

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
EASTERN DIVISION**

<p>INTERVARSITY CHRISTIAN FELLOWSHIP/ USA, <i>et al.</i>,</p> <p style="text-align: center;"><i>Plaintiffs,</i></p> <p style="text-align: center;">v.</p> <p>THE UNIVERSITY OF IOWA, <i>et al.</i>,</p> <p style="text-align: center;"><i>Defendants.</i></p>	<p>Civ. Action No. 18-cv-00080</p> <p style="text-align: center;"><b>PLAINTIFFS’ SUPPLEMENTAL STATEMENT OF MATERIAL FACTS IN SUPPORT OF PLAINTIFFS’ MOTION FOR PARTIAL SUMMARY JUDGMENT</b></p>
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219. Kevin Kummer is a senior campus staff member with InterVarsity Christian Fellowship USA and is assigned to work with student groups at the University of Iowa. IVCF App. 2138 [Kummer Dep. 7:15- 8:2].

220. He has been with InterVarsity at the University of Iowa for twenty-two years, during which time the University never had a problem with InterVarsity’s religious standards for its leaders until the summer of 2018. IVCF App. 2146 [Kummer Dep. 39:3-16, 40:25-41:7].

221. Katrina Schrock is a Ph.D. candidate and research assistant in the physics program at the University of Iowa. IVCF App. 2228 [Schrock Dep. 8:11-9:3].

222. She became the president of InterVarsity Graduate Christian Fellowship in May 2018. IVCF App. 2229 [Schrock Dep. 10:24-11:2]; IVCF App. 2145 [Kummer Dep. 36:17-22].

223. One of the first things Katrina had to address was the University’s threat to deregister InterVarsity. Just after she took over the leadership, the outgoing leaders emailed her the University’s email threatening to deregister InterVarsity. IVCF App. 2230 [Schrock Dep. 14:17-21, 16:3-6]; IVCF App. 2145 [Kummer Dep. 36:17-22].

224. Katrina would not have agreed to be a leader if she had known the University was going to deregister InterVarsity because she would have feared that standing up against the University could have a negative impact on her career and on her time at the University. IVCF App. 2240 [Schrock Dep. 55:8-25].

225. The University's deregistration of InterVarsity has negatively affected her efforts to find new leaders. IVCF App. 2240 [Schrock Dep. 56:2-4].

226. She did not get the same kind of leadership experience as other leaders because she had to focus so much attention defending InterVarsity instead of carrying out InterVarsity's mission. IVCF App. 2240 [Schrock Dep. 56:5-16].

227. Dealing with the deregistration was a significant distraction, took up a lot of time at meetings, and detracted from Katrina's and other leaders' ability to prepare for ministry in the coming year with InterVarsity. IVCF App. 2240 [Schrock Dep. 57:9-25].

228. Even before this lawsuit commenced, InterVarsity USA's paid staff expended more than 40 hours over the summer responding in one way or another to the deregistration. IVCF App. 2152 [Kummer Dep. 62:10-21, 64:18-24]; *see also* IVCF App. 2609-11 (listing over \$4,000 in attorneys fees paid by InterVarsity USA to its outside counsel to try to retain and then regain registration before the start of the lawsuit).

229. As a result, Katrina is hesitant to ask others to take over the leadership because she doesn't have a good basis to give them idea of what to expect as a leader and doesn't want to put people in the same situation she is in. IVCF App. 2240 [Schrock Dep. 56:5-16].

230. The deregistration also negatively impacted activities that InterVarsity normally would have had. For example, they usually would have had a few activities over the summer but were

only able to have one, partially because they were preoccupied dealing with the deregistration. IVCF App. 2241 [Schrock Dep. 58:1-7]; IVCF App. 2152 [Kummer Dep. 62:21-25].

231. Some students were likely dissuaded from joining InterVarsity because it was deregistered. Deregistration would have made Katrina hesitant to be a member because she would not have known the details and would have been skeptical to join a group that was deregistered by the University. IVCF App. 2240 [Schrock Dep. 56:22-57:8].

232. After deregistering InterVarsity, the University placed a statement on InterVarsity's webpage on the University's website stating that InterVarsity was defunct "due to lack of interest." IVCF App. 2150, 2152 [Kummer Dep. 56:6-57:11, 62:25-63:2].

