

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Southern Division**

JENNIFER ELLER,

Plaintiff,

v.

PRINCE GEORGE'S COUNTY PUBLIC
SCHOOLS, et al.,

Defendants.

Case No. 18-cv-03649-TDC/TJS

RESPONSE TO DEFENDANTS' MOTION TO EXTEND DEADLINES

Plaintiff Jennifer Eller hereby responds to Defendants' Motion to Extend Deadlines ("Motion"). Defendants request that the Court extend the discovery deadlines established on May 20, 2020, ECF No. 65, because they require even more time to search for and collect electronic documents responsive to Plaintiffs' Requests for Production, served thirteen months ago. While this request would be unreasonable if all Defendants intended to do was employ the same flawed document search methodology that they have used thus far in their collection, if Defendants confirm to now employ a more robust search for responsive documents, including the use of Plaintiff's suggested search terms on all identified custodians' emails and electronic files, or if the Court orders them to do so, Plaintiff does not object to Defendants' request.

PROCEDURAL HISTORY

On May 19, Plaintiff filed her Motion for an Extension of Time. ECF No. 64. Therein, Plaintiff expressed her concerns about the insufficient search methodology that Defendants were employing. ECF No. 64, at 8. The Court granted in part Plaintiff's motion the next day, establishing the current discovery deadlines. ECF. No. 65. The Court also held that "Defendants

must make every effort to meet [the June 16, 2020 deadline to complete their production] without seeking an extension, which will cause further delay in this case.” *Id.* at 1.

As explained in Plaintiff’s motion, and as the Court will recall, Plaintiff learned during an April 30, 2020 Rule 30(b)(6) deposition that Defendants had failed to conduct a reasonable search of a significant set of electronic documents within their custody and control to identify and produce documents responsive to Plaintiff’s Requests for Production served in May 2019. *See* ECF No. 64, Ex. J, Pl.’s May 8, 2020 Letter, at 3-5. Plaintiff thereafter demanded that Defendants conduct a reasonable search and produce responsive documents. *See id.* at 5. Plaintiff also, as a courtesy and to expedite Defendants’ search, provided Defendants with a non-exhaustive list of individuals whose e-mail accounts and hardware should be searched because they are likely to contain responsive documents. *See id.* at 6; *see also* ECF No. 64, Ex. K, Pl.’s May 15, 2020 Letter.

On May 19, 2020, Defendants informed Plaintiff that their collection of documents from the files of current employees would rely on such employees, untrained in document collection and likely unfamiliar with the case, to conduct a search of their own files “for e-mails/documents relating to Ms. Eller.” Ex. A, Pl.’s and Defs.’ E-mail Correspondence, at 6. Defendants were unclear as to the search methodology they would employ to collect documents of custodians other than current employees. *See id.* That same day, Plaintiff replied to Defendants, expressing her concern about the inadequacy of their proposed methodology. *Id.* at 4. For example, Plaintiff’s Requests sought documents concerning policies, grievance procedures, and training related to transgender individuals that may not be found if they or the individual employees searched accounts and hardware only for documents directly “relating to Ms. Eller.” *Id.*

On June 3, 2020, having not received any response from Defendants, Plaintiff voluntarily provided Defendants search terms that would “ensure a more comprehensive search that would collect emails responsive to all of Plaintiff’s [Requests for Production].” *Id.* at 3. Defendants rejected the use of these search terms in an email dated June 11, 2020, indicating that they would be searching files of custodians other than current employees using only the term “Eller.” *Id.* And Defendants have provided no assurances that current employees—who were tasked with searching their own files—were instructed to conduct searches using any term anything other than “Eller.”¹

On June 15, 2020, Plaintiff requested that Defendants reconsider their position, which would result in a search for documents woefully inadequate to locate documents responsive to Plaintiffs’ Requests. *Id.* at 1-2. While Defendant did not directly respond to that point, Defendants’ Motion relies on an implied offer that they (including through searches conducted by their current employees) will employ Plaintiff’s search terms as a basis for needing an additional 30 days to complete their production. Motion ¶ 6.

