

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-DH

DECLARATION OF ENDEL KOLDE  
IN SUPPORT OF MOTION TO COMPEL MILLS DEPOSITION

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. Attached as Exhibit A is a true and correct copy of the amended deposition notice setting Lillian Mills's deposition for January 29, 2024, the date insisted upon by Defendants, which was later than Plaintiff had requested.

3. Attached as Exhibit B is a true and correct copy of the second amended deposition notice, adding video transcription to the Mills deposition set for January 29.

4. Attached as Exhibit C is a true and correct copy of relevant excerpts from Sheridan Titman's deposition, that occurred on January 12, 2024, showing that only a few questions were asked about the nepotism allegations at the Titman deposition.

5. Counsel for all parties conferred on January 26, 2024, and counsel for UT reiterated their intention not to have Lillian Mills attend the deposition set for the following Monday, January 29, 2024, implicitly rejecting the compromise offered by Plaintiff's counsel to depose Mills about all other topics and save questions about the nepotism allegations for the end of the deposition. I reiterated that I would be appearing on January 29 and be prepared to proceed with the deposition.

6. As lead counsel, I have been taking all of the depositions noted by Plaintiff in this case so far and have responsibility for taking the Mills deposition. I flew from Seattle to Austin to attend the deposition, incurring travel expenses, as well as court reporter and videographer fees.

7. Mills did not appear for her deposition. Attached as Exhibit D is a true and correct copy of the Certificate of Non-Appearance for the Lillian Mills deposition, set for January 29, 2024.

8. Although I worked on other matters during much of the flight and at my hotel in Austin, I spent time traveling to and from the deposition that I would not

have had to spend, but for the scheduled deposition. Nathan Ristuccia and I also spent time working on this motion to compel.

9. We are presently trying to work with opposing counsel to get the Mills deposition rescheduled, but as of this time, that has not been finalized yet and it is important to Plaintiff that the Mills deposition not be cancelled unilaterally again and that Defendant be incentivized to follow the discovery rules.

10. As Dean of the McCombs School and a named defendant, Lillian Mills is a critical witness and her non-appearance is disrupting orderly discovery and delaying Plaintiff's access to important information that is potentially relevant to the pending motions to be heard on Feb. 13 and the coming motion to amend the complaint.

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



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Endel Kolde