

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

RICHARD LOWERY,)
Plaintiff,)
v.) Case No. 1:23-cv-129-DAE
LILLIAN MILLS, et al.,)
Defendants.)

ORAL and VIDEOTAPE DEPOSITION OF

CARLOS CARVALHO

February 15, 2024

Volume 1

ORAL DEPOSITION OF CARLOS CARVALHO, Volume 1,
produced as a witness at the instance of the Plaintiff,
and duly sworn, was taken in the above-styled and
numbered cause on February 15, 2024, from 9:35 a.m. to
3:56 p.m., before Dana Shapiro, CSR, in and for the
State of Illinois, reported by machine shorthand, at
1301 S. Capital of Texas Highway, Building B, Austin,
Texas 78746, pursuant to the Federal Rules of Civil
Procedure and any provisions stated on the record or
attached hereto.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

FOR THE PLAINTIFF:

MR. ENDEL KOLDE
MS. COURTNEY CORBELLO
INSTITUTE FOR FREE SPEECH
1150 Connecticut Ave., NW
Suite 801
Washington, D.C. 20036
202-301-1664
dkolde@ifs.org
ccorbello@ifs.org

-and-

MR. MICHAEL LOVINS
LOVINS TROSCLAIR PLLC
1301 S. Capital of Texas Highway
Building A, Suite 136
Austin, Texas 78746
512-535-1649
michael@lovinslaw.com

FOR THE DEFENDANTS:

MR. JAMES MATTHEW DOW
MR. ADAM W. ASTON
JACKSON WALKER LLP
100 Congress Avenue, Suite 1100
Austin, Texas 78710
512-236-2230
mdow@jw.com
aaston@jw.com

-and-

MR. JOSEPH HUGHES
UT LEGAL AFFAIRS
2314 Whitis Avenue
Austin, Texas 78712
512-475-7716
jody.hughes@austin.utexas.edu

1 APPEARANCES (continued):

2 FOR THE DEPONENT:

3 MR. ANDREI D. POPOVICI
4 LAW OFFICE OF ANDREI D. POPOVICI, P.C.
5 1450 W. Highway 290 #1200
6 Dripping Springs, Texas 78620-9998
7 650-530-9989
8 ap@apatent.com

9 ALSO PRESENT:

10 MR. IAN McGAR, the videographer
11 MR. RICHARD LOWERY
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

	PAGE
Appearances.....	2
CARLOS CARVALHO VOLUME 1	
Examination by MR. KOLDE.....	5
Examination by Mr. Aston.....	217
Signature and Changes.....	225
Reporter's Certificate.....	227

EXHIBITS

NO.	DESCRIPTION	PAGE
No. 25	Liberty Institute concept draft	30
No. 26	emails	66
No. 27	emails	68
No. 28	emails	72
No. 29	article	75
No. 30	email	217

1 and that something needs to be done. There is, as I
2 mentioned before, also we are -- we are connected to
3 folks across the country that are concerned about
4 university's behaviors. We are trying to figure out
5 ways to deal with that and help correct that. And we
6 have been in communications with folks in Florida where
7 a lot of reform have taken place. So I think his
8 leadership on that has been very very important in the
9 State of Texas.

10 Q. In paragraph 6 of your declaration you
11 refer to a phone call with Sheridan Titman.

12 A. Correct.

13 Q. There is some language that's in quotes
14 there. I'm going to read it. "We need to do something
15 about Richard." This is allegedly what Titman said
16 referencing Professor Lowery. "Titman added that the
17 McCombs School's Dean, Lillian Mills, and the
18 University of Texas President Jay Hartzell, were upset
19 about Lowery's political advocacy, and wanted to know
20 if 'we can quote ask him to tone it down.'"

