance with requests covered by the first motion to compel, which did not include these)). The Court should not allow Plaintiff to so radically expand the scope of her

previous discovery requests, particularly where Plaintiff never complained about the responses to those requests, and especially where Plaintiff has never even raised these brand-new complaints in any meet-and-confer prior to filing her instant motion to compel.

Fourth, to the extent Plaintiff intended her instant complaint about communications with these seven individuals to be limited to only the subjects covered by the discovery Requests under which she actually brings the complaint (*i.e.*, Requests 4-8, 11-12 and 17-19—seeking communications about Lisa, Isabella, Janet, about the custody dispute, and about the court orders therein), the brand new search terms that Plaintiff now proposes for the first time accomplish no such thing, because, as noted, they consist only of the names and nicknames of these people, without any limits. (Dkt. 591 at 13).

Fifth, and finally, to the extent Plaintiff's instant complaint is so limited, **all responsive communications (if any) would have been found and produced**—not only when Defendants searched for the other Requests not relevant to this motion (discussed in the preceding paragraphs), but also (and again) when Defendants later searched for **all communications (with anyone in the world**, which would have included these seven individuals) about Lisa, Isabella and Janet, and when defendants subsequently produced thousands of pages of documents containing such communications. Plaintiff's instant complaint is therefore all for naught.

2. Defendants conducted a complete and comprehensive search and production for Requests 19, 35-36 and 47-48.

Next, Plaintiff complains about Defendants' production of communications on ten specific dates in 2009 (*i.e.*, September 20, 21 and 22, and November 8, 9, 10, 11, 12, 13 and 20), and about events on those dates. (Dkt. 591 at 14-15). These complaints are likewise without merit.

Initially, Defendants' thorough search, production and privilege logging included **hundreds** of pages of **all** documents Defendants authored, dated or published on those dates, as

well as **all** communications that Defendants had (with anyone in the world) on those dates. (Supp. Mihet Decl., ¶ 22(b)). These documents include routine communications that Defendants had with clients and others, **about unrelated cases and matters that have nothing whatsoever to do with this case.** (*Id.*). And, not surprisingly, because Defendants did not participate in any of the nefarious activities that Plaintiff alleges to have happened on those dates, not a single one of these numerous documents contains anything even remotely relevant to Plaintiff's conspiracy claims. The search, production, and logging of documents wholly unrelated to this case that Plaintiff demanded only because they were authored or sent or received on dates of interest to Plaintiff turned out to be a colossal waste of time and resources. Now, Plaintiff wants more of that from Defendants.

In addition, Defendants provided Liberty Counsel's master calendar showing the recorded appointments of all firm members on the dates requested by Plaintiff. (Mihet Decl., dkt. 580, ¶ 19(c)). Plaintiff now complains, for the first time, that "Defendants' search was unreasonable" because "they only searched 'a master calendar,'" as opposed to individual calendars. (Dkt. 591 at 15). But Defendants' Declaration plainly told Plaintiff that Liberty Counsel's master calendar contains "all recorded appointments of all Liberty Counsel firm members." (Mihet Decl., dkt. 580, ¶ 19(c)). If the name ("master calendar") didn't give it away, Defendants' clear description of it should have. (*Id.*) And if Plaintiff still had any uncertainty or question, her counsel should have picked up the phone to inquire with Defendants, as they were plainly required to do, instead of running to the Court in the first instance. Plaintiff's continued flouting of the meet-and-confer requirements is alone reason to reject her complaint, and impose sanctions. (*See* p. 9 and nn. 2, 3 *supra*; *see also* Section IV, *infra*.)

To avoid any doubt, Defendants’ master firm calendar contains all recorded appointments of all firm members. (Supp. Mihet Decl., ¶ 28). It is a composite of all individual member calendar entries available to Liberty Counsel—a convenient place to see all entries, firm-wide, in one place. (*Id.*) There are no appointments for any firm members on the dates in question available to Liberty Counsel that are not reflected on the master calendar produced by Defendants. (*Id.*) Plaintiff’s unaided complaint is more wasting of the Court’s and the parties’ time.

Finally, having not obtained anything at all useful from the ten specific 2009 dates that she requested in discovery, Plaintiff now attempts to wildly expand those dates by suggesting Defendants should have also searched all of their numerous documents and communications for “weeks” and perhaps even “months” before and after each of the ten specific dates she provided, to see if by chance there is a description of events in the “next couple of weeks” or “this month.” (Dkt. 591 at 15). This is beyond the pale, and harassment pure and simple. Searching for the ten specific dates themselves, and reviewing, producing and logging the hundreds of utterly irrelevant documents and communications that search yielded, was difficult and consuming enough. Expanding that search now to “weeks” and even “months” before and after those ten dates would keep Defendants bogged down for actual weeks and months, and would yield nothing more than the irrelevant sorts of documents and communications that Plaintiff’s initial demand yielded. Enough is enough.

3. Defendants conducted a complete and comprehensive search and production for Requests 64-69.

a. Defendants produced all documents containing the search terms agreed-upon with Plaintiff.

As noted by Plaintiff, her Requests 64-69 sought Defendants’ opinions, beliefs, policies and positions on various topics, including same-sex marriage, civil disobedience, and homosexual custody and visitation rights. (Dkt. 591 at 15-16). As noted by Defendants, for these requests (**but**

not for any others)⁵ Plaintiff provided suggested search terms, which the parties subsequently negotiated and refined cooperatively. (Mihet Decl., dkt. 580 ¶¶ 21-25).

Plaintiff now confirms this fact (dkt. 591 at 16), but identifies **one** (and **only one**) of the numerous search terms she provided as supposedly having yielded an incomplete production. (*Id.*). Specifically, Plaintiff complains that “despite the agreed upon search term ‘civil disobedience,’ ... Defendants produced nothing **more**” about various documents on civil disobedience that Defendants **did** produce. (*Id.* (emphasis added)). Plaintiff’s complaint is astounding. That is, she acknowledges, as she must, that Defendants produced numerous documents regarding civil disobedience, but complains that Defendants did not produce additional documents (*i.e.*, “more”) about these same documents (or about the events to which they relate), **without any proof that such additional documents exist in Defendants’ custody, possession or control and that they contain the same agreed upon search term.** (*Id.*) This is not how discovery works.

As but one example of just how flawed this contention is—Plaintiff complains that Defendants produced “nothing more” about “a Liberty Counsel conference with a session entitled ‘The History of Civil Disobedience.’” (Dkt. 591 at 16). That conference took place in **March 2015**, more than **five years** after Lisa Miller’s disappearance. (*Id.*, citing document LC15361). Of course, the reason Plaintiff knows about this conference is because, as she acknowledges, Defendants **did** produce a document describing it. (*Id.*) The document was retrieved and produced because it contained the search term “civil disobedience.” (*Id.*) But now Plaintiff says she wants “more,” without specifying what that is. (*Id.*) Does Plaintiff want the lunch menu? Does Plaintiff want the

⁵ See Section I.B.1.c., pp. 14-19 *supra*. There is no reason why Plaintiff could not have worked cooperatively with Defendants to develop and refine mutually acceptable search terms for Plaintiff’s other Requests, as opposed to merely complaining about Defendants’ search terms and springing brand new terms upon Defendants and the Court at this late stage.

conference room contract? More likely, Plaintiff wants a list of attendees and speakers at this constitutionally protected conference, so that Plaintiff's lawyers at the Southern Poverty Law Center can add them to their list of "hate groups." (*See* Defendants' Resp. Opp. Pl. Mot. Compel ATT Records, dkt. 600 at 3-4). But none of these documents—regarding an event years after the events alleged in this suit—would have anything to do with Defendants' policies and positions on civil disobedience, and, more importantly, **none would have the search term** that Plaintiff agreed could be used to locate items responsive to her Request.⁶

Indeed, the **only** document in Plaintiff's supposed deficiency list which Plaintiff contends that Defendants did not provide at all (as opposed to not providing "more" of) is the so-called "Manhattan Declaration, which called for civil disobedience." (Dkt. 591 at 16). Plaintiff presumes that Defendants must have this document, but she doesn't explain why. (*Id.*) When the Court examines the copy of this document that Plaintiff attaches to her Revised Second Motion to Compel, it will note that neither Liberty Counsel nor Lindevaldsen are listed among the members of its "Drafting Committee," nor among its "Signers." (Dkt. 591-8 at 13-26). This is not surprising, since neither Liberty Counsel nor Lindevaldsen were on the drafting committee of the Manhattan Declaration, nor among its charter signers. (Supp. Mihet Decl., ¶ 30).

After receiving Plaintiff's instant Revised Second Motion to Compel, to confirm that Defendants' ESI search was accurate and complete, Defendants searched specifically for a copy of the "Manhattan Declaration" in Liberty Counsel's document database, and nothing was found. (Supp. Mihet Decl., ¶ 29). Thus, the reason the Manhattan Declaration was not retrieved in

⁶ Moreover, a list of attendees and speakers at Defendants' constitutionally protected advocacy conference (half a decade after the unrelated events at issue here) would be entirely privileged from disclosure under the First Amendment. But this need not be explained, let alone decided, here, because such a list, if it even exists, does not have the requisite search term, and is therefore not even responsive to Plaintiff's request.

Defendants' keyword searches, even though it may contain the agreed-upon term "civil disobedience" is because the document does not exist in Defendants' documents. (*Id.*) Plaintiff's complaints are utterly lacking in merit.

In the final analysis, if any document in Defendants' custody, possession or control **did** have an agreed-upon search term in it (*e.g.*, "civil disobedience"), Plaintiff and the Court can be sure it would have been produced (or logged, if privileged), because that is exactly what Defendants have sworn to be the case. (Mihet Decl., dkt. 580 ¶¶ 21-25; *id.* at ¶ 23 ("**All documents retrieved by the search terms were produced**, with the exception of a limited number of privileged documents which were included on the privilege log." (emphasis added))). Indeed, Plaintiff does not tell the Court this, but Defendants produced at least **7,958 pages** of documents on "civil disobedience" alone. (Supp. Mihet Decl., ¶ 22(c)).

Not satisfied, Plaintiff wants "more," but Defendants cannot provide "more" documents that have "civil disobedience" in them, if Defendants do not have such documents. This Court should reject Plaintiff's attempt to force Defendants to give her blood from a stone, and to punish Defendants because they cannot give her that.

b. Defendants acted properly in producing all documents containing the agreed-upon search terms to Plaintiff.

While faulting Defendants for not producing "more" documents containing the agreed-upon search terms (dkt. 591 at 16), elsewhere in her motion Plaintiff faults Defendants for producing **too many** documents containing the agreed-upon search terms. (*Id.* at 5-6). Apparently oblivious to the "damned-if-you-do-damned-if-you-don't" incongruity of her demands, Plaintiff now reprises her complaint from her previous filings that Defendants did not review the documents retrieved using the agreed-upon search terms to exclude those that contain those terms but are nevertheless not responsive to her discovery Requests. (*Id.*). Based on Plaintiff's complaints to

date, the Court can be assured that if Defendants had actually done what Plaintiff now demands, Plaintiff would be crying foul and seeking sanctions for Defendants “withholding” of documents containing search terms, and for not producing “more.” This is just wrong.

Plaintiff does not provide a single authority to substantiate her charge that Defendants acted improperly when they produced to her exactly what she requested—that is, all documents containing her requested search terms. This is not surprising, since the authority is to the contrary. *See e.g., Micromet AG v. Cell Therapeutics, Inc.*, No. C04-0290RSM, 2006 WL 8454650, at *2 (W.D. Wash. Feb. 17, 2006) (“[a] responding party may properly access and identify potentially responsive electronic data and documents by using reasonable selection criteria, such as search terms or samples.” (alteration in original) (quoting *The Sedona Principles: Best Practices Recommendations & Principles for Addressing Electronic Document Production*, Principle 11 (2003))); *Colonial BancGroup Inc. v. PriceWaterhouseCoopers LLP*, No. 2:11-CV-746-WKW, 2016 WL 9687001, at *2 (M.D. Ala. Jan. 22, 2016) (“PWC responds that conducting a manual review of files which have been part of an electronic search involving specific search terms is duplicative of the work it has already performed. The Court agrees ...”).

Plaintiff points out that Defendants had “promised to ‘review for responsiveness and privilege’” the ESI hits (dkt. 591 and 3), and then faults Defendants for supposedly breaking that “promise” when they supposedly “admitted that they reviewed the resulting documents only for privilege and not responsiveness.” (*Id.* at 6 (citing *Mihet Decl.*, dkt. 580 at ¶ 24); *id.* at 7 (“they unreasonably used agreed-upon search terms without reviewing the results for responsiveness”). Plaintiff is being very deceptive. Defendants “admitted” only that Plaintiff never told them her unique concept of “responsiveness”—that is, documents that contain Plaintiff’s own search terms may still not be “responsive”—and, therefore, Defendants understood that “Plaintiff would deem

all documents containing the agreed upon search terms as responsive to her requests.” (Mihet Decl., dkt. 580 at ¶ 25). Defendants therefore did exactly what they promised—they reviewed the ESI hits for “responsiveness,” but “responsiveness” in this case was determined based upon the search terms that **Plaintiff herself provided** and agreed upon. If Plaintiff had a different expectation and understanding of what is “responsive” viz the search terms she, herself, provided, it was incumbent upon her to share that understanding and expectation with Defendants in a meet-and-confer. This is yet another example of Plaintiff’s numerous meet-and-confer failures, and Plaintiff is attempting to foist the consequences of her failure upon Defendants.

Defendants emphasize that they produced the documents to Plaintiff in searchable pdf format. Plaintiff’s roster of lawyers, which doubles or triples Defendants’ roster, is much better suited to electronically search any document (or all documents) produced by Defendants for the keywords Plaintiff provided, to determine the usefulness of such documents. Plaintiff’s post-production complaint lacks merit.

