

**TAB A**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT

\* \* \* \* \*

STEPHANIE BIEDIGER, KAYLA \*  
LAWLER, ERIN OVERDEVEST, \*  
and KRISTEN CORINALDESI, \*  
individually and on \*  
behalf of all those \*  
similarly situated; \*  
LESLEY RIKER on behalf of \*  
her minor daughter, L.R., \*  
individually and on \*  
behalf of all those \*  
similarly situated; \*  
and ROBIN LAMOTT SPARKS \*  
individually, \*

CIVIL ACTION NO.  
3:09-CV-00621 (SRU)

Plaintiffs \*

VS. \*

QUINNIPIAC UNIVERSITY, \*  
Defendant \*

\* \* \* \* \*

Bridgeport, CT  
May 1, 2009  
9:35 A.M.

- - -  
DEPOSITION OF JOHN (JACK) McDONALD  
- - -

APPEARANCES:

FOR THE PLAINTIFFS:

PULLMAN & COMLEY, LLC  
BY: JONATHAN B. ORLEANS, ESQUIRE  
ALEX V. HERNANDEZ, ESQUIRE  
850 Main Street  
Bridgeport, CT 06601-7006

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FOR THE DEFENDANT:

WIGGIN AND DANA LLP  
BY: MARY A. GAMBARDELLA, ESQUIRE  
ERICK I. DIAZ, ESQUIRE  
400 Atlantic Street  
Stamford, CT 06911-0325

ALSO PRESENT: ROBIN LAMOTT SPARKS  
VICTORIA SCHNEIDER, Paralegal  
Pullman & Comley

1           A.        I don't know the answer to that.

2           Q.        Okay.  Does the president -- Do you know  
3 whether the president has some sort of veto power over  
4 the budget even if the Cabinet approves it?

5                    MS. GAMBARDELLA:  Object to form.

6                    You can answer.

7           A.        I don't know.

8           Q.        And do you know whether the budget needs to  
9 be approved by the University's Board of Trustees or a  
10 committee of the University's Board of Trustees?

11          A.        Yes, it does.

12                   MS. GAMBARDELLA:  Just hang on.  Let him  
13 finish so she can type it all.  Otherwise her fingers by  
14 the end of the day will be nonfunctioning.

15          Q.        Now, you said this year was somewhat  
16 different --

17          A.        Yes.

18          Q.        -- when you were talking about the budget.  
19 Could you explain what you meant by that?  What was  
20 different about the budget process this year?

21          A.        Well, it's quite clear that things around the  
22 world were different, that we were going to be asked to  
23 reduce our budgets.  And we could see that coming from  
24 the whole year.

25          Q.        So is it correct, then, that you saw early in

1 the year -- last fall, say -- that you were going to need  
2 to reduce the Athletic Department budget for next year?

3 MS. GAMBARDELLA: Object to form.

4 You can answer.

5 A. Yes.

6 Q. Did anyone ever give you a target or goal of  
7 how much you needed to reduce your budget?

8 A. I think the first draft was probably a 5 to  
9 10 percent reduction.

10 Q. And was that 5 to 10 percent reduction on  
11 your own initiative, or had someone said to you in words  
12 or substance "Mr. McDonald, you need to cut it 10  
13 percent"?

14 A. It was a campus initiative.

15 Q. So there was a campus initiative to cut  
16 budgets 10 percent?

17 A. Correct.

18 Q. How was that campus initiative made known to  
19 the department heads who were doing the budget?

20 A. Through their supervisors.

21 Q. So your supervisor said to you at some point  
22 "We need to cut the budget 10 percent"?

23 A. Correct.

24 Q. And who was your supervisor this year?

25 A. This year his name is Val Belmonte,

1 B-e-l-m-o-n-t-e.

2 Q. And approximately when did Mr. Belmont tell  
3 you that you needed to submit a budget with a 10 percent  
4 reduction?

5 A. Probably December, January when reality was  
6 occurring.

7 Q. And you submit that in writing?

8 MS. GAMBARDELLA: Submit what? Object to  
9 form.

10 Q. Did you submit your budget proposal --

11 MS. GAMBARDELLA: Thank you.

12 Q. -- in December in writing?

13 A. Yes.

14 Q. And in prior years when you've submitted  
15 budget proposals, are they submitted in written form?

16 A. It was the same, written electronic.

17 Q. Yes. When I say "in written form," I mean to  
18 include in an electronic form that can be printed. I  
19 understand --

20 A. Correct.

21 Q. -- that it may be an Excel spreadsheet or a  
22 Word document or something like that, okay?

23 A. Yes.

24 Q. And then this year after you submitted that  
25 first draft with a 10 percent reduction, can you describe

1. to me what happened with respect to that budget proposal?

