

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 16-CV-80655-ROSENBERG/HOPKINS

JAMES TRACY,

Plaintiff,

v.

FLORIDA ATLANTIC UNIVERSITY  
BOARD OF TRUSTEES a/k/a FLORIDA  
ATLANTIC UNIVERSITY; et al.,

Defendants.

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**FLORIDA ATLANTIC UNIVERSITY'S THIRD REQUEST  
FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF**

Defendant, FLORIDA ATLANTIC UNIVERSITY ("FAU" or "Defendant University"), pursuant to Rule 34 of the Federal Rules of Civil Procedure, hereby serves its Third Request for Production of Documents to Plaintiff, James Tracy ("Mr. Tracy" or "Plaintiff").

**DEFINITIONS**

Unless otherwise specifically indicated, the following definitions shall apply throughout these Requests for Production of Documents:

1. The term "**document**" or "**documents**" means all paper documents, graphic or auditory records or representations, tangible items, and electronically stored information, and shall have the broadest possible meaning accorded to it consistent with Fed. R. Civ. P. 26 (which is incorporated in this definition as if fully set forth), and includes, by way of illustration only and not by way of limitation, the following items which are in *your* possession, control, knowledge, or are known to you:

- a. all written, paper or printed material of any kind, including, but not limited to: all transmittal slips, memoranda, notes, schedules, agendas, notices, books, brochures, calendars, employment files, announcements, meeting minutes, records of meetings, records of conversations, newsletters, telegrams, summaries, lists, compilations, facsimile transmissions, transcripts, diaries, appointment books, agreements, contracts, reports, studies, checks, check stubs, invoices, financial statements, bank statements, receipts, *communications*, interoffice and intraoffice exchanges, conversations, inquiries, replies, correspondence, and letters, whether in person, by telephone, in writing, or by means of any other transmittal devices, and all originals, reproductions, copies, changes, amendments, drafts and all non-identical copies of the foregoing;
- b. graphic or auditory records or representations of any kind, including, but not limited to: all images, photographs, charts, drawings, sketches, diagrams, maps, schematics, microfiche, microfilm, slides, videotapes, laser discs, digital versatile discs, Blu-ray discs, UltraViolet discs, cassette tapes, reel to reel tapes, recordings, sound bites, motion pictures, voice messages, and all originals, reproductions, copies, changes, amendments, drafts and all non-identical copies of the foregoing; and
- c. electronically stored information, electronic, mechanical and electrical records or representations of any kind including, but not limited to: all electronic *communications*, text messages, e-mails, instant messages, computer logs, network logs, Internet history, document files, spreadsheet files, presentation files, database files, desktop publishing files, source code files, object code files, executable files, data files, script files, project management files, text files, portable document format files, tabulated data files, virtual machine files, XML files, webpage files, image files, design files, GIS files, system files, compressed files, disk image files, audio files, video files, backup files, metadata and all originals, reproductions, copies, changes, amendments, drafts, and all non-identical copies of the foregoing (defined herein as “*ESI*”; each individual electronically stored *document* is defined herein as an “*ESI document*”);

2. For purposes of the foregoing, *documents* may be located, stored or archived in any physical location or on any electronic storage media, including, without limitation, any computer, server, appliance, cloud-based service, web-based service, database, internal hard drive, external hard drive, solid-state drive, hard or floppy diskette, compact disc, digital versatile disc, Blue-ray disc, UltraViolet disc, flash memory, flash card, thumb drive, cartridge, magnetic tape, mobile phone, tablet device, or personal digital assistant. Moreover, for purposes of the foregoing, the term “draft” means any earlier, preliminary, preparatory, or tentative

version of all or part of a document, whether or not such draft was superseded by a later draft and whether or not the draft's terms are the same as or different from the final *document's* terms. Please note that "Document" and "Documents" as defined herein specifically include "Communication" and "Communications" as defined below.

3. The term "**communications**" means any oral or written utterance, statement, notation, or conversation, of any nature whatsoever, by and to whomsoever made, including, but not limited to, correspondence, conversations, dialogues, discussion, interviews, meetings, consultations, agreements, emails, text messages and voice or audio messages.

