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*Attorneys for Defendants tova stabin and the
Communication Manager of the University of Oregon's
Division of Equity and Inclusion*

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

BRUCE GILLEY,

Plaintiff,

v.

TOVA STABIN, in her individual capacity;
and the COMMUNICATION MANAGER of
the University of Oregon's Division of Equity
and Inclusion, in his or her official capacity,

Defendants.

Case No.: 6:22-cv-01181-AA

**DECLARATION OF MISHA ISAAK
IN SUPPORT OF LETTER-BRIEF ON
ATTORNEYS' FEES**

I, Misha Isaak, do hereby declare as follows:

1. I am a partner at Stoel Rives LLP, an attorney licensed in Oregon, and counsel to the University of Oregon and the defendants in this matter. I make the foregoing statements based on my personal knowledge and belief.

2. Attached hereto as Exhibit 1 is a true and correct copy of an excerpt from the deposition of Richie Hunter as a corporate representative of the University of Oregon under Rule 30(b)(6), which appears on the district court's electronic docket in this case as ECF #48-1.

3. Attached hereto as Exhibit 2 is a true and correct copy of a letter that University of Oregon General Counsel Kevin Reed sent to counsel for Bruce Gilley on August 16, 2022. The letter was sent by email and then in hard copy by expressed delivery, as documented in a declaration on the district court's electronic docket in this case as ECF #45. The letter appears on the district court's electronic docket in this case as ECF #19-2.

4. Attached hereto as Exhibit 3 is a true and correct copy of an email exchange between counsel for Bruce Gilley, counsel for defendants (including me), and Judge Hernandez's courtroom deputy, dated between October 21, 2022 and October 26, 2022.

5. Attached hereto as Exhibit 4 is a true and correct copy of an email exchange between counsel for Bruce Gilley and counsel for defendants (including me) on October 26, 2022. (This email was included as an attachment to the latest email in the thread of Exhibit 3.)

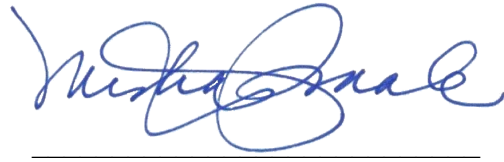
6. Attached hereto as Exhibit 5 is a true and correct copy of an excerpt of the deposition of Yvette Alex-Assensoh in this case, which appears on the district court's electronic docket in this case as ECF #48-3.

7. I estimate that the University spent roughly \$18,500 in fees attributable to work of its outside counsel in connection with the deposition of Vice President Alex-Assensoh, including litigating the necessity and timing of the deposition, preparing the witness, and defending the deposition.

8. I estimate that the University spent roughly \$12,000 in fees attributable to the work of its outside counsel to respond to the motion to dismiss the cross-appeal that Gilley filed in the Ninth Circuit preliminary injunction appeal in this case.

I make the foregoing statements to the best of my personal knowledge and belief under penalty of perjury under the laws of the United States.

DATED: April 10, 2025



MISHA ISAAK

1 leading and just for the record, I'll move to
2 strike.

3 MR. ISAAK: Okay. So let me rephrase
4 the question then.

5 BY MR. ISAAK:

6 Q. Do you have an understanding of whether
7 the department that you oversee has authority to
8 adopt mandatory social media guidelines? Do you
9 have an understanding one way or another about that?

10 A. Yes. I do have an understanding.

11 Q. Okay. And can you explain your
12 understanding with respect to that authority?

13 A. Yeah. My understanding -- my authority
14 and my unit's authority is to develop social media
15 guidelines that the -- anyone with a University of
16 Oregon social media account must abide by.

17 Q. Thank you.

18 Okay. You testified that when the
19 university was made aware of the blocking of
20 Professor Gilley, he was promptly unblocked.

21 Do you remember that testimony?

22 A. I do.

23 Q. Okay. So I just, for the completeness of
24 the record, want to ask you to expound on that
25 testimony in the following way.

1 Do you have an understanding of whether or
2 not if the university had been made aware of the
3 blocking of Professor Gilley earlier, he would have
4 been unblocked earlier?

5 A. Yes. He would have been unblocked earlier
6 because we would have applied the same criteria that
7 we applied once we learned, and it resulted in him
8 being unblocked. So if we would have learned of it
9 earlier, it would have happened earlier.

10 Q. Was he unblocked just because there was a
11 lawsuit filed?

12 A. No.

13 Q. While you say that, there certainly is an
14 intersection of timing between those two things.

15 A. Yeah. While there is an intersection of
16 timing -- and I mentioned this earlier when I was
17 speaking with Mr. Kolde -- it's not because of the
18 lawsuit that the decision was made. It's when we
19 were made aware.

20 And we went through the process of looking
21 at the post, understanding, and applying, as I
22 mentioned before, the first filter, which is whether
23 or not there was viewpoint discrimination. And
24 there was not viewpoint discrimination that existed,
25 but we do err on the side of allowing people to have

1 their say.

2 Q. Yes. So what -- my next question goes to
3 the issue of, you know, what would have been
4 sufficient to notify the university of this
5 blocking?

6 So let me ask you that in this way: If
7 you had received an email saying that Professor
8 Gilley had been blocked and challenging that
9 decision, what would you have done in response?

10 A. I would have immediately gotten the
11 details around the situation. I would have moved
12 right into action.

13 So let me answer your question. I think
14 the first part is, you know, what -- what are the
15 avenues that someone could have taken? It could
16 have been a phone call. It could have been an
17 email. It could have been an email to many people
18 but to me in particular, I would have jumped right
19 into action and found out the information and then
20 made an assessment.

21 Q. And is one of those people Kevin Reed, the
22 general counsel of the university?

23 A. Absolutely.

24 Q. And is one of those people Doug Park, the
25 deputy general counsel of the university?

1 A. Yes, absolutely.

2 Q. And as far as you know, did you or Kevin
3 Reed or Doug Park receive a phone call or email
4 before the lawsuit was filed about this issue?

5 A. No. Not to my knowledge, no.

6 Q. Did the president of the university as far
7 as you know?

8 A. No.

9 Q. So you gave quite a bit of testimony about
10 how the social media guidelines are to be
11 interpreted. And I have a more general question on
12 that topic, and that is: Is it or is it not your
13 understanding that University of Oregon personnel
14 may only block comments on social media -- on the
15 university social media channels if they violate the
16 university social media guidelines? Did that
17 question make sense?