2. A. I think that the first proposal was one --  
3. and I think I've said this to the staff many times as we  
4. were watching the stock market do its slide -- that our  
5. goal was to save sports and to save people. And we did  
6. everything we could in the first proposal that would --  
7. we spread the reduction across all sports, a game here,  
8. one less overnight, just normal budget reduction kinds of  
9. things that everybody shared in.

10. Q. Was there a reaction then from your  
11. supervisor or from the Cabinet to that initial 10 percent  
12. reduction proposal?

13. A. At the time it was considered a very good  
14. proposal. In fact, many other institutions and colleges  
15. that are in our world were copying it; but at the same  
16. time in conjunction with that, the stock market, the  
17. banks, you know, in January things were still happening,  
18. new president, the whole world was still falling apart.  
19. So when we first submitted our proposal, we felt good  
20. about it.

21. Q. Let me ask you, did that first proposal --  
22. and we're talking about the proposal for the 2009/2010  
23. academic year, correct?

24. A. Correct.

25. Q. Did that first proposal for the '09/'10 year

1 call for the elimination of the volleyball program?

2 MS. GAMBARDELLA: Object to form.

3 You can answer.

4 A. No.

5 MS. GAMBARDELLA: Your answer can stand.

6 Q. Did it call for the elimination of any  
7 varsity sports sponsored by Quinnipiac?

8 A. No.

9 Q. All right. You testified that at the time it  
10 was considered a good proposal. Did there come a time  
11 when you were instructed to make a proposal for further  
12 cuts?

13 A. Yes.

14 Q. Approximately when was that?

15 A. I would say school and classes in the world  
16 of academia kicks up again second semester when  
17 everybody's back that third week in January. Everybody  
18 starts meeting again, the Athletic Department, the  
19 University Cabinet. So it was probably sometime after  
20 the classes began; usually that's after Martin Luther  
21 King holiday that -- and then there's trustee meetings  
22 that's usually in there that people review the proposed  
23 budgets and what -- are they acceptable? Are they  
24 realistic? So I'd say the answer to your question is it  
25 began around January.



1 Q. Okay. Who instructed you that you needed to  
2 submit a proposal with further cuts?

3 A. My direct supervisor, Val Belmonte.

4 Q. Okay. What -- Did he give you this  
5 instruction in a conversation?

6 A. Yeah.

7 Q. Okay. Tell me in as much detail as you can  
8 recall the conversation between you and Mr. Belmonte  
9 about -- Excuse me. I'm sorry. I apologize for that.

10 (Discussion off the record.)

11 Q. Let me rephrase the question that I was in  
12 the middle of. Could you please tell me in as much  
13 detail as you can recall the conversation between  
14 yourself and Mr. Belmonte during which he instructed you  
15 to make a new budget proposal with further cuts?

16 A. Well, at a meeting sometime January, early  
17 February, it was -- I was told, the University was told  
18 that the proposals that were submitted earlier were not  
19 enough and that we needed to look even further into more  
20 reductions and both in -- and, again, all phases of our  
21 budgets. And in the world of athletics and recreation  
22 the three phases of our budgets are operating, salaries  
23 and scholarships. That's just the way we measure  
24 ourselves, and so we needed to look again.

25 Q. You say this was at a meeting. Were there

1 other people at this meeting besides yourself and Mr.  
2 Belmonte?

3 A. No.

4 Q. Where did this conversation with Mr. Belmonte  
5 take place?

6 A. In his office. We have a new campus now, so  
7 there's a York Hill campus and the Mount Carmel campus.

8 Q. Does he have an office in the new athletic  
9 facility?

10 A. Yes.

11 Q. What's the name of that?

12 A. It's called the TD Banknorth Sports Center.  
13 And I think that name is changing because TD Bank is  
14 changing at the moment.

15 Q. Did Mr. Belmonte give you any instructions in  
16 this conversation as to how you should make the cuts?

17 MS. GAMBARDELLA: Object to form.

18 You can answer.

19 A. Yes.

20 Q. What did he say about that?

21 A. He did mention that sports were now on the  
22 block.

23 Q. Did he suggest any specific sports that you  
24 ought to look at?

25 A. Yes.

1 Q. What did he suggest?

2 A. Volleyball was clearly one. That was the  
3 specific one.

4 Q. He didn't mention any others besides  
5 volleyball?

6 A. Yes, he did.

7 Q. What other sports?

8 A. It was men's golf.

9 Q. Did he say anything about why he was  
10 suggesting that volleyball and men's golf be considered  
11 to be cut?

12 A. There is a history with Quinnipiac's growth  
13 that clearly involves the TD Banknorth Sports Center and  
14 the vacated gym that our basketball teams used to play in  
15 and our volleyball team did play in. And there was a  
16 desire and questions and proposals were flying on campus  
17 as what are we going to do with the old gym? And clearly  
18 our volleyball team along with our intramural programs,  
19 recreation programs were still using the old gym.