233. This message was false. IVCF App. 2150-51 [Kummer Dep. 57:18-58:4].

234. The message would have had a negative impact on students who visited the site because they wouldn't have understood what was really going on and the message would have created uncertainty. IVCF App. 2152 [Kummer Dep. 63:5-9].

235. It affected InterVarsity's ability to conduct its summer gatherings and prepare for the fall, because the uncertainty about recognition or derecognition meant that it was not able to publicize the way it normally would have. IVCF App. 2152 [Kummer Dep. 63:9-14].

236. In August 2019, Katrina represented InterVarsity at the University's student group recruitment fair. IVCF App. 2238 [Schrock Dep. 48:24-49:7].

237. A few students approached Katrina and expressed interest, but not many of them ended up joining the group. IVCF App. 2238 [Schrock Dep. 49:8-11].

238. At least one student approached Katrina at the recruitment fair to ask "what was going on with our situation. Were we allowed to be there? That kind of vein of questioning." IVCF App. 2239 [Schrock Dep. 50:10-24].

239. Other members of InterVarsity have experienced anxiety about the potential negative impact on them from the University, academically and in terms of career choices. IVCF App. 2152 [Kummer Dep. 63:18-22].

240. One student in particular is fairly terrified and doesn't want his/her name associated with the lawsuit in any way because he/she is terrified of retaliation within the University. IVCF App. 2152 [Kummer Dep. 63:22-25].

241. Another person also is quite concerned about what impact the entire situation arising from the derecognition will have on her. IVCF App. 2152 [Kummer Dep. 64:1-3].

242. Attendance at InterVarsity's monthly meetings was larger in the year before the University deregistered InterVarsity than in the year after. IVCF App. 2238 [Schrock Dep. 49:20-25].

243. The drop in numbers has been more significant than at any other time in Mr. Kummer's twenty-two years at the University. IVCF App. 2152 [Kummer Dep. 63:14-16].

244. In the past InterVarsity had an average membership in the mid- to upper-thirties. IVCF App. 2152 [Kummer Dep. 64:9-16].

245. Now there are only about twenty-one regular members. IVCF App. 2152 [Kummer Dep. 64:16-17].

246. In short, because of the derecognition, InterVarsity has had frightened students, smaller numbers, a smaller leadership pool to draw from, and fewer opportunities to publicize its activities. IVCF App. 2152 [Kummer Dep. 64:3-7].

247. It has been an emotionally wearing process for everyone who has been involved. IVCF App. 2152 [Kummer Dep. 64:7-8].

248. It is particularly important to InterVarsity to be able to recruit students at the recruitment fairs and communicate with students via the University's mass email system. Otherwise it would be difficult to find new members as graduate students frequently are not on campus except for classes and work. IVCF App. 2241 [Schrock Dep. 58:16-25].

**DEPOSITION OF ANDREW KUTCHER**

249. Andrew Kutcher testified in his personal capacity, and also testified as the University's Rule 30(b)(6) witness for the following issues:

- a. Student organizations that have been refused registration, deregistered, penalized, or placed on any sort of suspended status since 2017, including any investigations into those organizations;
- b. All registered student organizations at the University, including Greek groups and sports clubs, that have employed criteria for leadership positions, membership, or participation related to any protected class under the University's Human Rights Clause or political affiliation.
- c. The University's decision to deregister InterVarsity and any other group that was deregistered in Summer 2018, along with any other decision to deregister, suspend, or otherwise alter the registered status of any student group since that time;
- d. Two documents from the *BLinC* litigation listing all registered student organizations and identifying their registration status.

250. Mr. Kutcher understood the University's RSO policy in January 2018 to forbid religious student groups from requiring that their leaders be religious. IVCF App. 2276 [Kutcher Dep. 36:16-24].

251. Mr. Kutcher understood the court's January 2018 ruling in *BLinC* to mean that the University could not selectively enforce its RSO policy against certain RSOs and not others, such as forbidding a religious group from requiring its leaders to be religious while permitting other groups to select leaders based on protected criteria in the University's Human Rights Clause. IVCF App. 2277 [Kutcher Dep. 38:6-23].

252. He met with Dr. Bill Nelson about what the January 2018 *BLinC* ruling meant. IVCF App. 2277 [Kutcher Dep. 39:12-16].

253. Mr. Kutcher thought that it would cause concerns under the First Amendment if the University did not enforce its policy in an even-handed way. IVCF App. 2285 [Kutcher Dep. 72:24-73:3].