18 A. I think it --

19 Q. Should I ask it again --

20 A. I think it did.

21 University of Oregon employees can only
22 block if it is aligned with our guidelines, correct.

23 Q. Okay. That does answer the question I
24 asked even though your answer was clearer than my
25 question. Thank you.



Sent via electronic and first class mail

August 16, 2022

D. Angus Lee, Senior Partner
Angus Lee Law Firm, PLLC
9105A NE Hwy 99, Suite 200
Vancouver, WA 98665
angus@angusleelaw.com

Endel Kolde, Senior Attorney
Institute for Free Speech
1150 Connecticut Avenue, NW, Suite 801
Washington, DC 20036
kolde@ifs.org

Re: Gilley v. Stabin - 3:22-cv-01181-HZ

Dear Messrs. Lee and Kolde:

We read about Prof. Gilley's lawsuit in the newspaper. It is customary in Oregon for attorneys to contact each other before filing a lawsuit to determine whether matters can be amicably resolved, without the filing of a lawsuit. Had you contacted my office, we easily could have resolved this matter without the time and expense of your filing a lawsuit.

While you apparently caused a process server to visit our former employee, Tova Stabin at her home, you have not served the University and my office has received no communication from you about the lawsuit, other than an email sent last Friday to our Deputy General Counsel, who was out of the office till this week.

In any event, Prof. Gilley (@BruceDGilley) was unblocked from the Twitter account at issue (@UOEQuity) last Friday, August 12, 2022, and the Division of Equity and Inclusion does not intend to block him or anyone else in the future based on their exercise of protected speech. My office has reinforced to our colleagues who control the University's multiple social media channels that, if they open such channels to comments, they may not block commentary on the basis of the viewpoints expressed. I have further confirmed that those social media channels controlled by UO's central communications unit have no blocked users.

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1226 University of Oregon, Eugene OR 97403-1226
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Exhibit 2
Page 1 of 2

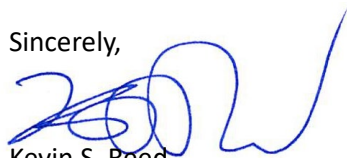
Exhibit 2
Page 1 of 2

Messrs. Lee and Kolde
August 16, 2022
Page 2 of 2

Finally, enclosed with the hard copy of this letter to Mr. Lee is \$20 to cover the nominal damages of \$17.91 alleged in your complaint. Ordinarily the University would issue a check; however, we are enclosing cash to avoid the administrative hassle and delay of issuing a check. Accordingly, your lawsuit is now moot, as there is no longer any effective relief that the federal court can grant, and we ask that you voluntarily dismiss it.

I trust this resolves the complaint and look forward to receiving notice that you have withdrawn your lawsuit.

Sincerely,



Kevin S. Reed
Vice President and General Counsel

Enclosure

From: [Isaak, Misha \(Perkins Coie\)](#)
To: [Jennifer Paget](#)
Cc: [D. Angus Lee](#); [Del Kolde](#); [English, Stephen F. \(Perkins Coie\)](#); [Carp, Jeremy \(Perkins Coie\)](#)
Subject: RE: Gilley v. Stabin: 3:22-cv-01181-HZ: Request for resolution of dispute about deposition set for October 28 - TIME SENSITIVE
Date: Wednesday, October 26, 2022 11:55:04 PM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)
[RE Dr. Alex-Assensoh.msg](#)

Ms. Paget:

Perkins Coie LLP represents the defendants in *Gilley v. Stabin*, No. 3:22-cv-01181-HZ. The purpose of this email is to alert the Court of a development regarding the deposition of Dr. Yvette Alex-Assensoh, Vice President for Equity and Inclusion at the University of Oregon.

I was informed earlier today that Dr. Alex-Assensoh has had a family medical emergency involving her husband, that he is dealing with a serious medical event requiring his hospitalization, and that Dr. Alex-Assensoh is caring for her husband at his hospital bedside. I am informed that she has taken a temporary medical leave from the University while she deals with this emergency medical situation. I am learning facts in real-time and will continue to gather additional information in the coming days.

Counsel for the plaintiff, Mr. Kolde, had planned to take the two-hour deposition of Dr. Alex-Assensoh on Friday, while he is in Eugene taking depositions of two other University employees that day. I informed Mr. Kolde earlier this evening about the situation, given its likely interference with his ability to depose Dr. Alex-Assensoh on Friday, and told him that I would keep him updated as I learn more.

Where professionalism and compassion would have been the appropriate response, Mr. Kolde instead accused me of lying and insisted that Dr. Alex-Assensoh leave her husband's hospital bedside to participate in the deposition. See Local Rule 83-7; District of Oregon Statement of Professionalism. Mr. Kolde's response is attached.

In light of the exchange of emails with the Court earlier this week about the deposition of Dr. Alex-Assensoh, I wanted to make the Court aware of the current situation involving Dr. Alex-Assensoh immediately. Of course, the University of Oregon intends to comply with the Court's directives and will do what it can given unfortunate circumstances that are out of its control.

Misha Isaak

Counsel for Defendants

Misha Isaak | Perkins Coie LLP

PARTNER

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E. misaak@perkinscoie.com



From: Jennifer Paget

Sent: Tuesday, October 25, 2022 10:13 AM

To: Carp, Jeremy (Perkins Coie)

Cc: Isaak, Misha (POR) ; D. Angus Lee ; McCune, JoAnne (POR) ; Del Kolde

Subject: RE: Gilley v. Stabin: 3:22-cv-01181-HZ: Request for resolution of dispute about deposition set for October 28 - TIME SENSITIVE

The judge reviewed the emails from both sides on the discovery dispute. He said Plaintiff can have a two-hour deposition of Vice President Alex-Assensoh. I don't believe there is a need for a call now.

From: Carp, Jeremy (Perkins Coie) <JCarp@perkinscoie.com>

Sent: Monday, October 24, 2022 7:36 PM

To: Jennifer Paget <Jennifer_Paget@ord.uscourts.gov>

Cc: Isaak, Misha (POR) <MIsaak@perkinscoie.com>; D. Angus Lee <angus@angusleelaw.com>; McCune, JoAnne (POR) <JMcCune@perkinscoie.com>; Del Kolde <dkolde@ifs.org>

Subject: RE: Gilley v. Stabin: 3:22-cv-01181-HZ: Request for resolution of dispute about deposition set for October 28 - TIME SENSITIVE

CAUTION - EXTERNAL:

Ms. Paget:

The time proposed by Mr. Kolde works for Defendants. Thank you for your assistance.

Best regards,

Jeremy Carp | Perkins Coie LLP

LITIGATION ASSOCIATE

Portland, OR

D. +1.503.727.2026

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E. JCarp@perkinscoie.com



From: Del Kolde <dkolde@ifs.org>

Sent: Monday, October 24, 2022 6:07 PM

To: Jennifer Paget <Jennifer_Paget@ord.uscourts.gov>

Cc: Isaak, Misha (POR) <MIsaak@perkinscoie.com>; D. Angus Lee <angus@angusleelaw.com>; McCune, JoAnne (POR) <JMcCune@perkinscoie.com>; Carp, Jeremy (Perkins Coie) <JCarp@perkinscoie.com>

Subject: RE: Gilley v. Stabin: 3:22-cv-01181-HZ: Request for resolution of dispute about deposition set for October 28 - TIME SENSITIVE

OK, Plaintiff's counsel are both available at 10a on Friday, Oct. 28 and we will take a break from the deposition at that time. Since Defense counsel will be present, defending the deposition, I cannot imagine they have a conflict.

