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

RICHARD LOWERY,)
Plaintiff,)
v.) Case No. 1:23-cv-00129-DAE
LILLIAN MILLS, et al.,)
Defendants.)

ORAL and VIDEOTAPE DEPOSITION OF
ETHAN BURRIS
January 17, 2024
Volume 1

ORAL DEPOSITION OF ETHAN BURRIS, 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 January 17, 2024, from 9:05 a.m. to
4:38 p.m., before Dana Shapiro, CSR, in and for the
State of Illinois, reported by machine shorthand, at
100 Congress Avenue, Suite 1200, Austin, Texas 78701,
pursuant to the Federal Rules of Civil Procedure and
any provisions stated on the record or attached hereto.

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MR. JEFF CHAGRIN, the videographer

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1 YouTube video of the podcast episodes, "Lessons from
2 the Frontlines of the University Wars. Richard Lowery
3 and Richard Hanania."

4 Is that correct?

10:41:30 5 A. Correct.

6 Q. We are going to have to be careful with our
7 Richards for this next little bit. All right?

8 So is she texting it to you or are you
9 texting the link to her? Looks like she is texting it
10 to you.

11 A. She's texting it to me.

12 Q. Again, help me understand. When she texted
13 this to you at some point at or after 8:17 p.m. on
14 August 5, were you already aware of the podcast or was

10:42:00 15 she the first person to give you some awareness about
16 it?

17 A. I don't remember.

18 Q. Okay. Then she states, "Minute 26 of
19 this!"

10:42:16 20 Is that correct?

21 A. Yes.

22 Q. What is she talking about there?

23 A. I'm assuming minute 26 of the podcast.

24 Q. All right. You state, "I had to stop
25 watching."

1 Is that correct?

2 A. Yes.

3 Q. So what's going on there?

4 A. I had to stop watching.

10:42:34 5 Q. Had you been watching or did you start

6 watching it after she sent you the ink?

7 A. After she sent me the link.

8 Q. How long did you watch?

9 A. Couple minutes.

10:42:44 10 Q. So did you get to minute 26?

11 A. I believe that I fast forwarded to minute

12 26 to start.

13 Q. I think it's -- I would have to

14 double-check. I think it's about an hour long podcast.

10:42:58 15 How much of it did you watch?

16 A. Couple minutes.

17 Q. Help me out. 5 percent, 10 percent, more?

18 A. Five, six minutes maybe.

19 Q. But included in that was around minute 26;

10:43:14 20 is that correct?

21 A. Yes.

22 Q. When you say, "I had to stop watching,"

23 what did you mean by that?

24 A. I had to stop watching.

10:43:22 25 Q. Explain. Is it you had to stop watching

1 because you didn't like the content or something else?

2 A. I disagreed with some of the tenor of what
3 they had to say.

4 Q. Tell me what you disagreed with.

10:43:38 5 A. I believe they were -- this is also well
6 over a year ago. I don't remember the exact topic
7 areas, but it was same type of criticisms about the
8 university and diversity, equity and inclusion
9 policies, at least their take on it. And yes, that's
10:44:16 10 what I remember.

11 Q. Do you remember anything about minute 26
12 that she is pointing out to you now?

13 A. Not at this point, no.

14 Q. Then she states to you, "Hope you have had
10:44:32 15 a few drinks by now."

16 Is that correct?

17 A. Yes.

18 Q. Then you say, "yes and yes"?

19 A. Yes.

10:44:40 20 Q. What does that mean? That you had a couple
21 drinks?

22 A. We chat all of the time. We both like
23 cocktails, and so we both chat all of the time about
24 that kind of stuff. So I wouldn't characterize that as
10:44:56 25 something unusual about this particular exchange.

1 Q. All right. All right. I think to keep
2 this moving for all our sakes I will start reading on
3 the file stamp numbered page 26 of Exhibit 7, line 11.

4 If you could just read along with me, "Now, all of this
10:56:24 5 is the plan of a critical race theorist who's been
6 trusted to bring dissenting non-leftist thoughts." So,
7 you know, and it at this point, you know, obviously, we
8 are not going to go along with that nonsense. We don't
9 have -- you know, we have better things to do with our
10:56:42 10 time than provide cover for the president to let
11 critical race theorists run the University of Texas.

12 So Carlos tells the -- the supporters was
13 No, this isn't what we agreed to, we are not going to
14 do this. And that's when the do -- you know, with --
10:57:00 15 with a single exception, the donors turned on, the
16 president starts doing his like, you know -- people
17 don't really -- like, the sole qualification for being
18 a president of a university in a red state is that
19 you're good at lying to Republicans."

10:57:20 20 Did I read the transcript correctly?