ARGUMENT

Defendants’ Motion comes on the heels of thirteen months of waiting for documents responsive to Plaintiffs’ Requests for Production and a number of discovery failures by Defendants. Plaintiff would ordinarily oppose Defendants’ request for an additional 30 days to produce documents given this history of Defendants complying with their discovery obligations too little, and too late. However, in light of Defendants’ representation to the Court that they

¹ The files produced to date, of 33 custodians, have reflected a haphazard collection of emails, word documents and PDF files—many of which have not been provided in native format consistent with Plaintiff’s Requests for Production; the Parties’ prior agreement on the production of e-mails, *see* Ex. B, Defs.’ Jul. 3, 2019 Letter, at 2; the Court’s Scheduling Order, *see* ECF No. 23, at IV(F)(3); and Principle 2.04 of the Court’s Principles for the Discovery of Electronically Stored Information in Civil Cases.

“require additional time” to conduct searches employing the search terms that Plaintiff provided, Plaintiff will not oppose Defendants’ request for time to do so.

Plaintiff remains concerned that Defendants will not fully comply with their discovery obligations. It has taken thirteen months to get to this point in discovery. Defendants have violated their discovery obligations since the beginning—for example by failing to timely respond to discovery requests, produce documents responsive to discovery requests, and produce responsive electronic documents in native format. Plaintiff first learned of the existence of additional, unsearched, email servers at the close of discovery during the last of the 30(b)(6) depositions. Once they were identified, Defendants refused to employ any of the search terms suggested by Plaintiff other than “Eller.” Now, for the first time in their Motion, Defendants appear prepared to implement these search terms, but they have not made clear whether those terms would be applied to the files of both current employees and other custodians. And the Motion contains another surprise not previously disclosed to Plaintiff: that Defendants have been unable to identify six of their former employees. Motion ¶ 4.

Defendants’ shift in position also raises a concern that they have not employed Plaintiff’s search terms during the searches of the custodians’ email accounts and hardware that, according to Defendants, have already been completed. Prior to the filing of their Motion, and thus before Defendants indicated that they no longer object to the use of more than one search term, Defendants had already produced some e-mails and documents for 33 of the 88 custodians identified by Plaintiff. Further, Defendants have represented to Plaintiff that certain custodians reported that they do not possess responsive documents. However, these custodians presumably conducted their own review of their own files and were only asked to search for documents

containing the search term “Eller.” These custodians may possess responsive documents identified through the use of the other search terms.

Plaintiff has had to chase Defendants to comply with their discovery obligations for too long. Thus, should the Court grant Defendants’ request for an extension of time, Plaintiff requests that such extension be contingent on a) Defendants clearly detailing the methodology they have used and which they intend to employ to conduct a reasonable search of documents responsive to the Requests and b) Defendants employing the same methodology to all custodians’ email accounts and electronic files, including any previously searched accounts. Anything less would not constitute a reasonable search responsive to Plaintiffs’ Requests for Production.

Plaintiff prefers not to be forced to burden the Court with additional motion practice to address a potential new violation of Defendants’ discovery obligations. Discovery in this matter has lasted for over a year, in part due to Defendants’ repeated refusals to comply with their discovery obligations. As noted in Plaintiff’s motion of May 19, 2020, Defendants respond to Plaintiff’s attempts to assist them in complying with *their own* discovery obligations only when Plaintiff is forced to inform them that she will bring the matter to the Court’s attention. *See* ECF No. 64, at 2, 3. The same has happened here again: Defendants retracted their objection to using the provided search terms only after receiving a warning that Plaintiff would file a motion to compel if they continued employing a search methodology that could never reasonably be considered sufficient to locate all documents responsive to Plaintiffs’ Requests for Production.

Other than the motion for sanctions that Plaintiff will submit to the Court in the near future, there is little remedy for Defendants’ numerous already-consummated discovery

violations. However, if there is a path that prevents yet another discovery violation and the resulting arguments, filings, costs, and delays, Plaintiff prefers to travel that route.

CONCLUSION

For the foregoing reasons, Plaintiff's non-opposition to Defendants' Motion is conditioned on Defendants' confirmation that they will employ the provided search terms in the search of *all* custodians' e-mail accounts and hardware (or an order by the Court directing Defendants to do so), and that they will complete their production by the new deadlines to be established by the Court.

If the Court grants Defendants' Motion only in part, Plaintiff requests that all deadlines set by the Court's May 20 Order be extended by the same number of days.

Dated this 17th of June, 2020.