Thanks.

Del Kolde

Senior Attorney

Institute for Free Speech

From: Jennifer Paget <Jennifer_Paget@ord.uscourts.gov>

Sent: Monday, October 24, 2022 17:10

To: Del Kolde <dkolde@ifs.org>

Cc: Isaak, Misha (POR) <MIsaak@perkinscoie.com>; D. Angus Lee <angus@angusleelaw.com>; McCune, JoAnne (POR) <JMcCune@perkinscoie.com>; Carp, Jeremy (Perkins Coie) <JCarp@perkinscoie.com>

Subject: RE: Gilley v. Stabin: 3:22-cv-01181-HZ: Request for resolution of dispute about deposition set for October 28 - TIME SENSITIVE

Friday is the earliest the Court is available to do a call.

From: Del Kolde <dkolde@ifs.org>

Sent: Monday, October 24, 2022 4:49 PM

To: Jennifer Paget <Jennifer_Paget@ord.uscourts.gov>

Cc: Isaak, Misha (POR) <MIsaak@perkinscoie.com>; D. Angus Lee <angus@angusleelaw.com>; McCune, JoAnne (POR) <JMcCune@perkinscoie.com>; Carp, Jeremy (Perkins Coie) <JCarp@perkinscoie.com>

Subject: RE: Gilley v. Stabin: 3:22-cv-01181-HZ: Request for resolution of dispute about deposition set for October 28 - TIME SENSITIVE

CAUTION - EXTERNAL:

Dear Ms. Paget:

We are set to be in Eugene for depositions this Friday, October 28. The first deposition is scheduled to start at 9AM that day. This would put the hearing in the middle of the depositions and also not allow either side to plan for the VP's dep, currently set to start at 230PM that day.

Is it possible to address this sooner? I am available most of this week including late in the day, but I will be on a plane to Eugene late in the afternoon on Thursday. Thanks.

Del Kolde

Senior Attorney

Institute for Free Speech

From: Jennifer Paget <Jennifer_Paget@ord.uscourts.gov>

Sent: Monday, October 24, 2022 16:28

To: Del Kolde <dkolde@ifs.org>

Cc: Isaak, Misha (POR) <MIsaak@perkinscoie.com>; D. Angus Lee <angus@angusleelaw.com>; McCune, JoAnne (POR) <JMcCune@perkinscoie.com>; Carp, Jeremy (Perkins Coie) <JCarp@perkinscoie.com>

Subject: RE: Gilley v. Stabin: 3:22:-cv-01181-HZ: Request for resolution of dispute about deposition set for October 28 - TIME SENSITIVE

The Court will set a telephone conference on this matter for Friday. We can do 10am or the afternoon. Please confer amongst yourselves and let me know what works for everyone. Thank you.

From: Del Kolde <dkolde@ifs.org>

Sent: Monday, October 24, 2022 1:19 PM

To: Jennifer Paget <Jennifer_Paget@ord.uscourts.gov>

Cc: Isaak, Misha (POR) <MIsaak@perkinscoie.com>; D. Angus Lee <angus@angusleelaw.com>; McCune, JoAnne (POR) <JMcCune@perkinscoie.com>; Carp, Jeremy (Perkins Coie) <JCarp@perkinscoie.com>

Subject: RE: Gilley v. Stabin: 3:22:-cv-01181-HZ: Request for resolution of dispute about deposition set for October 28 - TIME SENSITIVE

CAUTION - EXTERNAL:

Dear Ms. Paget:

Nothing in counsel's email changes that VP Alex-Assensoh is a relevant witness who the documents show had knowledge of Gilley's blocking and who allowed Gilley to remain blocked. Her viewpoints are also relevant to her supervision of the as-yet unfilled communication manager position, which reports directly to the VP, and who will administer the UO social media guidelines. Her apex status is precisely why her deposition is needed here.

At the time of the scheduling hearing, we were still hoping for an early MPI hearing and thus were expecting less time to conduct discovery. As it is, we've ended up with much more time and are now in the regular discovery phase of the case where we may pursue depositions as of right. We also have newly disclosed documents that show that VP Alex-Assensoh had relevant knowledge much earlier than counsel had argued before. We intend to shorten the 30(b)(6) deposition in order to ask the appropriate questions directly to the head of the relevant Division, that is, VP Alex-Assensoh; and are confident that these depositions can be completed in one full day, if they are conducted without disruptions or delays. We should not be forced to travel to Eugene for a second day of depositions or to forego deposing this important witness.

Thank you.

Del Kolde

Senior Attorney

Institute for Free Speech

(202) 301-1664

From: Carp, Jeremy (Perkins Coie) <JCarp@perkinscoie.com>

Sent: Monday, October 24, 2022 12:20

To: Jennifer Paget <Jennifer_Paget@ord.uscourts.gov>

Cc: Isaak, Misha (POR) <MIsaak@perkinscoie.com>; D. Angus Lee <angus@angusleelaw.com>; McCune, JoAnne (POR) <JMcCune@perkinscoie.com>; Del Kolde <dkolde@ifs.org>

Subject: RE: Gilley v. Stabin: 3:22:-cv-01181-HZ: Request for resolution of dispute about deposition set for October 28 - TIME SENSITIVE

Dear Ms. Paget:

This email responds in substance to Del Kolde's email of October 21 and, as relevant, his email of October 24. Defendants respectfully object to the deposition of Vice President Yvette Alex-Assensoh, PhD, on relevance and proportionality grounds, particularly in light of the extensive and burdensome expedited discovery already available to Plaintiff at this early stage of the litigation.

Defendants Have Cooperated with Plaintiff's Ever-Expanding Discovery Demands. Plaintiff's request to depose yet another senior executive arises in the context of what Plaintiff originally promised would

be “limited early discovery” in support of his motion for a preliminary injunction and the substantial expedited discovery that Defendants are undertaking and have already undertaken for Plaintiff. (Mot. to Expedite Discovery, ECF No. 11, at 3 (emphasis added).) Specifically, in Plaintiff’s motion for expedited discovery, he requested only “targeted expedited discovery in the form of one Fed. R. Civ. P. 30(b)(6) deposition, lasting no more than four hours.” (*Id.* at 2 (emphasis added).) Plaintiff also represented that this deposition would be “limited to” the seven topics listed in the exhibit attached to his motion. (*Id.*)

Since the Court granted his motion, however, Plaintiff has repeatedly expanded the scope of his “limited” discovery to include the following additional items:

- A 30(b)(6) deposition with not seven but seventeen topics;
- A 30(b)(6) deposition with not a four-hour time limit but no time limit;
- An additional deposition of Defendant tova stabin;
- An additional deposition of another senior executive, Vice President Alex-Assensoh;
- Ten expansive requests for production; and
- Nine expansive interrogatories.