21 A. Yes.

22 Q. Is this the section of the video that you
23 recall reviewing at or around minute 26 on August 5 of
24 2022?

10:57:36 25 A. I don't recall. If you say this is minute

1 26 sure, but I don't recall this being this specific
2 thing.

3 Q. Does this sound familiar?

4 A. Yes.

10:57:48 5 Q. Okay. Do you recall reviewing this
6 content?

7 A. Not specifically, no.

8 Q. Do you have a problem with this content?

9 A. No.

10:58:0210 Q. Do you have a recollection of anything
11 specific that Richard Lowery expressed in this podcast
12 that you had a problem with, disagreed with, felt was
13 inappropriate?

14 A. This particular podcast, no.

10:58:2015 Q. A different podcast?

16 A. I don't remember other podcasts he's been
17 on. I --

18 (WHEREUPON, a certain document was
19 marked Deposition Exhibit No. 17,
10:59:0620 for identification, as of 1/17/24.)

21 BY MR. KOLDE:

22 Q. Showing you what's been marked as Exhibit
23 17. I will represent to you this is an article from
24 The College Fix. If you could take a moment and review
10:59:1625 it and let me know when you are done.

1 no question is that disruptive to operations is about
2 fundraising as we have just covered earlier in your
3 line of questioning. So this comment yes, is the
4 answer to your specific question. But the way to
13:56:20 5 interpret that is that those comments about not
6 donating impedes and is disruptive to the operations of
7 fundraising.

8 Q. I think I understand you a little better.
9 You are answering my next question. Okay. So this may
13:56:40 10 work better if you don't try to anticipate my next
11 question. Smart people try to do that.

12 My next question is, it's going to be, you
13 know, two sets of questions. But when you are talking
14 about the term factually inaccurate in this sentence,
13:57:00 15 you wanted Carvalho to counsel Lowery about factually
16 inaccurate, you are talking there about the opinions
17 that the tax money was stolen by grifters, that the
18 president is paid to be good at lying; is that correct?

19 A. Yes.

13:57:20 20 Q. Anything else that falls under the category
21 of factually inaccurate that you recall being talked
22 about that I didn't mention?

23 A. No.

24 Q. Okay. The next part is the phrase
13:57:36 25 disruptive to operations. I think you have already

1 testified about this, but just to clean this up and
2 finish it up. You are talking there about his calls to
3 stop donating to UT as being disruptive to operations;
4 is that correct?

13:57:50 5 A. Yes.

6 Q. Is the term counsel as used here a
7 disciplinary term from your perspective as an Associate
8 Senior Associate Dean for the McCombs School?

9 A. No.

13:58:1410 Q. Why or why not?

11 A. I have center directors, faculty members,
12 department chairs, associate deans come ask for advice
13 and counsel all of the time. This isn't something
14 that's -- what was the term that you used?

13:58:4415 Q. Disciplinary or pre-disciplinary.

16 A. It's not disciplinary, it's not
17 pre-disciplinary. It's advice giving. For the most
18 part, I view my role as trying to be helpful for
19 faculty to do their great work, and to teach great
13:59:0220 classes, to do excellent research, to have constructive
21 debates on campus about all sorts of issues. When we
22 have these types of meetings, usually it's both updates
23 and giving advice on how to execute all of that much
24 better.

13:59:3225 Q. If I understand your answer correctly, you

1 are talking about people coming to you for advice. But
2 in this case, Carlos Carvalho was not coming to you for
3 advice. You and Dean Mills were giving Dr. Carvalho
4 unsolicited advice, isn't that true?

13:59:50 5 MR. DOW: Objection, form.

6 BY THE WITNESS:

7 A. No, that's incorrect. He initiated the
8 meeting.

9 BY MR. KOLDE:

13:59:56 10 Q. But he didn't initiate the meeting about
11 Richard Lowery?

12 A. He initiated the meeting about his -- about
13 the center.

14 Q. But you and Dean Mills brought up Richard
14:00:08 15 Lowery's comments, correct?

16 A. Yes.

17 Q. He didn't ask for advice from you or Dean
18 Mills about how to deal with Lowery, did he?

19 A. No.

14:00:22 20 Q. No, he did not?

21 A. No, he did not.

22 Q. Your goal in asking Carvalho to counsel

23 Lowery regarding making comments that are factually

24 inaccurate and disruptive to operations was to get

14:00:48 25 Lowery to stop making comments that are factually

1 inaccurate and disruptive to operations, correct?

2 A. Yes.

3 Q. Stated another way, your goal in asking

4 Carvalho to counsel Lowery regarding making comments

14:01:14 5 that taxpayer money was stolen by grifters or the

6 president is to be paid to be good at lying to

7 conservative donors and politicians was to get Lowery

8 to stop making those kinds of comments, correct?