20 And we successfully lobbied to say that if  
21 the new -- old gym needed to be used by -- I know people  
22 wanted everything from auditoriums, their chapel to  
23 office space, if that space was needed that badly that we  
24 needed the place for our volleyball team. And we have  
25 successfully included a new volleyball arena or gym into

1 our master plan -- this was probably through -- oh, over  
2 the last year before gas got to four bucks a gallon, say  
3 somewhere last '07, '08 it was in the plans.

4 And we literally were walking different areas  
5 and asking the coach "What's the space you need for a  
6 decent court?" And then the economy went south, and the  
7 ability to build that extra gymnasium for volleyball went  
8 away. And then that's sort of why it became a sport that  
9 was discussed.

10 Q. Did Mr. Belmonte say something then about the  
11 loss of the old gym for volleyball and cutting the  
12 volleyball program because there wouldn't be a space for  
13 it? Was that the tenor of what he said to you in the  
14 meeting you've described?

15 A. It was -- Yes. There was a lot of -- That  
16 was a -- That was discussed, yes.

17 Q. Does the University currently plan to do  
18 something with the old gym? Do you know what the plan  
19 is?

20 A. I know the plan is to use it for something  
21 else that obviously would not include volleyball, but  
22 that hasn't happened.

23 Q. Will there need to be modifications made to  
24 the space in order to use it for something else?

25 A. I don't know because I am not part of those

1 plans.

2 Q. Do you know what the something else is that  
3 it's planned to use it for?

4 A. There's a wide range of things. Many of them  
5 are nonathletic.

6 Q. So since -- The largest room in that facility  
7 is a gymnasium, isn't it?

8 A. In the current facility there are two large  
9 structures. There is the gymnasium where volleyball  
10 currently plays, and then there is a four-tennis-court  
11 field house. It's actually larger in terms of playing  
12 space.

13 Q. In order to convert either of those spaces to  
14 office space, there'd have to be some construction  
15 undertaken, I presume.

16 A. Correct.

17 Q. Okay. You know anything about the  
18 availability of financing for any conversion of that  
19 facility?

20 A. No.

21 Q. Could volleyball be played in the TD  
22 Banknorth basketball facility?

23 A. I'm sure, yes.

24 Q. Did you discuss that with Mr. Belmonte, the  
25 fact that volleyball could be played in the TD Banknorth

1 facility?

2 A. Yes.

3 Q. What did you say and what did he say about  
4 that subject?

5 A. Just not sure of the exact things said when;  
6 but clearly the theme of the conversation was that we  
7 need to do everything we can not to drop sports, whether  
8 it be playing volleyball in its current place and  
9 configure the gymnasium around it, whether to play  
10 volleyball in the rec center, to play volleyball in the  
11 new building.

12 We talked about -- There was a decision when  
13 the TD Banknorth Sports Center was programmed and  
14 designed back 2001, 2002 when you start laying out what  
15 you're going to do, there was a decision to not play  
16 volleyball then at -- then. So there are some things  
17 that -- locker rooms and things you need to do with the  
18 court; but so that was decided seven, eight years ago  
19 knowing that we had volleyball in the current gymnasium.

20 Q. But if I understood the testimony you gave  
21 just a minute ago, it would certainly be possible to play  
22 volleyball in the TD Banknorth gymnasium if the decision  
23 were made to do that.

24 MS. GAMBARDELLA: Object to the form.

25 You can answer.

1           A.       Well, clearly as sports became apparent that  
2 we were going to be dropping sports, the -- and clearly  
3 because volleyball was mentioned by Mr. Belmonte that  
4 there is a whole 'nother criteria that needs to be met  
5 when dropping sports, particularly women's sports and  
6 then all of a sudden -- not all of a sudden but  
7 immediately if the sports were going to be dropped that  
8 the gender numbers became critical, mandate.

9           Q.       So you had to consider Title IX, in other  
10 words; is that right?

11          A.       Absolutely.

12          Q.       When you talked with Mr. Belmonte about this,  
13 did you and Mr. Belmonte discuss Title IX?

14                   MS. GAMBARDELLA: Just -- I just want to  
15 instruct you you should not be answering with respect to  
16 any conversations in which counsel were present or  
17 conversations where advice of counsel is the content of  
18 the communication. Otherwise you should be -- you're  
19 free to answer the question.

20                   MR. ORLEANS: Yes. I don't mean to  
21 certainly intrude on any attorney/client privilege. I'm  
22 not asking for the content of any communications with  
23 attorneys, but I do think I'm entitled to know if there  
24 were conversations at which attorneys were present.

25                   MS. GAMBARDELLA: You are entitled. I'm

1 just instructing him because he may not understand what  
2 you and I already know you weren't trying to do, okay?

3 So do you understand the instruction,  
4 Jack?

5 THE DEPONENT: No.

6 MS. GAMBARDELLA: He's asking you --  
7 Can you repeat the question? And we'll  
8 go forward from there.

9 (Whereupon, the requested portion of  
10 the record was read by the reporter.)