254. Mr. Kutcher helped conduct the review of RSO constitutions that started in January 2018, following the court order. IVCF App. 2277 [Kutcher Dep. 40:8-15].

255. Mr. Kutcher eventually reviewed all RSO constitutions, which was at least 500 constitutions. IVCF App. 2277-78 [Kutcher Dep. 41:24-42:3].

256. The University reviewed religious groups first, and Mr. Kutcher participated in that review. All of the other RSOs were reviewed together. IVCF App. 2278 [Kutcher Dep. 43:1-16].

257. Mr. Kutcher compiled a list of all religious organizations at the direction of Dr. Nelson and submitted it to him before Feb. 7, 2018. IVCF App. 2278 [Kutcher Dep. 44:1-17]. Religious RSOs were the only ones compiled into a specific list by the University as a part of the review. IVCF App. 2278 [Kutcher Dep. 45:12-18].

258. The University's review revealed that, though all RSO constitutions had initially been reviewed and approved by University staffs, the current RSOs had a low rate of compliance with the RSO policy. IVCF App. 2279 [Kutcher Dep. 46:7-47:17].

259. Mr. Kutcher sent out emails on April 20, 2018, to some RSOs that the University's review had determined to be noncompliant with the RSO policy, encouraging them to update their constitutions to become compliant. IVCF App. 2280-81 [Kutcher Dep. 52:15-53:5; Kutcher Dep. 54:18-55:9].

260. Mr. Kutcher mistakenly failed to email many RSOs that the University deemed noncompliant, including InterVarsity, on April 20. IVCF App. 2280 [Kutcher Dep. 53:4-5].

261. He discovered his mistake on May 31, 2018, when Dr. Melissa Shivers told him to finish up ensuring RSO compliance. IVCF App. 2281 [Kutcher Dep. 54:23-55:1].

262. So he emailed all of the remaining student groups on June 1, 2018. He gave them until June 15, 2018, to become compliant. IVCF App. 2282 [Kutcher Dep. 60:4-7].

263. The University determined as a part of its review that InterVarsity Graduate's constitution did not comply with the RSO policy because it did not have an up-to-date version of the Human Rights Clause and because its religious leadership requirements violated the policy because the University viewed those requirements to discriminate based on religion. IVCF App. 2280 [Kutcher Dep. 50:9-17].

264. The University's June 1 email did not specify any concerns with InterVarsity's leadership requirements. IVCF App. 2176-78 [Kummer Dep. Exhibit 1]; *see also* IVCF App. 2480-81 [Shivers Dep. Exhibit 3].

265. The June 1 email was the University's first communication to InterVarsity regarding noncompliance. IVCF App. 2282 [Kutcher Dep. 61:11-21].

266. But on June 12, the University sent InterVarsity another email stating that it had repeatedly tried to contact InterVarsity "over the past few months" regarding noncompliance, and set a new June 13 deadline. IVCF App. 2282-83 [Kutcher Dep. 61:1-62:1].

267. When InterVarsity responded via email on June 12, Mr. Kutcher explained for the first time that InterVarsity's religious leadership requirements violated RSO policy. IVCF App. 2283 [Kutcher Dep. 62:7-63:20].

268. He explained that the RSO policy meant that a Christian group could not ask its leaders to be Christians. IVCF App. 2283 [Kutcher Dep. 63:1-20].

269. Mr. Kutcher does not recall having sent similar instructions to RSOs that discriminate based sex, sexual orientation, race, or veteran's status in their leadership and membership policies.

270. Mr. Kutcher was the primary point of contact for the University with RSOs on this issue, and any emails sent along those lines to groups like Hawkapellas, Love Works, UI Veteran's Association, Iowa Edge, Spectrum UI, Women in Science and Engineering, and the Caribbean Student Association would have come from him and would be in his sent box. IVCF App. 2281-82, 2287 [Kutcher Dep. 55:13-57:22; 78:4-13].

271. He reviewed his sent box repeatedly in order to produce documents in response to the *BLinC* and *InterVarsity* litigation, including as recently as 2-3 weeks before the deposition. IVCF App. 2283-84, 2287 [Kutcher Dep. 64:13-66:3; 78:14-80:14].

272. He did not recall seeing emails to any of those groups similar to the ones he sent InterVarsity regarding its leadership requirements. IVCF App. 2288 [82:10-14].

