

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

AMY COHEN, et al.,

Plaintiffs,

VS .

BROWN UNIVERSITY, CHRISTINA
PAXSON, as successor to
VARTAN GREGORIAN, and
JACK HAYES, as successor to
DAVID ROACH,

Defendants.

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: **COPY**
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: Case No.
: 92-CV-0197-JJM-LDA

VIDEO-RECORDED DEPOSITION OF JOHN MOLLICONE,
taken via Zoom video conference, by the Plaintiff,
Fore Sonya M. Wright (appearing via Zoom),
commencing at 8:00 a.m. CST, Thursday, August 13,
20.

AMY COOPER - FIDELITY VIDEO SERVICES, INC.

SONYA M. WRIGHT - CERTIFIED SHORTHAND REPORTER

<p>1 APPEARANCES Page 2</p> <p>2 For the Plaintiffs:</p> <p>3 (Via Zoom)</p> <p>4 LORI BULLOCK, ESQ.</p> <p>5 Newkirk Zwagerman, PLC</p> <p>6 521 East Locust, Suite 300</p> <p>7 Des Moines, Iowa 50309</p> <p>8 (515)883-2000</p> <p>9 lbullock@newkirklaw.com</p> <p>10 LYNETTE LABINGER, ESQ.</p> <p>11 American Civil Liberties Union and</p> <p>12 Foundation of Rhode Island and Public Justice</p> <p>13 128 Dorrance Street, Box 710</p> <p>14 Providence, Rhode Island 02903</p> <p>15 (401)465-9565</p> <p>16 lll@labingerlaw.com</p> <p>17 ARTHUR H. BRYANT, ESQ.</p> <p>18 Bailey & Glasser, LLP</p> <p>19 1999 Harrison Street, Suite 660</p> <p>20 Oakland, California 94612</p> <p>21 (510)507-9972</p> <p>22 abryant@baileyglasser.com</p> <p>23 For the Defendants:</p> <p>24 (Via Zoom)</p> <p>25 MATTHEW CRAIG, ESQ.</p> <p>Kaplan, Hecker & Fink, LLP</p> <p>350 Fifth Avenue, Suite 7110</p> <p>New York, New York 10118</p> <p>(212)763-0883</p> <p>mcraig@kaplanhecker.com</p> <p>ROBERT C. CORRENTE, ESQ.</p> <p>Whelan, Corrente & Flanders, LLP</p> <p>100 Westminster Street, Suite 710</p> <p>Providence, Rhode Island 02903</p> <p>(401)270-1333</p> <p>rcorrente@whelancorrente.com</p> <p>Also present:</p> <p>Jim Green, Brown University (via Zoom)</p>	<p>1 PROCEEDINGS Page 4</p> <p>2 VIDEOGRAPHER: On the record beginning the</p> <p>3 video deposition of John Mollicone requested by the</p> <p>4 plaintiffs in the matter of Amy Cohen, et al.,</p> <p>5 plaintiffs, versus Brown University, et al.,</p> <p>6 defendants, in the United States District Court,</p> <p>7 District of Rhode Island, Case Number</p> <p>8 92-CV-0197-JJM-LDA.</p> <p>9 Today's date is August 13th, 2020, and the</p> <p>10 approximate time is 8:08 Central Time. This</p> <p>11 deposition is being conducted via Zoom video</p> <p>12 conference in remote locations. My name is Amy</p> <p>13 Cooper, certified legal videographer of Fidelity</p> <p>14 Video Services, Incorporated, West Des Moines, Iowa.</p> <p>15 Counsel will please identify themselves for the</p> <p>16 record.</p> <p>17 MS. BULLOCK: Lori Bullock for plaintiffs.</p> <p>18 MS. LABINGER: Lynette Labinger for</p> <p>19 plaintiffs.</p> <p>20 MR. CRAIG: Matthew Craig for defendants.</p> <p>21 MR. CORRENTE: Robert Corrente for the</p> <p>22 defendants as well.</p> <p>23 MR. GREEN: James Green for the defendants</p> <p>24 as well.</p> <p>25 VIDEOGRAPHER: The oath will now be</p>
<p>1 TABLE OF CONTENTS Page 3</p> <p>2 WITNESS: JOHN MOLLICONE PAGE</p> <p>3 Examination By Ms. Bullock5</p> <p>4 EXHIBITS PAGE FIRST</p> <p>5 REFERENCED</p> <p>6 1 - Brown sailing roster, 2019-202035</p> <p>7 2 - Email from Hayes to Mollicone, 5/14/2091</p> <p>8 (26428)</p> <p>9 3 - Email from Hayes to Goldgeier, 6/29/20100</p> <p>10 (3608-3609)</p> <p>11 4 - Email from Mollicone to Bernis-Driscoll, ...105</p> <p>12 6/19/20 (22380-22382)</p> <p>13 5 - Student-Athlete Roster Declaration Form107</p> <p>14 (433-434)</p> <p>15 6 - Student-Athlete Roster Declaration Form108</p> <p>16 (430-432)</p> <p>17 7 - Email from Mollicone, 12/5/19 (24174-24175) 113</p> <p>18 REPORTER'S NOTE:</p> <p>19 Exhibits were marked electronically and attached to</p> <p>20 the electronic transcript.</p> <p>21 (ph) indicates a phonetic spelling.</p> <p>22 [sic] indicates the text is as stated.</p> <p>23 Quoted text is as stated by the speaker.</p>	<p>1 administered by Sonya Wright, certified shorthand Page 5</p> <p>2 reporter of Susan Frye Court Reporting, Des Moines,</p> <p>3 Iowa.</p> <p>4 MS. BULLOCK: Sonya, before you administer</p> <p>5 the oath, we need to stipulate on the record that</p> <p>6 because of COVID-19 and the Rhode Island court</p> <p>7 order, federal court order, this deposition is being</p> <p>8 conducted via Zoom and the parties have agreed to</p> <p>9 stipulate that the witness can be sworn in remotely.</p> <p>10 MR. CRAIG: I confirm that we agree.</p> <p>11 COURT REPORTER: Would you raise your</p> <p>12 right hand, please. Do you solemnly swear or affirm</p> <p>13 that the testimony you're about to give will be the</p> <p>14 truth, the whole truth, and nothing but the truth?</p> <p>15 THE WITNESS: Yes.</p> <p>16 JOHN MOLLICONE,</p> <p>17 having been first duly sworn, testified under oath</p> <p>18 as follows:</p> <p>19 EXAMINATION</p> <p>20 BY MS. BULLOCK:</p> <p>21 Q. Good morning, Mr. Mollicone. Could you</p> <p>22 please state and spell your name for the record.</p> <p>23 A. Yes. John Mollicone, J-o-h-n,</p> <p>24 M-o-l-l-i-c-o-n-e.</p> <p>25 Q. Have you ever had your deposition taken</p>