(Rule 30(b)(6) Deposition Notice at 2 & Ex. A to Rule 30(b)(6) Deposition Notice.) None of the underlined items were requested in the motion for “limited early discovery.” Despite the ever-expanding scope of Plaintiff’s expedited discovery, Defendants have cooperated with Plaintiff and accommodated the growing list of demands. To that end, Defendants have completed the following:

- Agreed to make Richie Hunter, Vice President for Communications, available without restrictions for the open-ended 30(b)(6) deposition;
- Prepared Vice President Hunter to respond to all seventeen of Plaintiff’s expanded topics;
- Agreed to make Ms. stabin available for an open-ended deposition;
- Served responses to Plaintiff’s nine expansive interrogatories;
- Started a rolling production of documents in response to Plaintiff’s ten expansive document requests; and
- Agreed to meet-and-confer about Vice President Yvette Alex-Assensoh’s deposition once Plaintiff has completed his other depositions and reviewed Defendants’ interrogatory responses and document productions.

The only issue over which the parties have come to an impasse is the deposition of another senior executive—Vice President Alex-Assensoh.

Vice President Alex-Assensoh Does Not Possess Relevant or Unique Information. Vice President Alex-Assensoh has no personal knowledge of the events giving rise to Plaintiff’s blocking, was not personally involved in the decision to block Plaintiff, and does not manage or administer any of the University’s social media channels, let alone interpret or apply the University’s social media guidelines. More than that, the previous Communications Manager (i.e., the now-retired administrator of the @UOEquity account who blocked Plaintiff) cannot recall a single instance in which she discussed the University’s social media guidelines, their interpretation, or their application with Vice President Alex-Assensoh at any point before she blocked Plaintiff. Simply put, Vice President Alex-Assensoh’s past and present leadership role has no direct relation to the social media guidelines, decisions made by communications staff who control an obscure Twitter account, or the isolated decision to block Plaintiff.

Plaintiff claims that hastily deposing Vice President Alex-Assensoh is necessary to understand the

University's social media policies and past practices. As noted above, however, Vice President Alex-Assensoh did not interpret, apply, or even discuss the University's social media guidelines before Plaintiff was blocked, which makes sense given that she does not work in the Communications Department and occupies a high-level leadership role that had no direct involvement in running any social media accounts. Although Plaintiff speculates that Vice President Alex-Assensoh might exercise greater control over whomever the University eventually hires to fill the vacant Communications Manager role, it is difficult to understand how this is relevant to a preliminary injunction, which looks only at what happened to Plaintiff in the past and, on the issue of irreparable harm, whether Plaintiff faces further "imminent" harm. *Ctr. for Food Safety v. Vilsack*, 636 F.3d 1166, 1172 (9th Cir. 2011). And the fact that Vice President Alex-Assensoh was copied on an email for a public records request that occurred after Plaintiff was blocked does not change anything because, as the full universe of documents produced to Plaintiff shows, Vice President Alex-Assensoh played no role in crafting a response to that request because she did not possess any relevant information. Moreover, to the extent Plaintiff has represented that he needs to understand the University's policies and practices with respect to its social media guidelines and blocking, he is already taking a Rule 30(b)(6) deposition of Vice President Hunter on these same topics (i.e., someone who oversees the Communications Department and is better positioned to address Plaintiff's interest in broader policies and practices). In fact, at the scheduling conference on September 8, Plaintiff told the Court that the far narrower 30(b)(6) deposition he originally requested would serve precisely this purpose. If Vice President Alex-Assensoh's personal views are, in fact, controlling, as Plaintiff now claims, then one wonders why Plaintiff represented that a 30(b)(6) deposition was the only way to establish the relevant "viewpoints" of the University in this case and why the 30(b)(6) deposition is suddenly not sufficient for that purpose.

Deposing Vice President Alex-Assensoh is not Proportionate to the Needs of this Case. In light of the extensive early discovery already conducted in this case and the availability of the same information through the existing 30(b)(6) deposition, interrogatories, and requests for production, deposing yet another senior executive is not proportionate to the needs of the case at this time. This case arises from a single University employee blocking a single Twitter user after a single reply to a single Twitter post. It concerns only one lightly-trafficked Twitter account and the person who administered it—not other employees, activities, or functions of the Office of the Vice President of Equity and Inclusion. Plaintiff has also inquired about the same viewpoint and policy issues in his interrogatories, document requests, and 30(b)(6) deposition topics. These reasons would, on their own, be sufficient grounds to find that Vice President Alex-Assensoh's deposition is not proportionate to the needs of this case. But when, as here, a party seeks to depose an "apex" business official or senior government official, Plaintiff must make an even higher showing of necessity to justify the deposition. Such officials may only be deposed in "exceptional circumstances." *Leederman v. New York City Dep't of Parks & Rec.*, 731 F.3d 199, 203 (2d Cir. 2013). As a Vice President of the state's flagship public university, Vice President Alex-Assensoh is a senior government official and high-level executive of the University. *See, e.g., United States Bd. of Parole v. Merhige*, 487 F.2d 25, 29 (4th Cir. 1973) (parole board members); *Rodriguez v. City of Los Angeles*, No. CV 11–01135, 2013 WL 12212435, at *1 (C.D. Cal. Oct. 30, 2013) (former city attorney); *Leederman*, 731 F.3d at 203–04 (deputy mayor); *In re Bryant*, 745 F. App'x 215, 220–22 (5th Cir. 2018) (chief of staff); *Apple Inc. v. Samsung Electronics Co., Ltd.*, 282 F.R.D. 259, 266–67 (N.D. Cal. 2012) (vice president); *Tri-Star Pictures v. Unger*, 171 F.R.D. 94, 100–03 (S.D.N.Y. 1997)

(vice president).

In both circumstances, courts consider whether the deponent has unique “first-hand knowledge” that is not available from another source that is “more convenient, less burdensome, or less expensive.” *Bogan v. City of Boston*, 489 F.3d 417, 423 (1st Cir. 2007) (first quotation clause); *Apple Inc.*, 282 F.R.D. at 263 (second quotation clause). For the reasons described above, Vice President Alex-Assensoh does not possess first-hand knowledge of any material facts in this case and the information that Plaintiff seeks about the University’s views and practices with respect to its social media guidelines can be more efficiently and effectively obtained from the 30(b)(6) witness, interrogatory responses, and document productions. Indeed, Vice President Alex-Assensoh oversees a large unit whose mission is to ensure equitable access to opportunities, benefits, and resources for all faculty, administrators, students, and community members, and it is burdensome to her and harmful to the University and its students, faculty, and staff if she is forced to take time away from those duties to prepare for and attend a superfluous deposition, regarding a case for which she has no personal knowledge. The purpose and effect of this deposition would be to harass and unduly burden both Defendants and Vice President Alex-Assensoh. The apex and senior official doctrines exist to guard against the “tremendous potential for abuse or harassment” of these witnesses, *Celerity, Inc. v. Ultra Clean Holding, Inc.*, No. C 05–4374MMC(JL), 2007 WL 205067, at *3 (N.D. Cal. Jan. 25, 2007), and in recognition of the “greater duties and time constraints” of these witnesses, *In re United States (Kessler)*, 985 F.2d 510, 512 (11th Cir. 1993). On an expedited basis, Defendants are already producing burdensome written and documentary discovery to Plaintiff and making one or more high-ranking University official(s) available for a Rule 30(b)(6) deposition on the same issues Plaintiff wishes to discuss with Vice President Alex-Assensoh. Plaintiff, moreover, insists on taking Vice President Alex-Assensoh’s deposition before he has even reviewed all documents Defendants has and will produce and before taking the 30(b)(6) deposition of Vice President Hunter of the Communications Department. Vice President Alex-Assensoh’s time and energy is highly valuable to the University, and the absence of yet another senior official would further disrupt University operations for a case arising from a single University employee blocking a single Twitter user after a single reply to a single Twitter post.