21 Did I read from your declaration
22 accurately?

23 A. Yes.

24 Q. Does that comport with your memory of that
25 call with Sheridan Titman?

1 MR. ASTON: Objection, form.

2 BY THE WITNESS:

3 A. Yes.

4 BY MR. KOLDE:

5 Q. Do you recall today whether you initiated
6 that call with Sheridan Titman or whether he initiated
7 that call?

8 A. I don't recall.

9 Q. Are you confident that Jay Hartzell was
10 mentioned in the call?

11 A. Yes. My recollection is that the statement
12 was, "Jay and Lil want us to do something about
13 Richard."

14 Q. And it's fair to say you don't remember the
15 exact date of the call, but it was sometime around late
16 July, early August.

17 MR. ASTON: Objection, form.

18 BY THE WITNESS:

19 A. Yes, late July. I was walking outside my
20 neighborhood, very hot summer day, as I recall that for
21 a fact. I know exactly where I was when that
22 conversation took place. My son was in his jiu jitsu
23 class. I used to walk for about 45 minutes around that
24 while he was in class.

25 BY MR. KOLDE:

1 center.

2 Q. Did Richard's speech that was the subject
3 of this August 12 meeting lead to a loss of donations
4 to the Salem Center from what you could tell?

5 A. No.

6 Q. No, it did not?

7 A. No, it did not.

8 Q. Did Dean Mills react well to your declining
9 to take action about Richard's speech?

10 A. No.

11 Q. What did she say to you?

12 A. My -- as I state in the declaration, that's
13 perhaps the place and time where she says that she
14 disagrees, she thinks he's hurting me, and that I serve
15 at her pleasure meaning that I -- even though I raise
16 the money for the center independently, these are
17 private funds that are inside of the university, and
18 therefore under her control to some extent, and she has
19 the ability to appoint me and, therefore, fire me from
20 the position. It was a very clear statement that, "I'm
21 not happy with this. You serve at my pleasure." But I
22 said, "Okay. I'm not going to do anything about
23 Richard's speech."

24 Q. Let's unpack this a little bit more.
25 You're a tenured professor at UT, correct?

1 A. Correct.

2 Q. So in terms of you having tenure, you don't
3 serve at Dean Mills' pleasure?

4 A. Correct.

5 Q. But you do serve at her pleasure with
6 respect to your role at the Salem Center?

7 A. Correct.

8 Q. Dean Mills could remove you from your role
9 as executive director of the Salem Center?

10 A. Correct.

11 Q. Is that how you interpreted her statement?

12 A. Yes.

13 Q. Prior to this meeting in August, how many
14 meetings had you had with Dean Mills?

15 A. A handful over the years, but nothing --
16 let me rephrase that. I mentioned earlier we had a
17 dinner, right, one time.

18 Q. Uh-huh.

19 A. There was a meeting, a zoom meeting with
20 lots of folks on a different matter early on in her
21 tenure as dean during the pandemic. I might have had a
22 very short meeting here or there with her on -- but
23 it's fair to say throughout her tenure since I think
24 summer of 2020 when she became dean, we didn't spend
25 much time talking about anything Salem Center related.

1 Q. In your dinner with Dean Mills, did she
2 tell you that? Did she remind you that you served at
3 her pleasure?

4 A. No.

5 Q. Any of the other meetings other than the
6 August 12 meeting did this phrase come up of you
7 serving at her pleasure in your role at the Salem
8 Center?

9 A. No.

10 Q. Prior to Dean Mills becoming the dean, did
11 Jay Hartzell ever have any conversations with you where
12 he said, "Carlos, you serve at my pleasure." Actually
13 I'm not sure you were in that role at the Salem Center,
14 but maybe you can tell us.

15 MR. ASTON: Objection, form.

16 BY THE WITNESS:

17 A. I was in that role, and no, he never said
18 that.

19 BY MR. KOLDE:

20 Q. During this time in 2022, did you have
21 regular meetings with Associate Dean Burris?

22 A. I had a couple of meetings after this
23 meeting with him. I have another role that I play at
24 UT. I'm the head of the statistics group in the
25 Information Risk and Operations department, which means

1 that I'm responsible to manage some aspects of teaching
2 assignments, promotions, raises and so on for this
3 faculty. In that capacity, I have had perhaps a few
4 meetings with Ethan as well -- Dean Burris.