9 A. Yes.

14:01:40 10 Q. And similarly your goal in asking Carvalho

11 to counsel Lowery regarding making comments that were

12 disruptive to operations was to get him to stop asking

13 people to not donate to UT; is that correct?

14 A. Yes.

14:02:06 15 Q. And as far as you know, that's your

16 understanding of what Dean Mills's goal was as well,

17 correct?

18 A. My impression, but you will have to ask

19 Dean Mills about her goals.

14:02:18 20 Q. You were working together on this issue

21 though, right?

22 A. Yes.

23 Q. Reading the next sentence of the bullet

24 that we have been talking about here, and the last page

14:02:30 25 of Exhibit 20 it reads, "Carvalho thinks he has no

1 Q. I appreciate you clarifying that because I
2 was reading this and I was going, "What emails are they
3 talking about?" Okay.

4 But certainly Lowery's tweets were part of
14:57:42 5 the discussion that's reflected in paragraph 2 of your
6 notes, correct?

7 A. Yes.

8 Q. Starting with the second sentence there
9 "Burris expressed that the uncivil tone of tweets,
14:57:54 10 emails, etc. were damaging to the school and hurt the
11 ability of the school/dean to execute its
12 responsibilities in fundraising even for Salem. It
13 also has a negative impact on colleagues, some of whom
14 are in lower hierarchical positions than members of
14:58:10 15 Salem."

16 Did I read that accurately?

17 A. Yes.

18 Q. Uncivil tone of tweets, you are referring
19 to Lowery's tweets there, correct?

14:58:20 20 A. Yes.

21 Q. Tweets is plural so it's more than one? I
22 don't mean to cut you off.

23 A. Sorry to clarify. It was a tone of both
24 tweets and emails. So again if this is characterizing
14:58:36 25 both Richard Lowery's tweets, but also the college wide

1 emails that were not sent by Richard Lowery.

2 Q. Okay. My understanding is, those college
3 wide emails were not sent by my client, Richard Lowery.

4 And so I'm here to ask questions about him. But

14:58:52 5 specifically the uncivil tone of his tweets, it's more
6 than one tweet, correct, because it's tweets plural?

7 A. I think I was using this colloquially, but
8 yes.

9 Q. We will go through his tweets one by one
14:59:10 10 later. But as you are sitting here right now, are

11 there any other tweets that you are thinking of other
12 than the one you specified earlier?

13 A. The one I was really referring to which
14 also relates to this last sentence is calling

14:59:24 15 colleagues, and in this case there were staff members
16 and professional track faculty, shameless and awful.

17 Q. So but he never actually called anybody out
18 by name, did he?

19 A. Not by name. He called them out as the
14:59:44 20 people affiliated with that center.

21 Q. But GSLI includes tenure track faculty too?

22 A. Sure.

23 Q. Or tenured track faculty?

24 A. Yes. But the things in the picture was not
15:00:00 25 work done by that tenure track faculty, it was work

1 that there is a fairly positive correlation between
2 overall engagement and how you feel about the
3 organization and the performance of those employees.

4 Q. So tell me who you are talking about
15:03:30 5 specifically here?

6 A. What are we referring to now?

7 Q. Some of whom are in lower hierarchal
8 position than Salem. Who are you talking about?

9 A. The staff members and professional track
15:03:42 10 faculty affiliated with GSLI.

11 Q. Who? Who specifically? What are their
12 names?

13 A. I don't have a record of all of their
14 names. Meeta Kothare would be one. She's a

15:03:54 15 professional track faculty. I don't remember the names
16 of other employees right now.

17 Q. How do you know that?

18 A. What do you mean how do I know that?

19 Q. How do you know it had a negative impact on
15:04:06 20 them?

21 A. Because I would image myself being called
22 shameless and awful isn't a great experience.

23 Q. But you never talked to Meeta, right?

24 A. Correct.

15:04:16 25 Q. Did you talk to somebody who had talked to

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

RICHARD LOWERY,)
Plaintiff,)
v.) Case No. 1:23-cv-00129-DAE
LILLIAN MILLS, et al.,)
Defendants.)

REPORTER'S CERTIFICATION
ORAL DEPOSITION OF
ETHAN BURRIS
January 17, 2024

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

That the witness, ETHAN BURRIS, 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
taken, and further that I am not financially or

1 otherwise interested in the outcome of the action.

2 Certified to by me this January 22, 2024.

3 *Dana Shapiro*

4
5 DANA SHAPIRO, Illinois CSR 84-3597
6 CSR Expiration: 5/31/25
7 Illinois Certified Shorthand Reporter
8 Registered Agent Solutions, Inc.,
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14 Expires: 1/31/2025
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1 COUNTY OF TRAVIS)

2 STATE OF TEXAS)

3 I hereby certify that the witness was notified on
4 January 22, 2024 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
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