273. For instance, even though Hawkapellas' constitution only allows women to sing in its acapella group, Mr. Kutcher did not email them to instruct them to change their constitution and the University did not deregister them. IVCF App. 2284 [Kutcher Dep. 68:11-69:25]. The same was true for Women in Science and Engineering constitution, which "encouraged" its members to be "a woman." IVCF App. 2300 [Kutcher Dep. 132:10-23].



274. InterVarsity asked whether the University would accommodate its religious leadership requirements or consider an alteration in the requirements, including by perhaps allowing it to “strongly encourage” its leaders to be Christians. IVCF App. 2181, 2350 [Kummer Dep. Exhibit 2; Kutcher Dep. Exhibit 15].

275. Mr. Kutcher relayed the request to the University’s general counsel. He did not suggest any other alternatives or accommodations. IVCF App. 2286 [Kutcher Dep. 75:10-16].

276. The University’s general counsel responded within three hours that the alteration was not permissible. IVCF App. 2286 [Kutcher Dep. 74:24-75:2].

277. The University deregistered InterVarsity on or about June 18. IVCF App. 2288 [Kutcher Dep. 85:14-25].

278. The deregistration was consistent with the University’s view that the RSO policy forbids InterVarsity from requesting that its leaders be Christians. IVCF App. 2289 [Kutcher Dep. 87:24-88:3].

279. The University created a list of all 38 RSOs that it deregistered and identified publicly online as “defunct” as result of its review, and a larger list of RSOs with constitutions that the University considered noncompliant. Love Works was not on either list. IVCF App. 2289 [Kutcher Dep. 88:4-89:24].

280. Hawkapellas, UI Veteran’s Association, Iowa Edge, Spectrum UI, Women in Science and Engineering, and the Caribbean Student Association were not deregistered or identified as “defunct.” IVCF App. 2289-90 [Kutcher Dep. 89:25-91:6]; *see also* IVCF App. 2492-93 [Shivers Dep. Exhibit 7].

281. The University also produced a list of compliant RSOs in the *BLinC* litigation on February 1, 2019. IVCF App. 2363-76 [Kutcher Dep. Exhibit 18].

282. That document lists as compliant—among others—Hawkapellas, Intersection, Iowa Edge, Love Works, SistaSpeak, UI Veteran’s Association, and the men’s and women’s ultimate frisbee sports clubs. IVCF App. 2299 [Kutcher Dep. 128:1-129:14].

283. Mr. Kutcher confirmed that he had created the document and that it was an accurate list of compliant organizations. IVCF App. 2299 [Kutcher Dep. 129:15-17].

284. Mr. Kutcher was aware that the *BLinC* district court had entered another injunction against the University on June 28, 2018. IVCF App. 2288 [Kutcher Dep. 83:8-12].

285. At that time, he continued to understand that it was not permissible to treat religious RSOs less favorably than other RSOs. IVCF App. 2288 [Kutcher Dep. 85:9-12].

286. The University locked InterVarsity’s webpage and put a message on the page that the group was defunct and that the group had requested to be deregistered due to lack of interest from students. IVCF App. 2150, 2152 [Kummer Dep. 56:6-57:11, 62:25-63:2].

287. Mr. Kutcher agreed that this message could have been harmful for InterVarsity and that it would have harmed InterVarsity’s ability to attract new members. IVCF App. 2290 [Kutcher Dep. 92:17-93:1].

288. Mr. Kutcher admitted that deregistration would have had important negative implications for student groups, harming their ability to reserve space, communicate to students, recruit students, and generally be healthy student groups. IVCF App. 2293 [Kutcher Dep. 105:6-22].

289. He agreed that this would be true even over the course of the summer. IVCF App. 2293 [Kutcher Dep. 105:19-21].

290. When asked what harms from InterVarsity’s leadership requirement justified deregistering InterVarsity, Mr. Kutcher identified only one: the exclusion from leadership of an

individual who wanted to lead InterVarsity but didn't share InterVarsity's beliefs. IVCF App. 2290 [Kutcher Dep. 93:6-16].

291. Mr. Kutcher admitted that he knew of no way to quantify this alleged harm, that he was aware of no attempt by the University to quantify this harm, that he wasn't even aware of how many leadership positions InterVarsity had, that he wouldn't have any reason to contest that it was just 4-5 positions, and that InterVarsity allowed all students to be members. IVCF App. 2290-91 [Kutcher Dep. 93:17-95:13].