11 MS. GAMBARDELLA: That's a Yes or a "No."

12 A. Yes.

13 Q. Let me try and clarify the question. At the  
14 meeting with Mr. Belmonte that you've been testifying  
15 about already where he told you that you needed -- in  
16 words or substance that you needed to consider cutting  
17 volleyball, you've already testified that nobody else was  
18 present at that meeting, correct?

19 A. Yes.

20 Q. At that meeting did you and Mr. Belmonte  
21 discuss Title IX?

22 MS. GAMBARDELLA: I'm going to object to  
23 the form of the question only because of the way you keep  
24 couching it. I don't think it's actually accurate based  
25 on his testimony, but that's just a reservation for a



1 form.

2 MR. ORLEANS: That's fine.

3 MS. GAMBARDELLA: But you can answer that  
4 question. Mr. Orleans is talking about the initial  
5 meeting, okay?

6 A. Answer to that's "Yes."

7 Q. Can you tell me the substance of the  
8 conversation you had with Mr. Belmonte outside of the  
9 presence of any counsel about Title IX?

10 MS. GAMBARDELLA: And without repeating  
11 counsel's advice, something you got from counsel. You're  
12 just talking discussions with him and you as lay people  
13 about Title IX and what your understanding is you need to  
14 do, that's fair game.

15 THE DEPONENT: I don't understand the  
16 reference to counsel at this point in the calendar.

17 MS. GAMBARDELLA: Attorney.

18 MR. ORLEANS: I think we're talking about  
19 Janet Judge, aren't we?

20 MS. GAMBARDELLA: I don't think so. Can  
21 I just voir dire for one second?

22 MR. ORLEANS: Absolutely. Go ahead.

23 MS. GAMBARDELLA: Did you consult with  
24 any attorneys at Quinnipiac prior to the point we're  
25 talking about where you and Val are having these initial

1 discussions?

2 THE DEPONENT: At this point in the  
3 process, there was no attorneys.

4 MS. GAMBARDELLA: Okay. Then you can go  
5 and ahead and answer the question.

6 Q. So yes. So my question is at this point in  
7 the process before there were any attorneys involved,  
8 what was the substance of your discussion with Mr.  
9 Belmonte about Title IX?

10 MS. GAMBARDELLA: That's fine. You can  
11 answer.

12 A. That, as I just said, the proportional  
13 numbers are now critical, mandated that we as an  
14 institution need to be looking at.

15 Q. So following that, then, did you undertake  
16 some process to consider the requirements of Title IX as  
17 you went about looking at the budget?

18 A. When you say "prior," it's open-ended,  
19 meaning that it's part of our business for 19 years as an  
20 athletic director that everything you do -- and, again,  
21 it's not just Title IX. It's diversity and it's gender,  
22 and it's all sorts of things that you need to do in any  
23 professional organization; that whenever you have a new  
24 initiative, these things need to be adhered to. So when  
25 it became apparent that a dropping of a sport was now

1 looming as a very real possibility that it was my role  
2 and/or the University's role to understand the  
3 implications of dropping of a sport.

4 Q. And what did you then do in order to examine  
5 that question?

6 A. I then through -- told Mr. Belmonte that we  
7 need to really look at the implications of dropping a  
8 woman's sport to the point of writing a memo to him that  
9 I hope he would share with the University Cabinet, that  
10 if this is the direction we needed to go in, these are  
11 the other things we need to be aware of.

12 Q. So you wrote a memo to Mr. Belmonte about  
13 that?

14 A. Correct.

15 MR. ORLEANS: Has that memo been  
16 produced?

17 MS. GAMBARDELLA: No, that's work  
18 product. That's in anticipation of potential litigation.  
19 I don't want to argue with it now. We'll argue about it  
20 later. It hasn't been produced, and I'm not going to let  
21 him testify about the content either, and I can voir dire  
22 him as well. But he and I went through the circumstances  
23 under which that was written. Those memos are written in  
24 anticipation of protecting the University against  
25 potential claims.

1 MR. ORLEANS: I'm not going to argue  
2 about it.

3 Q. Did you consult with an attorney before  
4 writing that memo?

5 A. No.

6 Q. So you wrote it out of your own knowledge?

7 MS. GAMBARDELLA: Object to form.  
8 Go ahead.

9 A. Yes.

10 Q. Did you -- What was the purpose of the memo?

11 A. To state in writing the importance of -- that  
12 we must adhere to the policies of the Office of Civil  
13 Rights, the Department of Ed.

