

# Exhibit A



Stacey Elin Rossi &lt;berkshirelegal@gmail.com&gt;

**Re: Depositions**

1 message

**Stacey Elin Rossi, Esq.** <berkshirelegal@gmail.com>

Sun, Oct 29, 2017 at 12:36 PM

To: "Lapp, Daryl" &lt;Daryl.Lapp@lockelord.com&gt;

Cc: "Kelly, Elizabeth H." &lt;Liz.Kelly@lockelord.com&gt;, Krista A Wroldson Miller &lt;Krista@kristamillerlaw.com&gt;

Daryl,

I don't disagree with your recitation of what was decided at the Scheduling Conference and I understand what the Rule says. I also don't disagree that Plaintiff may need to petition the court to allow the extra depositions.

As far as an insistence on deposing "several individuals whose participation in the matters at issue was tangential at best or indeed non-existent" goes, a more accurate representation is that we have asked to depose **two** individuals about whom we cannot disclose the basis on which the depositions are sought without disclosing the specific questions to be asked. You appeared to understand that in our telephone conversation last week. Besides, we aren't obligated to provide notice of the subject matter on which we intend to depose them. The depositions will reveal the importance.

As far as a third in the term "several," I assume you are referring to President Falk. We assert the same position regarding his deposition which will reveal important questions of substance. While President Falk's participation may have been "limited," it is highly unlikely that it was tangential or non-existent. In fact, we believe that any participation of President Falk, regardless of limitation in time or effort spent, was of significant importance considering the fact that the matter was deemed by the Board of Trustees to be a "very high priority." As he holds the highest office in the corporation, he has fiduciary duties to the corporation and is responsible for carrying out the wishes of the Trustees.

Please provide some dates and times in early December when we can depose Ninah Pretto. We will move on to other deponents when appropriate.

Sincerely,  
Stacey

On Sun, Oct 29, 2017 at 11:38 AM, Lapp, Daryl <Daryl.Lapp@lockelord.com> wrote:

Stacey,

Thank you for sharing your list of desired depositions. You have indeed identified 13 depositions here – assuming your as-yet-unidentified 30(b)(6) topics can be addressed by a single witness. I take it that you have decided not to depose former Dean Reyes – otherwise we're up to 14 deponents. Either way, it is too many. At the Scheduling Conference before Magistrate Judge Robertson in early June, you asked for permission to take 15 depositions; we opposed; and the Court agreed with us. The Court indicated that you may take 10 depositions, consistent with the applicable rules. The Court went on to state that if, after having taken 10 depositions, you feel you really need more, then you can request leave of Court at that time, noting specifically the additional depositions that you want to take and why they are necessary. That is how we should proceed. Nor am I insisting on compliance with the Court's directive merely to be difficult. To the contrary, you have insisted on deposing several individuals whose participation in the matters at issue was tangential at best or indeed non-existent. Moreover, when I have pressed you to explain on what basis you think you need to depose certain of these individuals, you have refused. With that, I will ask you to please identify the 10 depositions that you would like to take without further leave of court. If you prefer to identify some number less than 10 now and then decide on the rest later, that's fine. Indeed, it might make sense to take a few depositions and then reconsider what you think you really need and from whom.

I look forward to hearing further from you. In the meantime, I will assume that we're still going forward with the first deposition we have scheduled – Ms. Kurker on November 15.

As always, I am happy to speak by phone if you would like to discuss.

- Daryl

**From:** Stacey Elin Rossi, Esq. [mailto:[berkshirelegal@gmail.com](mailto:berkshirelegal@gmail.com)]  
**Sent:** Wednesday, October 25, 2017 2:24 PM  
**To:** Lapp, Daryl  
**Cc:** Kelly, Elizabeth H.; Krista A Wroldson Miller  
**Subject:** Re: Depositions

Daryl,

Here is the list of people we would like to depose in addition to Kurker, Falk, Maloney, and Gonzalez, in the following order:

Pretto (full day expected)

Bossong (4-5 hours expected)

Sandstrom (~4 hours expected)

Camacho (~4 hours expected)

Haynes (~1 hour expected)

Gordon (full day expected)

Klass (full day expected)

Bolton (full day expected)

At some point, we will get the "subjects" to you on which we would also like to depose a representative of the organization, so that would be another deponent.

The above totals the 13 I mentioned at our scheduling conference.

I don't have time to talk this week. Maybe next week.

Stacey

On Wed, Oct 25, 2017 at 11:55 AM, Lapp, Daryl <[Daryl.Lapp@lockelord.com](mailto:Daryl.Lapp@lockelord.com)> wrote:

Stacey,

Unfortunately I currently do not have any availability that week. I also think it might be helpful for us to map out more generally whom you want to depose and in what sequence, so that we can make the most efficient use of our time. For example, as we've done with the Falk, Gonzalez and Maloney depositions, if we can combine more than one on

a given day, that may help keep things moving along. I'm tied up this afternoon and all day tomorrow with depositions in another matter, but generally around all day Friday if a call then could be helpful.

Daryl

**From:** Stacey Elin Rossi, Esq. [mailto:[berkshirelegal@gmail.com](mailto:berkshirelegal@gmail.com)]  
**Sent:** Tuesday, October 24, 2017 11:57 AM  
**To:** Lapp, Daryl  
**Cc:** Kelly, Elizabeth H.; Krista A Wroldson Miller  
**Subject:** Depositions

Daryl,

We would like to schedule a deposition of Nina Pretto sometime between December 4th and 8th, starting at 10:00am, if that week works. Please let us know.

Stacey

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Stacey Elin Rossi, Esq.

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