292. He further admitted that he was not aware of any complaints by students. IVCF App. 2292 [Kutcher Dep. 98:16-23].

293. By contrast, Mr. Kutcher admitted that the University had exempted fraternities and sororities from its RSO policy, allowing Greek groups to exclude *thousands* of students every year from both leadership *and* membership positions on the basis of their sex. IVCF App. 2291, 2294 [Kutcher Dep. 94:3-96:2; 107:6-11].

294. He also admitted that this constituted significantly more harm to the University's putative interest in preventing exclusion. IVCF App. 2291 [Kutcher Dep. 96:8-12].

295. Mr. Kutcher suggested that some of the harm from Greek groups' exclusions might be alleviated because women excluded by fraternities could apply to enter sororities and vice versa. IVCF App. 2291-92 [Kutcher Dep. 96:13-98:9].

296. But he admitted that he was not aware of any attempt by the University to analyze that question, any written report explaining the University's reasoning, or any consideration of whether a similar arrangement might work in the religious context (*i.e.*, ensuring that there were other types of religious groups available to students). *Id.*

297. He also admitted that he never looked into any of those issues. *Id.*

298. Mr. Kutcher further admitted that he was unaware of any complaints against InterVarsity in its previous 25 years as an RSO at the University, nor of any student that had ever complained about being excluded from InterVarsity's leadership because of its religious requirements. IVCF App. 2292 [Kutcher Dep. 98:10-23].

299. And he admitted that he was unaware of any harms since August 2018 that had been caused by allowing InterVarsity to continue to operate with its religious leadership standards intact. *Id.*

300. Mr. Kutcher admitted that the University allowed political and ideological RSOs to require their leaders to agree with their political or ideological beliefs. IVCF App. 2296 [Kutcher Dep. 115:1-9].

301. For instance, a political group could exclude leadership candidates who do not hold its political beliefs about poverty alleviation, but a religious group could not ask its leaders to hold substantively similar beliefs that were rooted in religious conviction, such as the Parable of the Good Samaritan. IVCF App. 2296 [115:21-116:7].

302. Mr. Kutcher further admitted that, from the perspective of an excluded student, there was not any difference between being excluded from leadership by a political/ideological group or a religious group. IVCF App. 2296 [Kutcher Dep. 114:14-115:20].

303. The University is just willing to accept that harm when it comes from a political or ideological group but not from a religious group. *Id.*

304. The University was aware that Iowa State University permitted its registered student groups to require their leaders to share each group's strongly held beliefs, and that the Iowa State policy would have allowed InterVarsity to remain registered if it had been implemented at the University of Iowa. IVCF App. 2292-93 [Kutcher Dep. 99:7-102:5].

305. Mr. Kutcher was not aware of any attempt by the University to study the effects of Iowa State's policy to see if it was causing any harms that would justify the University's decision not to adopt that same policy. *Id.*

306. He was not aware of any special circumstances or difference in interests between the two universities, or any internal discussions about those kinds of considerations, that would explain the University of Iowa's decision not to adopt Iowa State's approach. *Id.*

307. Mr. Kutcher also didn't have any reason to think that Iowa State was any less subject to state and federal law than the University. *Id.*

308. Mr. Kutcher was not aware of any attempt by the University to consider alternatives to complete deregistration of InterVarsity. IVCF App. 2293 [Kutcher Dep. 102:13-22].

309. The University only gave InterVarsity two options: either drop the religious leadership requirements or be deregistered. *Id.*

310. There was no attempt by the University to specifically consider InterVarsity's situation and provide an accommodation. IVCF App. 2293 [Kutcher Dep. 103:6-19].

311. The University has no evidence demonstrating that an accommodation for InterVarsity would harm its interests in any significant way. *Id.*

312. The University did not consider any alternatives to granting fraternities and sororities a complete exemption. IVCF App. 2297 [Kutcher Dep. 120:19-21].

313. The University has no system to monitor the complete exemption it granted to fraternities and sororities to assess whether it causes the type of exclusionary harm the University claims it has an interest in preventing. IVCF App. 2297 [Kutcher Dep. 120:13-18].

314. In addition to exempting social fraternities and sororities, the University exempts honor and service fraternities and sororities, including ones that restrict membership based on sex. IVCF App. 2297 [Kutcher Dep. 120:20-121:22].

315. In addition to its exemptions for fraternities and sororities, the University chose to exempt Love Works and House of Lorde from its RSO policy because they provide a safe space for minorities. IVCF App. 2294-95 [Kutcher Dep. 109:6-110:17]. As of the University's March 28 deposition, this exemption was still in place. *Id.* at 109:19-110:3, 113:6-11.