5 Q. In those meetings did he ever use that
6 phrase about you serving at his pleasure or Dean Mills'
7 pleasure for any post?

8 A. No.

9 Q. How did you interpret the phrase?

10 A. Threat.

11 Q. I'm going to come back to this declaration
12 later, so keep it handy. First, I would ask you to
13 fish out the notes that have been marked as Exhibit 20.

14 One thing I wanted to ask you about before
15 we get into Exhibit 20. There's been -- I'll represent
16 to you there's been some testimony by another witness
17 in this case that you asked for the August 12 meeting
18 that we have been talking about, not Mills and Burris.
19 What's your recollection about that?

20 A. That's not what I remember.

21 Q. Who do you remember asking for the meeting
22 on August 12?

23 A. I don't recall, but my guess would be Ethan
24 or the Dean Mills's assistant probably reaching out.
25 Typically that's how things go. And here's -- "Would

1 you be available to meet with Dean Mills at such and
2 such date," for example. Now let me rephrase and say
3 this. Is it possible that some exchange of emails have
4 suggested things like it would be good for us to catch
5 up at some point. Sure, that's possible.

6 Q. You weren't reaching out to Burriss or Mills
7 saying something like, "Oh, I have this colleague who
8 is too difficult to handle. I need your advice about
9 how to handle him"?

10 A. Absolutely not.

11 Q. Did you feel they were giving you friendly
12 advice in the August 12 meeting trying to help you?

13 A. I can see how they see that way at first in
14 the conversation, but I didn't interpret that way.

15 Q. Explain why you say that.

16 A. Well, I think they tried to portray Richard
17 might be in trouble, he might cross the line as a
18 statement of concern about Richard. I didn't take it
19 that way, but I can see how they might interpret it
20 that way. I can see when they talk about Richard
21 hurting my ability to do my job can be expressing that
22 way with good intention of, "Hey, I'm trying to help
23 you out. Your job can be improved by this problem
24 being solved." I did not take it that way. I didn't
25 feel that meeting was a meeting where I had two

1 supportive deans trying to improve my performance or
2 improve my center's ability do its job.

3 Q. What did you think they were trying to get
4 you to do?

5 A. It was clear from the statement at the end
6 they were trying to resolve this Richard Lowery
7 situation. They were trying to somehow do something
8 about his speech or that I would do something about his
9 speech, whether to advise him as a friend that he might
10 be in trouble. Whether advise him as a colleague that
11 it would be good for me as director of center for him
12 to stop or advise him as a colleague, "Listen, stop or
13 else we might lose this thing because I serve at her
14 pleasure."

15 Just to be very clear about my feeling
16 about that meeting. I state in my declaration as well,
17 had follow-up meeting maybe couple weeks later with
18 Burris about some other topics. He starts the meeting
19 asking me, "What do you think about that meeting?" I
20 said, "I didn't like it. I felt threatened." He said,
21 "Well, I don't interpret that way." I think there is
22 different interpretation how he thinks that meeting
23 went and how I think that meeting went.

24 Q. Have you seen these notes that are marked
25 as Exhibit 20? I will represent to you these are

1 Q. All right. Let's look at section 3, that
2 first bullet. I will just read from it. We will talk
3 about it. "Mills stressed that McCombs is part of
4 UT-Austin and Salem Center is part of McCombs.
5 Specifically, the Salem Center B/S is part of McCombs
6 accounts and any directors serve at the pleasure of the
7 dean."

8 Did I read that correctly?

9 A. Yes.

10 Q. So here there is a reference to what you
11 talked about too, about her telling you that you serve
12 at her pleasure; is that correct?

13 A. Correct.

14 Q. Is Lowery considered a director of the
15 Salem Center, deputy director or something like that?

16 A. He has a director, I think, title
17 officially associated with the center, the policy
18 research lab of research or something. I don't know
19 exactly the way. Again, there is lots of different
20 systems that makes things complicated there, but yes.