II. JENKINS’ REQUESTS FOR SPOILIATION SANCTIONS IS UNSUPPORTED BY THE LAW AND SHOULD BE DENIED.

As part of her continued efforts that make the instant litigation all about discovery, rather than the non-existent merits of her claims, Jenkins asks the Court to impose adverse inference and argument preclusion sanctions on Liberty Counsel and Lindevaldsen for allegedly spoliating evidence. (Dkt. 591 at 20-23.) But Jenkins’ spoliation charge is meritless for several reasons: (1) by raising the spoliation claim in a merely cursory manner, Jenkins has waived her entitlement to argue the substance of the specious claim; (2) Liberty Counsel and Lindevaldsen had no duty to preserve the allegedly spoliating evidence at the time it was destroyed in the usual course of document retention practices; (3) because they had no duty to preserve the allegedly spoliating evidence when it was destroyed, Liberty Counsel and Lindevaldsen cannot have breached any duty

to preserve it or acted with the requisite culpable state of mind; (4) even if Liberty Counsel and Lindevaldsen had a duty to preserve the evidence, which they did not, and even if they deleted such emails with a culpable state of mind, which they did not, binding law mandates the imposition of the least harsh sanction, not case-altering sanctions such as those requested by Jenkins. Jenkins' motion must be denied.

A. By Raising Her Spoliation Contentions in a Cursory Manner, Jenkins Has Waived Them and Must Be Precluded From Arguing the Relevant Precedent in Her Reply.

Jenkins' slapdash treatment of the elements of her meritless spoliation claim warrants a finding that she has waived any argument in support of it, and must be precluded from raising any such argument in the first instance in her reply. Indeed, by failing to address whether Liberty Counsel and Lindevaldsen had any duty to preserve the allegedly spoliated evidence or whether they acted with the necessary culpable state of mind, Jenkins has forfeited her right to make such assertions in her reply. *See, e.g., Hirschmann v. Green Mtn. Glass, LLC*, No. 5:15-cv-34. 2018 WL 4896015, *2 n.2 (D. Vt. Oct. 9, 2018) (“It is well settled that courts should not consider arguments first raised in a party’s reply brief which afford no opportunity for response from the opposing party.” (citing cases)); *see also Keefe v. Shaala*, 71 F.3d 1060, 1066 n.2 (2d Cir. 1995) (“Normally, we will not consider arguments raised for the first time in a reply brief”); *Riley v. Brook*, No. 2:15-cv-00150, 2015 WL 7572308, *3 (D. Vt. Nov. 24, 2015) (“The Second Circuit disfavors new issues raised in reply papers.”); *Montanio v. Keurig Green Mtn., Inc.*, 276 F. Supp. 3d 212, 223 (D. Vt. 2017) (“[B]ecause Plaintiff waited until his reply brief to highlight this allegation, Defendants were deprived of an opportunity to argue Generally, courts do not consider arguments raised for the first time in a reply brief.”). Indeed, “[i]t is settled beyond peradventure that issues mentioned in a perfunctory manner, unaccompanied by some effort

at developed argumentation, are deemed waived.” *Verdi v. Comm. of Social Sec.*, 2011 WL 1361559, *7 (D. Vt. Apr. 11, 2011) (emphasis added) (quoting *Collins v. Marina-Martinez*, 894 F.2d 474, 481 n.9 (1st Cir. 1990)). Jenkins’ holding back her spoliation arguments for a reply unfairly prejudices Liberty Counsel and Lindevaldsen by preventing them from adequately understanding and addressing her (meritless) contentions. Jenkins cannot now be heard on those contentions in a reply to which Liberty Counsel and Lindevaldsen have no opportunity to respond.

B. Jenkins’ Contentions Are Meritless as a Matter of Law.

The elements of a claim for spoliation sanctions are well-known: “These elements are (1) that ‘the party having control over the evidence . . . had an obligation to preserve it **at the time it was destroyed**’; (2) that the evidence was ‘destroyed with a culpable state of mind’; and (3) that the destroyed evidence was ‘relevant’ to the party’s claim or defense.” *Khaldei v. Kaspiev*, 961 F. Supp. 2d 564, 569 (S.D.N.Y. 2013) (emphasis added) (modification in original)(quoting *Byrnie v. Town of Cromwell*, 243 F.3d 93, 107–09 (2d Cir. 2001)). And, it is Jenkins’ burden to establish each of these elements. *Id.* (“A party seeking spoliation sanctions has the burden of establishing the elements of a spoliation claim.”). Jenkins has utterly failed to meet her burden. For one, as discussed *supra* in Section II.A, Jenkins cannot even be heard on these contentions because she has waived any argument as to the relevant elements of a spoliation claim by failing to address them in her Motion. But, even if Jenkins had bothered to address them, she cannot meet her burden as a matter of law.

1. Liberty Counsel and Lindevaldsen did not delete emails while under a duty to preserve evidence.

As a matter of settled law, Liberty Counsel and Lindevaldsen had no duty to preserve all evidence related to its prior representation of Lisa Miller before any claims were anticipated against them. Indeed, “[t]he obligation to preserve evidence arises when the party has notice that

the evidence is relevant to litigation or when a party should have known that the evidence may be relevant to future litigation.” *Fujitsu Ltd. v. Fed. Express Corp.*, 247 F.3d 423, 436 (2d Cir. 2001). As the Second Circuit has made plain, no duty can attach until litigation **is reasonably anticipated**. *Kronisch v. United States*, 150 F.3d 112, 126–27 (2d Cir. 1998); *see also In re Pfizer Inc. Sec. Litig.*, 288 F.R.D. 297, 313 (S.D.N.Y. 2013) (“**Put another way, the preservation requirement arises when a party reasonably anticipates litigation.**” (cleaned up) (emphasis added). And, though this Court has held that a duty to preserve can arise before litigation, it only arises “where a party is on notice that litigation is likely to be commenced.” *Ross v. Int’l Bus. Machines Corp.*, No. 2:04-CV-103, 2006 WL 197137, at *5 (D. Vt. Jan. 24, 2006) (Sessions, J.).

The relevant inquiry for determining whether a duty had attached and whether an allegedly spoliating party acted with the relevant state of mind is **at the time the evidence was allegedly destroyed**. *Kronisch*, 150 F.3d at 126 (“In order for an adverse inference to arise from the destruction of evidence, the party having control over the evidence must have had an obligation to preserve it **at the time it was destroyed.**” (emphasis added)); *see also Wandering Dago, Inc. v. N.Y. State Office of Gen. Servs.*, No. 1:13-cv-1053 (MAD/RFT), 2015 WL 3453321, at *6 (N.D.N.Y. May 29, 2015) (same); *Khaldei v. Kaspiev*, 961 F. Supp. 2d 564, 569 (S.D.N.Y. 2013) (same) (quoting *Byrnie v. Town of Cromwell*, 243 F.3d 93, 107-09 (2d Cir. 2001)). Here, that took place in 2008–2010, two years before Jenkins ever brought the first iteration of her fanciful Complaint (dkt. 1) and 6 years before Liberty Counsel and Lindevaldsen were made parties to the instant litigation in the Revised Second Amended Complaint (dkt. 223.). (See dkt.580, Declaration of Horatio G. Mihet, at 9–10, ¶¶28-39.)

And, importantly, the duty to preserve evidence attaches when the party allegedly having the duty of preservation **has notice that claims are likely to be brought against that party**. *See*

Kronisch, 150 F.3d at 126 (“The evidentiary rationale derives from the common sense notion that a party’s destruction of evidence which it has reason to believe **may be used against it** in litigation suggests that the evidence was harmful to the party responsible for its destruction.” (emphasis added)); *McGinnity v. Metro-North Commuter R.R.*, 183 F.R.D. 58, 62 (D. Conn. 1998) (same); *Siggelko v. Kohl’s Dept. Stores, Inc.*, No. 06-CV-2281 (JS)(WDW), 2009 WL 750173, at *2 (E.D.N.Y. Mar. 17, 2009) (same); *Klezmer ex rel. Desyantnik v. Buynak*, 227 F.R.D. 43, 51 n.8 (E.D.N.Y. 2005) (same). Since Liberty Counsel and Lindevaldsen did not anticipate any claims being brought **against them** 2–4 years prior to commencement of the instant proceedings, no duty could attach to any emails deleted at that time.

That Liberty Counsel and Lindevaldsen represented a client in state court custody litigation beginning in 2004 does not impose a duty upon them to retain files related to all of its clients in perpetuity. Indeed, the duty to preserve does not extend back to “earlier, unrelated litigations.” *In re Pfizer Inc. Sec. Litig.*, 288 F.R.D. 297, 316 (S.D.N.Y. 2013); *see also Kraus v. Gen. Motors Corp.*, No. 02 Civ. 4467 (CM), 2007 WL 3146911, at *2 (S.D.N.Y. Oct. 24, 2007) (denying motion for spoliation sanctions where allegedly spoliating party destroyed evidence when “no litigation was pending, none had been threatened, and no one representing plaintiff had contacted [the defendant] about a possible lawsuit”); *id.* (noting that a company cannot be responsible for preserving every piece of evidence relating to their particular business because lawsuits generally arise in the future concerning those products—*i.e.*, “plaintiff cannot succeed unless [the defendant] has a legal obligation to presume that every accident that results in a ‘total loss’ will end with a lawsuit. **This is clearly not the law.**” (emphasis added)).

Finally, aside from the fact that Liberty Counsel and Lindevaldsen had no reason to anticipate litigation against them, Jenkins—herself—did not even explicitly put Liberty Counsel

or Lindevaldsen on notice of potential discovery until 2017, **five years after the litigation commenced**, by sending a document preservation letter. (Mihet Supp. Decl. at ¶ 33.) Thus, any preservation duty arguably did not arise—even in the mind of Jenkins’ own counsel—until Liberty Counsel and Lindevaldsen received the preservation letter. *See, e.g., Siani v. State Univ. of N.Y. at Farmingdale*, No. CV09-407 (JFB)(WDW), 2010 WL 3170664, *6 (E.D.N.Y. Aug. 10, 2010) (duty to preserve certainly triggered by letter notifying defendants of investigation and pursuit of claims); *Schwarz v. FedEx Kinko’s Office & Printing Servs., Inc.*, No. 08-CV-6486, 2009 WL 3459217, *6 (S.D.N.Y. Oct. 2, 2009) (holding duty to preserve evidence arose when party received letter that gave it “good reason to anticipate imminent litigation”). Asserting that Liberty Counsel and Lindevaldsen had a duty to preserve evidence going all the way back to 2004—as Jenkins does now—is plainly contrary to her representations to Liberty Counsel and Lindevaldsen **13 years later** in 2017.

2. Liberty Counsel and Lindevaldsen did not destroy any evidence with a culpable state of mind.

Here, again, Jenkins cannot even be heard on her contention that Liberty Counsel and Lindevaldsen spoliated evidence with a culpable state of mind because she has waived any argument as to the necessary elements of a spoliation claim by failing to address them in her Motion. (*See supra* Section II.A.) But, her contentions fail as a matter of law anyway. Though Jenkins contends that negligence alone is sufficient to warrant the imposition of spoliation sanctions (dkt. 591 at 21 (citing *Residential Funding Corp. v. DeGeorge Fin. Corp.*, 306 F.3d 99, 108 (2d Cir. 2002)), that contention is unsupported by the law. Indeed, even this Court has questioned whether negligence is sufficient to warrant a finding of a culpable state of mind and did so several years after the authorities Jenkins cites as support for her erroneous contention. *See, e.g., Ross v. Int’l Bus. Machines Corp.*, No. 2:04-CV-103, 2006 WL 197137, at *6 (D. Vt. Jan. 24,

2006) (Sessions, J.) (“Although the required degree of fault has not been established precisely, **courts generally require the sanctioned party's conduct to rise at least to the level of gross negligence.**” (emphasis added)). Other Second Circuit authorities support this Court’s recognition that gross negligence is required, not mere negligence. *See, e.g., Cine Forty-Second Street Theatre v. Allied Artists*, 602 F.2d 1062, 1068 (2d Cir. 1979) (holding “full range of sanctions may be marshalled” in cases of **gross negligence**). “[A] court may not impose sanctions under its inherent power unless the party has ‘acted in bad faith, vexatiously, wantonly, or for oppressive reasons.’” *Hawley v. Mphasis Corp.*, 302 F.R.D. 37, 46 (S.D.N.Y. 2014) (emphasis added) (quoting *Cretella v. Liriano*, 370 F. App’x 157, 159 (2d Cir. 2010); *see also McGinnity v. Metro-North Commuter R.R.*, 183 F.R.D. 58, 62 (D. Conn. 1998) (“[T]he rationale for an adverse inference also reflects that the destruction of evidence cannot be merely negligent or inadvertent . . .”).

However, regardless of the ultimate conclusion on whether negligence alone is sufficient to constitute a culpable state of mind, the relevant timing inquiry eviscerates Jenkins’ contentions here. Put simply, whether any duty of preservation had attached and whether the allegedly spoliating party acted with the relevant state of mind is determined **as of the time the evidence was allegedly destroyed**. *Kronisch*, 150 F.3d at 126 (“In order for an adverse inference to arise from the destruction of evidence, the party having control over the evidence must have had an obligation to preserve it **at the time it was destroyed.**” (emphasis added)); *see also Wandering Dago, Inc.*, 2015 WL 3453321, at *6 (same).