316. Love Works was permitted to require its leaders to agree with its religious beliefs, and House of Lorde was permitted to require participants to identify as black or queer. IVCF App. 2295 [Kutcher Dep. 110:12-112:7].

317. If the University had required either group to admit leaders who disagreed with their missions, that would have undermined the missions of those groups and harmed their ability to provide a safe space for their members. *Id.*

318. Mr. Kutcher admitted that the same would be true for religious groups.

319. He agreed that it would impair the message of a Jewish group if they had to have their Passover celebration led by a Muslim, and that it would impair the ability of a Muslim group to celebrate Eid Al-Fitr if it had to be led by a Christian. IVCF App. 2295 [Kutcher Dep. 113:12-20].

320. He likewise admitted that it would significantly impair the message of an InterVarsity prayer or Bible study if the person leading didn't believe what he or she was saying. IVCF App. 2296 [Kutcher Dep. 114:1-12].

321. He agreed that it would expose Christian groups to charges of hypocrisy if their leaders didn't sincerely believe the group's faith, and thus that it was reasonable for InterVarsity to want their leaders to sincerely believe in InterVarsity's faith. *Id.*

322. Mr. Kutcher could not think of any reason why the University could accommodate Love Works's religious leadership standards and not InterVarsity's. IVCF App. 2293 [Kutcher Dep. 104:17-21].

323. In light of the January 23, 2018 injunction and the June 28, 2018 injunction, it concerned Mr. Kutcher that the two religious groups had been treated differently under the RSO policy. IVCF App. 2293 [Kutcher Dep. 104:22-105:2].

324. He was concerned that the differential treatment violated the First Amendment. *Id.* at 105:3-5.

325. Just 11 days after it filed its February 1, 2019 list of compliant RSOs in the *BLinC* litigation, the University filed another list. IVCF App. 2377-86 [Kutcher Dep Exhibit 19].

326. The new list purported to place Love Works's constitution in the "stopped review" category that other religious student groups were in, but it had not all been deemed noncompliant. IVCF App. 2299-2300, 2301 [Kutcher Dep. 129:18-130:9; 136:4-25].

327. The change was artificial, as Love Works's constitution had not only *already* been approved and never been deregistered, but had been repeatedly and explicitly defended in federal court as consistent with University policy. *Id.*

328. The change in categories did not result from a change in University policy or a new review of Love Works's constitution. *Id.*

329. Counsel for the University simply instructed Mr. Kutcher to move Love Works from one category to the other. *Id.*

330. Mr. Kutcher was also aware of the February 6, 2019 permanent injunction issued against the University in favor of *BLinC*. IVCF App. 2298 [Kutcher Dep. 122:1-123:18].

331. He has not taken any steps to implement the ruling, nor is he aware of any steps being taken in his office to implement the ruling. *Id.*

332. He is not even sure that anyone else in his office has seen the ruling; he himself only found it on a website online. *Id.*

333. Accordingly, Mr. Kutcher testified that the University's policy against InterVarsity's Christian leadership requirement remained unchanged. IVCF App. 2298 [Kutcher Dep. 123:19-124:5].

334. Mr. Kutcher testified that, if InterVarsity resubmitted the same constitution as the one it submitted in Summer 2018, it would deregistered, and for the same reasons. *Id.*

#### **DEPOSITION OF MELISSA SHIVERS**

335. Dr. Melissa Shivers testified in her personal capacity, and also testified as the University's Rule 30(b)(6) witness for the following issues:

- a. the University's policies and procedures regarding RSOs, including fraternities, sororities, and sports clubs, and including all funding and benefits made available to RSOs;
- b. The adoption, interpretation, and enforcement of the University's Human Rights Policy, its Nondiscrimination Statement, and its Statement of Policy for RSOs;
- c. The University's efforts since the commencement of this lawsuit to enforce its Human Rights Policy.

336. Dr. Shivers supervised Bill Nelson, who in turn supervised Mr. Kutcher. IVCF App. 2402 [Shivers Dep. 43:22-44:1].

337. As the Vice President for Student Life, Dr. Shivers agreed that participation in student group fairs was important for groups to be able to recruit new members. IVCF App. 2396 [Shivers Dep. 18:10-20].