<p style="text-align: right;">Page 6</p> <p>1 before?</p> <p>2 A. No, I have not.</p> <p>3 Q. I'm going to give you a few ground rules</p> <p>4 to help this process go smoothly. I'm sure that</p> <p>5 your attorney has probably covered much of this with</p> <p>6 you, but I just want to make sure that we're all</p> <p>7 starting off on the same page. First of all, it's</p> <p>8 important to remember there's a court reporter</p> <p>9 taking down everything we say so I need you to give</p> <p>10 affirmative answers, yes or no, to questions. The</p> <p>11 court reporter can't take down things like uh-huhs</p> <p>12 and huh-uhs so if I ask you "Is that a yes or is</p> <p>13 that a no?" I'm not trying to trick you. I just</p> <p>14 need to make sure that we have a clean record. Do</p> <p>15 you understand that?</p> <p>16 A. Yes.</p> <p>17 Q. Along that same line -- and this is even</p> <p>18 more important over Zoom. Oftentimes, in</p> <p>19 conversation, you will know where I am going with a</p> <p>20 question, and so your inclination may be to start</p> <p>21 answering before I have finished, but, again,</p> <p>22 because there is a court reporter taking down</p> <p>23 everything we say, you need to make sure that you</p> <p>24 wait until I'm done asking my question to answer,</p> <p>25 and, likewise, I will make sure that you are done</p>	<p style="text-align: right;">Page 8</p> <p>1 would use this deposition. The only objection that</p> <p>2 would typically be made during the deposition is</p> <p>3 objection to form. Are you in agreement with that?</p> <p>4 MR. CRAIG: Understood.</p> <p>5 Q. (By Ms. Bullock) Finally, if you need to</p> <p>6 take a break for any reason, Mr. Mollicone, that's</p> <p>7 fine. Just let me know. The only thing that I will</p> <p>8 require is that there is not a question pending</p> <p>9 while you go to break. So you'll need to finish</p> <p>10 answering whatever question that has just been</p> <p>11 asked, and then we can take a short break, but I say</p> <p>12 that with the caveat that it's my understanding that</p> <p>13 you're very busy. We have a hard cutoff time due to</p> <p>14 some personal obligations, and so I'm going to do my</p> <p>15 best to make it happen that we are done with this</p> <p>16 deposition before that cutoff time.</p> <p>17 I obviously have a fair number of</p> <p>18 questions that I need to get answered, and so I will</p> <p>19 do my best to be as direct and clear as possible so</p> <p>20 that we can get through this efficiently, and at the</p> <p>21 same time, if you can be as clear and direct as</p> <p>22 possible with your answers, then that will help us</p> <p>23 get through this as quickly as possible. Does that</p> <p>24 sound fair?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 7</p> <p>1 answering your question before I ask another one.</p> <p>2 Does that make sense?</p> <p>3 A. Yes.</p> <p>4 Q. And probably the most important rule today</p> <p>5 is that I want to make sure that you understand the</p> <p>6 question that I'm asking, so from time to time, I</p> <p>7 may ask a question that is not the most articulate</p> <p>8 that it could be, so if you do not understand, I</p> <p>9 will expect you to say "I don't understand" or "Can</p> <p>10 you please rephrase the question?" If you answer</p> <p>11 the question, I will assume that you understood the</p> <p>12 question. Do you agree?</p> <p>13 A. Yes.</p> <p>14 Q. During the course of the deposition,</p> <p>15 Mr. Craig may object to the form of a question.</p> <p>16 When this happens, those objections are being made</p> <p>17 for the record, and you still need to answer the</p> <p>18 question unless your attorney specifically instructs</p> <p>19 you not to, okay?</p> <p>20 A. Yes.</p> <p>21 MS. BULLOCK: And I'm going to take this</p> <p>22 time, Matt, to say typically in Rhode Island federal</p> <p>23 court depositions, all objections are -- we'll just</p> <p>24 go ahead and say right now all objections are</p> <p>25 standing, and you can make them at the time that we</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. Without getting into any specifics, is</p> <p>2 there anything about your health or medications that</p> <p>3 you are taking today that would impair your ability</p> <p>4 to fully understand my questions and give full and</p> <p>5 complete answers to my questions today?</p> <p>6 A. No.</p> <p>7 Q. Are you being represented by the attorneys</p> <p>8 who represent Brown in this case?</p> <p>9 A. Yes.</p> <p>10 Q. Before coming here today, did you meet</p> <p>11 with them either virtually or in person?</p> <p>12 A. Yes.</p> <p>13 Q. Other than your conversations with the</p> <p>14 attorney, because I don't want to know about those,</p> <p>15 what have you done to prepare for the deposition</p> <p>16 today?</p> <p>17 A. Really just talking to the attorneys.</p> <p>18 Q. Did you review any documents?</p> <p>19 A. Just documents that were sent to me by</p> <p>20 them.</p> <p>21 Q. And what documents were those?</p> <p>22 A. Some emails.</p> <p>23 Q. And which emails?</p> <p>24 A. There are --</p> <p>25 MR. CRAIG: I'm just going to -- I'm not</p>

<p style="text-align: right;">Page 10</p> <p>1 going to direct him not to answer but just going to 2 remind him not to reveal the substance of any 3 conversations that he had with his attorneys. 4 Q. (By Ms. Bullock) Yeah. I don't want to 5 know what you guys talked about, just the documents 6 that you looked at. 7 A. They were just emails between myself, some 8 students on my team, some alumni, the athletic 9 director. 10 Q. Are there any other documents that you 11 looked at? 12 A. Rosters. 13 Q. Anything else? 14 A. Not that I can remember. 15 Q. Without telling me what was said, can you 16 tell me approximately how long you met with the 17 attorneys? 18 A. Definitely, you know, a couple different 19 days, and, you know, one day was a couple of hours. 20 Another day was probably an hour. 21 Q. You understand that we are here on a 22 motion by the women athletes at Brown claiming that 23 Brown is not complying with the Cohen consent order, 24 correct? 25 A. Yes.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Did you have conversations with athletic 2 director Hayes as well? 3 A. Yes. 4 MR. CRAIG: Objection to form. 5 Q. (By Ms. Bullock) Can you tell me what you 6 talked about? 7 A. Could you tell me during what time frame 8 you're asking about? 9 Q. Let's say February to now. 10 MR. CRAIG: Objection to form. 11 THE WITNESS: Okay. So we didn't talk 12 about anything at all in February, March, and I 13 cannot remember if conversations started in April or 14 it was early May, but it was, you know, around that 15 time. You know, like I said, it was a number of 16 weeks before the announcement that we were elevated 17 to varsity status, and he was asking me just for, 18 more than anything, basic information, like I said, 19 on our sport, data, roster stuff, and just, you 20 know, having conversations that we've had on and off 21 over my 20-plus years at Brown. 22 Q. (By Ms. Bullock) When you say 23 conversations that you've had over the 20-plus 24 years, regarding what specifically? 25 A. Yeah. I mean, I've always pushed for my</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. Were you asked by Brown to search any 2 records in connection with this proceeding? 3 A. No. 4 Q. Would you agree with me that earlier this 5 spring, you were asked to provide information to 6 athletic director Jack Hayes in connection with the 7 possible elevation of the sailing program to varsity 8 status? 9 A. Could you repeat that question, please? 10 Q. Yeah. Would you agree with me that 11 earlier this spring, you were asked to provide 12 information to athletic director Jack Hayes in 13 connection with possible elevation of the sailing 14 program to varsity status? 15 MR. CRAIG: Object to the form. 16 THE WITNESS: Yes. I provided him, you 17 know, data that he had asked for. 18 Q. (By Ms. Bullock) Can you tell me what 19 data? 20 A. He asked me about data within college 21 sailing, you know, number of varsity programs, 22 number of club programs, number of women's-only 23 programs, roster sizes for our team, and just in 24 general some college sailing questions just about 25 how our sport works.</p>	<p style="text-align: right;">Page 13</p> <p>1 program to be a varsity program. I've been doing 2 that ever since I started at the university. So 3 probably every single time I, you know, have had an 4 athletic director at Brown and I've met with them, 5 which is -- you know, I don't meet with athletic 6 directors that often, having been a club sport. I 7 have always advocated for my team to be a varsity 8 sport. So, you know, I've had the same 9 conversations over my entire period at Brown. 10 Q. Thank you. Where do you currently work? 11 A. Brown University. 12 Q. When did you start at Brown University? 13 A. August of 1999. 14 Q. Are you employed by Brown directly? 15 A. Yes. 16 Q. And has that always been the case? 17 A. Yes. 18 Q. Can you tell me what your chain of command 19 at Brown looks like? 20 A. Yeah. I have a -- 21 MR. CRAIG: Objection to form -- 22 THE WITNESS: -- supervisor, which is an 23 associate athletic director. Her name is Jeanne 24 Carhart. And I think the next person would be the 25 deputy athletic director, Colin Sullivan, and then</p>