21 Q. He has a title beyond just being a faculty
22 member?

23 A. He's a senior scholar. If you look at the
24 website he's senior scholar at the Salem Center, but
25 the way it works internally, in order for payments to

1 be made and so on, there is a need for designation that
2 follows some sort of UT code, and in that I think he's
3 listed as a director.

4 Q. Can this statement be about directors
5 serving at the pleasure of the dean can it be
6 interpreted reasonably as applying to Lowery as well as
7 you?

8 MR. ASTON: Objection, form.

9 BY THE WITNESS:

10 A. Yes. She has -- every director position
11 inside the center has to be approved by the Dean's
12 Office.

13 BY MR. KOLDE:

14 Q. Did you have any -- first of all, do you
15 recall Mills saying this statement of McCombs is part
16 of UT-Austin, and Salem Center is part of McCombs?

17 A. I recall that in the sense of not
18 necessarily specifically written this particular way,
19 but I recall her -- there is a reference to before, "I
20 would like you to work within the vision of McCombs."
21 And I was a bit, you know, hesitant in agreement with
22 that. We have our own vision. We have our own job to
23 do, that's how we are created and what we are. We're a
24 little bit independent, a little bit sort of -- I
25 reminded her that I think you want us to be a little

1 inaccurate or disruptive to operations, correct?

2 A. No. I might have said, like I said earlier
3 today, that he uses language that I wouldn't use.

4 Q. Right. But I'm just saying these are
5 Mills' words, the factually inaccurate?

6 A. Correct.

7 Q. The first part of the sentence is accurate,
8 right? You did tell them that you wouldn't be able to
9 persuade him to stop, correct?

10 A. Correct.

11 Q. They left out the part about First
12 Amendment lawyer though, right?

13 A. Yes.

14 Q. Then it goes on in the notes to talk about
15 "He," he being you, "revealed that Finance Department
16 chair Sheridan Titman said, 'Jay and Lil want Richard
17 to shut up.' Ethan and Mills corrected the position of
18 Lil and Jay that this is not a position of either of
19 them or UT."

20 Is that what happened?

21 A. So I definitely mentioned the conversation
22 with Sheridan Titman. Probably stated it a little
23 different -- because it was not -- I don't know if I
24 said to them paraphrasing they want Richard to shut up.
25 I have to use that language. Probably more accurately

1 would be want to say Jay and Lil wanted to do something
2 about Richard. I don't recall them correcting their
3 position, but clearly Jay has a position on the matter,
4 which is, I think they acknowledge it here. So I don't
5 recall that part. I do recall what she says after here
6 that clarified we expect functional relationships and
7 basically civility this notion that somehow he was
8 being uncivil and that's bad. They expect civility.
9 They expect a different kind of behavior.

10 Q. Did that terminology civility come up at
11 the meeting?

12 A. Yes.

13 Q. In the next sentence after that it says,
14 "Carvalho recommended that any attempt to talk with
15 Lowery would have a higher chance of success coming
16 from Burris, with whom Lowery has no baggage as yet,
17 not Mills or Hartzell."

18 Is that what the notes say?

19 A. Yup.

20 Q. Does that comport with your recollection of
21 what was discussed at the August 12 meeting?

22 A. Yes.

23 Q. Did you agree that Mills would be not
24 likely to be very successful in persuading Lowery?

25 A. I think Lowery wouldn't meet with her even

1 could have come up earlier in the conversation even
2 when talking about Civitas and so on. There is
3 something very important left out of this paragraph
4 here. When I raised the possibility of like, "What do
5 you want me to do? What do you suggest?" In talking
6 through this it's like, "What do you think? What do
7 you expect happens if I go talk to him?" I think in
8 the context of who should talk to him, I asked, "What
9 kind of leverage do you think I have, Ethan?" They
10 mentioned at that point, "Well, doesn't he work for the
11 Salem Center as a scholar?" "Yes." "And in fact he
12 serves at my pleasure at the Salem Center." I think
13 there was an implication that I had something over him
14 that could be used to help work on his speech.