338. Dr. Shivers read the January 23, 2018 ruling granting a preliminary injunction in *BLinC*, as did Dr. Nelson. IVCF App. 2397 [Shivers Dep. 25:7-26:25].

339. She expected that Mr. Kutcher also read it, since he was intimately involved. IVCF App. 2398 [Shivers Dep. 26:21-25].

340. Dr. Shivers understood the ruling to mean that the University could not selectively enforce its RSO policy against certain RSOs, and she met with Dr. Nelson and Mr. Kutcher to ensure they had a common understanding of the application of the ruling to the University's RSO policy. IVCF App. 2399 [Shivers Dep. 29:16-31:10].

341. Dr. Shivers also read the June 28, 2018 preliminary injunction ruling in the *BLinC* case, and she understood it to be based on the court's perception that the University was not equally applying its policy. IVCF App. 2404 [Shivers Dep. 53:19-54:24].

342. After meeting with Dr. Shivers, Dr. Nelson and Mr. Kutcher, among others, began performing a review of all RSO constitutions. IVCF App. 2399 [Shivers Dep. 32:3-17].

343. Dr. Shivers asked that Dr. Nelson provide her a list of all religious RSOs so that they could determine if there were any other religious groups that had religious leadership requirements like *BLinC*'s. IVCF App. 2400 [Shivers Dep. 34:14-21]; IVCF App. 2401 [Shivers Dep. 39:7-24]; *see also* Exhibit 2 to Shivers Deposition.

344. Dr. Shivers confirmed that the University determined that InterVarsity's constitution was noncompliant because it asked its leaders to be Christians. IVCF App. 2404 [Shivers Dep. 52:5-20].

345. Dr. Shivers recognized that this determination was in conflict with the First Amendment's protection of freedom of religion. IVCF App. 2405 [Shivers Dep. 56:22-57:11].

346. Specifically, Ms. Shivers understood that, under the First Amendment, there should be no pressure from the state to intervene as it relates to religion. *Id.*

347. Dr. Shivers also agreed that it would be “problematic” and “challenging” and “a problem” if the University had deregistered InterVarsity due to its religious leadership requirements while registering other religious groups that also had religious leadership requirements. IVCF App. 2410 [Shivers Dep. 76:17-78:8].

348. Dr. Shivers is also aware that the University had exempted sports clubs and social fraternities and sororities from full compliance with the RSO’s human rights clause. IVCF App. 2411-12 [Shivers Dep. 81:4-13, 82:11-20].

349. Dr. Shivers is also aware that the University allows political and ideological groups to select leaders based on political or ideological beliefs.

350. For instance, a political group could require its leaders to share its *political* beliefs supporting poverty alleviation, even though a religious group could not require its *religious* beliefs supporting poverty alleviation. IVCF App. 2420 [Shivers Dep. 117:12-19].

351. But Dr. Shivers nonetheless approved of the decision to deregister InterVarsity because the University. IVCF App. 2406-07 [Shivers Dep. 61:21-62:17].

352. She could have overridden the deregistration decision, but she did not. *Id.*

353. Nor did she object to it. *Id.*

354. Dr. Shivers primarily worked with Dr. Nelson and Mr. Kutcher on the decision to deregister InterVarsity. IVCF App. 2406 [Shivers Dep. 60:18-61:23].

355. President Harreld was also aware of the decision. *Id.*

356. Dr. Shivers is not aware of any times when President Harreld pushed back on any of the deregistration decisions, whether to question them or to order a different course. IVCF App. 2418 [Shivers Dep. 106:19-25].

357. The University's primary purpose in requiring InterVarsity to abandon its religious leadership requirement was to adopt a general policy for RSOs. IVCF App. 2407 [Shivers Dep. 64:17-25].

358. The University did not discuss any specific evidence regarding harms that would result if it allowed InterVarsity to continue requiring its leaders to be Christians. IVCF App. 2407-08 [Shivers Dep. 65:6-66:18].

359. Dr. Shivers does not recall having a conversation where the University weighed whether allowing InterVarsity to maintain its leadership requirement would harm individual students or the student body. *Id.*

360. The University did not set up a process to review or consider such evidence. *Id.*

361. Dr. Shivers did not review any written document gathering such evidence, and she does not have such a document in her possession. *Id.*

362. Dr. Shivers also did not identify any specific harms caused by allowing religious groups generally to select leaders who shared the groups' faiths. *Id.*

363. Dr. Shivers is not aware of any deliberation process where the University considered alternative ways to accommodate InterVarsity, such as whether to permit it to strongly encourage its leaders to share its faith. IVCF App. 2408 [Shivers Dep. 69:7-12].