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1 Jack Hayes, the athletic director.
2 Q. (By Ms. Bullock) So do you report directly
3 to Ms. Carhart?
4 A. Yes.
5 Q. And then does Ms. Carhart report to
6 Mr. Sullivan?
7 A. Yeah, or (audio cut out.)
8 MR. CRAIG: Objection to form.
9 (Reporter asked the witness to repeat the
10 answer.)
11 THE WITNESS: So my supervisor is Jeanne
12 Carhart, and then above her is the deputy athletic
13 director, Colin Sullivan, and then the athletic
14 director, Jack Hayes.
15 Q. (By Ms. Bullock) And did you say that
16 Ms. Carhart reports to both Mr. Sullivan and
17 Mr. Hayes?
18 MR. CRAIG: Objection. Misstates prior
19 testimony. And you can answer, Mr. Mollicone,
20 unless you want the question read back.
21 Q. (By Ms. Bullock) And what I was asking was
22 did you say that Ms. Carhart reports to both
23 Mr. Sullivan and Mr. Hayes?
24 A. I am not sure if she reports to both. The
25 chain of command is, you know, as I know it.

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1 Q. I was just trying to clarify because I
2 hadn't quite heard the answer before either.
3 Has any of that chain of command for you
4 changed in the last six months?
5 A. Not really. You know, I did have a club
6 sports director that also was sort of a supervisor,
7 but he left back in December so we've been without a
8 club sports, you know, person for, you know, the
9 last eight months.
10 Q. And what was his name?
11 A. Tim Phanthavong.
12 Q. Can you spell that last name?
13 A. Try. P-h-a-n-t-h-o-v-a-n-g [sic] maybe.
14 Q. And so no one has filled the role that Tim
15 was --
16 A. Yeah. I believe somebody was hired within
17 the last few months, but we've been elevated to
18 varsity status since then so I haven't even met
19 them.
20 Q. Do you have anyone that reports to you?
21 A. My assistant coach.
22 Q. And who's that?
23 A. Michael Zonneberg.
24 Q. How do you spell Mr. Zonneberg's last
25 name?

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1 A. Z-o-n-n-e-b-e-r-g. And I used to have
2 another assistant coach that did weekends only, but
3 he was terminated during the pandemic because he was
4 a seasonal employee.
5 Q. And who was that?
6 A. His name is Daniel Rabin, R-a-b-i-n.
7 Q. Do you know if Mr. Rabin will be brought
8 back at the beginning of the school year at all?
9 A. I don't --
10 MR. CRAIG: Object to the form.
11 THE WITNESS: -- expect him back this
12 year. We don't have any competition happening this
13 fall so he was only -- we only hired him to coach
14 weekend competitions.
15 Q. (By Ms. Bullock) Have you coached anywhere
16 else?
17 A. Not within the college sailing game. I've
18 done other coaching outside of college, yes.
19 Q. Where?
20 A. Oh, I mean, private coaching. Clinics.
21 Youth advanced racing clinics. You know, youth
22 teams. A number of outside coaching things.
23 Q. Has that all been while you were coaching
24 at Brown?
25 A. Yeah. In my time off, you know, summers

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1 and off season at Brown, yeah.
2 Q. Did you coach anywhere before you started
3 coaching at Brown?
4 A. I think I did, you know, a couple of
5 regattas for Boston University right after I
6 graduated before I started at Brown. I coached the
7 Moses Brown high school team in a couple of regattas
8 while I was in college. And I was the head sailing
9 coach at the East Greenwich Yacht Club for their
10 racing team while I was in college and high school.
11 So that was all -- all, you know, main coaching jobs
12 before I started at Brown.
13 Q. What are your general qualifications for
14 coaching sailing?
15 A. Well, I mean, I sailed at the highest
16 level, you know, through youth sailing, high school
17 sailing, college sailing. I was an all-American
18 skipper at Boston University my senior year.
19 Probably one of the top five or so sailors in the
20 country that year.
21 You know, I got asked by Brown to apply to
22 be the head coach. They were looking for a new
23 coach in 1999. You know, I think my resume was
24 really strong as a sailor. They wanted somebody,
25 you know, who had a lot of energy and wanted to