As explained *supra*, Liberty Counsel and Lindevaldsen did not delete the subject emails at a time when they were under any duty to preserve them. Indeed, as the sworn testimony of the undersigned demonstrates, the deletion of emails from the accounts of Liberty Counsel attorneys

occurred in the period 2008–2010, two years before the filing of the first complaint in this lawsuit (dkt. 1) and 6–8 years prior to Liberty Counsel and Lindevaldsen’s ever being named as parties in this case. (*See* Declaration of Horatio G. Mihet, dkt. 580, at 9–10, ¶¶ 28–39.) The deletion of the referenced routine emails occurred in the regular course of Liberty Counsel’s and Lindevaldsen’s document retention practices and long before any claims (or even a hint of potential claims) could have arisen, when Liberty Counsel and Lindevaldsen were under no duty to preserve them. And because they had no duty to preserve them, their deletion in the usual course of business cannot—by definition—have breached any duty, negligently or otherwise.

3. Even if Liberty Counsel and Lindevaldsen had a duty to preserve the evidence, which they did not, and even if they deleted such emails with a culpable state of mind, which they did not, binding law mandates the denial of case-altering sanctions such as those requested by Jenkins.

Here, Jenkins jumps straight to case-altering and potentially dispositive sanctions without even a hint that inculpatory evidence actually existed but was destroyed. This is not the law. On the contrary, Jenkins’ requested adverse inference sanctions should never be imposed lightly. *See, e.g., Siani*, 2010 WL 3170664, at *4 (adverse inference is “harsh sanction” and cannot be imposed lightly); *Scalera v. Electrograph Sys., Inc.*, 262 F.R.D. 162, 171 (E.D.N.Y. 2009) (same). Moreover, though negligence might be sufficient to find a culpable state of mind in **some** instances, it does not serve as a basis for the harshest sanction of adverse inference. *See Twitty v. Salius*, 455 F. App’x 97, 99 (2d Cir. 2012). In fact, even “a finding of gross negligence merely permits, rather than requires, a district court to give an adverse inference instruction.” *Chin v. Port Auth. of N.Y. & N.J.*, 685 F.3d 135, 162 (2d Cir. 2012); *also Rivera v. Hudson Valley Hosp. Grp., Inc.*, No. 17-CV-5636 (KMK), 2019 WL 3955539, at *6 (S.D.N.Y. Aug. 22, 2019) (same). Additionally, binding Second Circuit law holds that jumping straight to an adverse inference sanction is an abuse of discretion. *See, e.g., Shcherbakovskiy v. Da Capo Al Fine, Ltd.*, 490 F.3d 130, 139 (2d Cir.

2007) (holding an abuse of discretion for district court to impose the harshest of sanctions when “the district court did not consider the efficacy of lesser sanctions”).

Moreover, Jenkins’ request for sanctions is improper because it is based solely on rank speculation that **inculpatory evidence** was destroyed. Jenkins produces no evidence or support for her contentions that routine emails deleted in the regular course—years before the instant litigation was ever filed—could have supported her fanciful claims. This is fatal to her request for sanctions. *See, e.g., Treppel v. Biovail Corp.*, 249 F.R.D. 111, 122 (S.D.N.Y. 2008) (holding sanctions not warranted where “there is little extrinsic evidence demonstrating that any pertinent documents at all were destroyed, **let alone documents favorable to the plaintiff**” (emphasis added)); *Rivera*, 2019 WL 3955539, at *5 (noting spoliation sanctions inappropriate where only evidence of unfavorability of the allegedly spoliated evidence is the non-production itself); *Sovulj v. United States*, No. 98 CV 5550, 2005 WL 2290495, *5 (E.D.N.Y. Sept. 20, 2005) (holding sanctions unwarranted where only argument that missing emails were likely to support plaintiff’s claims was “**pure speculation**” (emphasis added)); *Skyline Steel, LLC v. PilePro, LLC*, 101 F. Supp. 3d 394, 411 (S.D.N.Y. 2015) (“ Instead, for sanctions—including an adverse inference instruction—to be warranted, ‘there must be extrinsic evidence to demonstrate that the destroyed evidence was relevant **and would have been unfavorable to the destroying party.**’” (emphasis added) (quoting *Great N. Ins. Co. v. Power Cooling, Inc.*, No. 06-CV-874 (ERK)(KAM), 2007 WL 2687666, at *11 (E.D.N.Y. Sept. 10, 2007)); *Klezmer ex rel. Desyantnik*, 227 F.R.D. at 50 (“Where a court finds that the party in possession of the evidence was negligent, the party seeking the adverse inference instruction has to provide proof as above; i.e., **it has to adduce evidence from which a reasonable trier of fact could infer the destroyed or lost evidence would have been of the nature alleged by the party seeking the inference.**” (emphasis added)).

And, importantly, the allegations of Jenkins' complaint cannot serve as the basis for her contention that allegedly inculpatory evidence was destroyed. *See, e.g., Fletcher v. ATEX, Inc.*, 68 F.3d 1451, 1456 (2d Cir. 1995) ("Mere conclusory allegations or denials in legal memoranda or oral argument are not evidence" (cleaned up)); *Lama v. Consolidated Edison*, 242 F.3d 366 (2d Cir. 2000) (same); *Corbeil v. Blood*, No. 5:10-cv-56, 2011 WL 2270403, *5 (D. Vt. June 6, 2011) (same).

Jenkins' mere assertion that sanctions should be imposed because she thinks, speculates, or contends inculpatory evidence was spoliated is plainly insufficient to warrant sanctions. There is no extrinsic evidence that any unfavorable evidence ever existed. Her request should be denied.

III. PLAINTIFF'S PRIVILEGE LOG CLAIMS ARE WITHOUT MERIT AND FRAUDULENT, IN LIGHT OF PLAINTIFF'S PREVIOUS REPRESENTATION THAT SHE WOULD ACCEPT "BROAD" PRIVILEGE LOG DESCRIPTIONS.

All of Plaintiff's complaints about Defendants' privilege logs, such as they were, have been addressed and resolved by Defendants. To the extent Plaintiff continues to press any privilege log deficiency claims, they are without merit.

Plaintiff reprises her four complaints about Defendants' privilege logs: (1) that Defendants did not provide the number of pages for the withheld documents; (2) that Defendants did not identify some of the individuals appearing on their privilege logs; (3) that Defendants did not provide sufficient detail in the subject-matter descriptions; and (4) that Defendants did not include document redactions on the privilege logs. (Dkt. 591 at 18-19).

Defendants have addressed all four complaints. Defendants have added a column to indicate the number of pages that each entry covers.⁷ (Supp. Mihet Decl., ¶ 32(a), and Exhs. 5, 6).

⁷ In some limited instances, an entry in the privilege logs refers to a bulk sub-file that contains unpaginated research materials used by counsel to prepare for hearings, arguments or other litigation events. (Supp. Mihet Decl., ¶ 32(a)). These materials are privileged because they

Defendants have also provided identifications and relationships to LC for the first occurrence of each name in the logs, other than Lindevaldsen, Staver, Horatio Mihet and Lisa Miller, whose identities and relationship to Liberty Counsel are already known to Plaintiff.⁸ (*Id.* at ¶ 32(b)). Defendants have also provided a few additional details in some of their subject-matter descriptions. (*Id.* at ¶ 32(c)). And Defendants have endeavored to identify the documents they have previously produced with limited redactions, and to add these to the privilege log.⁹ (*Id.* at ¶ 32(d)).

For reasons previously demonstrated by Defendants, Plaintiff’s complaint regarding the supposed lack of detail in Defendants’ subject-matter descriptions never had any merit. (*See e.g.*, dkt. 485 at 33-37; dkt. 513 at 12-15). For the sake of brevity, Defendants will not rehash those arguments here, but incorporate them by reference. Defendants emphasize just two of these reasons for the Court herein.

First, as previously demonstrated, the level of detail that Defendants have provided for their subject-matter descriptions far surpasses the detail that Plaintiff’s own counsel provide in civil litigation. (Dkt. 485 at 35). Plaintiff’s counsel are content to describe privilege entries merely as “providing legal advice regarding statements related to the litigation” (dkt. 485-6 at 1, “Priv 1”

contain highlighting, flags and tabs, notes, and other mental impressions of counsel. (*Id.*) Indeed, the mere selection and inclusion of these research materials in the file reflect the mental processes and thinking of counsel. (*Id.*) For these unpaginated materials, Defendants have indicated the approximate number of accordion files that they comprise. (*Id.*)

⁸ In some instances, only for communications in matters not related to this litigation, the identity of Liberty Counsel’s clients is withheld to protect their privileges and confidentiality. (Supp. Mihet Decl., ¶ 32(b)). The privileged and confidential identity of Liberty Counsel’s clients in unrelated litigation has no relevance whatsoever to Plaintiff’s claims.

⁹ Plaintiff falsely claims that Defendants’ redactions “often do not assert a basis for the redaction.” (Dkt. 591 at 19). And yet, each of the documents she cites in this paragraph has a legend on it, providing the basis for the redactions. (*Id.* (citing documents RL03681-RL03682; LC28743; LC29382; LC36354-LC36356; RL01023-RL01027)). In any event, the issue is moot now that Defendants have listed the redactions on their privilege logs, along with a re-identification of the privileges claimed.

et seq.), and “requesting information to provide legal advice regarding facts relating to the litigation.” (Dkt. 485-7 at 1, Entry # 1 *et seq.*). By comparison, Defendants here have provided much more detail. (*See e.g.*, Supp. Mihet Decl., at Exhs. 5, 6.)). Plaintiff’s complains are contrived because her own counsel do not live up to the standards they seek to foist upon Defendants here.

Second, as also previously demonstrated, Plaintiff has accepted privilege logs in this litigation, from these same Defendants, which contain less detail than what she demands now. (Dkt. 485 at 35). Specifically, Defendants previously served a privilege log to cover documents produced by non-party Liberty University in response to Plaintiff’s document subpoena. (*Id.*) In that privilege log, Defendants provided descriptions that had similar **or less** detail than the privilege logs at issue now. (*See* Liberty Counsel, Staver and Lindevaldsen Privilege Log for Liberty University Documents, dkt. 380-1). Plaintiff never challenged the sufficiency of the descriptions these Defendants provided in the log covering Liberty University documents. Her current complaints are contrived and without merit.

Finally, there is a third reason, not previously discussed, which now demonstrates that Plaintiff’s complaint regarding subject-matter descriptions was not just without merit, but outright frivolous, from the very beginning, and it remains frivolous if she continues to assert it. The Court may recall that, prior to Plaintiff’s filing of her very first motion to compel, and before Defendants provided any privilege logs, Plaintiff and Defendants had a disagreement as to whether Defendants should be required to provide a privilege log for all of their communications with Lisa Miller, during the many years they represented her, given the amount of time and effort that such an undertaking would require. (*See, e.g.*, Plaintiff’s First Motion to Compel, dkt. 361 at 3). The Court ultimately settled that dispute and required Defendants to provide privilege logs. (Dkt. 395).

However, during the course of that dispute, Plaintiff wanted to showcase how reasonable her demand for a privilege log was, and she indicated what would satisfy her:

You [on behalf of Defendants] reiterated your objection that the portion of this request that asks for all communications “concerning the Dispute” is overbroad and unduly burdensome, particularly because many of those communications would be privileged. I [on behalf of Plaintiff] clarified that **we would accept a block privilege log for this request that indicated beginning and end dates, broad subject matter, and method(s) of communication (e.g., “Emails between Lisa Miller and Rena Lindevaldsen concerning the Vermont litigation from August 13–17, 2006”)**.

(Clemons-Mihet Ltr. submitted in support of Plaintiff’s first motion to compel, dkt. 361-5 at 2 (emphasis added)).

Thus, Plaintiff induced Defendants (and perhaps the Court) to believe that “**broad** subject matter” descriptions providing no details whatsoever beyond “emails ... concerning the Vermont litigation” would be sufficient and satisfactory. (*Id.*) But, after the Court ordered privilege logs to be provided, and after Defendants provided privilege logs with **more** detail than what Plaintiff indicated would satisfy her, Plaintiff began to complain incessantly about the lack of detail. She now seeks the draconian sanction of privilege waiver because Defendants committed the infraction of providing her with **more** detail than the “broad” descriptions she suggested.

This is not merely wrong—it is unconscionable and sanctionable. Defendants have demonstrably provided **more** detail in their privilege log descriptions than: (a) what Plaintiff’s counsel typically provide; (b) what Plaintiff previously accepted from these Defendants, and deemed satisfactory, with the Liberty University documents; and (c) what Plaintiff specifically indicated would satisfy her for the instant privilege logs. This entire exercise has been a colossal waste of the Court’s and Defendants’ time and resources. The Court should not countenance it, and should impose a sufficient sanction to offset the expense Defendants have incurred in

defending against this frivolous complaint, and to deter this sort of conduct in the future. (*See* Section IV, *infra*).

IV. THE COURT SHOULD DENY PLAINTIFF’S REQUEST FOR SANCTIONS, AND SHOULD INSTEAD SANCTION PLAINTIFF FOR CONTINUALLY FILING UNWARRANTED MOTIONS TO COMPEL BASED ON FALSE NARRATIVES AND DECEPTIVE ARGUMENTS.

For all of the reasons discussed herein, the Court should deny Plaintiff’s Revised Second Motion to Compel, deny Plaintiff’s request for sanctions, and should instead sanction Plaintiff for continually filing unwarranted motions to compel, based on false narratives and deceptive arguments.