14 Q. And to whom did you send this memorandum?

15 A. Val Belmonte.

16 MR. ORLEANS: I'm going to ask that that  
17 memorandum be produced.

18 MS. GAMBARDELLA: I know you are.

19 MR. ORLEANS: I just want it on the  
20 record.

21 MS. GAMBARDELLA: We will argue about it.

22 MR. ORLEANS: Oh, yes, we will.

23 MS. GAMBARDELLA: Be-all and end-all is  
24 not whether he consulted with an attorney just before he  
25 wrote it, so we can argue about work product --

1 MR. ORLEANS: The work product doctrine  
2 protects attorney work product.

3 MS. GAMBARDELLA: Also -- It also  
4 protects work product created in anticipation of  
5 potential litigation.

6 MR. ORLEANS: By attorneys.

7 MS. GAMBARDELLA: We will discuss it.

8 Q. What happened -- Well, withdrawn. You gave  
9 that memo to Mr. Belmonte?

10 A. Yes.

11 Q. Did you deliver it to anyone else as well?

12 A. No.

13 Q. What was Mr. Belmonte's response to that  
14 memorandum?

15 A. That he would bring it to the Cabinet.

16 Q. Okay.

17 MS. GAMBARDELLA: Let me just say for the  
18 record we'll talk about it later without waiver of my  
19 objection. It's a harmless memo. I may produce it.  
20 What I don't want is any construed waiver of anything  
21 else. My concern is not about this particular document;  
22 it's a harmless document. What my concern is that the  
23 other side -- that the plaintiffs will suggest we've  
24 waived other, you know, protections about other things  
25 which I don't know where you were going with this so just

1 state for the record. We can discuss it at the break.

2 MR. ORLEANS: Fine.

3 Q. I'm sorry. I've lost my train of thought.  
4 You gave the memo to Mr. Belmonte. And I'm sorry if I've  
5 asked you this already, but what was his response then to  
6 the memo?

7 A. That he would bring it to --

8 Q. That's right.

9 A. -- the University Cabinet.

10 Q. What happened next with respect to this  
11 process of -- Withdrawn. Is it fair for me to describe  
12 the process that you were going through at this point as  
13 attempting to insure that the University would comply  
14 with Title IX in whatever you did?

15 A. Yes.

16 Q. So what happened next in that process, the  
17 Title IX process?

18 A. Okay. The time line may get a little murky,  
19 so I apologize for that.

20 Q. Just do your best. I'm not looking for exact  
21 dates.

22 A. Okay. It was very apparent that we were  
23 going to be dropping sports and in this case particularly  
24 volleyball. And at some point, number 1, we enlisted the  
25 support and counsel of Janet Judge. And also what was

1 going on, Jon, is other universities were also dropping  
2 sports. I think you might be familiar with some of them.  
3 For example, in this particular conversation was  
4 University of Vermont dropped baseball and softball. So  
5 the athletic director again, a colleague in the business,  
6 Bob, tell me how are you doing? How are your numbers?  
7 That's the sort of the things we talk about.

8 He explained to me that -- I says, "Bobby,  
9 you know you -- you got to -- you know, prongs 2 and 3  
10 are gone. You need to hit prong 1." He said, "We're  
11 there." So it was just a affirmation of what I had been  
12 proposing.

13 We then had enlisted the counsel of Janet  
14 Judge. We then had the meeting with the University  
15 Cabinet which I was involved with. Again, dates, this  
16 was all probably February. And we had a discussion,  
17 again, we need to hit our proper numbers, proportional  
18 numbers if we're going to drop this sport. And there was  
19 significant, you know, struggle, strife. And it would  
20 come down to we're not going to make it. What else can  
21 we do? And my answer was always, well, let's not drop  
22 volleyball. So we discussed it and finally agreed to  
23 hitting the right numbers.

24 Q. Okay. And when you say "we" discussed it,  
25 who's the "we"?

1 MS. GAMBARDELLA: You don't have to. As  
2 long as we all agree we're talking about competitive  
3 cheer, Jonathan, we're not going to --

4 MR. ORLEANS: I will try to use the term  
5 "competitive cheer" without any waiver of any of  
6 plaintiffs' positions in that respect.

7 Q. Did someone at this meeting suggest that you  
8 could make the numbers by making competitive cheer a  
9 varsity sport?

10 A. To finish the theme of that meeting, and it  
11 was very important for me to achieve this, was that the  
12 University needed to know that the numbers were now  
13 critical, mandated, important. And the university senior  
14 administration needed to buy into that first. That was  
15 the thing we needed to say, that if we're going to drop  
16 sports, particularly a women's sport, that prong I needed  
17 to be met. Okay, that was the first discussion. And  
18 that took a while. But once we've achieved the  
19 commitment to the number, then there was a series of  
20 discussions that began particularly the men's sports that  
21 needed -- that needed to be dropped. Okay?

22 Q. Okay.

23 A. So the decision was made to drop men's golf  
24 which had a -- which was a first step for both  
25 budgetary -- for additional budgetary reasons,



1 competitiveness. So that was decided upon.

2 Q. Okay.

3 A. There was a decision on campus -- There were  
4 two possible women's sports because we clearly needed  
5 more women's opportunities. There were two sports that  
6 were significantly discussed. And one was competitive  
7 cheer and the other one was women's rugby, both of whom  
8 have similar roster sizes.