<p style="text-align: right;">Page 18</p> <p>1 coach the program, and, you know, I jumped right 2 into it and I've been doing it ever since.</p> <p>3 You know, I think I've become one of the 4 top coaches in the sport. I was named the coach of 5 the year this year in the entire United States. 6 I've been nominated to be, you know, as coach of the 7 year for all of U.S. sailing a number of times. 8 I've won multiple world championships. I've been on 9 the United States sailing team. I won a silver 10 medal at the Pan American Games back in 2011. And 11 I've won over 15 North American and national 12 championships. So I think I'm pretty qualified to 13 coach the team.</p> <p>14 Q. But you told me you received coach of the 15 year this year so --</p> <p>16 A. Yeah. 2019-2020. Yeah.</p> <p>17 Q. Can you tell me about any other 18 achievements you've had while coaching sailing at 19 Brown?</p> <p>20 A. Let's see. I mean, I can give you a lot 21 of achievements for the program, or do you just want 22 individual achievements?</p> <p>23 Q. Individual achievements for you as a 24 coach.</p> <p>25 A. Yeah. I mean, I've --</p>	<p style="text-align: right;">Page 20</p> <p>1 were third in 2015. Coed national championship, we 2 almost won last year. We ended up finishing fifth, 3 but we were winning after 12 of 18 races. And we 4 had the women's college sailor of the year last year 5 from our program. We had eight all-American sailors 6 named from our program this year, which was tied for 7 the most in college sailing. And we had seven last 8 year. And I think I've coached over, you know, 80 9 all-American sailors in my time at Brown.</p> <p>10 So, you know, we finished this past year 11 ranked number one in women's competition for two 12 years straight, and number 6 in coed competition. 13 We won the New England fall championship for coed 14 sailing. We've also had -- every year, there's been 15 an all-academic team for college sailing. We 16 haven't done one for this year. We usually have the 17 most of any team in college sailing.</p> <p>18 Q. What are your responsibilities as a coach?</p> <p>19 A. Yeah. I mean, I coach the team on the 20 water, at practice, weekend competitions. I 21 fundraise. I recruit. Administrative duties. You 22 know, meetings within the athletic department. 23 Meetings with kids on the team. Basically 24 everything. You know, so I do all the day-to-day 25 for the program.</p>
<p style="text-align: right;">Page 19</p> <p>1 MR. CRAIG: Objection to form.</p> <p>2 THE WITNESS: I've been nominated as coach 3 of the year for U.S. Sailing, which is the governing 4 body for our sport, United States. I've been named 5 to the New England Intercollegiate Sailing 6 Association honor roll as, you know, a standout 7 coach and sailor for New England. Like I said, I 8 was named coach of the year for the whole country 9 this year.</p> <p>10 And -- you know, I think, you know, those 11 are the honors that stick out, you know, the most. 12 You know, we've been a club team over all these 13 years so there's been no honors with the university 14 or anything so ...</p> <p>15 Q. (By Ms. Bullock) Can you tell me about 16 the -- you know, have you guys won any championships 17 as a team?</p> <p>18 A. Yes. We won the women's national 19 championship for college sailing in 2019. We've 20 been in the top 5 in my time at Brown at the college 21 sailing nationals, depending on which nationals it 22 is, but I believe over 30 times since 1999.</p> <p>23 And, you know, women's nationals in the 24 last five years, we've been top three three times. 25 So we won it in '19. We were second in 2016. We</p>	<p style="text-align: right;">Page 21</p> <p>1 We have a new sailing center. I manage 2 that. We have 40 boats. So, you know, between 3 buying the boats, fundraising, maintaining them, 4 buying equipment for them, such as sails and parts, 5 all of our travel. You name it, I basically have 6 done everything over these 21 years because we've 7 been a club team.</p> <p>8 Q. Are you responsible for player 9 development?</p> <p>10 A. Yeah, absolutely. As one of the coaches, 11 yeah, that's what we do.</p> <p>12 Q. Strategy?</p> <p>13 A. Yeah.</p> <p>14 Q. You said coaching the kids. Does that 15 include physical training of the athletes?</p> <p>16 A. Yeah. Well, the physical training on the 17 water, in the boats. Out -- you know, off the 18 water, like strength and conditioning, physical 19 training, we usually -- you know, Brown would make 20 us have a certified trainer to work with them. So 21 we would do that, you know, at the university gym 22 and stuff like that.</p> <p>23 Q. Who was that individual?</p> <p>24 A. Oh, we've had various trainers. I 25 couldn't even remember all their names, but the last</p>

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1 one we had, I think her name was -- we had a girl
2 named Jill. I can't remember her last name. And
3 then we had another one, Gina, you know, many times
4 over the years. And, again -- her last name is
5 DeAngelis.

6 Q. Do they work just with the sailing team or
7 with all the club teams?

8 A. I think that they work with, you know,
9 anybody within club sports for private training at
10 Brown stuff, so not being a varsity team, we had to
11 get creative. You know, that's how we did it. We
12 would hire somebody through recreational sports at
13 Brown.

14 Q. Do you have a contract with Brown?

15 A. I do not.

16 Q. Who sets your compensation?

17 A. Athletic director Hayes.

18 Q. Outside of your student-athletes, who do
19 you have the most regular communication with at
20 Brown?

21 A. Probably Gene Carhart, my supervisor.

22 Q. What are the subjects of those
23 communications?

24 MR. CRAIG: Objection to form.

25 MS. BULLOCK: Matthew, I'm going to ask

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1 you to clarify your objection. What's the nature of
2 your objection?

3 MR. CRAIG: I could go back and look, but
4 I believe it was a vague question. You can answer
5 or you can restate.

6 THE WITNESS: Yeah. Could you restate
7 that, please?

8 Q. (By Ms. Bullock) So you said you'd
9 communicate most regularly with Ms. Carhart. What
10 types of things do you communicate with her about?

11 A. I mean, basically everything. You know,
12 telling her what (audio cut out.)
13 (Reporter asked the witness to repeat.)

14 THE WITNESS: Yeah. Travel, you know,
15 practice schedule. You know, buying anything for
16 the program, she has to approve. Expense reports,
17 she has to approve. You know, hiring my assistant
18 coaches. She's part of that process. You know, so,
19 you know, mainly, you know, everything. She's my
20 supervisor so she wants to know, you know, how we're
21 doing, what we need, you know, what can she help
22 with, but, you know, just keeping her updated on
23 everything that's going on with our program.

24 Q. (By Ms. Bullock) I apologize. I don't
25 know what changed, but I'm hearing an echo when

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1 Mr. Mollicone speaks. Is there anyone else in the
2 room, other than Mr. Craig, with you, Mr. Mollicone?

3 A. No.

4 Q. -- that is on --

5 MR. CRAIG: Just to clarify, I don't hear
6 an echo any different so I don't know if it's
7 something on your end, but I am also not in the room
8 with Mr. Mollicone right now. Just so that's clear.

9 MS. BULLOCK: Oh, okay.

10 MR. CRAIG: Even though we both have very
11 light backgrounds.

12 MR. CORRENTE: This is Bob Corrente. I am
13 in the room with the witness. I have my microphone
14 off and I'm hearing an echo only because I can hear
15 the witness, but I'm streaming it through the
16 computer, but nothing has changed in the last couple
17 minutes.

18 MS. BULLOCK: Okay. I don't -- maybe it's
19 just something on my end. I just wanted to make
20 sure it wasn't something that could be fixed on your
21 end, I guess. Maybe if you could scooch a little
22 closer to the screen, Mr. Mollicone, that might
23 help.

24 THE WITNESS: Certainly. See if that's
25 better.

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1 Q. (By Ms. Bullock) All right. Okay. Is
2 your position endowed by the Barry Foundation
3 donation?

4 A. Yes, partially. (Audio cut out.)

5 Q. What does that mean?
6 (Reporter asked witness to repeat answer.)

7 A. Partially, yes.

8 Q. And then you said something about salary
9 and benefits?

10 A. Yes. The endowment doesn't fully cover
11 the entire salary and benefits. Not yet.

12 Q. So does Brown cover the -- part of the
13 salary as well?

14 A. We fundraise the additional money needed.

15 Q. Is that going to be the case moving
16 forward?

17 A. As far as I know.

18 MR. CRAIG: Objection to form.

19 Q. (By Ms. Bullock) How often do you speak
20 with Jack Hayes?

21 A. I mean, meetings. Now that we're varsity,
22 we have a meeting at least once a week. Not
23 one-on-one, but with all the head coaches. In the
24 past, couple times a year.