Defendants have previously demonstrated that Plaintiff’s earlier Second Motion to Compel was unwarranted, unnecessary and full of so many dishonest misrepresentations to the point of being fraudulent. (Dkts. 485 and 513). Plaintiff has now abandoned those arguments, and seemingly seeks to sweep them under the rug, but the unfortunate fact remains that Defendants were required to deal with, and rebut, each of her previous misrepresentations, at great expense (as detailed in the earlier filings). (*Id.*) The Court should not allow this to happen, and should grant the sanctions already requested and fully briefed by Defendants in the earlier round. (*Id.*)

Even if the Court had been inclined to overlook Plaintiff’s numerous transgressions in the earlier briefing, Plaintiff has now doubled down and made matters far worse, with an entirely new round of complaints, each more unmerited than the other, most of which Plaintiff has never before sought to resolve with Defendants through the required meet-and-confer process. Those repeated failures, detailed above, are worthy of sanctions.¹⁰

¹⁰ 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)

Other egregious and sanctionable arguments by Plaintiff include the continuing and incessant complaints about the lack of “detail” in Defendants’ privilege log descriptions, after Plaintiff represented to Defendants that she would accept “broad descriptions” essentially limited to only disclosing that withheld communications are “concerning the Vermont litigation.” (*See* pp. 40-41 *supra*). Defendants have provided descriptions that go **far** beyond what Plaintiff said she would accept (and far beyond what her own counsel provide in other cases). Plaintiff’s incessant complaints about lack of “detail” are fraudulent and designed only to harass Defendants. Merely rejecting or denying those complaints alone would be unfair and insufficient.

Finally, as detailed in the first section of this memorandum, Plaintiff’s entire Revised Second Motion to Compel is premised on her false narrative that Defendants have been “purposefully sluggish” and have “unreasonably” delayed their discovery obligations. As demonstrated, nothing could be further from the truth. Without Plaintiff’s misrepresentations, and even with them, her entire motion falls apart, because her complaints are contrived and lack merit. Therefore, Plaintiff’s entire motion is designed to harass and unfairly sanction Defendants.

Therefore, in addition to denying Plaintiff’s Revised Second Motion to Compel, the Court should impose appropriate sanctions upon Plaintiff, consisting of at least reimbursing Defendants for the costs and fees they incurred in responding to Plaintiff’s senseless, needless and meritless Second Motion to Compel, and now the equally defunct Revised Second Motion to Compel.

(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).

CONCLUSION

For the foregoing reasons, Plaintiff's Revised Second Motion to Compel should be denied, and the Court should impose appropriate sanctions against Plaintiff, to include the costs and fees incurred by Defendants in responding to this motion and to Plaintiff's previous Second Motion to Compel.

Respectfully submitted,

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*Admitted pro hac vice

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of December, 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

**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.)	
_____)	

SUPPLEMENTAL DECLARATION OF HORATIO G. MIHET

I, HORATIO G. MIHET, declare and state as follows:

1) I am Vice President of Legal Affairs and Chief Litigation Counsel at Liberty Counsel, and lead counsel in this case for Defendants Rena Lindevaldsen (“Lindevaldsen”) and Liberty Counsel, Inc. (“Liberty Counsel”) (collectively, “Defendants”).

2) I submit this Declaration in response to Plaintiff Janet Jenkins’ Revised Second Motion to Compel (Dkt. 591) (“RSMTC”), and in supplement to my previous Declaration Regarding Discovery Compliance Efforts of Defendants (dkt. 580), which I adopt and re-affirm herein.

3) I was personally involved in, and coordinated and supervised, Defendants’ search for documents responsive to Plaintiff’s document requests, Defendants’ document production to Plaintiff, and Defendants’ logging of privileged documents withheld from production. I submit this Declaration based on my personal knowledge and based upon information relayed to me in this process by the individuals I directed and supervised who assisted me in responding to Plaintiff’s document requests and Plaintiff’s RSMTC.

4) On June 25, 2020, approximately ten months after Defendants served their document requests upon Plaintiff, Plaintiff continued her ongoing production of documents by producing 171 pages of responsive documents. In the cover email, Plaintiff acknowledged that these documents should have been produced earlier, but blamed the delay on an “oversight.” A copy of this email, redacted to remove the download and password information, is attached hereto as **Exhibit 1**.

5) Two months later, on August 25, 2020, four days shy of one year after Defendants served upon Plaintiff their document requests, Plaintiff served an additional 935 pages of documents. A copy of Plaintiff’s cover email, redacted to remove the download and password information, is attached hereto as **Exhibit 2**.

6) With her August 25, 2020 document production, one year after Defendants’ document requests had been served, Plaintiff also served her “Second Supplemental Responses to Defendants’ Document Requests, in which she amended her previous responses that had indicated that she “will produce” responsive documents at some unspecified future time to now indicate that she “has produced all responsive nonprivileged documents.” A redlined copy of these responses, showing this change, is attached hereto as **Exhibit 3**.

7) Three months later, during the deposition of one of Plaintiff’s experts on November 17, 2020, Plaintiff discovered yet another “oversight” in her previous document production, and produced yet more pages to Defendants – this time an engagement letter with the very expert being deposed. A copy of Plaintiff’s cover email is attached hereto as **Exhibit 4**.

8) Many of the foregoing documents produced by Jenkins between the filing of her Second Motion to Compel on February 24, 2020 and the present day go back many years, some to

2009 or earlier. Many of them were authored by Jenkins, her immediate family, or her counsel, and thus presumably have been in her possession all along.

9) Prior to filing her RSMTTC, Plaintiff never raised the issue of the “onlyonemommy@yahoo.com” email account with Defendants. Upon receiving Plaintiff’s motion, I inquired with Lindevaldsen about the “onlyonemommy@yahoo.com” email account which Plaintiff contends should have been searched by Defendants. Lindevaldsen advised that she has no recollection of ever creating such an account, or ever sending or receiving an email on such an account.

10) Both Lindevaldsen and I attempted to log into a supposed “onlyonemommy” email account at yahoo.com, to determine whether a “forgotten password” could be retrieved and whether we could access the account. Both Lindevaldsen and I were advised by yahoo.com that no such email account exists.

11) The “onlyonemommy@yahoo.com” email account, to the extent it even exists, or ever existed, is not in Defendants’ custody, possession, or control.

12) I have reviewed the two documents referenced by Plaintiff – JENKINS26474 and JENKINS27106 – which Plaintiff says were produced to her by nonparty Debbie Thurman, and which, according to Plaintiff, purport to attribute the “onlyonemommy@yahoo.com” email account to Lindevaldsen. (Dkt. 591 at 11). Neither of these documents was authored or published by either Lindevaldsen or Liberty Counsel. Neither Lindevaldsen nor Liberty Counsel know what these purported documents are, or the basis for any claim or assumption therein that this email account belongs to Lindevaldsen.

13) On December 4, 2020, nonparty Debbie Thurman was deposed for the entire seven hours permitted by the rules of civil procedure. Plaintiff’s counsel spent many hours questioning

Debbie Thurman, but did not ask her a single question about the supposed “onlyonemommy@yahoo.com” email account, or about the two documents Thurman produced that purport to attribute that account to Lindevaldsen.

14) In my previous Declaration regarding Defendants’ discovery compliance efforts (dkt. 580), I stated, repeatedly, that Defendants have searched “their email and electronic document databases,” including those of both Liberty Counsel itself and also the “separate email accounts” of Defendant Lindevaldsen (since she is not currently a Liberty Counsel employee). I believed this was clear in my initial Declaration, but I clarify it again here: Defendants’ search included all email accounts in their custody, possession, or control that can even plausibly contain any responsive communications.

15) Plaintiff’s counsel never asked me to clarify the scope of the email search before filing the RSMTC. Had they asked me, I would have told them that Defendants’ all inclusive search included **all** of the email accounts to which Lindevaldsen has access (business and personal), **all** of the email accounts to which Mathew Staver has access (business and personal), and **all** of the Liberty Counsel email accounts of Liberty Counsel employees.

16) In addition to the document requests she propounded upon Lindevaldsen and Liberty Counsel, Plaintiff served dozens of nonparty document subpoenas in this case, including to Liberty University. As part of its response to Plaintiff’s subpoena, Liberty University searched the liberty.edu email accounts of Lindevaldsen and Mathew Staver, and produced all responsive, non-privileged documents. I know this because I reviewed Liberty University’s document production for privileges to be asserted by Lindevaldsen, Staver, and/or Liberty Counsel, and I provided Plaintiff’s counsel with a privilege log for that production.

17) Other than Mathew Staver (who held a position at Liberty University School of Law in the past), and Rena Lindevaldsen (who is a current employee of Liberty University School of Law), Liberty Counsel attorneys and staff do not have separate Liberty University email accounts, because they do not teach, are not LU alumni, and do not go to school there. Some have had a liberty.edu address alias in the past, that forwarded or forwards emails to the same Liberty Counsel email accounts that were searched for documents responsive to Plaintiffs' document requests.

18) Therefore, Plaintiff has been given all responsive and non-privileged emails from liberty.edu and lc.org email accounts she requested.

19) Prior to filing her RSMTC, Plaintiff never identified "lamiller6@liberty.edu" as an email address previously used by Lisa Miller, and never requested Defendants' responsive communications with this email address. The only two email addresses belonging to Lisa Miller which Plaintiff identified and for which she requested responsive communications are "zeusdesfor@aol.com" and "god1ofchild@live.com."

20) Upon receiving Plaintiff's RSMTC, I asked for searches to be performed on Liberty Counsel's and Rena Lindevaldsen's document and email databases for all responsive communications with the email address "lamiller6@liberty.edu." The search revealed no responsive communications in any of Liberty Counsel's documents and emails. The search revealed one responsive communication in Lindevaldsen's emails, which had already been found earlier because it contains multiple other search terms that Defendants previously searched for, including Lisa Miller's name and her zeusdesfor@aol.com email address. The email was listed on Lindevaldsen's privilege log previously provided to Plaintiff.

21) Prior to filing her RSMTC, Plaintiff never raised the issue of searching for Lisa Miller's email addresses in the body of emails, in addition to the To, From and Cc fields.

22) Among the approximately 42,000 pages of documents Defendants produced in this case, and the almost three hundred documents logged for privilege, are:

- a) Over 14,750 pages responsive to Plaintiff's Document Requests 4-8, 11-12 and 17-18, which included Defendants' communications with Lisa Miller and Isabella Miller, Defendants' communications about Lisa Miller, Isabella Miller and Janet Jenkins, Defendants' documents and communications about the child custody dispute between Lisa Miller and Janet Jenkins, and the court orders related to that dispute. This subset of documents includes, among many other things, Defendants' email communications with and about Lisa Miller (and Isabella Miller and Janet Jenkins), and Defendants' statements, press releases, constituent communications, fundraising appeals and internal communications about the Miller-Jenkins litigation.
- b) Hundreds of pages responsive to Plaintiff's Document Requests 19, 35-36 and 47-48, which production (and logging) included all documents Defendants authored, dated or published on those dates, as well all communications Defendants had (with anyone in the world) on the ten specific dates in 2009 requested by Plaintiff (*i.e.*, September 20, 21 and 22, and November 8, 9, 10, 11, 12, 13 and 20). These documents include routine communications that Defendants had with clients and others, about

unrelated cases and matters that have nothing whatsoever to do with this case.

- c) At least 7,598 pages of documents containing the search term “civil disobedience,” which Plaintiff and Defendants negotiated and agreed upon.

23) Prior to filing her RSMTC, Plaintiff did not attempt to meet and confer with Defendants regarding any alleged insufficiency of search terms Defendants used to respond to Plaintiff’s Document Requests 4-8, 11-12 and 17-18.

24) Prior to filing her RSMTC, Plaintiff did not provide any search terms that Defendants should use to collect ESI responsive to Plaintiff’s Document Requests 4-8, 11-12 and 17-18 (regarding communications with and about Lisa, Isabella, Janet, the dispute and court orders), nor did Plaintiff provide any search terms that Defendants should use to collect ESI responsive to Plaintiff’s Document Requests 19, 35-36 and 47-48 (regarding communications and events on ten specific dates in 2009). This is in contrast with Plaintiff’s Document Requests 64-69 (regarding Defendants’ policies and positions on various topics), for which Plaintiff did provide suggested terms, which the parties cooperatively refined and ultimately agreed upon.

25) Upon receiving Plaintiff’s RSMTC, I asked for searches to be performed on Liberty Counsel’s databases for the various brand-new search terms that Plaintiff provided for the first time in her motion. Because the search terms are extremely general and common, the search terms yielded tens of thousands of results, an overwhelming part of which are related to Liberty Counsel’s donors, constituents, clients, former clients, initiatives, and undertakings that have nothing to do with the Miller-Jenkins litigation or this case. This is a summary of the new search terms now being proposed by Plaintiff, the number of hits they generate, and a small (non-exhaustive) sampling of the irrelevant matters that appear to be included in these hits:

New Search Terms Proposed by Plaintiff	Number of Hits	Non-exhaustive Sampling of Irrelevant Matters Included in Hits
Lisa	46,884	<p>Entire files (pleadings and communications) of numerous current and former clients with “Lisa” in first name, including Lisa B. (1), Lisa B. (2), Lisa W. (1), Lisa W. (2), Lisa G., Lisa H., Lisa M. (1) (not Miller), Lisa M. (2) (not Miller), Lisa S. (1), Lisa S. (2).</p> <p>Communications with numerous current and former donors, foundations, and constituents with “Lisa” in their name (not Miller).</p> <p>Registration and conference materials for multiple individuals named “Lisa” (not Miller) who attended Liberty Counsel events.</p> <p>References for job applicants named “Lisa” (not Miller).</p> <p>Numerous articles and pleadings regarding people named “Lisa” (not Miller).</p>
Janet	47,529	<p>Client files, job applications, multiple conference speaker, attendee and exhibitor lists, and communications with or about individuals named “Janet” (not Jenkins).</p> <p>Numerous donor lists and donor communications with multiple individuals named “Janet” (not Jenkins).</p> <p>Multiple media engagements with, and articles about, media personalities and public figures named “Janet” (not Jenkins, and not about the Miller-Jenkins case).</p> <p>Numerous pleadings about individuals named “Janet” (not Jenkins).</p>
Isabella	10,079	<p>Communications with, and client files of, multiple clients named “Isabella” (not Miller).</p> <p>Numerous pleadings from cases involving litigants named “Isabella” (not Miller).</p>

		Petition signers, conference attendees, donors, and constituent communications with individuals named "Isabella" (not Miller).
Miller	160,050	<p>Numerous files of, and communications with, current and former clients named "Miller" (not Lisa).</p> <p>Numerous communications with multiple foundations and donors named "Miller" (not Lisa).</p> <p>Numerous communications with and about a person in leadership at Liberty Counsel with "Miller" in last name (not Lisa).</p> <p>Numerous pleadings from cases involving litigants named "Miller" (not Lisa), including numerous cases and precedents with "Miller" in their title.</p>
Jenkins	58,531	<p>Numerous donor and constituent communications with numerous individuals named "Jenkins" (not Janet).</p> <p>Communications with conference attendees named "Jenkins" (not Janet).</p> <p>Articles, case pleadings and research files and notes regarding individuals named "Jenkins" (not Janet).</p>
Sarah	56,897	Former clients named "Sarah," numerous communications of and with former employee named "Sarah," numerous donors, foundations, constituents, conference attendees, and speakers named "Sarah" (none of the above being Lisa or Isabella Miller, or about them).
Lydia	9,675	Numerous donors, foundations, and constituent communications with multiple individuals named "Lydia" (none of the above being Lisa or Isabella Miller, or about them).
Vermont	27,208	Numerous communications with donors, constituents, and clients in Vermont, not related to the Miller-Jenkins litigation or this case.

