

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

RICHARD LOWERY,

Plaintiff,

v.

LILLIAN MILLS, et al.,

Defendants.

Case No. 1:23-cv-129- DAE

DECLARATION OF ENDEL KOLDE
IN SUPPORT OF MOTION TO SEARCH AND PRODUCTION RE RFP NO. 18

I, Endel Kolde, declare the following:

1. I am an adult and competent to make this declaration. I am lead counsel for Richard Lowery in this case. This declaration is based on my personal knowledge.
2. We only became aware of Prof. Almazan's Aug. 8 email referring to Lowery's Martin Center article criticizing UT when UT produced it to us in discovery on Oct. 30, 2023. See Dkt. 79-2 (with UT's production Bates number in lower right-hand corner). The timing of Almazan's email places it right in the midst

of the campaign to silence Lowery, which came to a head in August 2022.

Accordingly, we asked for follow-up discovery.

3. Attached as Exhibit A is a true and correct copy of an excerpt from UT's discovery responses, pertaining specifically to Plaintiff's Request for Production No. 18.

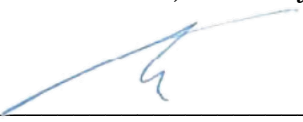
4. Attached as Exhibit B is a true and correct copy of relevant excerpts from Sheridan Titman's deposition, that occurred on January 12, 2024, showing that Professors Almazan and Alti are personally acquainted with Jay Hartzell and dislike Richard Lowery.

5. Counsel for all parties conferred regarding RFP No. 18 on Jan. 19, 2024. UT's counsel initially told us they didn't understand Almazan and Alti's role in the case and then asked for time to confer with UT's in-house counsel and re-confer on Jan. 26.

6. Counsel conferred again on Jan. 26, 2024. Defense counsel informed us that UT disputed that Almazan or Alti dislike Lowery or had a motivation to work with Defendants or Hartzell to silence Lowery. Defense counsel characterized Lowery's discovery request as speculation and refused to perform a search of their UT emails or personal devices; nor did defense counsel claim that neither Almazan nor Alti had communicated with Hartzell, Brazzil, or Defendants about Lowery or his speech.

7. I informed defense counsel that we would be filing a motion to compel regarding RFP No. 18.

Executed under penalty of perjury on this date, January 30, 2024.



Endel Kolde