9 Q. Who was involved in these discussions that  
10 we've been describing?

11 A. The discussions of what new sports to add was  
12 some senior administration people in the Athletic  
13 Department and then obviously the people I just mentioned  
14 that -- at this meeting.

15 Q. Can you give me the -- Other than the people  
16 than the vice presidents whom you named who were at the  
17 meeting in -- you said in February?

18 A. Yes.

19 Q. Who were the senior people in the Athletics  
20 Department who were involved?

21 A. Tracey Flynn, who you'll meet later today,  
22 and Bill Mecca, M-e-c-c-a, who was the Senior Associate  
23 Director of Athletics. So we came with the possibility  
24 of competitive cheer or women's rugby.

25 Q. Who was the source of competitive cheer as an

1 option?

2 A. The competitive cheer team. They have been  
3 with us for my whole 14 years. They have competed  
4 successfully.

5 Q. Is there a -- Prior to the decision process  
6 that you've been describing, was there a distinction at  
7 Quinnipiac between cheerleading and competitive cheer?

8 MS. GAMBARDELLA: Object to form.

9 You can answer.

10 A. Yes. And I would refer to it that the same  
11 group would do both. They would cheer at basketball  
12 games; they would also participate in anywhere from two  
13 to four competitions a year, one of which was the  
14 national championship.

15 Q. When you refer to the -- We'll come back to  
16 that.

17 Again, prior to the decision-making process  
18 you've been describing, would the cheer squad cheer at  
19 events other than basketball games?

20 MS. GAMBARDELLA: Object to the form.

21 You mean when they're just the cheerleaders?

22 MR. ORLEANS: He just testified that  
23 prior to this decision to make competitive cheer a  
24 varsity sport, it was all the same group.

25 MS. GAMBARDELLA: That was doing both.

1 MR. ORLEANS: That did both, that  
2 competed and cheered --

3 MS. GAMBARDELLA: Okay.

4 MR. ORLEANS: -- at games, and I think he  
5 mentioned basketball games, and I'm just trying to  
6 determine whether there were other events that they  
7 cheered at.

8 MS. GAMBARDELLA: Okay. Thank you.

9 A. Midnight Madness, maybe a hockey game once in  
10 a while but --

11 Q. Were there any kind of, I don't know, spirit  
12 rallies?

13 A. Well, Midnight Madness is a spirit rally.

14 Q. Were there typically spirit rallies other  
15 than the Midnight Madness event from time to time?

16 A. No.

17 Q. Now, getting back to the decision-making  
18 process that you've been describing to get into  
19 compliance with Title IX, I think you said the  
20 competitive cheer team was the source of the idea to make  
21 competitive cheer a varsity sport.

22 MS. GAMBARDELLA: Object to form.

23 You can answer.

24 Q. I might be wrong. I'm trying to understand  
25 what your testimony is. Where did the proposal come

1 from? is my question.

2 A. They -- As long as they have been here, they  
3 have -- Let me go back to the NCAA certification process  
4 that we sort of get -- it's a natural self-study that we  
5 conduct on a university. It's like a university's  
6 accreditation process.

7 Q. Well -- And, in fact, there's a written  
8 self-study document, isn't there?

9 A. Yes.

10 Q. And it's available on your Web site, isn't  
11 it?

12 A. Yes.

13 Q. Go ahead.

14 A. That discovered that one of the priorities in  
15 our whole -- in this particular situation was to improve  
16 opportunities for women by 4 to 7 percent over the next  
17 few years or until the next certification process begins.  
18 There was much discussion amongst official and unofficial  
19 regarding how are we going to do that, and competitive  
20 cheer was discussed along with women's volleyball and  
21 women's golf and bowling. And there's a series of  
22 emerging sports for women that have been coming on line  
23 since Title IX started 30 years ago. So there was a  
24 series of sports that were discussed as possibilities.  
25 And competitive cheer in conjunction with that was a

1 group that was competitive cheering. They were doing it  
2 probably for a good six years, maybe more.

3 Q. Are you referring to the group at Quinnipiac,  
4 or are you referring to some --

5 A. The group at Quinnipiac was cheering and  
6 competing. And we had provided them with a trainer; we  
7 provided them with the proper safety mats for the floor.  
8 We had been doing a lot of things for them.

9 Q. Okay. When was the NCAA, the self-study that  
10 you've been describing, the certification?

11 A. The document was approved in May of 2006.  
12 The study before that was essentially two years before  
13 that.

14 Q. And when does -- You made a reference to the  
15 "next time" you have to recertify?

16 A. 2015, but -- but we do an annual audit.  
17 There has been a person appointed by the NCAA that is  
18 responsible to see how we do each year as we progress and  
19 in this particular case, you know, what are your numbers.