		<p>Pleadings, cases, articles and documents about various litigation in Vermont, not related to the Miller-Jenkins litigation or this case.</p> <p>Requests for legal assistance from potential clients located in Vermont, not related to the Miller-Jenkins litigation or this case.</p>
Sessions	36,404	<p>Numerous communications about “Jeff Sessions” (former U.S. Senator and U.S. Attorney General) not related to the Miller-Jenkins litigation or this case.</p> <p>Articles about various “sessions of congress.”</p> <p>Numerous pleadings, case documents, and judicial opinions from First Amendment litigation discussing the opening of “legislative sessions” with prayer.</p>
Sharp	40,974	<p>Numerous unrelated documents containing terms like “sharp contrast,” “sharp pains,” and “sharp focus.”</p> <p>Communications with donors, foundations, and constituents named “Sharp.”</p>
Cohen	21,118	<p>Books, articles, expert reports, and other documents authored by, or about, individuals named “Cohen” (none of them judges in Vermont).</p> <p>Communications with multiple donors named “Cohen” (none of them judges in Vermont).</p> <p>Numerous articles, cases and briefs discussing or citing <i>Cohen v. California</i> or <i>Flast v. Cohen</i>.</p>
visitation	9,527	<p>Numerous documents from litigation regarding hospital visitation and nursing home visitation (none related to Miller-Jenkins litigation or this case).</p> <p>Cases and communications regarding constitutional controversies with inmate visitation (none related to Miller-Jenkins litigation or this case).</p>

26) In total, the searches for these new terms yielded 524,876 hits.

27) The amount of time and resources that it would take to review these results for privilege and to prepare them for production is incalculable. I can confidently say, based on the fact that it took almost 500 hours to complete a much smaller review and production in this case, that it would take in excess of 2,000 attorney and staff hours, and possibly much more than that, to undertake such a review. Even with several attorneys and staff working on such a project, it would take many months, potentially even in excess of one year to complete it.

28) Liberty Counsel's master firm calendar contains all recorded appointments of all firm members. It is a composite of all individual member calendar entries available to Liberty Counsel – a convenient place to see all entries, firm-wide, in one place. There are no appointments available to Liberty Counsel for any firm members on the ten dates in 2009 requested by Plaintiff that are not reflected on the master calendar produced by Defendants.

29) Upon receipt of Plaintiff's RSMTC, I asked for a search to be performed on Liberty Counsel's document database for a copy of the "Manhattan Declaration." No such copy of that document was found.

30) Neither Liberty Counsel nor Lindevaldsen were among the members of the Manhattan Declaration drafting committee, nor among its charter signers.

31) Concurrently with the filing of this Declaration and Defendants' Response in Opposition to Plaintiff's Revised Second Amended Complaint, Defendants are providing amended privilege logs to Plaintiffs. A copy of Liberty Counsel and Rena Lindevaldsen's amended privilege log, covering documents from Liberty Counsel, is attached hereto as **Exhibit 5**. A copy of Rena Lindevaldsen's amended privilege log, covering documents from Lindevaldsen, is attached hereto as **Exhibit 6**.

- 32) Among the amendments made to address concerns by Plaintiff are:
- a) Defendants have added a column to indicate the number of pages that each entry covers. In some limited instances, the entry refers to a bulk sub-file that contains un-paginated research materials used by counsel to prepare for hearings, arguments, or other litigation events. These materials are privileged because they contain highlighting, flags and tabs, notes, and other mental impressions of counsel. Indeed, the mere selection and inclusion of these research materials in the file reflect the mental processes and thinking of counsel. For these unpaginated materials, Defendants have indicated the approximate number of accordion files that they comprise.
 - b) For the first instance of each name on the privilege log (other than Lindevaldsen, Staver, myself, and Lisa Miller, whose identities and relationship to Liberty Counsel are already known to Plaintiff) Defendants have indicated the person's identity and relationship to Liberty Counsel. In some instances, for communications in matters not related to this litigation, the identity of Liberty Counsel's clients is withheld to protect their privileges and confidentiality.
 - c) Defendants have expanded some of the subject-matter descriptions.
 - d) Defendants have endeavored to identify the documents they have previously produced with limited redactions, and to add these to the privilege log.

33) On or around March 30, 2017, I received an evidence preservation letter from the Southern Poverty Law Center, representing Plaintiff in this case. A copy of this letter is attached hereto as **Exhibit 7**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct to the best of my knowledge, information and belief.

Executed on December 7, 2020.

/s/ Horatio G. Mihet
Horatio G. Mihet

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of December, 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: [Diego Soto](#)
To: [Brooks McArthur](#); [Anthony Duprey](#); [Daniel Schmid](#); [Horatio Mihet](#); [Roger Gannam](#); [Adam Hochschild](#); [Norman Smith](#); [Richard Boyer](#); [Toddy Ferguson](#); [Michael Tierney](#)
Cc: [Beth Littrell](#); [Claudia Huerta](#); [Diego Soto](#); [Emily Joselson](#); [flangrock](#); [Jessica Stone](#); [Maya Rajaratnam](#); [Sarah Star](#); [Scott McCoy](#); [Tyler Clemons](#)
Subject: Jenkins et al. v. Miller et al., No. 2:12-cv-184 (D. Vt.) - Plaintiff Janet Jenkins's Production of JENKINS22274-JENKINS22445
Date: Thursday, June 25, 2020 6:10:20 PM
Attachments: [0410 PROTECTIVE ORDER re- Plaintiffs Medical Mental Health Financial and Other Personal Records and I.pdf](#)

Counsel,

Please find at the link below Plaintiff Janet Jenkins's production of documents Bates stamped JENKINS22274-JENKINS22445:

[REDACTED]

The following is a shortened URL for your convenience: [REDACTED]

As a reminder, the password for all of Plaintiffs' productions is: [REDACTED]

This production comprises 14 financial documents responsive to the RUL Defendants' requests for production 3-5, 13, and 20, Defendant Linda Wall's requests for production 61 and 66, and Defendant Liberty Counsel, Inc.'s requests for production 51-54.

All documents in this production are confidential documents protected from disclosure by court order. A copy of that order is attached for your convenience.

Earlier this afternoon, I learned that these 14 documents potentially, and if so, inadvertently were not produced in an earlier production. It appears this was caused by a mistaken failure to tag these documents for production after reuploading them to our document management program. Immediately upon learning of this, I had these documents processed for production. I apologize for the oversight.

Sincerely,
Diego



Diego Soto he/him/his
Staff Attorney | LGBTQ Rights & Special Litigation
Southern Poverty Law Center
T 334.956.8427 C 334.604.1414 F 334.956.8481
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Admitted in Alabama and the District of Columbia

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From: [Diego Soto](#)
To: [Brooks McArthur](#); [Cassie Parah](#); [Anthony Duprey](#); [Daniel Schmid](#); [Horatio Mihet](#); [Roger Gannam](#); [Adam Hochschild](#); [Norman Smith](#); [Richard Boyer](#); [Toddy Ferguson](#); [Michael R. Hirsh](#); [Michael Tierney](#)
Cc: [Beth Littrell](#); [Claudia Huerta](#); [Diego Soto](#); [Emily Joselson](#); [flangrock](#); [Jessica Stone](#); [Maya Rajaratnam](#); [Sarah Star](#); [Scott McCoy](#); [Tyler Clemons](#)
Subject: Jenkins et al. v. Miller et al., No. 2:12-cv-184 (D. Vt.) - Plaintiff Janet Jenkins's Production of JENKINS22446–JENKINS23381, Supplemental Discovery Responses, and Proposed Stipulated Protective Order
Date: Tuesday, August 25, 2020 11:13:59 PM
Attachments: [0410 PROTECTIVE ORDER re- Plaintiffs Medical Mental Health Financial and Other Personal Records and I.pdf](#)
[FINAL Jenkins 1st Supplemental Responses to Wall's 1st and 2nd Requests for Production - Redline_Sanitized.pdf](#)
[FINAL Jenkins 1st Supplemental Responses to Wall's 1st and 2nd Requests for Production_Sanitized.pdf](#)
[FINAL Jenkins 2nd Supplemental Responses to Liberty Counsel's 1st Requests for Production - Redline_Sanitized.pdf](#)
[FINAL Jenkins 2nd Supplemental Responses to Liberty Counsel's 1st Requests for Production_Sanitized.pdf](#)
[DRAFT Jenkins Proposed Stipulated Protective Order re Lisa Miller's Tax Returns.docx](#)
[FINAL Appendix of Confidential Answers to Jenkins 2nd Supplemental Responses to RUL Defendants 1st Discovery Requests_Sanitized.pdf](#)
[FINAL Jenkins 2nd Supplemental Responses to RUL Defendants 1st Discovery Requests - Redline_Sanitized.pdf](#)
[FINAL Jenkins 2nd Supplemental Responses to RUL Defendants 1st Discovery Requests_Signed_Sanitized.pdf](#)

Counsel,

Please find at the link below Plaintiff Janet Jenkins's production of documents Bates stamped JENKINS22446–JENKINS23381:

[REDACTED]

The following is a shortened URL for your convenience: [REDACTED]

As a reminder, the password for all of Plaintiffs' productions is: [REDACTED]

This production contains documents responsive to the RUL Defendants' Requests 1–3, 6, 13, 17–18, and 20, Wall's Requests 1, 16–17, 19, 30, 58, 60–61, and 67, and Liberty Counsel's Requests 1–2, 7–9, 11, 49, and 53.

This production contains 32 confidential documents (JENKINS23123–JENKINS23212 and JENKINS23380–JENKINS23381) protected from disclosure by court order. A copy of that order is attached for your convenience.

Also attached are:

- Clean and redline versions of Plaintiff's second supplemental responses to the RUL Defendants' first interrogatories and requests for production, including a confidential appendix protected from disclosure by the attached court order
- Clean and redline versions of Plaintiff's first supplemental responses to Linda Wall's first and second requests for production
- Clean and redline versions of Plaintiff's second supplemental responses to Liberty Counsel's first requests for production
- A proposed stipulated protective order regarding Defendant Lisa Miller's financial records, namely two tax returns Plaintiff obtained from the Rutland Family Court and Bates stamped JENKINS12945–JENKINS12946 and JENKINS12956–JENKINS12957

Please let me know whether you stipulate to the attached proposed stipulated protective order.

Sincerely,
Diego



Diego Soto he/him/his
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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~~SECOND 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.'s ("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 for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all 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 for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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: Plaintiff objects to ~~T~~this request ~~is~~as overly broad, unduly burdensome, harassing, and ~~not~~disproportional 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 for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control and will produce on a rolling basis additional responsive documents as they come into her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control and will produce on a rolling basis additional responsive documents as they come into her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control and will produce on a rolling basis additional responsive documents as they come into her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control and will produce on a rolling basis additional responsive documents as they come into her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

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

Response: Plaintiff ~~will~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 29. All Communications with or about Andrew Yoder.

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

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~produced all responsive, nonprivileged documents in her possession, custody, or control ~~that have not already been produced.~~

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~produced all responsive, nonprivileged documents in her possession, custody, or control ~~that have not already been produced.~~

Request for Production 36. All Communications between Lindevaldsen and Lisa Miller facilitated by Hyden.

Response: Plaintiff ~~will~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

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

Objection: Plaintiff objects to Tthis request ~~calls for~~as requesting documents that are equally available to Defendant.

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

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control, and which are not publicly or equally available to Defendant.-

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

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

Objection: Plaintiff objects to Tthis request ~~calls for~~as requesting documents that are equally available to Defendant.

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

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control, and which are not publicly or equally available to Defendant.:-

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

Response: Plaintiff ~~will~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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.

Objection: Plaintiff objects to this request as irrelevant to any party's claim or defense, unduly burdensome, disproportional to the needs of the case, and harassing. Plaintiff also objects to this request as requesting Documents protected by the psychotherapist-patient privilege.

Response: Pursuant to the Court's October 29, 2019 order, *see* Op. & Order 11-12, ECF 394, and without waiving any objection, Plaintiff ~~will~~has produced all responsive, nonprivileged documents in her possession, custody, or control and will produce on a rolling basis additional responsive documents as they come into her possession, custody, or control. Plaintiff has requested additional medical records from June 2019 to the present but has yet to receive them due to delays caused by the Covid-19 pandemic.

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

Objection: Plaintiff objects to this request as irrelevant to any party's claim or defense and as unduly burdensome, disproportional to the needs of the case, and harassing because Plaintiff has withdrawn her claim for the legal fees she incurred as alleged in paragraph 69 of the Complaint. Plaintiff does not, however, waive, and instead expressly reserves, her request for attorney's fees, expert fees, and costs in this case. *See* Compl. 14 ¶¶ 3–4.