25 Q. I apologize. I'm going to have you back

<p style="text-align: right;">Page 26</p> <p>1 back up. It got worse when you got closer.</p> <p>2 A. Okay. I'll move my computer back to the</p> <p>3 way it was.</p> <p>4 Q. Sorry. You said weekly meetings with the</p> <p>5 coaches. Do you have any one-on-one conversations</p> <p>6 with Mr. Hayes?</p> <p>7 A. Yeah. I mean, in the past, we usually</p> <p>8 would meet, you know, one to a couple of times a</p> <p>9 year. As a club team, we usually, you know, didn't</p> <p>10 really meet that often. Now that we're a varsity</p> <p>11 sport, we certainly have talked more and we'll meet</p> <p>12 more.</p> <p>13 Q. What kind of things do you guys meet</p> <p>14 about?</p> <p>15 A. You know, lately if we've talked at all,</p> <p>16 it's been about just our transition to varsity and</p> <p>17 how things are going to work for the program. I</p> <p>18 mean, it's a big transition. Obviously, there's a</p> <p>19 lot of -- there's a lot of new things for us to</p> <p>20 learn with compliance and, you know, everything.</p> <p>21 Q. Do you think it's important to have good</p> <p>22 communication with Mr. Hayes?</p> <p>23 A. Yes.</p> <p>24 Q. How frequently are you in communication</p> <p>25 with your student-athletes?</p>	<p style="text-align: right;">Page 28</p> <p>1 MR. CRAIG: Objection to form.</p> <p>2 THE WITNESS: See how they're doing. You</p> <p>3 know, check in with them. Some of them might be</p> <p>4 doing some winter sailing, you know, seeing how it's</p> <p>5 going. You know, I'll talk to our captains a lot</p> <p>6 just about what our plans are for getting going</p> <p>7 again after the winter break, or if it's in the</p> <p>8 summer, same thing for the start of the season. So,</p> <p>9 you know, just -- I feel like I have a pretty good</p> <p>10 personal relationship with my kids, and I want to</p> <p>11 see how they're doing. I spend more time with them</p> <p>12 than anybody.</p> <p>13 MS. BULLOCK: Matthew, just so the</p> <p>14 record's clear, when you make your objection to</p> <p>15 form, can you also identify the form, and maybe that</p> <p>16 will make it easier to break up the interrupting</p> <p>17 each other?</p> <p>18 Q. (By Ms. Bullock) So do you keep the team</p> <p>19 updated on any changes that might be coming for the</p> <p>20 next season?</p> <p>21 A. Yes.</p> <p>22 Q. Do you think it's important to keep the</p> <p>23 team updated on those kind of things?</p> <p>24 A. Yeah, I do.</p> <p>25 MR. CRAIG: Objection to form. Vague.</p>
<p style="text-align: right;">Page 27</p> <p>1 A. Weekly. Right now.</p> <p>2 Q. Does that vary at all over the course of a</p> <p>3 year?</p> <p>4 A. Well, if we're in season, we're meeting --</p> <p>5 you know, I see my student-athletes, many of them,</p> <p>6 six days a week. So -- but during the pandemic,</p> <p>7 we've been doing, you know, team meetings every --</p> <p>8 on average, probably every other week on Zoom, and I</p> <p>9 constantly am calling kids and checking in with them</p> <p>10 or texting with them and just seeing how they're</p> <p>11 doing and what their plans are going forward and</p> <p>12 stuff given the pandemic.</p> <p>13 Q. Is there a portion of the year that your</p> <p>14 team is not actively practicing or competing?</p> <p>15 A. Yes. December and January we don't do</p> <p>16 anything. Obviously it's too cold, and the kids are</p> <p>17 in finals and on winter break, and in the summer.</p> <p>18 Q. During that part of the year, are you</p> <p>19 still in regular communication with the team?</p> <p>20 A. Yeah. You know, I think there are --</p> <p>21 yeah. I'll talk to some of them. I mean, we try to</p> <p>22 sort of take a step back for those two months, so I</p> <p>23 wouldn't say it's very regular.</p> <p>24 Q. Why would you need to be in communication</p> <p>25 with your team outside of practice or competition?</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. (By Ms. Bullock) And why?</p> <p>2 A. You know, our kids are very passionate</p> <p>3 about their sport and they care a great deal about</p> <p>4 it and they -- you know, I think that it's important</p> <p>5 to keep them updated as best I can, you know, and</p> <p>6 especially during this pandemic. They don't even</p> <p>7 know if they're going to be back in school or not.</p> <p>8 Q. How often are you in communication with</p> <p>9 your team captains about what's happening right now?</p> <p>10 A. It depends. I mean, it can be multiple</p> <p>11 times a week. I would say on average once a week.</p> <p>12 Q. Do you talk with the team captains more</p> <p>13 than the rest of the student-athletes?</p> <p>14 A. Yeah. I would talk to our key officers,</p> <p>15 yes, our captains and our commodore. Yes. Probably</p> <p>16 more.</p> <p>17 Q. And how do you communicate with them?</p> <p>18 A. Mainly on the phone.</p> <p>19 Q. Who were the -- so you said -- I said</p> <p>20 "captains" but you used the term team "officers"?</p> <p>21 A. Mm-hmm.</p> <p>22 Q. So I want to make sure that we're both</p> <p>23 talking about the same thing. Who are the team</p> <p>24 officers -- who were the team officers for</p> <p>25 2019-2020?</p>

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1 A. Yeah. So we have -- currently our
2 captains are Julia Reynolds and Jack Murphy, so
3 they're co-captains. And then we have a team
4 commodore that's Annabelle Hutchinson. So those are
5 our main -- our main team officers.
6 Q. What is the difference between the team
7 captains and the team commodore?
8 A. Yeah. The commodore does -- you know,
9 usually in the past would help me with organizing,
10 you know, getting kids to practice, you know, events
11 for our program, like alumni regatta. Help with
12 newsletters and -- you know, sort of they're like
13 our number three person behind the captains.
14 So if a captain is, you know, not at
15 practice or something and I need to rely on that --
16 you know, another captain, the commodore is kind
17 of -- you know, slides into that spot. So, you
18 know, I look at those three as our big -- you know,
19 our three biggest leaders on the team.
20 Q. What duties do the team captains have?
21 A. Yeah. You know, they're -- they come to
22 me with any, you know, comments, concerns, questions
23 from kids on the team that might not, you know, come
24 to me directly. I ask them -- you know, I'll sort
25 of run things by them about, you know, "Do you think

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1 it's a good day to take a day off? What do you
2 think?" You know, they obviously spend a lot of
3 time with the kids on the team. They have sort of a
4 good pulse on things.
5 So they -- you know, I rely on them
6 heavily, and they come to me with things that they
7 might want to work on or what kids want to work on
8 on the water, things we can do better. Just like
9 any captain in every sport, they're our leaders, and
10 so they help with running meetings. We do debriefs,
11 video, chalk talks. So they're very, very involved.
12 Q. Who are the team captains for the
13 2020-2021 season?
14 A. Those are the people I just named. So
15 they're our captains for 2020. The way we do it, we
16 do it each year. So our captains are elected in
17 December, and then they start the next year in
18 January.
19 Q. Who elects them?
20 A. It's a democracy. We let the kids vote
21 and they choose.
22 Q. So the other student-athletes?
23 A. Yeah.
24 Q. Do you anticipate two team captains and a
25 commodore for -- will be elected, then, again in