20 Q. Who is the person that you're referring to?

21 A. It's Jill Martin.

22 Q. Jill Martin?

23 A. Right.

24 Q. And she's an NCAA employee?

25 A. She is a faculty member in the -- actually in

1 along.

2 Q. Mm-hmm.

3 MS. GAMBARDELLA: He's a smart guy.

4 A. Okay. The decision was made --

5 MR. ORLEANS: You can fool some of the  
6 people some of the time, you know.

7 MS. GAMBARDELLA: And if he's not  
8 following you, the hell with it.

9 MR. ORLEANS: All right.

10 THE DEPONENT: With a name like Orleans,  
11 I certainly know he's following.

12 MS. GAMBARDELLA: You got to be careful.

13 A. So the decision was made that competitive  
14 cheer was going to be the sport that would be added in  
15 this economic reorder of the athletic department, okay?

16 Q. And that was a group decision or --

17 A. Yes.

18 Q. Okay.

19 A. Yes, which I support. Okay. In addition to  
20 that, as we were again with the spreadsheet putting in  
21 numbers, pluses here, minuses there, we were still short.  
22 And the decision was made to drop men's outdoor track.  
23 And that -- well, it didn't go over well with me  
24 personally. I'm a track guy by trade. I'm in this  
25 business because of my experience in track and field.

1 caught with a time or two, but it's not traditional that  
2 cheerleading is practiced anywhere else but.

3 Q. And does Quinnipiac have the necessary  
4 facilities and equipment currently to support the  
5 proposed varsity competitive cheer team?

6 A. Do we have --

7 Q. The facilities and equipment currently to  
8 support the --

9 A. We've had them, yes.

10 Q. Is there something called a spring floor  
11 that's used in competitive cheer?

12 A. There may be. I know being at the University  
13 of Denver we had competitive gymnastics, and there was a  
14 spring floor.

15 Q. Does Quinnipiac have a spring floor?

16 A. We do not and nor has anybody asked us for  
17 one.

18 Q. Okay. Does anyone associated -- Withdrawn.  
19 In the decision-making process that you've been  
20 describing that occurred over the month of February, did  
21 anyone affiliated with the existing competitive cheer  
22 team request that competitive cheer be elevated to a  
23 varsity sport?

24 A. It has been requested for that whole five- or  
25 six-year process as they -- number 1, we were looking at

1 increasing our opportunities; number 2, we went through  
2 certification and number 3, they were competing  
3 nationally.

4 Q. And requested by whom?

5 A. The coach particularly. That's who -- she  
6 reports to us.

7 Q. And so over the last several years, then, the  
8 coach has requested that competitive cheer be made a  
9 varsity sport?

10 A. Yes.

11 Q. And that's the current coach?

12 A. Yes.

13 Q. Has she ever done that in writing?

14 A. No.

15 Q. You mentioned emerging sports for women. Is  
16 competitive cheer recognized by the NCAA as an emerging  
17 sport for women?

18 A. No.

19 Q. Is competitive cheer a sport recognized by  
20 the Northeast Conference?

21 A. No.

22 Q. Is competitive cheer a sport recognized by  
23 any intercollegiate athletics conference?

24 MS. GAMBARDILLA: Object to form.

25 You can answer.



1 offered to honor the athletic scholarships of current  
2 members of the volleyball team who decide to stay at  
3 Quinnipiac?

4 A. That's correct.

5 Q. And will Quinnipiac honor those scholarships  
6 for -- through graduation for those students?

7 A. Yes.

8 Q. Okay.

9 A. Provided -- and I'm going to just say this as  
10 I would say to anybody in any sport -- they remain to be  
11 good citizens. I mean, it's the same as if they were on  
12 the volleyball team, if they do good in school, they --  
13 you understood? There's nothing different than any other  
14 athlete.

15 Q. Now, what about current high school seniors  
16 who had been offered scholarships, athletic scholarships  
17 to come to Quinnipiac and play volleyball, did you offer  
18 to honor those scholarships?

19 A. That's a fair question, and I'm not saying I  
20 don't know because I want to say no. I just don't know  
21 because I don't know the rule. But if you don't mind  
22 asking Tracey Flynn that question as well. If we need  
23 to, we will. I just don't know that -- what the policies  
24 are for student athletes who have signed a National  
25 Letter of Intent. We clearly would release her because,

1 you know, the National Letter of Intent, she's bound to  
2 Quinnipiac. But if she wanted -- Like for example, when  
3 we change coaches, we sometimes release student-athletes  
4 to go to another school even though they're bound to  
5 Quinnipiac. The answer to your question, if need be, we  
6 would. I just don't know --

7 MS. GAMBARDELLA: She'll know the answer.

8 Q. Okay. We'll ask Ms. Flynn. But just let me  
9 follow up a little bit on this. It's your understanding  
10 that if a prospective student has signed the National  
11 Letter of Intent, Quinnipiac would release them so that  
12 they could go elsewhere?