Response: Plaintiff will not produce responsive, nonprivileged documents in her possession, custody, or control.

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

Objection: Plaintiff objects to this request as irrelevant to any party's claim or defense, unduly burdensome, disproportional to the needs of the case, and harassing, and as calling for privileged information.

Response: Pursuant to the Court's October 29, 2019 order, *see* Op. & Order 12–13, ECF 394, and without waiving any objection, Plaintiff ~~will~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

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

Objection: Plaintiff objects to this request as irrelevant to any party's claim or defense, unduly burdensome, disproportional to the needs of the case, and harassing.

Response: Pursuant to the Court's October 29, 2019 order, *see* Op. & Order 12–13, ECF 394, and without waiving any objection, Plaintiff ~~will~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

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

Objection: Plaintiff objects to this request for her ~~Plaintiff's~~ tax returns before 2004 and after 2009 areas irrelevant to any party's claim or defense, unduly burdensome, disproportional to the needs of the case, and harassing.

Response: ~~Plaintiff will produce her tax returns from 2004 once an appropriate confidentiality order has been entered.~~ Pursuant to the Court's October 29, 2019 order, *see Op. & Order 12-13, ECF 394*, and without waiving any objection, Plaintiff has produced all responsive, nonprivileged documents in her possession, custody, or control and will produce on a rolling basis additional responsive, nonprivileged documents as they come into her possession, custody, or control. Plaintiff does not have her original 2011 federal tax return in her possession, custody, or control; her tax preparer for that year, Norman Vadnais, 15 N. Main Street, Fair Haven, Vermont 05743, (802) 265-4916, no longer possesses a copy; and the Internal Revenue Service provides tax return copies only for the current tax year and as far back as six years and provides tax return transcripts only for the most current tax year and for the past three years. *See How to Get Tax Transcripts and Copies of Tax Returns from the IRS, IRS*, <https://www.irs.gov/newsroom/how-to-get-tax-transcripts-and-copies-of-tax-returns-from-the-irs> (last visited June 26, 2020).

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

Objection: Plaintiff objects to this request as irrelevant to any party's claim or defense, unduly burdensome, disproportional to the needs of the case, and harassing.

Response: Pursuant to the Court's October 29, 2019 order, *see Op. & Order 12-13, ECF 394*, and without waiving any objection, Plaintiff ~~will~~has produced all responsive,

nonprivileged documents in her possession, custody, or control. See also response to Request for Production 53 regarding Plaintiff's 2011 tax returns.

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

Objection: Plaintiff objects to ~~T~~this request ~~is~~as overly broad, unduly burdensome, harassing, and ~~not~~disproportional 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.~~Plaintiff has no responsive documents in her possession, custody, or control.

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

Objection: Plaintiff objects to ~~T~~this request ~~calls for~~as requesting documents that are equally available to Defendant.

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

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

Objection: Plaintiff objects to ~~T~~this request ~~calls for~~as requesting documents that are equally available to Defendant.

Response: Plaintiff ~~will~~has produced all responsive, nonprivileged documents in her possession, custody, or control, at Defendant's expense and will produce on a rolling basis additional responsive, nonprivileged documents as they come into her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

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

Objection: Plaintiff objects to ~~T~~this request ~~calls for~~as requesting documents that are equally available to Defendant.

Response: Plaintiff ~~will~~has produced all responsive, nonprivileged documents in her possession, custody, or control, at Defendant's expense and will produce on a rolling basis additional responsive, nonprivileged documents as they come into her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control, and which are not publicly or equally available to Defendant.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

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

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

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

Request for Production 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: Plaintiff objects to This request ~~seeks information~~as irrelevant to any party’s claim or defense.

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

Request for Production 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: Plaintiff objects to This request ~~seeks information~~as requesting documents protected by the attorney–client privilege. Plaintiff also objects to This request ~~also seeks~~ ~~information~~as irrelevant to any party’s claim or defense.

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

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

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

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

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

Objection: Plaintiff objects to ~~T~~this request ~~seeks information~~ as requesting Communications protected by the attorney–client privilege. Plaintiff also objects to ~~T~~this request ~~also seeks information~~ as irrelevant to any party’s claim or defense.

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

Request for Production 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: Plaintiff objects to ~~T~~this request ~~seeks information~~ as requesting Communications protected by the attorney–client privilege and the work product doctrine. Plaintiff also objects to ~~T~~this request ~~also seeks information~~ as irrelevant to any party’s claim or defense. Plaintiff also objects to ~~T~~this request ~~is also~~ as 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 for Production 69. All statements you have provided to the media regarding this lawsuit or the disappearance of Lisa Miller or Isabella Miller.

Objection: Plaintiff objects to this request as requesting documents that are equally available to Defendant.

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

Request for Production 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~~has produced all responsive, nonprivileged documents in her possession, custody, or control.

~~March 18, 2020~~August 25, 2020

~~/s/ J. Tyler Clemons~~Frank H. Langrock

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Cc: [Beth Littrell](#); [Diego Soto](#); [Emily Joselson](#); [flangrock](#); [Jessica Stone](#); [Maya Rajaratnam](#); [Sarah Star](#); [Scott McCoy](#); [Tyler Clemons](#)
Subject: Jenkins et al. v. Miller et al., No. 2:12-cv-184 (D. Vt.) - Plaintiff Janet Jenkins's Production of JENKINS28451-JENKINS28453
Date: Tuesday, November 17, 2020 12:02:57 PM
Attachments: [JENKINS28451.pdf](#)

Counsel,

Please find attached Plaintiff Janet Jenkins's production of the document Bates stamped JENKINS28451-JENKINS28453.

Sincerely,
Diego



Diego Soto he/him/his
Staff Attorney | LGBTQ Rights & Special Litigation
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No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
1	Correspondence	10/14/2004	Judy Barone (local counsel)	Rena Lindevaldsen	Facsimile letter between counsel discussing strategy, research, and impression for legal briefing in Miller/Jenkins Vermont litigation	5	Work Product
2	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Legal research on Vermont statutes and caselaw for Miller/Jenkins Vermont litigation; research on appeals, contempt issues, and other attorney thoughts and impressions concerning pleadings in Vermont custody litigation	100	Work Product
3	Correspondence	9/20/2004	Judy Barone	Rena Lindevaldsen	Facsimile letter between counsel discussing strategy, research, and impression for legal briefing in Miller/Jenkins Vermont litigation (discussing pro hac vice applications and supplemental briefing matters on custody issues)	10	Work Product
4	Correspondence	9/29/2004	Rena Lindevaldsen	Judy Barone, Peter Hanson (local counsel)	Facsimile letter between counsel discussing strategy, research, and impression for legal briefing in Miller/Jenkins Vermont litigation	3	Work Product
5	Correspondence	10/14/2004	Judy Barone	Rena Lindevaldsen	Facsimile letter between counsel discussing strategy, research, and impression for legal briefing in Miller/Jenkins Vermont litigation	5	Work Product
6	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen, Judy Barone	n/a	Vermont caselaw, statutes, and misc. research concerning attorney thoughts, impressions, highlights, notes, and comments for Miller/Jenkins custody litigation in Vermont	40	Work Product
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	17	Work Product
8	Research/Notes/ Strategy	Undated	Rena Lindevaldsen, David Corry (former LC ¹ atty)	n/a	Vermont caselaw, statutes, and misc. research concerning attorney thoughts, impressions, highlights, notes, and comments for Miller/Jenkins custody litigation in Vermont	72	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	158	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	210	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	85	Work Product
12	Correspondence	1/25/2005	Kevin Blier (consulting local atty)	Rena Lindevaldsen	Electronic mail communication with letter between counsel discussing strategy, research, and impression for legal briefing in Miller/Jenkins Vermont litigation	5	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	76	Work Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
14	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of 8/24/2005 hearing in Miller/Jenkins custody litigation in Vermont on withdrawing waiver of parentage challenge	155	Work Product
15	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of 8/17/2004 hearing in Miller/Jenkins custody litigation in Vermont on motion for contempt	180	Work Product
16	Notes/Research/ Strategy/Impressions	Undated	David Corry	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of 5/26/2004 hearing in Miller/Jenkins custody litigation in Vermont on request for temporary custody order	127	Work Product
17	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of 3/15/2004 hearing in Miller/Jenkins custody litigation in Vermont on contested divorce	132	Work Product
18	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of 3/15/2004 hearing in Miller/Jenkins custody litigation in Vermont on contested divorce	126	Work Product
19	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions concerning transcript of 5/26/2004 hearing in Miller/Jenkins custody litigation in Vermont on temporary custody	71	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	53	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	21	Work Product
22	Notes/Research/ Strategy/Impressions	Undated	Former LC legal intern Johnson	David Corry, Erik Stanley (former LC atty), 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	108	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 re scientific studies on same-sex parents for Miller/Jenkins custody litigation in Vermont	9	Work Product
24	Notes/Research/ Strategy/Impressions	Undated	Former LC legal intern Curtis	Rena Lindevaldsen, Erik Stanley	Legal research memorandum with attorney highlights, comments, thoughts, and impressions concerning potential federal claims and arguments in Miller/Jenkins custody litigation in Vermont	20	Work Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
25	Notes/Research/ Strategy/Impressions	Undated	Matthew Krause (former LC atty)	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	14	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	3	Work Product
27	Notes/Research/ Strategy/Impressions	Undated	Former LC legal intern Davies	David Corry	Legal research memorandum with attorney highlights, comments, thoughts, and impressions concerning potential arguments in Miller/Jenkins custody litigation in Vermont	3	Work Product
28	Notes/Research/ Strategy/Impressions	Undated	David Corry	n/a	Vermont caselaw, statutes, and misc. research containing attorney thoughts, impressions, highlights, notes, and comments for Miller/Jenkins custody litigation in Vermont re custody	1 AF ²	Work Product
29	Notes/Research/ Strategy/Impressions	Undated	Former LC legal intern Curtis	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	3	Work Product
30	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Vermont caselaw, statutes, and misc. research containing attorney thoughts, impressions, highlights, notes, and comments for Miller/Jenkins custody litigation in Vermont	1 AF	Work Product
31	Correspondence	4/22/2009	Bonnie Gentry (former LC legal asst)	Norm Smith (local counsel), Stephen Crampton (former LC atty)	Attorney research, notes, comments, discussion, and strategy re pleadings and briefings in Vermont trial court and misc issues related to Lisa Miller previous attorney	13	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	0.5 AF	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	0.5 AF	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	0.5 AF	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	19	Work Product
36	Correspondence	1/25/2008	Stephen Crampton	Belinda Wetherington (former LC legal asst)	Email correspondence from counsel to paralegal regarding motion to dismiss appeal with notes, comments, thoughts, and discussion of strategy	3	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	2	Work Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	4	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	0.5 AF	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 re registration action in Virginia	158	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	0.5 AF	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	8	Work Product
43	Correspondence	2/26/2010	Stephen Crampton	Mathew Staver, William McRorie (consulting counsel), Rena Lindevaldsen	Email correspondence concerning discovery issues and strategy and discussion concerning response to same	8	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	142	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	139	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	1 AF	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	2	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	0.5 AF	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	2 AF	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	1 AF	Work Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	1 AF	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	2 AF	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	158	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 containing oral argument binder of relevant pleadings	1 AF	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	2 AF	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 containing oral argument binder of relevant pleadings and case law/research for same	2 AF	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	0.5 AF	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, including <i>inter alia</i> registration action and parentage research	1 AF	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 and oral argument preparation for Virginia appeals	2 AF	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	6	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	3 AF	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	1 AF	Work Product
63	Notes/Research/ Strategy/Impression	4/2/2007– 4/5/2007	David Corry	n/a	Attorney handwritten trial notes, thoughts, comments, and strategy from trial in Vermont custody litigation for 4/2/2007-4/5/2007 trial	1 AF	Work Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
64	Notes/Research/ Strategy/Impression	Undated	David Corry	n/a	Attorney highlights, notes, thoughts, impressions, comments, and strategy on Vermont Supreme Court briefs	0.5 AF	Work Product
65	Notes/Research/ Strategy/Impressions	Undated	Rena Lindevaldsen	n/a	Attorney notes, thoughts, comments, highlights, and impressions containing transcript of hearing in Miller/Jenkins custody litigation in Vermont	1 AF	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	2 AF	Work Product
67	Unsigned Attorney Draft Pleadings	Undated	Rena Lindevaldsen	n/a	Attorney draft pleadings containing proposed final orders in Miller/Jenkins custody litigation in Vermont	0.5 AF	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	6	Work Product
69	Unsigned Attorney Draft Pleadings	Undated	Rena Lindevaldsen	n/a	Attorney draft pleadings in Miller/Jenkins custody litigation in Vermont	0.5 AF	Work Product
70	Unsigned Attorney Draft Pleadings	Undated	Rena Lindevaldsen, Norman Smith	n/a	Attorney draft pleadings in Miller/Jenkins custody litigation in Vermont	1 AF	Work Product
71	Unsigned Attorney Draft Pleadings	Undated	Rena Lindevaldsen, Norman Smith	n/a	Attorney draft pleadings in Miller/Jenkins custody litigation in Vermont	0.5 AF	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	4	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	3	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	2	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	1	Attorney-Client
76	Correspondence	11/13/2007	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence providing draft letter for legal review, advice and discussion	1	Attorney-Client
77	Correspondence	11/13/2007	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence providing draft letter for legal review, advice and discussion	1	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	1	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	1	Attorney-Client

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	4	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	1	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	1	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	1	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	1	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	1	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	3	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.	2	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.	2	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	1	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.	2	Attorney-Client
91	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	2	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.	5	Attorney-Client