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1 December?
2 A. I do.
3 Q. Let's talk about sailing specifically for
4 a little bit with the caveat that I am not a sailor.
5 So who creates the rules for intercollegiate
6 sailing?
7 A. Yeah. So the Intercollegiate Sailing
8 Association, it's our own -- you know, it's a
9 governing body that is primarily run by the coaches,
10 and we're actually in the process of hiring an
11 outside executive director to run the organization,
12 but the coaches, and there's some alumni and other
13 professional, you know, sailor industry-type people
14 that help with, you know, writing the rules and, you
15 know, run various committees running the
16 organization.
17 Q. And does the Intercollegiate Sailing
18 Association report to the NCAA in any way?
19 A. No. But mirrors the NCAA in many, many,
20 many ways with our rules.
21 Q. Do they differ in any way from the NCAA?
22 MR. CRAIG: Objection to form. Vague.
23 You can answer, Mr. Mollicone.
24 THE WITNESS: Yeah. I mean, I --
25 that's -- I personally am learning right now more

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1 about the NCAA than I have ever now that we're a
2 varsity sport and we have to follow NCAA rules so --
3 but yes, there are some differences. I don't know
4 all of them, but we really try to mirror a lot of
5 the major rules of the NCAA. Particularly, you
6 know, limits on practice times and recruiting and
7 those type of things.
8 Q. (By Ms. Bullock) I'm going to have you
9 look at -- it's going to be the not Bates-stamped
10 but one document that's not Bates-stamped that I
11 emailed. I'm going to share my screen with you so
12 that you can see.
13 MR. CRAIG: I would just ask -- I know
14 we're all sort of figuring out the technical piece,
15 but to the extent it's a multi-page document, you
16 allow the witness to see the whole exhibit that's in
17 front of him.
18 Q. (By Ms. Bullock) Absolutely. So I'm
19 showing you -- this is from the Brown University
20 website. It is the 2019-2020 roster. It was
21 accessed on August 9th. You see this,
22 Mr. Mollicone?
23 A. Yeah.
24 Q. Is this your roster from last year's team?
25 A. Yes.

<p style="text-align: right;">Page 34</p> <p>1 Q. You have to submit a roster to the</p> <p>2 Intercollegiate Sailing Association?</p> <p>3 A. Yes. What we have to do is any sailor</p> <p>4 that competes in a competition, we have to register</p> <p>5 them in a software program that college sailing has,</p> <p>6 and that is essentially if they're eligible and when</p> <p>7 their clock starts for eligibility and stuff.</p> <p>8 Q. When is the competitive sailing season?</p> <p>9 A. Yeah. The first weekend of competition is</p> <p>10 normally the weekend after Labor Day. So usually</p> <p>11 second weekend of September. And then we go all the</p> <p>12 way through the end of October. We compete every</p> <p>13 single weekend various events through the end of</p> <p>14 October, and then the first two weekends of November</p> <p>15 are usually our fall national championships. And</p> <p>16 then we're done after that. There are some winter</p> <p>17 regattas, but we typically don't do them.</p> <p>18 And then February we get going again for</p> <p>19 the spring season, and the first event could be the</p> <p>20 last week of February or early March. And that</p> <p>21 season goes through the end of April. And then the</p> <p>22 national championships for the spring are usually</p> <p>23 mid-May through early June.</p> <p>24 Q. The regular competition season goes from</p> <p>25 September to April with a break in December and</p>	<p style="text-align: right;">Page 36</p> <p>1 championship, the spring national championship, and</p> <p>2 I think you used the word there are different -- did</p> <p>3 you say disciplines?</p> <p>4 A. Yeah.</p> <p>5 Q. Can you explain that to me?</p> <p>6 A. Yeah. So in the fall, there's a women's</p> <p>7 single-handed national championship. That's in a</p> <p>8 single-handed boat, one person. It's called the</p> <p>9 Laser Radial. And the --</p> <p>10 Q. It's called, sorry, the what?</p> <p>11 A. It's called the laser radial, r-a-d-i-a-l.</p> <p>12 That's an Olympic-class boat. So in the end, the</p> <p>13 top 18 women get to that national championship.</p> <p>14 There's a men's laser national championship. That's</p> <p>15 also a single-handed boat. That's also an</p> <p>16 Olympic-class boat.</p> <p>17 And then there's a match racing national</p> <p>18 championship, which is in keelboats, which is</p> <p>19 usually a four- to five-person-sized boat. And one</p> <p>20 female is required minimum on that boat. So it's a</p> <p>21 coed boat. So that's in the fall, the end of the</p> <p>22 fall season in November.</p> <p>23 In the spring, there's the women's</p> <p>24 national championship, which is double-handed, two</p> <p>25 people in a boat. In the end, it's the top 18 teams</p>
<p style="text-align: right;">Page 35</p> <p>1 January?</p> <p>2 A. Yeah, pretty much.</p> <p>3 Q. And then the championship season starts in</p> <p>4 May?</p> <p>5 A. Yes.</p> <p>6 MR. CRAIG: Objection. Misstates prior</p> <p>7 testimony.</p> <p>8 THE WITNESS: Yeah.</p> <p>9 Q. (By Ms. Bullock) You said the national</p> <p>10 championships start in May?</p> <p>11 A. There's --</p> <p>12 MR. CRAIG: Objection. Misstates prior</p> <p>13 testimony.</p> <p>14 Q. (By Ms. Bullock) Sorry. What, sir?</p> <p>15 A. There are fall national championships and</p> <p>16 there are spring national championships. They're</p> <p>17 different disciplines, you could say, all the</p> <p>18 nationals. They're all a little bit different.</p> <p>19 Q. I apologize. This is one of these fun</p> <p>20 things about doing this on Zoom. I forgot to mark</p> <p>21 that exhibit so we will mark that as Exhibit 1, the</p> <p>22 Brown sailing 2019-2020 roster, for the record.</p> <p>23 Just realized that. Who sets the sailing season?</p> <p>24 A. The ICSA.</p> <p>25 Q. And you said so there's the fall national</p>	<p style="text-align: right;">Page 37</p> <p>1 get to the national championship.</p> <p>2 For the coed, there's a coed national</p> <p>3 championship. Same deal, top 18 teams get to the</p> <p>4 national championship. And coed is open. It can be</p> <p>5 two males in a boat, two females in a boat, or one</p> <p>6 of each. So you can do whatever you want. The coed</p> <p>7 is you're ultimately putting your two best sailors</p> <p>8 in the boat.</p> <p>9 And then there's team racing, which is</p> <p>10 three-on-three competition in double-handed boats.</p> <p>11 Whereas all the other racing we do is all -- you</p> <p>12 know, I always compare it to, like, NASCAR or</p> <p>13 something. You're racing around a track and you're</p> <p>14 trying to beat everybody else, and the first boat</p> <p>15 that crosses the finish line wins. Team racing is</p> <p>16 three on three. And that's coed. Okay?</p> <p>17 And then we added a women's national team</p> <p>18 race championship, which is supposed to start in the</p> <p>19 spring of 2022. It was supposed to start in 2021,</p> <p>20 but because of the pandemic, we're pushing it a year</p> <p>21 later.</p> <p>22 Q. So the women's national team racing is</p> <p>23 not -- you said spring of 2022 that that should</p> <p>24 start?</p> <p>25 A. Yeah. That should be the first year of</p>

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1 that, yeah. So right now we have a -- we call it
2 the national women's team racing invitational, which
3 is sort of the national -- sort of the nationals
4 right now. We've actually hosted it at Brown the
5 last two years, and we actually won it last year.