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Carl Charles *
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Respectfully submitted,

/s/ Elliott Mogul
Paul Pompeo *
Douglas Curtis *
Lori B. Leskin *
Elliott Mogul *
Michael Rodríguez *
Thomas McSorley (No. 18609)
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* admitted *pro hac vice*

CERTIFICATE OF SERVICE

The undersigned certifies under penalty of perjury under the laws of the United States of America and the laws of the State of Maryland that on June 17, 2020, I caused a true and correct copy of the foregoing document to be served via the Court's CM/ECF system on the following counsel of record for Defendants:

James E. McCollum, Jr.
Amit K. Sharma
McCollum & Associates, LLC
7309 Baltimore Avenue, Suite 117
College Park, Maryland 20740
Tel: (301) 864-6070
Fax: (301) 864-4351
jmccollum@jmlaw.net
asharma@jmlaw.net

/s/ Michael Rodríguez
Michael Rodríguez

EXHIBIT A

Rodriguez, Michael

From: Amit Sharma <asharma@jmlaw.net>
Sent: Wednesday, June 17, 2020 3:59 PM
To: Mogul, Elliott; jmccollum@jmlaw.net
Cc: Leskin, Lori B.; Curtis, Doug; Pompeo, Paul E.; 'Omar Gonzalez-Pagan'; Rodriguez, Michael
Subject: RE: J. Eller

External E-mail

Good afternoon. We are performing the searches for the terms listed below.

We are unable to identify the following custodians. Please forward us any additional information you may have regarding these individuals.

1. Ms. Mogalinski
2. Debbie Mills
3. Dr. Faizal
4. Ms. Calen
5. Ms. Giles
6. Anthony Proctor

From: Amit Sharma [mailto:asharma@jmlaw.net]
Sent: Tuesday, June 16, 2020 9:11 AM
To: 'Mogul, Elliott'; 'jmccollum@jmlaw.net'
Cc: 'Leskin, Lori B.'; 'Curtis, Doug'; 'Pompeo, Paul E.'; 'Omar Gonzalez-Pagan'; 'Rodriguez, Michael'
Subject: RE: J. Eller

Good morning. We will be requesting an extension of thirty days.

From: Mogul, Elliott [mailto:Elliott.Mogul@arnoldporter.com]
Sent: Monday, June 15, 2020 12:01 PM
To: Amit Sharma; jmccollum@jmlaw.net
Cc: Leskin, Lori B.; Curtis, Doug; Pompeo, Paul E.; 'Omar Gonzalez-Pagan'; Rodriguez, Michael
Subject: RE: J. Eller

Amit,

We will not object to a reasonable, modest extension of the June 16 deadline for the purpose of allowing Defendants to search, collect, and produce from the email accounts and device hard drives of individual custodians who have not been responsive to collection efforts thus far. How long do you propose for the extension?

We disagree with your assessment of the search terms -- this is not, as you have put it, a new request. Rather, we suggested these search terms after you told us about Defendants' collection methodology, which is not designed to identify documents responsive to Plaintiffs' Requests for Production. Indeed, we offered this list as a courtesy, in an effort to make it easier for Defendants to comply with their discovery obligations. We ask that you reconsider your intent to not seek documents responsive to Requests for Production which have been outstanding for more than a year and to which Defendants have offered no timely objection. We'll offer two ways in which these search terms are necessary components of Defendants' collection.

First, several of Plaintiff's Requests for Production seek documents concerning Ms. Eller and her transgender status, her gender transition, complaints made by her, her leave of absence, disciplinary actions taken against her, and changes to

her employee email and directory listing. See RFP Nos. 1, 2, 3, 7, 9, 10, 15. Defendants did not offer any objections to these Requests for Production in their untimely Responses served June 21, 2019.

Documents responsive to these Requests, such as an email or a chat concerning Ms. Eller or those aspects of her employment, could easily omit Ms. Eller's last name or not specifically include her name at all. For example, a Human Resources employee could send an email to another asking, during the period of Ms. Eller's gender transition, what policies Defendants had concerning "the teacher at Kenmoor Middle who is undergoing a gender transition." Such an email exchange would be responsive to Plaintiffs' Request for Production 2. This is just one example, and it does not take much imagination to imagine others.

Accordingly, a reasonable search for documents concerning Ms. Eller and the aspects of her employment and experiences while employed by Defendants sought by RFP Nos. 1, 2, 3, 7, 9, 10, 15 is not satisfied by a search only for "Eller" or emails including Plaintiff as a recipient or sender. The search terms we have suggested would, however, be a reasonable method to identify additional responsive documents.