Timing of Defendants’ Objections. Finally, contrary to the assertions of Plaintiff’s counsel, Defendants have not delayed in alerting Plaintiff to their objections to the deposition of Vice President Alex-Assensoh. Counsel for both parties have been conferring on this topic for weeks and, indeed, Defendants attempted to satisfy Plaintiff’s concerns by proposing a declaration that would establish that Vice President Alex-Assensoh had no involvement in the facts underlying this case. Despite weeks of conferral on this subject, Plaintiff served a formal notice of the deposition on October 14, and Defendants served formal objections one week later—still a week before the proposed deposition—and during which week the parties were still conferring about the deposition. In any event, even if a deposition of Vice President Alex-Assensoh were warranted, there is no reason Plaintiff must depose her on Friday. Plaintiff is already conducting two depositions on Friday: an organizational deposition and a deposition of Ms. Stabin. If warranted, a deposition of Vice President Alex-Assensoh could occur by remote means at some other time.

For the Court’s convenience, Defendants have attached (1) Plaintiff’s 30(b)(6) deposition notice and list of topics, (2) Plaintiff’s interrogatories and requests for production, (3) a copy of Plaintiff’s original motion for expedited discovery, and (4) Defendants’ objections to the deposition notice for Vice

President Alex-Assensoh.

Defendants are available for a hearing early this week.

Jeremy Carp | Perkins Coie LLP

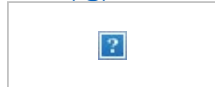
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E. JCarp@perkinscoie.com



From: Del Kolde <dkolde@ifs.org>

Sent: Monday, October 24, 2022 10:40 AM

To: Jennifer Paget <Jennifer_Paget@ord.uscourts.gov>

Cc: Isaak, Misha (POR) <MIsaak@perkinscoie.com>; D. Angus Lee <angus@angusleelaw.com>; McCune, JoAnne (POR) <JMcCune@perkinscoie.com>; Carp, Jeremy (Perkins Coie) <JCarp@perkinscoie.com>

Subject: RE: Gilley v. Stabin: 3:22-cv-01181-HZ: Request for resolution of dispute about deposition set for October 28 - TIME SENSITIVE

Dear Ms. Paget:

We expected defense counsel to weigh in and never suggested otherwise. Now he has and there is no good reason to further delay a determination of this matter. Mr. Isaak's tactics seek to shield an important witness from giving testimony that is directly relevant to the motion for preliminary injunction and the merits of this case.

We told Mr. Isaak for a month that we intended to depose Yvette Alex-Assensoh and formally served her deposition notice on October 14, fourteen days before the Oct. 28 date scheduled for depositions. Mr. Isaak waited a full week to object and indicate that he would not produce the witness, rather than doing so earlier or seeking a protective order. Moreover, the email with the objection notice was sent at 5:40p PT on a Friday (Oct. 21), with only a week to go until the deposition. Defense counsel knows I'm flying to Eugene for the sole purpose of conducting these depositions and is intentionally creating time pressure with his aggressive tactics. Now he is requesting an extra day to respond to our entirely predictable request for Court intervention, which is another delaying tactic.

The parties conducted their Rule 26(f) conference on October 7, so we are now in the discovery phase of the case. Plaintiff served VP Alex-Assensoh with a proper dep notice well in advance of the agreed-upon day for depositions, in the location of defendant's choosing (Eugene). Failure to produce a witness without seeking a protective order is sanctionable under FRCP 37(d)(1)(A)(i), because the VP is "a party's officer, director, or managing agent" and was served with a proper deposition notice. Although Mr. Isaak's conduct is sanctionable, at this time, we are requesting only that the deposition be ordered to proceed as scheduled. We ask the Court to reserve the issue of sanctions for a later time, particularly if these tactics persist.

Moreover, at 5:36p on Oct. 21, UO finally produced its first documents pursuant to Plaintiff's initial targeted discovery requests. This production was also 13 days late and numbered less than 100 pages. Contrary, to some of Mr. Isaak's prior arguments and representations, the documents show that (1) VP Alex-Assensoh and her Chief of Staff Kelly Pembleton (who is also the Assistant VP of the Division) were aware that Gilley (and others) were blocked from @UOEquity at least as early as June 27, 2022, about a month-and-a-half before this lawsuit was filed; (2) VP Alex-Assensoh's Chief of Staff told UO's public disclosure unit that the communication manager had autonomy to make blocking decisions and exercise "professional judgment" which shows these were not the actions of a rogue employee; and (3) Tova Stabin was consulted and asked to give input on UO's social media guidelines, specifically on diversity issues, several years before she blocked Gilley. These documents directly contradict that these were the isolated actions of a now-retired employee who was unaware of the social media guidelines. If we had received these documents in a timely manner, we would have also asked to depose Ms. Pembleton, who is the VP's Chief of Staff and Ms. Larson who played a central role in developing the guidelines.

These late-disclosed documents (attached) are an additional basis to order the deposition of VP Alex-Assensoh to proceed on October 28. In particular, the VP should be required to explain why neither she, nor her Chief of Staff, directed that Gilley be unblocked on June 27, 2022.

We are respectfully asking that this Court expedite its determination of this issue and not countenance Mr. Isaak's serial delaying tactics.

Thank you.

Del Kolde

Senior Attorney

Institute for Free Speech

(202) 301-1664

From: Carp, Jeremy (Perkins Coie) <JCarp@perkinscoie.com>

Sent: Sunday, October 23, 2022 11:30

To: Jennifer Paget <Jennifer_Paget@ord.uscourts.gov>

Cc: Isaak, Misha (POR) <MIsaak@perkinscoie.com>; D. Angus Lee <angus@angusleelaw.com>; Del Kolde <dkolde@ifs.org>; McCune, JoAnne (POR) <JMcCune@perkinscoie.com>

Subject: RE: Gilley v. Stabin: 3:22-cv-01181-HZ: Request for resolution of dispute about deposition set for October 28 - TIME SENSITIVE

Dear Ms. Paget:

This email is in response to Del Kolde's email sent on Friday night. Defendants are preparing a brief email response and intend to send their response to the Court before the close of business on Monday. We ask that the Court decline Mr. Kolde's unusual invitation to decide the matter without any opportunity for Defendants to be heard.