6 Q. Can you explain to me how Brown qualifies
7 for a championship or to be one of those 18 teams?

8 A. Yeah. So they're all a little bit
9 different on how it works, but mainly you're in a
10 conference. We're in the New England
11 Intercollegiate Sailing Association. There's seven
12 conferences in college sailing, okay? We're in
13 New England. We're in the largest, most difficult
14 conference in college sailing. Most of the top
15 teams are in New England.

16 So based on the size of our conference,
17 we're allotted a certain number of berths to the
18 national championship, but for the women's in that
19 coed spring nationals, it's a little bit different.
20 Okay. Those are our two premier national
21 championships. And we actually have a semi-final
22 national qualifier to get to the finals. So we'd
23 start by having our New England championship. We're
24 given a certain number of spots for that semifinal.
25 And then we have to do the semifinal to get to the

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1 final.

2 So the coed and women's spring nationals,
3 that's how that works. All the other ones are based
4 on how many spots you get from your New England
5 championship, your conference championship. And you
6 directly go to the finals from that conference
7 championship.

8 Q. So do you have to win the semifinals to
9 make it on to that championship?

10 A. No. No. So in most sailing events,
11 there's 18 teams at a regatta, so there's 18 boats.
12 And, you know, for example, we have 18 boats at
13 Brown so we host the regatta, we have 18 teams.
14 That's how most regattas work. The national
15 championship final is 18 teams.

16 There's actually two divisions. So you'd
17 get a boat in the A division and the B division.
18 Okay? And then you combine the scores from those
19 two boats, and that's how you get your team score.
20 All right?

21 So if you were to go out and win the first
22 five races in A division, you'd have five points,
23 and then your B division went out and won their next
24 five races, they would have five points. You'd have
25 ten as a team. Okay. So that's how the scoring

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1 works in most of the college sailing events.

2 So to get to the final for that coed and
3 women's -- so we won the women's last year. Our
4 path to get there was first we had to sail the
5 New England championship. Okay. There were 16 or
6 18 teams. It was at MIT. We finished second.

7 Okay. The top ten teams made it to the semifinal
8 because our conference has the most women's teams of
9 any conference in college sailing. So we made it to
10 the semifinal by getting second, and there were at
11 least ten spots. I think there were 10 or 11 spots.
12 And then you go to the semifinal.

13 And in the end, there's 36 teams from
14 around the country that made it to that semifinal
15 between all seven conferences. Some conferences get
16 more berths than others. It depends on how big the
17 conference is. Those two semifinals are two days
18 long. They're right before the national
19 championship final. There's 18 boats in each of the
20 two semifinals. Okay. So 18 teams in each. The
21 top nine from those 18 make it to the final. So
22 you're seeded into one of those two semifinals.

23 So our past last year, we got second at
24 the New England women championship. We won our
25 qualifier semifinal. Okay. Out of 18, the top nine

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1 made it to the final. And then we won the final,
2 which was the next two days of the top 18 teams in
3 the country.

4 Q. Who creates the schedule -- actually,
5 let's back up. You used the term "regatta."

6 A. Mm-hmm.

7 Q. Can you explain what a regatta is, for the
8 record?

9 A. A regatta is -- that's our game. That's
10 our competition. It's when it counts. In sailing,
11 any competition is called a regatta.

12 Q. Who creates the schedules for the
13 regattas?

14 A. The ICSA and each conference. So the ICSA
15 creates the -- what you would call the higher-level
16 events, the varsity-level events, we call them, or
17 the A-level events. So, like, every weekend,
18 there's a women's A-level event and there's a coed
19 A-level event, and there might be a couple because,
20 you know, our country's big and there's different
21 conferences and everything.

22 So the ICSA creates those high-level
23 events and the national championships, and then each
24 conference adds their own events to that schedule
25 each weekend. So in New England, because we have

<p style="text-align: right;">Page 42</p> <p>1 the most teams, we'll have opportunity to sail in --</p> <p>2 you know, we can sail in as many as eight regattas a</p> <p>3 weekend if we wanted to.</p> <p>4 Q. So how do you select which regattas to</p> <p>5 sail in which weekends?</p> <p>6 A. Yeah. So it's a draft system. It's based</p> <p>7 on how strong your team is based on the previous</p> <p>8 fall. So, for example, our schedule for this year,</p> <p>9 if it were to happen, was picked based on how we</p> <p>10 performed in the fall of 2019. Okay. And then we</p> <p>11 selected our schedule via draft system in December</p> <p>12 usually after that fall. That's how that works.</p> <p>13 All right.</p> <p>14 So every time you go and compete in a</p> <p>15 regatta, if it's a really strong event and you do</p> <p>16 well, your performance ranking improves within</p> <p>17 your -- that's how we do it in New England. Every</p> <p>18 conference does it differently.</p> <p>19 And so amongst all the teams in New</p> <p>20 England, a certain number of the events count in the</p> <p>21 fall, and in the end, whoever has the -- you know,</p> <p>22 the best performance ranking number gets the first</p> <p>23 pick in the draft, and then, you know, the second</p> <p>24 team gets the second pick and there's a -- you know,</p> <p>25 it's not always 1 through infinity on the picks. It</p>	<p style="text-align: right;">Page 44</p> <p>1 lot of events and get a lot of opportunity to</p> <p>2 compete.</p> <p>3 Q. So the regattas only happen on the</p> <p>4 weekends?</p> <p>5 A. Yeah. Except for the nationals. The</p> <p>6 nationals -- our spring national championship is</p> <p>7 over a two-week period straight, and some of the</p> <p>8 fall nationals are Friday, Saturday, Sunday.</p> <p>9 Everything else is weekend stuff.</p> <p>10 Q. So how many different competition weekends</p> <p>11 are there in a typical season?</p> <p>12 A. Yeah. So you're allowed to do 18</p> <p>13 competition weekends. That's a college sailing</p> <p>14 rule. For us, you know on average, we're doing nine</p> <p>15 in the fall, nine in the spring. And you have to</p> <p>16 manage it as your team. Some teams might do ten one</p> <p>17 semester and eight the other, but if you practice on</p> <p>18 a weekend with another team, that counts as a</p> <p>19 competition weekend. Some teams might do an</p> <p>20 organized practice in May before nationals, and that</p> <p>21 counts, so you have to kind of manage, you know,</p> <p>22 your weekends.</p> <p>23 Q. Any time you're doing something with</p> <p>24 another team, that counts as a competition weekend?</p> <p>25 A. On a weekend. Not during the week. So</p>
<p style="text-align: right;">Page 43</p> <p>1 varies. The first round could be the top four teams</p> <p>2 and the second round it's 1 through 8. So in the</p> <p>3 end, the best teams get the best pick. Okay?</p> <p>4 VIDEOGRAPHER: Ms. Bullock, this is the</p> <p>5 videographer.</p> <p>6 MS. BULLOCK: Yes.</p> <p>7 VIDEOGRAPHER: If you want to stop your</p> <p>8 screen share, then the recording will be the witness</p> <p>9 as a larger screen. Okay. Thank you.</p> <p>10 Q. (By Ms. Bullock) What are your objectives</p> <p>11 when you're selecting regattas?</p> <p>12 A. We want to be in the best events, you</p> <p>13 know, competitively, and we also want to have events</p> <p>14 that are easy to get to. So for us, you know, our</p> <p>15 average weekend for us, we're always in the top coed</p> <p>16 event. We're always in the top women's event. And</p> <p>17 then the rest are a mix of -- you know, there could</p> <p>18 be some lower-level women's events. There could be,</p> <p>19 you know, another varsity-level coed event or</p> <p>20 mid-level, you know, events that are close by.</p> <p>21 So it just -- for us, we're in a really</p> <p>22 great spot at Brown because we don't have to travel</p> <p>23 very much. Most of the regattas are between Boston</p> <p>24 and Yale so, you know, we're in a nice little bubble</p> <p>25 here. We don't have to go far. So we can be in a</p>	<p style="text-align: right;">Page 45</p> <p>1 you can practice -- you know, we can have -- let's</p> <p>2 just say we're hosting a big regatta at Brown, and</p> <p>3 Stanford's in town from California and they fly in</p> <p>4 Friday morning. They could practice with us that</p> <p>5 Friday before that regatta.</p> <p>6 MR. CRAIG: Ms. Bullock, I'm not trying to</p> <p>7 interrupt sort of your flow and set of questions,</p> <p>8 but sometime soon, I think it would be helpful just</p> <p>9 to take a brief break, get some water and go to the</p> <p>10 bathroom, but it doesn't need to be right this</p> <p>11 second, so I want to defer to you if there's a set</p> <p>12 of questions you want to finish up, but I just</p> <p>13 wanted to flag.</p> <p>14 MS. BULLOCK: There's not a really natural</p> <p>15 breaking point for probably the next, I'm going to</p> <p>16 say, half hour so if we want to take just, like, a</p> <p>17 quick three-minute break, I'm going to -- we can go</p> <p>18 off the record.</p> <p>19 VIDEOGRAPHER: Off the record at 9:08 a.m.</p> <p>20 (Recess taken from 9:08 to 9:26 a.m.)</p> <p>21 VIDEOGRAPHER: On the record at 9:26 a.m.</p> <p>22 Q. (By Ms. Bullock) Mr. Mollicone, when we</p> <p>23 left off, you said Brown typically does 8 regattas</p> <p>24 in the fall -- sorry, nine regattas in the fall and</p> <p>25 9 regattas in the spring, correct?</p>