Second, several of Plaintiffs' Requests for Production seek documents not specifically about Ms. Eller, but instead concerning the policies, grievance procedures, and training that Defendants have implemented or contemplated related to nondiscrimination of transgender individuals. See RFP Nos. 4, 5, 11, 12. Defendants did not offer any objections to these Requests for Production in their untimely Responses served June 21, 2019.

Documents responsive to these Requests would not necessarily include Ms. Eller as an email recipient or sender or refer to Ms. Eller specifically. Some individuals charged with designing and implementing, for example, policies and trainings could be doing so for the school system as a whole, or for certain schools, without reference to any particular employee. Accordingly, a reasonable search for documents responsive to RFP Nos. 4, 5, 11, 12 is not satisfied by a search only for "Eller" or emails including Plaintiff as a recipient or sender. The search terms we have suggested would, however, be a reasonable method to identify additional responsive documents.

Please let us know by close of business this Wednesday, June 17, if you will reconsider your very belated objection to these Requests for Production. If you do not, Defendants' methodology of collecting emails will not be aimed to search for all documents responsive to 11 of Plaintiff's 15 Requests for Production, and Plaintiff will file a motion to compel.

Best,
Elliott

From: Amit Sharma <asharma@jmlaw.net>

Sent: Thursday, June 11, 2020 4:02 PM

To: Mogul, Elliott <Elliott.Mogul@arnoldporter.com>; jmccollum@jmlaw.net

Cc: Leskin, Lori B. <Lori.Leskin@arnoldporter.com>; Curtis, Doug <Doug.Curtis@arnoldporter.com>; Pompeo, Paul E. <Paul.Pompeo@arnoldporter.com>; 'Omar Gonzalez-Pagan' <ogonzalez-pagan@lambdalegal.org>; Rodriguez, Michael <Michael.Rodriguez@arnoldporter.com>

Subject: RE: J. Eller

External E-mail

Good afternoon Elliot. We hope all is all well with you and your team.

We have received responses from the majority of currently employed "custodians" you have listed and have searched the mailboxes of the formerly employed "custodians." The information provided will be uploaded to Arnold Porter's system on or before June 16, 2020. The search of all current "custodian" files included all e-mails for which Plaintiff was the sender, recipient, carbon-copied or blind carbon-copied and any attachments thereto. It also included a search of all e-mails, chats, and documents on hard drives containing "Eller." We also intend to provide you with a summary identifying each "custodian" and whether e-mails and/or documents were found.

With respect to the “custodians” who have been unresponsive, we are prepared to have the IT Department disable their employee network and manually search their e-mail accounts for responsive documents. However, the last day for school is Tuesday and it is problematic to disable an employee’s access to the network for several days while IT completes the manual search. This may impact student grading and other final administrative tasks that must be completed for the school year. We will seek an extension of time in order to complete these tasks.

With respect to your request for the search of terms under section (2) below (not including “Eller”), Defendant takes the position that this is an entirely new request by Plaintiff, which was not encompassed in Plaintiff’s First Set of Requests for Production of Documents to Defendants, and is therefore untimely. In addition, the request for e-mails with these terms is overbroad and unduly burdensome to Defendant and not likely to lead to the discovery of admissible evidence.

Please let me know if you would like to have a call to discuss these issues.

From: Mogul, Elliott [<mailto:Elliott.Mogul@arnoldporter.com>]
Sent: Wednesday, June 03, 2020 11:38 AM
To: Amit Sharma; jmccollum@jmlaw.net
Cc: Leskin, Lori B.; Curtis, Doug; Pompeo, Paul E.; 'Omar Gonzalez-Pagan'; Rodriguez, Michael
Subject: RE: J. Eller

Amit,

I write to follow up on my email below. We have not heard from you about whether you will address any of Plaintiff’s concerns with the methodology of Defendants’ email and electronic file collection. Please let us know if you have taken any steps to conduct a more thorough search of the custodians’ emails and/or a search that does not risk individual user error or permanent deletion.