In the meantime, we have attached Defendants' written objections to Ms. Alex-Assensoh's deposition, which were served on Plaintiff prior to Mr. Kolde's after-hours email on Friday.

Thank you for your time.

Jeremy Carp | Perkins Coie LLP

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From: Del Kolde <dkolde@ifs.org>

Sent: Friday, October 21, 2022 7:31 PM

To: Jennifer Paget <Jennifer_Paget@ord.uscourts.gov>

Cc: Isaak, Misha (POR) <MIsaak@perkinscoie.com>; Carp, Jeremy (Perkins Coie) <JCarp@perkinscoie.com>; D. Angus Lee <angus@angusleelaw.com>

Subject: Gilley v. Stabin: 3:22-cv-01181-HZ: Request for resolution of dispute about deposition set for October 28 - TIME SENSITIVE

Importance: High

Dear Ms. Paget:

This matter is currently in discovery, pending the Court's upcoming hearing on cross-motions for MPI and to dismiss, set for Nov. 14, 2022. The parties have agreed to conduct depositions on October 28, 2022 in Eugene, to accommodate UO's witnesses. I am flying to Eugene for just that purpose. But we have a dispute about one of the three witnesses.

Plaintiff intends to depose Yvette Alex-Assensoh, the VP in charge of UO's Division of Equity and Inclusion and the person to whom the Division's communication manager reports. We notified defense counsel of our intent at least as early as Sept. 19, although defense counsel requested several times that we reconsider. We re-affirmed our intent to depose her on several occasions and sent the formal deposition notice to counsel on October 14, setting VP Alex-Assensoh's deposition for 2:30p on Oct. 28 in Eugene, after two other short depositions.

This evening, a week before the deposition, we received defense counsel's objections to her deposition notice, indicating that Defendants would not produce her for the noted deposition because she was not directly involved in the decision to block Bruce Gilley from @UOEquity and because she is an "apex" manager at UO, therefore deposing her is disproportionate to the needs of this case.

Plaintiff maintains that VP Alex-Assensoh leads the Division in question, so her viewpoints on DEI and color blindness are relevant to the issues in this case. This is a case about viewpoint discrimination. The

communication manager position reports directly to VP Alex-Assensoh and that will be true for whoever fills that position now that Tova Stabin has retired. Defendants have argued that the decision to block Gilley was the isolated act of a now-retired employee, Tova Stabin. Plaintiff believes he is entitled to attempt to establish that there is a systemic bias against dissenting viewpoints at the Division that VP Alex-Assensoh leads, which is relevant to the risk of future viewpoint discrimination in the administration of the Division's Twitter account.

The Court has already addressed this issue at the scheduling hearing, when defense counsel asserted that Plaintiff should not be allowed to ask deposition questions about viewpoints:

10 THE COURT: Well, but one of the things that they have
11 to prove is that there was discrimination in the first place and
12 that the defendants in this case discriminated based on content,
13 and to the extent that they want to show that the way that they
14 were discriminated against on the basis of content is to seek
15 out what was going on regarding the University of Oregon and its
16 perspective regarding diversity and inclusion and color
17 blindness, those answers to those questions may well go to the
18 first part of the inquiry the Court is going to have to
19 undertake using the *Winter* factors, and that is whether or not
20 the plaintiffs are likely to succeed on the merits, and part of
21 the merits inquiry is going to be was there viewpoint
22 discrimination or not.
23 And so those questions related to viewpoint, I think,
24 are relevant, and I will allow those questions to proceed.

Plaintiff's counsel intends to be respectful of VP Alex-Assensoh's time and would expect the deposition to take about two hours, unless there are excessive objections, breaks, or unusually long answers, in which case it could run a bit longer.

The parties have discussed this issue on several occasions and agree that we are at an impasse that requires the Court to resolve this dispute.

Time is of the essence, so Plaintiff is respectfully requesting that the Court resolve this dispute based upon the submission of this informal summary. In the alternative, undersigned counsel is available to participate in a telephone conference with the Court early next week. I am scheduled to fly to Eugene on October 27 with depositions beginning the next morning.

Thank you.

Del Kolde

Senior Attorney

Institute for Free Speech

(202) 301-1664

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From: [Del Kolde](#)
To: [Isaak, Misha \(Perkins Coie\)](#)
Cc: [D. Angus Lee](#); [Carp, Jeremy \(Perkins Coie\)](#)
Subject: RE: Dr. Alex-Assensoh
Date: Wednesday, October 26, 2022 7:23:50 PM
Attachments: [image001.png](#)

Misha:

This information insufficient to unilaterally cancel a deposition and is coming on the heels of an previous attempt to avoid producing this witness, one that was just rejected by the Court. I simply don't believe you and perceive this as another attempt to shield her from deposition. She's obviously an important witness, who you don't want us to get to depose.

If her family member is indeed having a medical issue, then I am sorry for that, but if that family member is under hospital care, then VP Alex-Assensoh can appear for a two-hour deposition, two days from now. She doesn't need to be at the hospital 24/7.

Please indicate by 930AM tomorrow that you will produce her for her deposition at the scheduled time or we will notify the court and ask to compel her deposition.

Del Kolde
Senior Attorney
Institute for Free Speech

From: Isaak, Misha (POR) <MIsaak@perkinscoie.com>
Sent: Wednesday, October 26, 2022 18:32
To: Del Kolde <dkolde@ifs.org>
Cc: D. Angus Lee <angus@angusleelaw.com>; Carp, Jeremy (Perkins Coie) <JCarp@perkinscoie.com>
Subject: Dr. Alex-Assensoh

Hi Del. Today I learned that Dr. Alex-Assensoh has experienced a sudden family medical emergency, and she has gone on leave to tend to a family member in the hospital. That is all the information I know at the moment, but I wanted to let you know right away as it seems unlikely that she will be able to participate in a deposition on Friday. We will update you with more information as we learn more.

Misha

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1 move on.

2 A. And I would also say that the whiteness
3 group is one of five or six groups. It is not the
4 only group that exists.

5 (Deposition Exhibit 24
6 marked for identification.)

7 BY MR. KOLDE:

8 Q. Showing you what's been marked Exhibit 24.
9 I'll represent to you that that is a press release
10 that we printed off -- I believe it was the
11 University of Oregon website. It was authored by
12 Tova Stabin. You're quoted in the press release and
13 it features a speech by a UCLA law professor at the
14 University of Oregon in February of 2019.

15 The name of the professor is Cheryl
16 Harris. Does this refresh your recollection that
17 she spoke at the University of Oregon?