15 Q. Did you understand that to mean that they
16 wanted you to threaten Lowery's office with the Salem
17 Center to get him to toe the line?

18 A. I think they were asking me to use whatever
19 leverage I had to work with him and solve this problem.
20 They wanted this problem to be solved, and they are
21 trying to find a way to do it. I could be one way, but
22 that's the one that I said I won't do it.

23 Q. How did they react to you saying you
24 weren't going to do it?

25 A. That that's where -- when it was clear

1 that, "We are not happy with this. You serve at my
2 pleasure." I can't recall the serve at my pleasure in
3 this instance or it's clear from before. "But serve at
4 my pleasure" came as a response to my lack of
5 cooperation in terms of, "I'm not going to work on
6 Lowery's speech."

7 Q. We look at entry No. 4 college
8 communications. It states here in the notes in Exhibit
9 20, "Mills relayed her expectations for professionalism
10 and reasonable respect for chain of command regarding
11 college communications."

12 Does that entry comport with your
13 recollection of what was discussed in the meeting?

14 A. I recall her saying that she has
15 expectations of professionalism and people
16 interactions. Collegiality I think is another word
17 that might have been used. I recall the use of the
18 term chain of command, which as I mentioned before I
19 think is very interesting when talking about faculty,
20 chain of command, band of individuals. So it's unusual
21 this statement that she made so I remember that.

22 Q. Had you heard that term chain of command be
23 used before to describe faculty within the McCombs
24 School?

25 A. Never in my academic career I have heard

1 you go by the numbering.

2 A. Give me second. I don't have 19. Sorry.
3 It's right here. Go ahead. Paragraph 9?

4 Q. Paragraph 9.

5 A. Uh-huh.

6 Q. That's your discussion of the follow-up
7 meeting you say late August. You see from the notes it
8 was August 26. Does the date sound correct?

9 A. Yes.

10 Q. Your description in your declaration is
11 basically consistent with Burriss' notes; is that
12 correct?

13 A. That's correct.

14 Q. You reference Burriss stressed the
15 importance of civility, correct?

16 A. Correct.

17 Q. Did Burriss remind you that he's the one who
18 must approve Lowery's compensation and ultimately
19 oversees the Salem Center?

20 A. Correct.

21 Q. Did he indicate to you -- did Burriss tell
22 you he had just renewed Lowery's annual appointment,
23 but he might not do so in the future?

24 A. Correct.

25 Q. How did you understand that statement?

1 A. I think it was a clear indication that,
2 "I'm not doing anything right now, but watch out," that
3 was my understanding of it. Yeah.

4 Q. This information that you learned from the
5 August 12 meeting and the August 26 meeting, did you
6 convey it --

7 A. Let me rephrase something here. When I
8 said yes, he told me just renewed Lowery's annual
9 appointment with the center. And the tone of the
10 conversation was that therefore this might not happen
11 again, but it wasn't a direct threat. It was not. It
12 was implicit to some extent.

13 Q. It's a nice looking restaurant you got
14 here, it would be a shame if anything happened to it?

15 A. One way to put it, yes.

16 Q. The substance of what was discussed in the
17 August 12 and the August 26 meetings with the deans,
18 did you convey any of that information to Richard
19 Lowery?

20 A. Yes.

21 Q. Why did you do that?

22 A. He was being threatened. That's my view.
23 That's how I interpret it. And it was important for
24 him to know what was happening.

25 Q. Let's take a five-minute break. I have a

1 dated on or about August 22, the Romanov tweet. What's
2 your understanding of what that's about? What's the
3 point that Richard is trying to make there?

4 MR. ASTON: Objection, form.

5 BY THE WITNESS:

6 A. The point he's making is that we are
7 attacked often times for being too right leaning or not
8 to have -- we are unbalanced in our speech, and yet
9 this group is having an event where the ESG under
10 attack event was basically saying something to the
11 extent of, "How come anybody can be opposed to ESG?
12 These three letters are amazing."