Regarding the third concern listed below, to ensure a more comprehensive search that would collect emails responsive to all of Plaintiff’s RFPs, we suggest that you search custodians’ files for:

- (1) Any emails for which Plaintiff was the sender, recipient, carbon-copied or blind carbon-copied, and
- (2) Any email or electronic document (including those for which Plaintiff is not the sender, recipient, carbon-copied or blind carbon-copied) containing any of the following terms:
 - Eller
 - transgender, transgenders
 - “gender identity”, “gender identities”
 - “sex change”, “sex changes”
 - “gender change”, “gender changes”
 - “sex transition”, “sex transitions”
 - “gender transition”, “gender transitions”
 - “gender expression”, “gender expressions”
 - “sex expression”, “sex expressions”
 - misgender, misgenders
 - transsexual, transsexuals
 - tranny, trannies
 - transvestite, transvestites
 - fag, fags
 - faggot, faggots
 - homo, homos
 - “booty warrior”, “booty warriors”
 - shemale, shemales
 - “guy in a dress”
 - “chick with a dick”

- “a he/she” or “the he/she”
- (gender or sex) /5 (transition or change or expression)

Please let us know as soon as possible whether Defendants are doing anything in response to Plaintiff’s concerns, including whether they will adopt these search terms.

Best,
Elliott

From: Mogul, Elliott

Sent: Tuesday, May 19, 2020 6:30 PM

To: 'Amit Sharma' <asharma@jmlaw.net>; jmccollum@jmlaw.net

Cc: Leskin, Lori B. <Lori.Leskin@arnoldporter.com>; Curtis, Doug <Doug.Curtis@arnoldporter.com>; Pompeo, Paul E. <Paul.Pompeo@arnoldporter.com>; 'Omar Gonzalez-Pagan' <ogonzalez-pagan@lambdalegal.org>; Rodriguez, Michael <Michael.Rodriguez@arnoldporter.com>

Subject: RE: J. Eller

Hi Amit,

We do not intend to submit our request for an extension of time as a joint motion, and so are just confirming whether you consent to the basic principle of the request: an extension of time for discovery and a hearing to resolve the motion. It sounds like you do consent to an extension of time for discovery, and specifically that sixty days is what you would request to complete your production. On this point, we disagree. Especially given how much time has elapsed since Defendants received Plaintiff’s requests for production, Defendants should be making efforts to complete the production expeditiously. We will note in the motion that you have asserted that you need sixty days, though we do not agree to that much time.

We have several concerns about the methodology you describe, among them:

- (1) Asking non-lawyers who are not familiar with the issues in this case to assess what constitutes a relevant email or other file invites error, leading to under-inclusion, inconsistencies, and delay.
- (2) As Defendants have still not issued a litigation hold to any employees, asking individuals to review their own emails for collection runs the risk that they will permanently delete emails that they find. We ask that, at a bare minimum, Defendants include in their instructions to the individual employees conducting searches of their own emails and files that they refrain from deleting *any* emails or files from the time period they are searching.
- (3) Emails and other electronic documents responsive to several of the requests for production will not only be ones “relating to Ms. Eller.” For example, RFP 4 asks for documents related to (among other things) the enforcement and implementation of policies concerning discrimination and harassment, and RFP 11 asks for documents related to (among other things) any training concerning diversity and nondiscrimination with regard to transgender individuals. A search only for documents specifically related to Ms. Eller could miss documents responsive to those RFPs.

We’d also like to note that some of the individuals on your list of former employees may still be current employees. For example, Ms. Delavichia Jones-Harris is still listed as the principal’s secretary at Friendly High School on that school’s website.

Finally, I can confirm that we received the email inbox file for Ms. Eller at around 5am this morning.

Best,
Elliott

From: Amit Sharma <asharma@jmlaw.net>

Sent: Tuesday, May 19, 2020 2:37 PM

To: Mogul, Elliott <Elliott.Mogul@arnoldporter.com>; jmccollum@jmlaw.net

Cc: Leskin, Lori B. <Lori.Leskin@arnoldporter.com>; Curtis, Doug <Doug.Curtis@arnoldporter.com>; Pompeo, Paul E. <Paul.Pompeo@arnoldporter.com>; 'Omar Gonzalez-Pagan' <ogonzalez-pagan@lambdalegal.org>; Rodriguez, Michael <Michael.Rodriguez@arnoldporter.com>

Subject: RE: J. Eller

External E-mail

Good afternoon.

With respect to Ms. Eller, her e-mails appear to have been successfully uploaded early this morning onto Kitworks. It took more than 8 hours to do so. Please let me know if you have not received them. Defendant is attempting to track and locate any computer, tablet, and mobile device issued to Ms. Eller.