13 A. Correct.

14 Q. What about a student who has not signed a  
15 National Letter of Intent but has made a verbal  
16 commitment to Quinnipiac and has had a verbal offer of a  
17 scholarship, would Quinnipiac honor the scholarship offer  
18 for that student?

19 MS. GAMBARDELLA: Object to form.

20 You can answer and no guessing.

21 A. No. It probably won't be a "Yes" or "No"  
22 answer. But I think I'll just go with my -- and I  
23 haven't dropped sports before, so I'm going to go -- But  
24 I would tell you or any -- If any coach were to leave, I  
25 always ask them -- in this case, Robin -- who have you

1 last 10 days there's a competitive cheer -- because of  
2 the recruitment by Admissions is constant, we have added  
3 competitive cheer as a woman's sport on this Web site  
4 that you referred to.

5 Q. Okay.

6 A. And in there it has all of the same features  
7 that we give to all the other varsity sports: roster  
8 schedule, stats, pictures, ya-da-ya-da-ya-da. We've  
9 already scheduled four to six varsity competitions, some  
10 at home, some away.

11 Q. Just before you go on, how does that compare  
12 to the number of competitions that the cheer squad, the  
13 competitive cheer squad had this year?

14 A. Probably double. And, again, I say that with  
15 a little bit of trepidation not knowing the exact  
16 numbers. But it's significant.

17 Q. It's more?

18 A. Yes.

19 Q. Other than the change in the Web site and the  
20 addition of competitions, are there any other changes --

21 A. Well --

22 Q. -- contemplated?

23 A. -- there's the salary of the coach is still  
24 in proposal phase. The scholarships I mentioned is still  
25 in proposal phase.

1 Q. Let me just ask, the coach currently is --  
2 how many coaches are there currently?

3 A. Two.

4 Q. Part-time or full time?

5 A. Part-time.

6 Q. Both part-time?

7 A. Yes. One pays \$20,000, and one paid three or  
8 three thousand.

9 Q. Okay. Is that a reflection of the amount of  
10 time each one spends?

11 A. It's as much as we give our golf coach who's  
12 also varsity. So I would say yes. It's -- And if you  
13 don't mind me backing up, as we went Division I in all  
14 sports 10 years ago, we have been adding all of these  
15 people to be full time. It's just you can't do it all in  
16 one fell swoop.

17 Q. Is it proposed that the competitive cheer  
18 coach will be full time next year?

19 A. It's proposed.

20 Q. But it hasn't been approved yet?

21 A. Correct. And I say that to -- even to the  
22 cheer coach that till you see a contract in your hand,  
23 it's proposed.

24 Q. All right. Web site, competitions, proposed  
25 full-time coach. Any other changes contemplated in the

1 cheer program?

2 A. There's a proposal for some safe travel  
3 budget, you know, a bus instead of vans or their own  
4 cars.

5 Q. If the budget were to be approved, current  
6 proposed budget, how would the expenditure on competitive  
7 cheerleading next year compare to the expenditure on  
8 volleyball this year?

9 MS. GAMBARDELLA: Object to form.

10 You can answer, Jack.

11 A. It would be less.

12 Q. How much less?

13 A. You talking all three phrases that we talked  
14 about?

15 Q. Yes.

16 A. Like salaries, scholarship and operating?

17 Q. Yes.

18 A. Well, obviously five scholarships is 50,000  
19 bucks apiece. That's just round numbers; it's 46 or  
20 something. But let's say 50 for round numbers. The  
21 operating budget of volleyball was around 70. The  
22 salaries, you know, the new coach won't be as much as  
23 Robin was. And so it's going to be less. Now, again,  
24 with my experience as of the development of programs,  
25 could it be up there where volleyball was? It probably

1 will be the same as soccer and baseball and softball, but  
2 for '09/'10 it won't be.

3 MR. ORLEANS: I'm going to ask that that  
4 budget proposal be produced.

5 MS. GAMBARDELLA: Which budget proposal?

6 MR. ORLEANS: Well, all of them.

7 MS. GAMBARDELLA: We've objected to that,  
8 so the judge will have to rule on that.

9 MR. ORLEANS: Certainly the most recent  
10 one which describes the current plan for cheer for next  
11 year, I think.

12 MS. GAMBARDELLA: Oh, that would be --  
13 When we're done, we can discuss, yes, the relevance of  
14 that, yes.

15 (Discussion off the record.)

16 Q. When the cheer team competes at home in the  
17 coming year, where will those competitions be held?

18 A. They'll be at the Burt Kahn Court, the old  
19 gym. I'm sorry. And there'll be one -- we're still  
20 working on it, but there probably be one in December in  
21 the TD Banknorth. Still tentative as is all our  
22 schedules at this point.

23 MR. ORLEANS: Seven.

24 (Whereupon, Web site cheerleading March 27, no  
25 Bates stamps, was marked as Plaintiffs' Exhibit 7 for