13 So he's pointing out the hypocrisy of
14 criticisms that we receive at the Salem Center as being
15 left of center -- right of center and perhaps not have
16 quote balance as defined by the university. Whereas
17 groups that are left of center have no demand of
18 balance of any shape or form. He points out that, by
19 the way, we actually have hosted a number of debates
20 where both sides are very clearly representing
21 including a debate that was a debate between a person
22 advocating capitalism and a person advocating
23 socialism. The person advocating socialism is the
24 editor of this magazine called Jacobin Magazine.
25 Jacobin is in reference to the French Revolution Party.

1 In the magazine, my understanding, that they have
2 published articles that will say that Romanov, the
3 murder of the Romanov family were justified for -- to
4 bring about a socialist revolution. So his point here
5 again with language that's strong, right, saying that
6 we do invite communists to speak on our campus.
7 Communists that will shield for the Romanov murder.

8 Q. Do you read that tweet as in any way
9 calling GSLI communists?

10 A. No.

11 Q. Did you read that tweet in any way as
12 calling GLSI an organization that supports the murder
13 of children?

14 A. No.

15 Q. Let's go back to this April 11 tweet that's
16 on the second page of Exhibit 13. What's your
17 understanding of the point that Richard is making with
18 that April 11 tweet?

19 A. Once again, he's pointing out this
20 hypocrisy of complaints about the fact that we hosted
21 Scott Atlas, somebody that worked for the Trump
22 administration during the pandemic, or that Richard
23 complained about CRT. And the complaints in those --
24 the complaints directed at us is because, "Well, that's
25 political. That's not academic." Therefore, like Lil

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

RICHARD LOWERY,)
Plaintiff,)
v.) Case No. 1:23-cv-129-DAE
LILLIAN MILLS, et al.,)
Defendants.)

REPORTER'S CERTIFICATION
ORAL DEPOSITION OF
CARLOS CARVALHO
February 15, 2024

I, Dana Shapiro, a Certified Shorthand Reporter,
hereby certify to the following:

That the witness, CARLOS CARVALHO, was duly sworn
by the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness;

I further certify that pursuant to FRCP Rule
30(e)(1) that the signature of the deponent:
was requested by the deponent or a party before the
completion of the deposition and that the signature is
to be before any notary public and returned within 30
days from date of receipt of the transcript. If
returned, the attached Changes and Signature Pages
contain any changes and reasons therefore;

I further certify that I am neither counsel for,
related to, nor employed by any of the parties or
attorneys in the action in which this proceeding was

1 taken, and further that I am not financially or
2 otherwise interested in the outcome of the action.

3 Certified to by me March 11, 2024.

4 *Dana Shapiro*

5 _____
6 DANA SHAPIRO, Illinois CSR 84-3597
7 CSR Expiration: 5/31/25
8 Illinois Certified Shorthand Reporter
9 Registered Agent Solutions, Inc.,
10 A Lexitas Company, Firm No. 17
11 5301 Southwest Parkway
12 Corporate Center One, Suite 400
13 Austin, Texas 78735
14 888-893-3767

15
16
17
18
19
20
21
22
23
24
25

1 COUNTY OF TRAVIS)

2 STATE OF TEXAS)

3 I hereby certify that the witness was notified on
4 _____, that the witness has 30 days
5 after being notified by the officer that the transcript
6 is available for review by the witness and if there are
7 changes in the form or substance to be made, then the
8 witness shall sign a statement reciting such changes
9 and the reasons given by the witness for making them;

10 That the witness' signature was/was not returned
11 as of _____.

12 Subscribed and sworn to on this _____ day of
13 _____, 20____.

14 *Dana Shapiro*

15 _____
16 DANA SHAPIRO, Illinois CSR 84-3597
17 CSR Expiration: 5/31/25
18 Illinois Certified Shorthand Reporter
19 Registered Agent Solutions, Inc.,
20 A Lexitas Company, Firm No. 17
21 5301 Southwest Parkway
22 Corporate Center One, Suite 400
23 Austin, Texas 78735
24 888-893-3767
25