364. In the last eight months since InterVarsity was temporarily allowed to resume functioning as an RSO, Dr. Shivers is not aware of any harms caused by InterVarsity's continued selection of

leaders who agree with its faith nor has she received any reports or indications suggesting that it has harmed the University. IVCF App. 2408 [Shivers Dep. 66:24-67:7].

365. Dr. Shivers has not tried to gather information about harm to the University resulting from accommodating InterVarsity, nor has she instructed anyone to gather that kind of information. IVCF App. 2408 [Shivers Dep. 67:11-17].

366. Dr. Shivers agreed that it would be important for the leader of a Bible study to sincerely believe that the study was leading to the truth, and the leader of a prayer to believe in the God that the group was praying to. IVCF App. 2414 [Shivers Dep. 93:14-24].

367. Similarly, she agreed that it would change the nature of what was being taught and would influence the message if a Christian led a Muslim group's study of the Koran. IVCF App. 2415 [Shivers Dep. 95:1-15].

368. Dr. Shivers admitted that it would change the message and community of a religious group if its leaders did not share what the group believed, since it would make it hard for the recipients of the leaders' teaching to trust their guidance. IVCF App. 2415 [Shivers Dep. 96:14-97:2].

369. Dr. Shivers was not able to articulate why the University accommodated other types of RSOs or how the University had determined that accommodation of those RSOs did not harm its interests. IVCF App. 2415 [Shivers Dep. 99:6-20].

370. For instance, she did not know why the University permitted political groups to select leaders based on political beliefs. IVCF App. 2416, 2419-20 [Shivers Dep. 99:15-20; 113:20-114:21].

371. Similarly, she could not recall any discussions regarding the exemption for sports clubs or any reconsideration of the exemption in light of the University's RSO human rights clause. IVCF App. 2417 [Shivers Dep. 103:3-105:2].

372. Nor could she identify any basis for granting social fraternities and sororities an exemption other than Title IX. IVCF App. 2421 [Shivers Dep. 121:13-20].

373. Thus, even though 16-17% of the University's undergraduate student body participate in social fraternities and sororities, and even though participation increases graduation rates, IVCF App. 2423 [Shivers Dep. 126:17-127:19], the University had no better reason for allowing the exemption other than "alignment" with Title IX, *id.* at 2421 [Shivers Dep. 121:13-20].

374. Further, Dr. Shivers admitted that she was not aware of any attempt by the University to determine whether requiring integration of social fraternities and sororities would harm those groups. IVCF App. 2423 [Shivers Dep. 127:2-7].

375. Similarly, she was not aware of any effort by the University to determine whether discontinuing the exemption would harm the University's interests. IVCF App. 2423-24 [Shivers Dep. 129:9-130:20].

376. Finally, Dr. Shivers was unaware of any effort by the University to consider whether gradations between full registration or full deregistration of social fraternities and sororities might better serve its interests. IVCF App. 2424 [Shivers Dep. 130:25-131:6].

377. Dr. Shivers was also aware that other public universities, including Iowa State and Ohio State, had policies that allowed RSOs to select leaders that agreed with the groups' missions, including on the basis of religion. IVCF App. 2425-27 [Shivers Dep. 136:24-142:4].

378. She did not identify any reason why the University could not adopt those policies instead of deregistering InterVarsity. *Id.*

379. Dr. Shivers has reviewed the February 6, 2019 ruling granting a permanent injunction to BLinC, as have Dr. Nelson and Mr. Kutcher. IVCF App. 2427 [Shivers Dep. 142:5-143:17].

380. President Harreld is also aware of the ruling. *Id.*

381. Dr. Shivers' office has not taken any steps to implement the decision since it came down. *Id.*

382. It has not changed the substance of its policies in response to the ruling, including any of its policies regarding RSO leadership selection. IVCF App. 2427 [Shivers Dep. 143:20-144:14].

383. As of March 27, 2019, InterVarsity's constitution was still deemed noncompliant with University policy. IVCF App. 2427 [Shivers Dep. 144:15-19].

384. Ms. Shivers was aware of the Iowa legislation and that it could offer guidance to the policy but had no specific plans to implement it or any timeframe for doing so. IVCF App. 2427 [Shivers Dep. 144:20-145:13].

Respectfully submitted,

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