

TAB B

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

2:50 P.M.

- - -
DEPOSITION OF TRACEY FLYNN
- - -

APPEARANCES:

FOR THE PLAINTIFFS:

PULLMAN & COMLEY, LLC
BY: ALEX V. HERNANDEZ, ESQUIRE
JONATHAN B. ORLEANS, 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 the factors that's looked at in Title IX?

2 A. It is -- Yes.

3 Q. Okay. And the fact that they were cutting
4 the women's volleyball team, did you understand that that
5 would -- could potentially create Title IX issues for the
6 University?

7 MS. GAMBARDELLA: Object to form.

8 You can answer.

9 A. "Potentially" is a key word in your question.
10 Yes.

11 Q. So you were aware of that?

12 A. Yes.

13 Q. All right. And were there any discussions at
14 that meeting, that first meeting with Billy Mecca, Jack
15 McDonald and you about the University's Title IX
16 compliance in light of this decision to cut women's
17 volleyball?

18 A. Yes.

19 Q. Okay. Who raised the issue of the
20 University's Title IX compliance at the meeting?

21 (Whereupon, Attorney Orleans joined the
22 proceedings.)

23 A. I did.

24 Q. You did? Okay. Can you tell us what it is
25 that you said about Title IX compliance at that meeting?

1 A. It was in the area that if we're going to cut
2 a women's sport, we're going to have to at least cut a
3 men's sport.

4 Q. And what was the reaction of the other people
5 in the room?

6 MS. GAMBARDELLA: Object to form.
7 You can answer.

8 A. I believe they understood -- they understood,
9 comprehended what I was saying.

10 Q. And is it your testimony that you're the
11 person who raised this issue about having to adjust the
12 numbers for the men's teams?

13 MS. GAMBARDELLA: You mean during that
14 meeting?

15 Q. During this meeting.

16 MS. GAMBARDELLA: You can answer that.

17 A. I was the one that raised that if we're going
18 to cut a women's sport, we're probably going to have to
19 cut a men's sport, yes.

20 Q. And what was Billy Mecca's reaction?

21 MS. GAMBARDELLA: She's already answered
22 this.

23 You can answer again.

24 A. I think they both -- I believe he understood
25 and comprehended what I was saying.

1 A. Correct.

2 Q. Isn't it also correct that Quinnipiac in
3 instituting roster management was thereby announcing a
4 goal to achieve compliance through prong 1 over the
5 years? Would that be correct?

6 A. Yes.

7 Q. All right. Have you witnessed or observed a
8 change in the commitment from the coaches throughout the
9 past few years since the institution of roster
10 management?

11 A. Yes.

12 Q. Okay. How would you describe the commitment
13 now, at least going forward for next academic year, of
14 the coaches?

15 A. Well, I know that the -- I've been -- the
16 coaches have been asking what their numbers are for next
17 year. They want to -- They're trying to make sure that
18 they're on track and if they've got to make any kind of
19 adjustments, so that's actually been kind of ongoing.
20 And I just asked the Athletic Director the other day
21 again, you know, "When are we going to tell these coaches
22 their numbers?" And he was, well, we really should wait
23 to see what the court -- how this all plays out.

24 Q. Okay. So the final numbers have been upheld
25 because of this litigation?

1 A. Yes.

2 Q. Okay. But in terms of what happened before
3 the litigation, here's what I'm asking you: Have you
4 seen an evolution in the coaches' commitment over the
5 years since the roster management method was introduced
6 as a way of the University eventually achieving
7 proportionality? Have you seen that improvement in
8 commitment?

9 A. Yes.

10 Q. Okay.

11 A. Yes.

12 Q. All right. So in terms of Exhibit 4, is it
13 accurate to say that -- and you've already said this in
14 response to questions that, you know, scuttlebutt in the
15 lunchroom or whatever, you don't know where these coaches
16 got this idea of how to sort of technically meet Title IX
17 but add and delete on certain dates. That's what you
18 told counsel, correct?

19 A. That's correct.

20 Q. But when the University, meaning you, found
21 out the coaches -- the coach or coaches involved were
22 told "This is not acceptable to us even though you think
23 technically it can be done," you had that conversation
24 with the baseball coach, you said?

25 A. Yes.

1 Q. Okay. So as far as you understand it, that
2 happened in the first year when roster management was
3 introduced, correct?

4 A. Yes.

5 Q. Okay. Or in the same time period where you
6 were getting all these pushbacks with roster management,
7 correct?

8 A. Could you clarify what you mean by
9 "pushbacks"?

10 Q. For the -- Well, actually, I'm using his
11 word, and I objected to it. Complaints about being
12 confined by a number?

13 A. When it was first introduced, it was a shock;
14 and there was a lot of concern expressed by coaches of
15 trying to meet this policy.

16 Q. But in '07/'08, the University's position was
17 not we're going to meet proportionality in '07/'08,
18 correct?

19 A. Correct.

20 Q. All right. Now, let's talk about
21 scholarships. You were asked about scholarships for
22 competitive cheer, but the way the question was asked is
23 if there's any scholarships now budgeted for, and you
24 said "No," correct?

25 A. Correct.

1 Q. All right. Is it premature at this point for
2 the University in its budget process to be talking about
3 those new scholarships?

4 A. We're in the infancy of establishing
5 competitive cheer, and so there's many -- I've already
6 had several discussions with both the Athletic Director
7 and the current cheerleading coach as what my opinion is
8 of what we need to do and go forth. So assigning
9 scholarships is something I said needs to be done to make
10 this a viable opportunity for us.

11 Q. Is it correct that Quinnipiac is using as a
12 guideline the University of Maryland competitive cheer
13 aspects because Maryland competitive cheer has been
14 accepted by the Office of Civil Rights as counting for
15 Title IX compliance?

16 A. It is true that we have been using the
17 University of Maryland documents that they shared with
18 us; we refer to it as "the Bible." I don't have
19 knowledge that OCR accepted cheerleading for Title IX
20 purposes for Maryland.

21 Q. Got it, okay. And is it the University's
22 current commitment to insure that competitive cheer bears
23 the characteristics necessary for Title IX counting?

24 A. It is -- I can't speak for people outside of
25 my department.