18 A. It does.

19 Q. Okay. And it quotes you in this press
20 release as believing that Harris's address of these
21 issues at this time is vital.

22 Does that sound accurate to you?

23 A. Here's what it quotes me as saying
24 (as read): We are privileged to have
25 someone of Cheryl Harris's caliber here at

Dr. Yvette Alex-Assensoh

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1 the University of Oregon for the
2 African-American Workshop Speaker Series and
3 the Derrick Bell lecture, Alex-Assensoh
4 said.

5 That's what I said.

6 Q. Right. But if you'll look at one, two --
7 well, one, two, three, four -- five paragraphs down
8 it says (as read): Yvette Alex-Assensoh
9 professor of political science and vice
10 president for equity and inclusion, believes
11 having Harris address these issues at this
12 time is vital.

13 Then it quotes you, quote
14 (as read): Cheryl Harris's groundbreaking
15 work on critical race theory, particularly
16 as it impacts admissions policies and
17 education is critical for us to understand
18 how best to position our work, policies, and
19 processes at the UO in ways that actually
20 empower all members of our community with a
21 special focus on members who have been
22 marginalized, end quote.

23 That's what it says; right?

24 A. Yes. That's what it says.

25 Q. And the title of her talk is

Dr. Yvette Alex-Assensoh

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1 Colorblindness and White Nationalism -- or I should
2 rather say the title of the press release says
3 (as read): UCLA law professor to discuss
4 Colorblindness, White Nationalism.

5 Is that correct?

6 A. That's what it reads.

7 Q. And then it looks like the title of the
8 talk as it's discussed in the second paragraph is,
9 quote (as read): Affirmative Action
10 Chronicles. From the Era of Colorblindness
11 to White Nationalism, end quote.

12 Is that correct?

13 A. That's what it reads.

14 Q. Do you believe that there is a connection
15 between colorblindness and white nationalism?

16 MR. ISAAK: Objection. Vague and
17 ambiguous.

18 BY MR. KOLDE:

19 Q. You may answer.

20 A. This is Cheryl Harris's talk to the
21 University of Oregon as part of the African-American
22 workshop and lecture series. Those are her beliefs.

23 Q. Right. And I'm asking whether you agree
24 with them. I mean, you seem to be complimenting her
25 and saying that what she's saying is vital, so I'm

Dr. Yvette Alex-Assensoh

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1 trying to understand. Do you agree that there's a
2 connection between colorblindness and white
3 nationalism?

4 MR. ISAAK: Objection. The document
5 says "The era of colorblindness."

6 BY MR. KOLDE:

7 Q. You may answer the question.

8 A. This is Cheryl Harris's speech to the
9 University of Oregon on the topic of colorblindness
10 and white nationalism.

11 Q. Do you agree with Cheryl Harris or not?

12 MR. ISAAK: Objection. Vague and
13 ambiguous as to "agree."

14 BY MR. KOLDE:

15 Q. You may answer.

16 A. I don't know enough about her. I can't
17 say that I agree with everything that Cheryl Harris
18 says nor do I remember the specifics of her -- of
19 her -- of her talk.

20 What I can say is what was quoted here
21 with respect to her visit.

22 Q. Okay. In the IDEAL report and on the
23 continuum you discuss transforming the University of
24 Oregon into an anti-racist institution. So I'd like
25 to ask you some questions about the idea of

1 anti-racism.

2 So I'll read to you one definition of
3 anti-racist that I found, quote (as read):

4 The opposite of racist isn't not racist. It
5 is antiracist. What's the difference? One
6 endorses either the idea of a racial
7 hierarchy as a racist or racial equality as
8 an antiracist. One either believes problems
9 are rooted in groups of people as a racist
10 or locates the roots of problems in power
11 and policies as an antiracist. One either
12 allows racial inequities to persevere as a
13 racist or confronts racial inequities as an
14 antiracist, end quote.

15 What do you think about that definition of
16 antiracist?

17 A. I don't know.

18 Q. Do you agree with it?

19 A. I don't know.

20 Q. What is your definition of antiracist?

21 A. My definitions of antiracism were included
22 on this document and the 2020 document that was
23 read.

24 MR. ISAAK: And the record should
25 reflect that the witness was referring to other

1 exhibits.

2 BY MR. KOLDE:

3 Q. Yeah. And I'll tell you I've read the
4 report carefully. I read the continuum. I did not
5 see you actually define the term "antiracism" in
6 either document so that's why I'm asking you to
7 define it for me today. And, you know, just do it
8 to the best of your ability, please.

9 A. Do you have a Webster's dictionary? Let's
10 go there and look it up.

11 Q. Do you think that the term "antiracism" is
12 defined in the Webster's dictionary?

13 A. Yeah.

14 Q. Would you go with the definition that's in
15 the Webster's dictionary?

16 A. It depends on what it is.

17 Q. Okay. So obviously you have some
18 understanding of what antiracism means because you
19 used the term repeatedly in the report and on the
20 continuum. So please help me understand what you
21 meant by the term "antiracism" when you used it in
22 the IDEAL report.

23 MR. ISAAK: Objection. Vague and
24 ambiguous.

25 BY MR. KOLDE:

Dr. Yvette Alex-Assensoh

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1 Q. You may answer.

2 A. My definitions and operationalizations of
3 antiracism are included in -- on the continuum and
4 the 2020 IDEAL report.

5 Q. They are not. I will tell you I've read
6 them. They're not in the report so I'm asking you
7 to please state how you're using those terms in the
8 continuum and the report.

9 MR. ISAAK: Objection. First of all,
10 Counsel is testifying. Second of all, this question
11 has been asked and answered. Third of all, vague
12 and ambiguous.

13 BY MR. KOLDE:

14 Q. You may answer.

15 A. The definitions in context of antiracism
16 are in the continuum and the 2020 report, IDEAL
17 report.

18 Q. Do you consider yourself to be an
19 antiracist?

20 MR. ISAAK: Objection. Vague and
21 ambiguous.

22 BY MR. KOLDE:

23 Q. You may answer.

24 A. It depends on how a person is using that
25 term.

1 Q. Okay. So can you give me a definition of
2 antiracism that you agree with because I've asked
3 several times now?

4 MR. ISAAK: You have asked several
5 times now. Objection. Asked and answered. Vague
6 and ambiguous.

7 BY MR. KOLDE:

8 Q. You may answer.

9 A. The definition of antiracism is included
10 and contextualized on the continuum and the 2020
11 IDEAL report.

12 Q. Are you able to give me a definition of
13 antiracism that is different from that answer which
14 you've given before?

15 A. No, I'm not.

16 MR. ISAAK: Same objections.

17 BY MR. KOLDE:

18 Q. Do you agree that the claim of not racist
19 neutrality is a mask for racism?

20 A. I do not agree with that.

21 MR. ISAAK: Objection. The question
22 is vague and ambiguous.

23 BY MR. KOLDE:

24 Q. Do you agree that in critical theory it is
25 simply impossible for racism to be absent from any

1 situation?