4. The terms "**you,**" "**your,**" and "**yours**" refers to the person or entity to whom this request is directed and to any agent, attorney, predecessor or successor in interest to the person or entity.

5. The phrases "**relates to**" and "**relating to**" mean in any way, directly or indirectly, pertaining, concerning, considering, mentioning, analyzing, supporting, constituting, comprising, containing, setting forth, showing, evidencing, disclosing, describing, explaining, summarizing, embodying, referencing, qualifying, corroborating, demonstrating, proving, showing, refuting, disputing, rebutting, or contradicting, regardless of whether the document or information supports or contradicts your claims or position.

6. The conjunctions "**and**" and "**or**" shall each be individually interpreted in every instance to mean "and/or" and shall not be interpreted disjunctively to exclude any information otherwise within the scope of any request.

7. As used herein, the singular and masculine form of a noun or pronoun shall embrace, and be read and applied as, the plural or feminine or neuter, as the circumstances may make appropriate.

8. All words in the present tense include the past and all words in the past tense include the present.

### **INSTRUCTIONS**

1. In response to this Request for Production, you are required to furnish all information and documents which are, or have been, in your possession, custody, or control, or in the possession, custody, or control of your past or present agents, attorneys, accountants, advisors, employees, independent contractors, companies or any other person or entity acting on your behalf.

2. Unless otherwise specifically stated in each Request, the relevant time period shall be the period from January 1, 2012 to the present.

3. To the extent that you consider any of the following requests objectionable, answer or respond to so much of each request and each part thereof as is not objectionable in your view, and separately state that part of each request to which you raise objection and each ground for each such objection.

4. If any document is withheld under a claim of privilege or immunity, in order that the Court and the parties may determine the validity of the claim of privilege or immunity, you must provide sufficient information to determine the identity of the document as well as the basis for any asserted claim of privilege or immunity. Documents shall be deemed adequately described for this purpose if you have supplied the following information: (1) a description of the nature of the document (e.g., letter or memorandum); (2) the date of the document; (3) the identity of the person(s) who sent and received the original and any copy(ies) of the document as well as his or her respective capacity; (4) the identity of the custodian of the document, and such other information sufficient to identify the document for a subpoena duces tecum or a document

request, including where appropriate the author, the addressee, and if not apparent, the relationship between the author and addressee; (5) a description of the subject matter of the document; (6) a description of the basis upon which you contend you are entitled to withhold the document from production; and (7) the identity of all persons who have seen the document.

5. If any document or portion thereof has been destroyed, redacted in whole or in part, purged, or is no longer in your possession, custody or control, state: (1) the date of the occurrence and reason why it was destroyed, redacted, purged, or no longer in your possession, custody or control; (2) the person who destroyed, redacted, purged or caused the document to no longer be in your possession, custody or control; and (3) if the document was completely destroyed, the file where the document was maintained before its destruction.

ESI Instructions:

6. ESI Production Format. ESI shall be produced electronically, either in (1) Native Format, or (2) as single-page, uniquely and sequentially numbered Group IV TIFF image files. For each ESI document, all metadata must remain intact and all parent/child document relationships must be maintained. All ESI shall be collected using methods that prevent the spoliation of data.

7. Production Media. The production of ESI as described herein shall be made on an external hard drive, flash drive, CD or DVD (“Production Media”). The Production Media shall include a unique identifying label specifying: (a) your identity; (b) the date of the production of ESI; and (c) the case name and number.

8. ESI of Limited Accessibility. If you contend that any ESI document responsive to this Request for Production is not reasonably accessible: (1) timely identify such ESI document with reasonable particularity; and (2) provide the basis for declining to produce the ESI

document, including, for example, any limitations on access, the likely costs that might be incurred in accessing and producing the ESI document, the method used for storage of the ESI document and all locations in which the ESI document is kept.