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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.	7	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	5	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	5	Attorney-Client
96	Correspondence	1/19/2009	Rena Lindevaldsen	Lisa Miller, Stephen Crampton, Michelle Kenny (GAL/counsel for Isabella)	Email correspondence discussing issues occurring at visitation, client needs/interests and welfare of child	2	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	1	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	2	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	2	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.	2	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	3	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.	3	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	4	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.	4	Attorney-Client

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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.	3	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.	4	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	2	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.	2	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	3	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	3	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	3	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.	1	Attorney-Client
113	Correspondence	12/30/2004	Rena Lindevaldsen	Lisa Miller	Letter correspondence transmitting contract of representation and discussing representation	3	Attorney-Client
114	Correspondence	9/28/2005	Rena Lindevaldsen	Lisa Miller	Letter correspondence transmitting document and information related to custody litigation	3	Attorney-Client
115	Correspondence	4/12/2007	Rena Lindevaldsen	n/a	Draft letter correspondence concerning visitation issues arising from Vermont custody litigation	3	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	4	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	3	Attorney-Client

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
118	Correspondence	9/10/2007– 9/13/2007	Rena Lindevaldsen, Stephen Crampton, Stephen Cable (consulting investigator)	Rena Lindevaldsen, Stephen Crampton, Stephen Cable	Email correspondence chain discussing potential witnesses for custody litigation, and appeal status	3	Work-Product
119	Correspondence	9/19/2007	Stephen Crampton	Stephen Cable	Email correspondence discussing potential witness testimony in custody litigation	1	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	2	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	2	Attorney-Client
122	Correspondence	8/8/2007	Lisa Miller	Stephen Crampton Rena Lindevaldsen	Email correspondence providing counsel information regarding visitation issues and child welfare	1	Attorney-Client
123	Correspondence	11/13/2007	Lisa Miller	Stephen Crampton, Rena Lindevaldsen	Email correspondence providing draft letter to counsel for review	1	Attorney-Client
124	Correspondence	11/13/2007	Lisa Miller	Stephen Crampton, Rena Lindevaldsen	Email correspondence providing draft letter to counsel for review	1	Attorney-Client
125	Correspondence	11/11/2007	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence providing draft letter to counsel for review	1	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	1	Attorney-Client
127	Correspondence	11/19/2007	Tammy Canfield (friend of Lisa Miller)	Stephen Crampton	Email correspondence providing information and potential testimony regarding visitation issues and child welfare	1	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	1	Attorney-Client
129	Correspondence	3/29/2008– 3/31/2208	Lisa Miller, Stephen Crampton	Lisa Miller, Stephen Crampton, Rena Lindevaldsen	Email correspondence providing information and instructions to counsel regarding visitation issues in custody litigation	3	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.	2	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.	2	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	1	Attorney-Client

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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.	2	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	2	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.	5	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.	7	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	5	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	5	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	2	Work-Product
140	Correspondence	3/6/2009	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence discussing issues surrounding visitation, and child wishes and welfare	1	Attorney-Client
141	Correspondence	1/19/2010	Rena Lindevaldsen	Norman Smith	Draft letter transmitting to local counsel pleadings for filing in custody litigation	2	Work-Product
142	Correspondence	2/17/2010	Mary McAlister	Stephen Crampton, Rena Lindevaldsen, Mathew Staver, Anita Staver (LC atty), Bonnie Gentry	Email correspondence providing update, discussion, attorney thoughts and impressions, and other information concerning hearing in custody litigation	3	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	2	Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	3	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	1	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	9	Attorney-Client Work-Product
148	Correspondence	10/30/2009– 12/1/2009	David Corry, Nina Hampton (LC client), Anthony Quaranta (former LC legal asst)	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	3	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 (school officials), Stephen Fox (LC client rep)	Draft of attorney demand letter and legal strategy, thoughts, and impressions for unrelated client matter in Illinois	7	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.	1	Work-Product
151	Correspondence	8/12/2009– 9/21/2009	David Corry, Stephen Crampton, Richard Boyer (former LC intern)	Goran Hunjak (LC client), Stephen Crampton, Richard Boyer, Bonnie Gentry	Email correspondence chain requesting information from client concerning unrelated legal matter in Missouri	2	Attorney-Client, Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
152	Correspondence	9/19/2009– 9/22/2009	Mathew Staver, Patricia Mauceri (LC client), David Corry	Patricia Mauceri, David Corry, Mathew Staver, Jeff Thorpe (former LC intern), Anthony Quaranta, Richard Boyer	Email correspondence chain requesting information from client concerning unrelated legal matter involving contract and conscience issues	4	Attorney-Client, Work-Product
153	Correspondence	9/19/2009– 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	3	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	1	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.	1	Attorney-Client
156	Correspondence	9/19/2009– 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	4	Attorney-Client, Work-Product
157	Correspondence	9/22/2009 (and earlier dates in 9/2009)	David Corry, Jeff Thorpe, Mathew Staver, Sarah Spillar (former LC legal asst)	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	2	Work-Product
158	Correspondence	9/22/2009	David Corry	Beth Russell (LC client)	Email correspondence to client providing attorney thoughts, impressions, research, and legal memorandum in unrelated legal matter involving equal access and literature distribution issues	1	Attorney-Client Work-Product
159	Correspondence	9/15/2009; 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	2	Work-Product
160	Correspondence	5/4/2009	Rena Lindevaldsen	Horatio Mihet, Stephen Crampton, Erin Harre (former LC staff)	Email correspondence discussing strategy and arguments for upcoming hearing in custody litigation	2	Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	3	Work-Product
162	Correspondence	5/6/2009	Rena Lindevaldsen	Horatio Mihet	Email correspondence providing pleading in Vermont custody litigation and discussing same	2	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	2	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	2	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	7	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	4	Work-Product
167	Correspondence	3/13/2009	Bonnie Gentry	Horatio Mihet	Email correspondence providing legal documents and pleadings for preparation in custody litigation	51	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	11	Work-Product
169	Correspondence	9/4/2009	Rena Lindevaldsen, Bonnie Gentry	Anita Staver, Mathew Staver, Stephen Crampton, Mary McAlister, David Corry, Matthew Krause, Horatio Mihet	Email correspondence providing update on order issued in custody litigation	1	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	1	Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
171	Correspondence	11/20/2009	Janie Tedeschi (LC staff)	Horatio Mihet, Bonnie Gentry	Email correspondence chain providing information concerning unrelated litigation matter for Liberty Counsel client in Florida litigation	3	Work-Product
172	Correspondence	11/20/2009	Cherry Chism (LC staff)	Horatio Mihet	Email correspondence providing pleadings to lead attorney on unrelated litigation matter for Liberty Counsel client in Florida	4	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	24	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	1	Work-Product
175	Correspondence	9/20/2009	Horatio Mihet	Stephen Crampton, David Corry, Mathew Staver, Bonnie Gentry, LC clients in unrelated legal matter in Florida	Email correspondence providing orders and judgments in unrelated litigation matter for Liberty Counsel clients in Florida	3	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	1	Work-Product
177	Correspondence	9/20/2009	Horatio Mihet, LC client in unrelated litigation	Horatio Mihet, LC client in unrelated litigation	Email correspondence chain discussing orders and status in unrelated litigation matter for Liberty Counsel client in Florida litigation	1	Attorney-Client Work-Product
178	Correspondence	9/21/2009	Stephen Crampton, Horatio Mihet, David Corry, Mathew Staver, LC client in unrelated litigation	Stephen Crampton, Horatio Mihet, David Corry, Mathew Staver, LC client in unrelated litigation 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	55	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	2	Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	1	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	1	Work-Product
182	Correspondence	9/21/2009	Anita Staver	David Corry, Horatio Mihet, LC client in unrelated litigation	Email correspondence chain discussing attorney thoughts, impressions, and opinions for unrelated litigation matter in Florida	2	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	2	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	2	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	7	Work-Product
186	Correspondence	9/22/2009	Horatio Mihet, David Corry, Mathew Saver, Anita Staver, Stephen Crampton, LC client in unrelated matter	Horatio Mihet, David Corry, Mathew Saver, Anita Staver, Stephen Crampton, LC client in unrelated matter	Email correspondence chain containing numerous (18) emails discussing unrelated litigation matter for Liberty Counsel client in Florida	195	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	21	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	18	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	31	Work-Product
190	Correspondence	9/22/2009	Cherry Chism	Horatio Mihet	Email correspondence providing order and filing in unrelated litigation matter in Florida	4	Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	28	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,	6	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	3	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	14	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	6	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 (consulting counsel), Richard Boyer, Amber Haskew (LC staff), Tessa Sturgill (former LC staff), Anthony Quaranta	Email correspondence chain containing several (5) emails discussing status of unrelated matter for Liberty Counsel client in South Dakota	6	Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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, Anthony Quaranta	Email correspondence discussing status of unrelated matter for Liberty Counsel client in California;	1	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, Anthony Quaranta	Email correspondence discussing status and potential settlement of unrelated matter for Liberty Counsel client in Idaho	1	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, Anthony Quaranta	Email correspondence discussing status and potential settlement of unrelated matter for Liberty Counsel client in Florida	1	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	10	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	2	Attorney-Client Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	2	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	2	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	2	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	3	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	1	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	9	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	4	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	3	Attorney-Client Work-Product
210	Correspondence	11/8-9/2009	Horatio Mihet, Michael Chionopolus (local counsel)	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	3	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	3	Work-Product
212	Correspondence	11/6/2009; 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	2	Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	1	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	1	Work-Product
215	Correspondence	11/9/2009	Horatio Mihet, LC client in unrelated litigation in Florida	Horatio Mihet, LC client in unrelated litigation in Florida	Email correspondence chain discussing recent court order in unrelated litigation for Liberty Counsel client in federal litigation in Florida	2	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	2	Work-Product
217	Correspondence	11/9/2009	Horatio Mihet	LC 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	1	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	3	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	2	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	2	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	2	Work-Product
222	Correspondence	11/9/2009	Horatio Mihet, LC clients in unrelated federal litigation in Florida	Horatio Mihet, LC clients in unrelated federal litigation	Email correspondence chain discussing depositions in unrelated litigation for Liberty Counsel clients in federal court in Florida	2	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	1	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	1	Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	1	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	3	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	2	Work-Product
228	Correspondence	11/9/2009	Mathew Staver, Stephen Crampton, Horatio Mihet, Bonnie Gentry, LC client in unrelated litigation	Mathew Staver, Anita Staver, Stephen Crampton, Horatio Mihet, Bonnie Gentry, LC client in unrelated litigation	Email correspondence chain containing numerous emails discussing investigation, response, and potential pleadings in unrelated matter for Liberty Counsel client in Florida	30	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	1	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	5	Work-Product
231	Correspondence	11/10/2009	Horatio Mihet, Anita Staver, LC client in unrelated litigation	Horatio Mihet, Mathew Staver, Stephen Crampton, LC 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	4	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 and transmitting deposition notice in unrelated litigation for Liberty Counsel client in federal litigation in Florida	22	Work-Product
233	Correspondence	11/10/2009	Horatio Mihet	LC client in unrelated litigation	Email correspondence discussing unrelated litigation matter for Liberty Counsel client in Florida	2	Attorney-Client
234	Correspondence	11/11/2009	Horatio Mihet, LC client in unrelated litigation	Horatio Mihet, LC client in unrelated litigation	Email correspondence chain discussing drafts of pleadings for unrelated litigation matter for Liberty Counsel client in federal litigation in Florida	1	Attorney-Client Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	9	Work-Product
236	Correspondence	11/10/2009	Horatio Mihet, Bonnie Gentry	Horatio Mihet, Bonnie Gentry, LC 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	6	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	2	Work-Product
238	Correspondence	11/8/2009– 11/10/2009	Horatio Mihet, LC client in unrelated litigation	Horatio Mihet, LC clients in unrelated litigation	Email correspondence chain containing several emails discussing upcoming depositions for unrelated litigation matter for Liberty Counsel clients in Florida	2	Attorney-Client Work-Product
239	Correspondence	11/10/2009	Horatio Mihet, Bonnie Gentry, LC client in unrelated litigation	Horatio Mihet, Bonnie Gentry, LC client in unrelated litigation	Email correspondence chain containing several emails discussing upcoming telephonic hearing concerning unrelated matter for Liberty Counsel client in Florida	5	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	1	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	1	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	2	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	31	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	2	Work-Product
245	Correspondence	11/11/2009	Anita Staver, Stephen Crampton	Stephen Crampton, Anita Staver, Angie Salas (LC staff), Bonnie Gentry, Anthony Quaranta	Email correspondence chain discussing status of unrelated litigation matter for Liberty Counsel client, discussing potential draft amicus brief re same	2	Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	1	Work-Product
247	Correspondence	11/11/2009	Horatio Mihet, LC client in unrelated litigation	Horatio Mihet, LC client in unrelated litigation	Email correspondence chain containing several emails discussing draft pleadings and strategy for Liberty Counsel client in unrelated federal litigation in Florida	28	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	2	Work-Product
249	Correspondence	11/11/2009	Horatio Mihet, LC client in unrelated litigation	Horatio Mihet, LC client in unrelated litigation	Email correspondence discussing upcoming depositions in unrelated litigation matter for Liberty Counsel clients in Florida	3	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	1	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	2	Work-Product
252	Correspondence	11/12/2009	Horatio Mihet, Mathew Staver, Stephen Crampton	Horatio Mihet, Mathew Staver, Stephen Crampton, LC 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	37	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	4	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	1	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	2	Work-Product
256	Correspondence	11/5/2009– 11/12/2009	Horatio Mihet, David Corry, Stephen Crampton	Horatio Mihet, David Corry, Stephen Crampton, Bonnie Gentry	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	7	Work-Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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	2	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	4	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	2	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	8	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	2	Work-Product
262	REDACTED Name Tag Labels LC28743	Undated	n/a	n/a	Name tag labels for invitees to LC event	1	REDACTIONS: Irrelevant Business Information, Trade Secrets, Proprietary Information, First Amendment Privilege
263	REDACTED Correspondence LC28964-LC28965	3/10/2009	Lisa Miller	Rena Lindevaldsen	Email correspondence to counsel discussing visitation issues and requesting legal advice regarding same	2	REDACTIONS: Attorney-Client
264	REDACTED Correspondence LC28966	3/10/2009	Lisa Miller	Rena Lindevaldsen	Email correspondence to counsel discussing visitation issues and requesting legal advice regarding same	1	REDACTIONS: Attorney-Client
265	REDACTED Correspondence LC28967	3/11/2009	Lisa Miller	Rena Lindevaldsen, Stephen Crampton	Email correspondence to counsel discussing visitation issues and requesting legal advice regarding same	1	REDACTIONS: Attorney-Client
266	REDACTED Correspondence LC28978	3/5/2009	Stephen Crampton	Lisa Miller, Rena Lindevaldsen	Email correspondence from counsel discussing visitation issues and providing legal advice regarding same	1	REDACTIONS: Attorney-Client
267	REDACTED Correspondence LC29263	9/22/2009	Mathew Staver	Rena Lindevaldsen	Email correspondence between counsel scheduling telephone conference with consulting experts regarding VT litigation	1	REDACTIONS: Attorney-Client, Work Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
268	REDACTED Correspondence LC29328	11/20/2009	Janie Tedeschi	Horatio Mihet, Bonnie Gentry	Email correspondence from LC staff to counsel regarding constituent request for information about unrelated Florida litigation matter	1	REDACTIONS: Irrelevant, Confidential and Proprietary Information; First Amendment Privilege
269	REDACTED Correspondence LC29335	11/20/2009	Sarah Seitz (former LC staff)	Mathew Staver	Email correspondence from LC staff regarding constituent request for guest speakers	1	REDACTIONS: Irrelevant, Confidential and Proprietary Information; First Amendment Privilege
270	REDACTED Correspondence LC36354–LC36356	1/23/2007	Hannah Reichel, David Corry, Mary McAlister	Mathew Staver, Anita Staver, Erik Stanley, Mary McAlister, David Corry, Belinda Wetherington	Email chain among LC counsel and staff regarding constituent and former potential client's request for legal representation and LC decision not to provide representation	3	REDACTIONS: Attorney-Client, Work Product, First Amendment Privilege