2 MR. ISAAK: Objection. Vague and
3 ambiguous.

4 A. I don't know.

5 BY MR. KOLDE:

6 Q. Is the University of Oregon a white
7 supremacist institution?

8 MR. ISAAK: Objection. Vague and
9 ambiguous.

10 A. I don't know.

11 BY MR. KOLDE:

12 Q. Have you ever stated that the University
13 of Oregon is a white supremacist institution?

14 A. I don't know.

15 Q. Have you ever stated that the university
16 is a colonial concept?

17 A. I don't recall.

18 Q. Have you ever stated that testing is a
19 Europeanized concept?

20 A. I don't recall.

21 Q. Have you ever stated that the university
22 is Anglo Saxon?

23 A. Don't recall.

24 Q. Have you ever stated that only faculty who
25 change society deserve tenure?

Dr. Yvette Alex-Assensoh

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1 A. I don't recall.

2 Q. Have you ever stated that universities sit
3 on stolen land?

4 A. I don't recall.

5 Q. Have you ever stated that the University
6 of Oregon sits on stolen land?

7 A. I don't recall.

8 Q. Well, you stated it in the report, didn't
9 you?

10 A. I don't recall.

11 Q. Have you ever stated that engineers are
12 predominantly white and male so they make products
13 that harm women and people of color?

14 A. I don't recall.

15 Q. Do you have an opinion about Western
16 colonialism, about whether it was good or bad?

17 MR. ISAAC: Objection. Vague and
18 ambiguous as to "Western colonialism." Vague and
19 ambiguous as to "good or bad."

20 A. I don't know what you mean.

21 BY MR. KOLDE:

22 Q. Well, you used the term "colonialism" in
23 the continuum and in the report, did you not?

24 A. I used the term "colonialism."

25 (Alarm sound.)

1 A. It's 3:55.

2 BY MR. KOLDE:

3 Q. Yep.

4 So what -- how are you using that term?

5 A. As it's stated in both of those documents.

6 Q. Okay. Well, you don't elaborate on how
7 you're using the term "colonialism" in the
8 documents. You do use the terms in there, so that's
9 why I'm asking about it.

10 MR. ISAAK: Objection. Counsel is
11 testifying. And same objections I made previously.

12 BY MR. KOLDE:

13 Q. Can you answer the question, please?

14 A. No, I cannot, beyond what I've already
15 said.

16 Q. Would you agree that colonialism in
17 general is not a good thing?

18 MR. ISAAK: Objection. Vague and
19 ambiguous as to both "colonialism" and "not a good
20 thing."

21 BY MR. KOLDE:

22 Q. You may answer.

23 A. I've already answered that question.

24 Q. Okay. Could you tell me what your answer
25 is, please?

1 A. I don't understand, and I don't recall.

2 Q. Do you believe that race is embedded in
3 contemporary American society?

4 MR. ISAAK: Same objections I
5 previously made.

6 BY MR. KOLDE:

7 Q. You may answer.

8 A. I don't know.

9 Q. Could you please describe what you mean by
10 the concept of psychological safety that we talked
11 about earlier?

12 MR. ISAAK: Objection. Vague and
13 ambiguous.

14 BY MR. KOLDE:

15 Q. You may answer.

16 A. (No audible response.)

17 Q. Are you thinking or --

18 A. (No audible response.)

19 Q. I'm sorry. Did you understand my
20 question?

21 A. (No audible response.)

22 Q. Okay. Let the record reflect that the
23 witness is not responding.

24 Doctor, are you able to answer my question
25 and describe what you mean by psychological safety?

Dr. Yvette Alex-Assensoh

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1 A. No, I'm not.

2 Q. Did you send or read any emails while you
3 were on the trip in Ghana that you referred to
4 earlier in the deposition?

5 A. I don't recall.

6 Q. How can people address racism at the
7 University of Oregon if you cannot describe it or
8 give any specific examples?

9 MR. ISAAK: Objection. Argumentative.
10 Vague and ambiguous. Lacks personal knowledge.

11 BY MR. KOLDE:

12 Q. You may answer.

13 A. The documents speak for themselves.

14 MR. KOLDE: Okay. We're done.

15

16 EXAMINATION

17 BY MR. ISAAK:

18 Q. Okay. I just have one or two short
19 questions for you, and then we'll let you go.

20 A. (Witness nodded.)

21 Q. So you have a set of views and beliefs,
22 some of which you were asked about today; right?

23 A. Yes.

24 Q. Can you tell us if you have any opinion
25 one way or another as to whether the university

1 should block comments and users on social media who
2 disagree with your views?

3 A. Yes. I have an opinion about that.

4 Q. Can you share it, please?

5 A. My opinion is that we are a public
6 research institution. We value diverse people,
7 ideas, and viewpoints and that everyone is invited
8 and welcomed to contribute. And that is what we
9 uphold and that is what we have done. My classes,
10 my research -- the work that we do at the university
11 in the Division of Equity and Inclusion upholds all
12 of that.

13 Q. Okay. So I just want to ask the question
14 one more time a little bit more narrowly, and that
15 is -- I want you to address what you just said to
16 the particularized issue of blocking comments and
17 users on social media.

18 What is your opinion of that?

19 A. We should not block users on social media
20 based on their viewpoints.

21 MR. ISAAK: Thank you.

22 I will just, before excusing the
23 witness put on the record two objections. The first
24 objection is to renew the objection that I made at
25 the end of Tova Stabin's deposition regarding using

1 the authority of the Court to compel and coerce
2 testimony in order to badger and harass witnesses
3 about their opinions, views, and beliefs as a
4 violation of the First Amendment.

5 The second objection that I will put
6 on the record is that, as we've already established
7 in motion practice, this witness is an apex
8 university official who has had to leave the bedside
9 of an ill family member in order to accommodate this
10 deposition.

11 It is remarkable what a waste of time
12 this deposition has been asking the witness to do
13 things like for over half of the deposition just
14 read aloud and recite the text of documents put in
15 front of her, and I object to the deposition in its
16 entirety on that basis and to all of those questions
17 as well.

18 MR. KOLDE: In the interest of time,
19 I'm not going to spend a lot of time responding the
20 depositions. We've made a record previously about
21 the relevance of viewpoint-related issues. We think
22 it is rather breathtaking, the proposition that
23 government officials should be immune from having to
24 describe their etiological viewpoints in a case that
25 involves allegations -- credible allegations of

Dr. Yvette Alex-Assensoh

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1 censorship, and we have the right to take this
2 deposition as the Court appropriately realized.

3 And now it is 4:02. I understand that
4 Dr. Alex-Assensoh has some personal matters to
5 attend to, so in the interest of letting her attend
6 to that, I think we can conclude the deposition at
7 this time.

8 MR. ISAAK: Thank you.

9 (The deposition was concluded
10 at 4:02 p.m.)
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