



November 16, 2020

Page 2

media, in which she is clearly identified, directly contradict this assertion. According to a publicly available Twitter post from October 10, 2020 (three days before the Request), previously submitted as **Exhibit D** in the College's original letter, she states clearly in reference to criticism of her comments, "*All lawyered up.*" Similarly, in another social media post from October 12, 2020 (one day before the Request), the employee references a communication from the College's district president to her stating the following: "*The college President replied to this email (only to me), but I'll spare you all reading that one. It will go to my lawyers.*" She goes on to state that "*This is why you get professional insurance and join @AAUP even if you're not in a collective bargaining state.*" See Updated Social Media Posts, attached as **Exhibit J**. The employee's reference is to the American Association of University Professors (AAUP), a professional membership group, that in some states or locations serves as a collective bargaining representative, which provides legal support and attorney referrals to professors in higher education.

As previously explained, the employee's initial Tweets and ensuing comments led to substantial public reaction on social media and several complaints sent to the College. The College sought to meet, via Zoom, with the employee to discuss her use of a College email system to contact and counterattack several external individuals who responded to her comments on social media. That request was sent to the em ito pr44.10 ( )] TJ ET e in EMC /P <</MCID 33 >> BDC4B

November 16, 2020

Page 3

of Civil Procedure Rule 26.5(b)(5)(a). *See* Request with Highlighted Portion, attached as **Exhibit L**. Accordingly, as of the date of the Request, the College reasonably anticipated litigation based on concrete evidence – including the underlying employee’s own statements – that litigation was likely either from the employee, FIRE, or any other source.<sup>4</sup>

Regarding the timing of the October 15<sup>th</sup> demand letter, it should be noted that Mr. Steinbaugh is the author of both the PIA request and the demand letter. Mr. Steinbaugh filed the initial Request and within 72 hours submitted the formal demand letter to the College, and now conveniently asserts that the litigation exception cannot apply. This appears to be nothing more than a strategic maneuver to evade the application of the relevant timeframe noted in Section 552.103.

ssestse Regardless, as noted above, direct evidence existed on and before the date of the Request to demonstrate that the College reasonably anticipated litigation. In addition to the employee’s own statements, the letter Mr. Steinbaugh submitted would be interpreted by any reasonable party to be a demand letter from which the College could reasonably anticipate litigation. This is based

volientl ( r