¹ "LC" is an abbreviation for Liberty Counsel.

² "AF" is an abbreviation for accordion file (*e.g.*, Redweld).

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*Admitted pro hac vice

CERTIFICATE OF SERVICE

I hereby certify that on this December 7, 2020 a true and correct copy of the foregoing Privilege Log was served by electronic mail on all counsel of record for Plaintiff and Defendants, including:

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	<i>Philip Zodiates,</i>
	<i>Victoria Hyden, and</i>
	<i>Response Unlimited, Inc.</i>

/s/ Horatio G. Mihet
Horatio G. Mihet
Attorney for Defendants
Liberty Counsel and Rena Lindevaldsen

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
1	Correspondence	2/10/2009	Lisa Miller	Rena Lindevaldsen	Email correspondence providing draft letter seeking attorney review and legal advice concerning issues surrounding custody litigation.	3	Attorney-Client
2	Correspondence	5/26/2009	Lisa Miller	Rena Lindevaldsen	Email correspondence asking attorney questions concerning various issues in custody litigation, and requesting answers and legal advice.	1	Attorney-Client
3	Correspondence	5/27/2009	Rena Lindevaldsen, Lisa Miller	Lisa Miller, Rena Lindevaldsen, Stephen Crampton (former LC ¹ atty), Horatio Mihet, Mathew Staver, Matthew Barber (consulting counsel)	Email correspondence chain providing pleadings to client in custody litigation, providing analysis and discussing same.	1	Attorney-Client
4	Correspondence	5/27/2009– 5/29/2009	Rena Lindevaldsen, Lisa Miller	Lisa Miller, Rena Lindevaldsen, Stephen Crampton, Horatio Mihet, Mathew Staver, Matthew Barber	Email correspondence chain providing pleadings to client in custody litigation, providing analysis to client and discussing same, seeking advice from counsel concerning same, and requesting and receiving information and instructions from client for upcoming hearing.	4	Attorney-Client
5	Correspondence	6/5/2009	Rena Lindevaldsen, Lisa Miller	Lisa Miller, Rena Lindevaldsen, Bonnie Gentry (former LC legal asst), Erin Harre (former LC staff)	Email correspondence chain requesting and receiving information and instruction from client regarding upcoming visitation in custody litigation.	1	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.	1	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.	1	Attorney-Client
8	Correspondence	6/18/2009	Lisa Miller	Rena Lindevaldsen	Email correspondence requesting legal advice concerning healthcare law and healthcare coverage.	1	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.	1	Attorney-Client
10	Correspondence	7/4/2009	Lisa Miller	Rena Lindevaldsen	Email correspondence providing information to counsel regarding past and future visitation issues.	2	Attorney-Client

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
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.	2	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.	18	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.	3	Work Product
14	Notes/Research/ Thoughts/Impressions/ Strategy	7/7/2008	Legal Intern	Sarah Seitz (former LC staff)	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.	128	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.	6	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.	14	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.	11	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.	21	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.	21	Work Product

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
20	REDACTED Correspondence RL01023–RL01027	6/7/2012	Jason Salamone, et al. (various nonparties)	Rena Lindevaldsen, et al. (various nonparties)	Email correspondence chain discussing research on prevalence of various domestic issues in lesbian relationships.	5	REDACTIONS: Irrelevant personal information, First Amendment Privilege
21	REDACTED Correspondence RL03621–RL03625	8/29/2008– 8/30/2008	Rena Lindevaldsen, Lia Miller	Lisa Miller, Rena Lindevaldsen	Email correspondence discussing strategy and potential settlement terms concerning ongoing custody litigation.	5	REDACTIONS: Attorney-Client, Work Product
22	REDACTED Correspondence RL03647–RL03651	2/7/2009	Lisa Miller	Rena Lindevaldsen	Email correspondence discussing visitation problems and communication issues concerning Vermont custody litigation.	5	REDACTIONS: Attorney-Client, Work Product
23	REDACTED Correspondence RI03652–RL03657	2/7/2009	Lisa Miller	Rena Lindevaldsen	Email correspondence discussing addiction counseling and mentoring concerning nonparty.	6	REDACTIONS: Irrelevant private and confidential information of nonparty
24	REDACTED Correspondence RL03666–RL03670	2/8/2009– 2/10/2009	Lisa Miller, Rena Lindevaldsen	Rena Lindevaldsen, Lisa Miller	Email correspondence discussing visitation problems and communication issues concerning Vermont custody litigation.	5	REDACTIONS: Attorney-Client, Work Product
25	REDACTED Correspondence RL03671–RL03674	1/27/2009– 2/11/2009	Lisa Miller, Joe (nonparty Facebook friend of Lisa Miller)	Lisa Miller, Joe, Rena Lindevaldsen	Email correspondence transmitting and discussing Facebook conversation between Lisa Miller and nonparty regarding mental health counseling of nonparty.	4	REDACTIONS: Irrelevant private and confidential medical information of nonparty
26	REDACTED Correspondence RL03676–RL03677	6/5/2009	Rena Lindevaldsen, Lia Miller	Lisa Miller, Rena Lindevaldsen	Email correspondence discussing visitation problems and communication issues concerning Vermont custody litigation.	2	REDACTIONS: Attorney-Client
27	REDACTED Correspondence RL03679–RL03680	6/19/2009	Lia Miller	Rena Lindevaldsen	Email correspondence discussing personal counseling of nonparty, progress of Vermont custody litigation.	2	REDACTIONS: Irrelevant personal and confidential information of nonparties; Attorney-Client, Work Product
28	REDACTED Correspondence RL03681–RL03682	6/24/2009– 6/25/2009	Lisa Miller, Rena Lindevaldsen	Stephen Crampton, Rena Lindevaldsen, Lisa Miller	Email correspondence discussing progress of Vermont custody litigation and appellate options.	2	REDACTIONS: Attorney-Client

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
29	REDACTED Correspondence RL03688–RL03698	8/20/2009	Nonparty (homeschool co-op), Karl Lindevaldsen	Karl Lindevaldsen, Nonparties (homeschool co-op)	Email correspondence chain transmitting homeschool co-op scheduling and textbook information.	11	REDACTIONS: Irrelevant educational, personal, and confidential information of nonparties
30	REDACTED Correspondence RL03699–RL036700	9/7/2009– 9/9/2009	Rena Lindevaldsen, Nonparty (homeschool co-op)	Lisa Miller, Karl Lindevaldsen, Rena Lindevaldsen, Nonparties (homeschool co-op)	Email correspondence chain explaining homeschool co-op assignments.	2	REDACTIONS: Irrelevant educational, personal, and confidential information of nonparties
31	REDACTED Correspondence RL03701	9/7/2009	Rena Lindevaldsen, Lisa Miller	Lisa Miller, Karl Lindevaldsen, Rena Lindevaldsen, Nonparties (homeschool co-op)	Email correspondence explaining homeschool co-op assignments.	1	REDACTIONS: Irrelevant educational, personal, and confidential information of nonparties
32	REDACTED Correspondence RL03702	9/21/2005	Rena Lindevaldsen	Lisa Miller	Email correspondence transmitting confidential FedEx account number.	1	REDACTIONS: Confidential business information
33	REDACTED Correspondence RL04282	9/22/2009	Renal Lindevaldsen, Nonparty	Rena Lindevaldsen, Nonparties	Email correspondence chain discussing death of a relative.	1	REDACTIONS: Irrelevant personal and confidential information of nonparties
34	REDACTED Correspondence RL04283	9/22/2009	Nonparty	Rena Lindevaldsen, Nonparties	Email correspondence chain discussing death of a relative.	1	REDACTIONS: Irrelevant personal and confidential information of nonparties
35	REDACTED Correspondence RL04284–RL04286	11/10/2009– 11/11/2009	Nonparty (LCA ²), Rena Lindevaldsen	Rena Lindevaldsen, Karl Lindevaldsen, Nonparties (LCA)	Email correspondence chain discussing choral rehearsal and performance.	1	REDACTIONS: Irrelevant personal and confidential information of nonparties

No.	Document Type	Date	Author(s)	Recipient(s)	Subject	Pages	Privilege
36	REDACTED Correspondence RL04350	5/16/2011	Nonparty (LU ³ parent), Rena Lindevaldsen	Rena Lindevaldsen, Nonparty (LU parent)	Email correspondence chain regarding teaching of civil disobedience at LU.	1	REDACTIONS: Irrelevant personal and confidential information of nonparties

¹ “LC” is an abbreviation for Liberty Counsel.

² “LCA” is an abbreviation for Liberty Christian Academy.

³ “LU” is an abbreviation for Liberty University.

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*Attorneys for Defendants Liberty Counsel, Inc.
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*Admitted pro hac vice

CERTIFICATE OF SERVICE

I hereby certify that on this December 7, 2020 a true and correct copy of the foregoing Privilege Log was served by electronic mail on all counsel of record for Plaintiff and Defendants, including:

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	<i>Philip Zodiates,</i>
	<i>Victoria Hyden, and</i>
	<i>Response Unlimited, Inc.</i>

/s/ Horatio G. Mihet
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Attorney for Defendants
Liberty Counsel and Rena Lindevaldsen



Fighting Hate
Teaching Tolerance
Seeking Justice

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March 30, 2017

Via Certified U.S. Mail

Horatio Mihet
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Re: Notice of Duty to Preserve Evidence

Dear Mr. Mihet:

You represented by email on March 23, 2017, that you serve as counsel for Liberty Counsel, Mathew Staver, and Rena Lindevaldsen in the case *Jenkins et al. v. Miller et al.*, No. 2:12-cv-184 (D. Vt.). This letter serves as formal notice of your clients' duty to preserve any and all evidence relevant to the case, regardless of whether it would be admissible at trial. *See* Fed. R. Civ. P. 26(b)(1). This duty to preserve arose at the latest, however, when your client "should have known that the evidence may be relevant to future litigation." *Kornisch v. United States*, 150 F.3d 112, 126 (2d Cir. 1998).

Your client must suspend routine document retention and destruction policies and put in place a litigation hold to ensure the preservation of relevant documents. *See, e.g., Synventive Molding Sols., Inc. v. Husky Injection Molding Sys., Inc.*, 262 F.R.D. 365, 369 (D. Vt. 2009). Your client also must preserve relevant electronically stored information ("ESI"). *See, e.g., Schulman v. Saloon Beverage, Inc.*, No. 2:13-CV-193, 2014 WL 1516326, at *6 (D. Vt. Apr. 18, 2014) (holding that defendants were obligated to preserve relevant electronically stored information in electronic form). ESI could include, for example but without limitation, emails, text messages, telephone messages, social media posts and messages, messages transmitted through apps, photographs, screen shots, electronic calendars, electronic invoices, and time records. ESI could be stored on, for example but without limitation, hard drives, external drives, servers, back-up tapes, accessible "cloud storage" services, portable storage devices, and personal devices. ESI includes all related metadata.

Failure to preserve evidence by, for example, destroying or significantly altering it amounts to spoliation and could subject your client to sanctions, *see, e.g., West v. Goodyear Tire & Rubber Co.*, 167 F.3d 776, 779 (2d Cir. 1999), and to adverse inferences, *see Kronisch*, 150 F.3d at 126; *Glover v. Costco Wholesale Corp.*, 153 F. App'x 774, 776-77 (2d Cir. 2005) (holding that district court did not abuse its discretion by issuing adverse-inference jury charge); Fed. R. Civ. P. 37(e)(2)(A)-(B) (permitting adverse inference where party fails to preserve

electronically stored information with intent to deprive another party of information's use in litigation).

Respectfully,


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