With respect to the 91 other “custodians” referenced in your May 8 and May 15th letters, it appears that the following individuals are no longer employed by Defendant.

1. James Whattam
2. Andrew Zuckerman
3. Elizabeth Davis
4. Herman James
5. Susan Lesser
6. Calvin Stover
7. Henrietta Kleist
8. Kathleen Burgess
9. Ms. Mogalinski
10. James Beall
11. Bernadette Woodbury
12. Gary Enchelmaier
13. Tarek Ellis
14. Ms. Giles
15. Ms. Calen
16. Dr. Faizal
17. Paula Robinson
18. Gerrick Wilson
19. Ronnell Jackson
20. Susan Strickland
21. Debbie Mills
22. Nolan Pinkney
23. Julia Gaffney
24. Delavichia Jones-Harris
25. Mikey Daniels
26. Bernard Hogans
27. Desirae Dent
28. Carmen Sanders
29. Dion Engdahl
30. Dione Oliver
31. Robert Kendrick
32. Robert Gaskin
33. Gerald Miliner
34. Anthony Proctor
35. Brandon Redd
36. William Waithe
37. Francis Cowan
38. Naseem Hammond

39. Chloe Colbert
40. Cristin Caparotta
41. Marqia Williams
42. Joshua Self
43. Joshua White
44. Anya Planna-Hut
45. Erika Totten
46. JoAnn Smith

With respect to each former employee's e-mail account, we are attempting to retrieve their e-mails as we did with Ms. Eller. However, as Ms. Tranmer testified, a keyword search cannot be conducted by Defendant to produce e-mails relating to Ms. Eller. Therefore, a manual search will be required once these e-mails are provided. Also, we are attempting to track and locate any computer, tablet, or mobile device that was issued to these former employees so that a search can be conducted.

With respect to current employees, we have provided them with instructions to search their e-mail system and computer hardware for e-mails/documents relating to Ms. Eller and have provided them instructions to forward these documents to us. Please note that several of them (Ms. Battle, Ms. Simmons, and Ms. Whisonant) are attorneys for Defendant and a privilege review will need to be conducted. We anticipate to begin providing you with responsive documents from these searches this Thursday and will upload the documents onto Kiteworks. Thus far, some of the "custodians" have indicated that they have no responsive e-mails and/or documents, while others have produced a small amount of documents relating to their searches.

We think an extension of sixty days is warranted. Please forward us a draft of your motion for our review.

Thanks.

From: Mogul, Elliott [<mailto:Elliott.Mogul@arnoldporter.com>]
Sent: Monday, May 18, 2020 4:21 PM
To: Amit Sharma; jmccollum@jmlaw.net
Cc: Leskin, Lori B.; Curtis, Doug; Pompeo, Paul E.; 'Omar Gonzalez-Pagan'; Rodriguez, Michael
Subject: RE: J. Eller

Amit,

Thank you for the update -- we will look for that this evening.

As I mentioned before, we will be moving for an extension of time for the discovery period. However, to date we still do not have any information about the scope, timing, or methodology for Defendants' production, making it difficult for us to determine how much time to request. Can you give us a sense of both (a) the amount of time Defendants will need to search, collect, and produce the email accounts and electronic devices of the custodians, and (b) the likely volume of the production (e.g., [x-number] of emails on average for each of [y-number] of custodians)?

Given the upcoming deadline of May 26, we will file our motion by close of business tomorrow. Please give us your estimates in response to the above question in advance of that.

Please also confirm whether you will consent to a request for an extension of time and a request for a hearing to resolve the motion that will allow us to discuss the remaining deadlines with the court.

Best,
Elliott

From: Amit Sharma <asharma@jmlaw.net>
Sent: Monday, May 18, 2020 3:44 PM
To: Rodriguez, Michael <Michael.Rodriguez@arnoldporter.com>; jmccollum@jmlaw.net
Cc: Leskin, Lori B. <Lori.Leskin@arnoldporter.com>; Curtis, Doug <Doug.Curtis@arnoldporter.com>; Pompeo, Paul E. <Paul.Pompeo@arnoldporter.com>; 'Omar Gonzalez-Pagan' <ogonzalez-pagan@lambdalegal.org>; Mogul, Elliott

<Elliott.Mogul@arnoldporter.com>

Subject: RE: J. Eller

External E-mail

I registered and hope to have Ms. Eller's emails uploaded this evening.