9. TIFF Production. ESI produced as TIFF image files shall be produced as follows: (1) each production of TIFF image files shall be accompanied by a corresponding load file (“Image Load File”); (2) each TIFF image file must contain the same information and same physical representation as the Native Format file from which the TIFF image file was created; (3) each TIFF image file must not be less than 300 dpi resolution; (4) each TIFF image file shall be accompanied by an extracted text file containing the extracted text of the Native Format file from which the TIFF image file was created; (5) each extracted text file shall be named to match the endorsed number assigned to the first page of each corresponding TIFF image file; (6) the extracted text files shall be accompanied by a Control List File (“LST”); (7) each production of TIFF image files shall be accompanied by an image cross-reference load file, such as Opticon (“OPT”), which shall provide the beginning and ending endorsed number of each TIFF image file and the number of pages it includes; and (8) each production of TIFF image files must be accompanied by a data load file (“Data Load File” or “DAT”) that contains both the hash value and all available metadata of the Native Format files from which the TIFF image files were created. Further, the following instructions apply to the production of TIFF image files:

- a. Processing Specifications. For each Native Format file that is converted to TIFF format: (1) all tracked changes shall be maintained so that all changes are visible; (2) OLE Embedded files shall not be extracted as separate documents; (3) author comments shall remain or be made visible; (4) hidden columns, cells, rows, worksheets and other hidden data shall remain or be made visible; (5) presenter notes shall remain or be made visible; and (6) to the extent ESI in a foreign language is produced, processing of such ESI shall be unicode-compliant.
- b. Document Unitization. If a Native Format file that is converted to TIFF format is more than one page, the unitization of the file and any

attachments or affixed notes must be maintained as it existed when collected. If unitization cannot be maintained, the original unitization must be documented in the Data Load File or otherwise electronically tracked.

- c. Color. If a Native Format file that is converted to TIFF format contains color, the TIFF image file need not be produced in color. However, we reserve the right to make a request for a file to be produced in color.
- d. Where TIFF Image File Format is Impracticable. In the event that production of a Native Format file as a TIFF image would be impracticable, you shall produce such file in Native Format with all metadata intact. You shall provide a single page TIFF image placeholder referencing the title of the Native Format file not being produced as a TIFF image.
- e. Spreadsheets. All Microsoft Excel files, similar non-Microsoft spreadsheet files, and graphical compilations of spreadsheet data, shall be produced in Native Format with all cells, columns, rows and worksheets and other information unhidden and expanded.

### **DOCUMENTS REQUESTED**

1. All of your tax records (including returns, filings, and all attachments) for any country (including United States and Canada) for the years 2012, 2013, 2014, 2015, and 2016.
2. All documents you provided to your tax preparer for the years 2012, 2013, 2014, 2015, and 2016.
3. All documents relating to your receipt of any consideration whatsoever for any goods or services from January 1, 2012 to the present, including (but not limited to) any compensation, commissions, royalties, or honorarium for your contributions to any books, articles, websites, blogs, or radio shows.
4. All documents relating to your receipt of any donations or gifts for your research, your blog(s) or website(s), or your legal defense from January 1, 2012 to the present.
5. All documents or correspondence exchanged with Eric Sayward or Kevin Barrett regarding hosting your blog(s) or website(s), including but not limited to “Memory Hole:

Reflections on Media and Politics” as described in paragraph 36 of your Second Amended Complaint.

6. Any and all documents or correspondence exchanged with Moon Rock Books or Jim Fetzer regarding articles, blog posts, or books regarding Sandy Hook Elementary School.

7. Any and all documents or correspondence exchanged with Shane Eason relating to the allegations of your Second Amended Complaint, including but not limited to your allegations of improper discipline and conspiracy.

8. A copy of the police report for the alleged burglary in December 2016.

9. Any and all documents or correspondence exchanged with your homeowner’s insurance company relating to the alleged burglary in December 2016.

10. Any and all documents or correspondence exchanged with Timothy Lenz from August 1, 2015 through present relating to any discipline, your termination, the Report of Outside Employment and Professional Activities, Article 19 of the Collective Bargaining Agreement, and/or Article 5 of the Collective Bargaining Agreement.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by email on this 15th day of June, 2017, on all counsel or parties of record on the attached Service List.

/s/ Holly L. Griffin  
Holly L. Griffin

## SERVICE LIST

*Tracy v. Florida Atlantic University Board of Trustees, et al.*  
**Case No. 16-cv-80655-ROSENBERG/HOPKINS**

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