

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

SUPPLEMENTAL DECLARATION OF ENDEL KOLDE  
IN SUPPORT OF MOTION TO AMEND COMPLAINT

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 did not learn that Jay Hartzell had texted Mills and Burris about Richard Lowery until Defendants disclosed their privilege log to us on December 8, 2023. They had previously denied that Hartzell texted them. The log showed Hartzell texted them on August, 5, 2022, one week before Mills and Burris met with

Carvalho to discuss Lowery's public comments about Hartzell and the Liberty Institute.

3. Following the Feb. 13, 2024 hearing on discovery disputes before Judge Howell, Defendants produced a more detailed log, showing the timing of the components of the Hartzell text string, which was information omitted from the earlier versions of Defendants' log. From this we learned that Hartzell texted Mills and Burris in the morning on August 5. That evening Burris watched part of Lowery's appearance on the Hanania podcast.

4. Attached as Exhibit A is a true and correct copy of Defendants' Second Amended Privilege Log, disclosed to Lowery on February 15, 2024.

5. Attached as Exhibit B are true and correct excerpts from the transcript deposition of Ethan Burris, which took place on January 17, 2024.

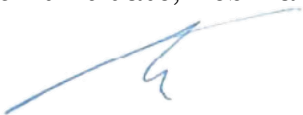
6. During her deposition on February 16, 2024, Lillian Mills confirmed that Jay Hartzell's name came up repeatedly during the August 12 meeting with Carvalho, as indicated in her own notes of that meeting. The full transcript of her deposition was not yet available at the time of this filing.

7. Attached as Exhibit C is a true and correct copy of a document produced by UT in discovery on January 3, 2024, which references UT policy and indicates that UT's faculty council executive committee was already aware of Lowery's public comments.

8. Attached as Exhibit D is a true and correct copy of excerpts from the transcript of the deposition of Sheridan Titman, which occurred on January 12, 2024.

9. Attached as Exhibit E is a true and correct copy of Ethan Burris's notes from the August 26, 2022 follow-up meeting with Prof. Carvalho, where Burris took issue with the tone of Lowery's public comments, including describing them as "uncivil." We first received this document from UT in discovery on Oct. 30, 2023.

Executed under penalty of perjury on this date, February 23, 2024.

  
\_\_\_\_\_  
Endel Kolde