From: Rodriguez, Michael [<mailto:Michael.Rodriguez@arnoldporter.com>]

Sent: Monday, May 18, 2020 11:08 AM

To: Amit Sharma; jmccollum@jmlaw.net

Cc: Leskin, Lori B.; Curtis, Doug; Pompeo, Paul E.; 'Omar Gonzalez-Pagan'; Mogul, Elliott

Subject: RE: J. Eller

James and Amit:

I write to ask whether you received the invitation to access Kiteworks, as no MBOX files have been uploaded as of this morning.

Regards,

Michael

Michael Rodríguez

Associate

Arnold & Porter

601 Massachusetts Ave., NW

Washington | District of Columbia 20001-3743

T: +1 202.942.5934

Michael.Rodriguez@arnoldporter.com | www.arnoldporter.com

From: Rodriguez, Michael

Sent: Friday, May 15, 2020 3:25 AM

To: Amit Sharma <asharma@jmlaw.net>; jmccollum@jmlaw.net

Cc: Leskin, Lori B. <Lori.Leskin@arnoldporter.com>; Curtis, Doug <Doug.Curtis@arnoldporter.com>; Pompeo, Paul E.

<Paul.Pompeo@arnoldporter.com>; 'Omar Gonzalez-Pagan' <ogonzalez-pagan@lambdalegal.org>; Mogul, Elliott

<Elliott.Mogul@arnoldporter.com>

Subject: RE: J. Eller

James and Amit:

You should be receiving shortly an invitation to access a folder on Kiteworks titled, "Eller v PGCPs et al. - Defendants' 2020 Production." Once you accept, you'll have access to that main folder and its subfolders.

When you access the main folder, you'll see three subfolders with placeholder titles. You'll be uploading the MBOX files to these subfolders. For organizational purposes, we ask that you rename each subfolder with the date of your upload to that subfolder. If you need to execute uploads on more than three dates, you can easily create new subfolders and name them according to the date of your upload to each new subfolder.

Please let us know if you have any questions or encounter any difficulties.

Regards,

Michael

Michael Rodríguez
Associate

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From: Mogul, Elliott <Elliott.Mogul@arnoldporter.com>
Sent: Thursday, May 14, 2020 4:50 PM
To: Amit Sharma <asharma@jmlaw.net>
Cc: jmccollum@jmlaw.net; Leskin, Lori B. <Lori.Leskin@arnoldporter.com>; Curtis, Doug <Doug.Curtis@arnoldporter.com>; Pompeo, Paul E. <Paul.Pompeo@arnoldporter.com>; 'Omar Gonzalez-Pagan' <ogonzalez-pagan@lambdalegal.org>; Rodriguez, Michael <Michael.Rodriguez@arnoldporter.com>
Subject: RE: J. Eller

Yes, we do -- you can upload the MBOX file to a secure folder in Kiteworks. Mike Rodriguez will follow up shortly with instructions.

From: Amit Sharma <asharma@jmlaw.net>
Sent: Thursday, May 14, 2020 1:43 PM
To: Mogul, Elliott <Elliott.Mogul@arnoldporter.com>
Cc: jmccollum@jmlaw.net; Leskin, Lori B. <Lori.Leskin@arnoldporter.com>; Curtis, Doug <Doug.Curtis@arnoldporter.com>; Pompeo, Paul E. <Paul.Pompeo@arnoldporter.com>; 'Omar Gonzalez-Pagan' <ogonzalez-pagan@lambdalegal.org>
Subject: RE: J. Eller

External E-mail

The production was provided to us in MBOX. Do you have a mechanism to share this?

From: Mogul, Elliott [<mailto:Elliott.Mogul@arnoldporter.com>]
Sent: Wednesday, May 13, 2020 1:48 PM
To: Amit Sharma
Cc: jmccollum@jmlaw.net; Leskin, Lori B.; Curtis, Doug; Pompeo, Paul E.; Omar Gonzalez-Pagan
Subject: RE: J. Eller

Hi Amit,

Can you tell us why a gmail account is necessary for sharing the production? We have other mechanisms for sharing large files electronically, if that's the reason for the inquiry.

Best,
Elliott

From: Amit Sharma <asharma@jmlaw.net>
Sent: Wednesday, May 13, 2020 1:19 PM
To: Mogul, Elliott <Elliott.Mogul@arnoldporter.com>

Cc: jmccollum@jmlaw.net

Subject: J. Eller

External E-mail

Good afternoon. Do you have a gmail account I can share the production with? Thanks.

Very truly yours,

Amit K. Sharma
McCollum & Associates, LLC
7309 Baltimore Avenue, Suite 117
College Park, Maryland 20740
T: (301) 864-6070 Ext. 205
F: (301) 864-4351
asharma@jmlaw.net
www.jmlaw.net

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EXHIBIT B

LAW OFFICES
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7309 BALTIMORE AVENUE - SUITE 117
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(301) 864-6070, VOICE (301) 864-4351, FACSIMILE
jmccollum@jmlaw.net

DISTRICT OF COLUMBIA
MARYLAND
NORTH CAROLINA

VIA HAND DELIVERY

July 3, 2019

Paul Pompeo, Esquire
Arnold & Porter Kay Scholer, LLP
601 Massachusetts Avenue, N.W.
Washington, D.C. 20001

Re: Eller v. Prince George's County Public Schools, et al.; 8:18-cv-03649-TDC

Dear Mr. Pompeo:

Thank you for your letter dated June 28, 2019, and taking the time to speak with us today. We intend to work with you in resolving your concerns with respect to Defendants' discovery responses and production. Given our professional relationship and experiences, we are hopeful that this can be done without burden to the Court.

First, with regard to the timeliness of our responses and production, we apologize for any delay. As we informed you today, we are diligently working to provide you with all responsive documents. As we also stated, we will provide you with a formal update as to the completeness of our document production on or before July 10, 2019. Finally, as we indicated today, we are amenable to moving to extend the deadlines in this case by sixty (60) days if you believe it is necessary to do so. You indicated that you will evaluate the document production to be provided and circle back with us on this issue.

Second, with regard to Defendants' document production to date, the following provides a description of the documents produced and the specific Requests to which they respond.

PGCPS Bate Stamp Nos.	Description	Responsive to Requests Nos:
1-74	Plaintiff's Personnel File	1, 2, 10
75-87	Plaintiff's Employee Labor Relations Office File	1, 2, 10
88-524	Plaintiff's Equal Employment File	1, 2, 3, 6, 7, 10
525-678	Union Agreements	5

679-700	Discrimination and Harassment AP Procedure (4170)	4, 5
701-725	MSDE Guidelines for Gender Identity Non-Discrimination	4
726-757	Staff Rosters for Kenmore MS, Friendly HS, and James Madison MS	1, 13
758-784	E-mails from Principal Maha Fadli	1, 2, 3, 7, 12
785-815	E-mails from Principal Courtney King	1, 2, 3, 7, 12
816-828	Documents relating to Plaintiff's name change within system	1, 2, 3, 15
829-840	Documents relating Plaintiff's Loudermill Hearings	1, 10
841-843	E-mails from Traketa Wray	1, 2, 3

As we mentioned, the majority of documents we have received are scans from hard copies. These documents are provided in electronic format via the enclosed flash drive.

Third, we informed you that we intend to supplement our production with the following documents on or before July 10, 2019:

1. Plaintiff's leave of absences in response to Request No. 9.
2. All documents relating to Plaintiff's *Loudermill* Hearings, if available.
3. PS-74 reports of the students identified thus far, if available.
4. All e-mails concerning Plaintiff from a system-wide search of e-mails going back the last five (5) years. As we indicated today, the search has revealed approximately 38,000 e-mails. The metadata for these e-mails is currently available in XML format and will be provided as such.

Should any of these documents not exist or no longer be available, we will provide you with a formal update on or before July 10, 2019.

Fourth, with respect to Request for Production of Document No. 6, we will seek to provide you with information relating to how files relating to complaints of discrimination are kept, whether these files are kept digitally, and what if any search mechanisms are available for these files. As for Request for Production of Document No. 8, we have indicated that no footage currently exists for any alleged incident that took place on August 27 and September 23, 2015. We will inquire as to the alleged incident of September 13, 2013. We will provide you with a formal update as to both of these Requests on or before July 10, 2019.

Finally, with respect to Defendants' responses to the Requests for Admissions, we attempted to explain the responses and our interpretation of Fed. R. Civ. P. 36. As a result, we do not believe the responses are deficient under the Federal Rules.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

James E. McCollum, Jr.
James E. McCollum, Jr.

Enclosure