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1 A. Yeah. I mean, it could be 10 and 8. You
2 know, it varies year to year.
3 Q. But 18 total?
4 A. Yes. We have an 18 max limit for
5 competition weekends.
6 Q. Is that as a college?
7 A. That's as the ICSA rules. That's an
8 Intercollegiate Sailing Association rule, that no
9 team can compete no more than 18 weekends.
10 Q. And when you say "no team," does that mean
11 the college as a whole?
12 A. Yeah. If you're representing your
13 college. Yeah.
14 Q. You sort of already alluded to this, but
15 does Brown ever attend more than one regatta in a
16 weekend?
17 A. Yes. Every weekend. For the most part.
18 Q. What's the average number of regattas that
19 Brown enters in a weekend?
20 A. I would say, on average, four a weekend.
21 Sometimes we could be in six or seven. We've been
22 in as many as eight over the years. Sometimes we're
23 in two. But I would say we probably average around
24 four per weekend.
25 Q. And then are there different events at a

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1 regatta?
2 A. No.
3 MR. CRAIG: Objection to form.
4 THE WITNESS: A regatta is a regatta so
5 it's -- every regatta could be different, but there
6 aren't different events within a regatta.
7 Q. (By Ms. Bullock) And how could the
8 regattas be different?
9 A. On a given weekend, you have a women's
10 event. You have a coed event, which usually there's
11 one of each. That's sort of the A level, varsity
12 level, whatever you want to call it. And then you
13 could have a keelboat event, which is in a totally
14 different kind of boat, or you could have a team
15 racing event, which is three on three. You could
16 have a single-handed event.
17 So it kind of varies. You know, some
18 weekends there's lots of different types of things
19 going on, but every weekend, there's always, no
20 matter what, at least a coed event and a women's
21 event.
22 Q. So when you -- I just want to make sure I
23 understand. So if a regatta -- the regatta would be
24 a coed regatta or a women's regatta --
25 A. Mm-hmm.

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1 Q. -- that weekend?
2 A. Yeah. I mean, there's -- we're always in
3 at least one -- you know, both of those every
4 weekend, and then the rest are -- like I said, could
5 be, you know, a number of different things every
6 weekend going on, and we try to pick, like I said,
7 on average, probably four events overall a weekend
8 or sometimes more.
9 Q. So in a single regatta, you wouldn't have
10 team boat racing and single-handed racing?
11 A. No. No.
12 Q. How many total regattas does Brown enter
13 each year?
14 A. We've been probably anywhere from 70 to 90
15 regattas a year.
16 Q. Earlier you said, when you were talking
17 about the scheduling and the draft, that there are
18 A-level regattas. Are there -- what are the
19 different levels of regattas?
20 A. Yeah. There's A level, which I would say,
21 again, we call it the varsity-level event. It's
22 pretty much all varsity teams there. It's all the
23 best teams. There's B level, which is -- and this
24 is how we do it in New England. This is how we
25 structure our schedule.

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1 B level is for teams that might not be
2 good enough to get in the A level but also for
3 A-level teams to send their next best team. Okay.
4 So you're developing. Right.
5 And then there's also C level, which is
6 really like a true club program, student-run, you
7 know, teams that aren't even good enough to ever get
8 in the A level and maybe not even in the B level, or
9 for us, we might send our newer sailors, or yacht
10 club-level sailors to something like a C-level
11 event.
12 Q. If you're sending -- if you're attending,
13 you know, on average four regattas in a weekend,
14 which one do you go to?
15 A. I either go to the A-level coed or A-level
16 women's event, and I kind of rotate between -- back
17 and forth between the women and the coed.
18 Q. Do you have an assistant coach that goes
19 to a different regatta than you?
20 A. Yes. So I have two -- typically, I have
21 two other assistant coaches every weekend, so
22 there's three of us. One of us will be at the A
23 level women's, one of us at the A-level coed, and
24 the other one will be at one of the other events.
25 Q. Are the various regattas that you attend

<p style="text-align: right;">Page 50</p> <p>1 divided into men's and women's?</p> <p>2 MR. CRAIG: Asked and answered.</p> <p>3 Q. (By Ms. Bullock) You can answer.</p> <p>4 A. Okay. So defined into men's and women's?</p> <p>5 Q. Divided into men's and women's?</p> <p>6 A. No. A regatta is either coed or it's</p> <p>7 women's. There's no men's. The only men's event is</p> <p>8 the men's single-handed national championship and</p> <p>9 the qualifier for the fall. That's it.</p> <p>10 Q. Does Brown compete in that?</p> <p>11 A. Yeah. If we qualify for the nationals,</p> <p>12 yes, and we have qualified for it many times.</p> <p>13 Q. How do you qualify for that national?</p> <p>14 A. How you do at the New England</p> <p>15 championship. So in the fall, there's a New England</p> <p>16 championship. Usually for the men, it's the top</p> <p>17 four in New England qualify, and then you go to the</p> <p>18 nationals. So last year, we had a freshman actually</p> <p>19 qualify from our team, and he finished fifth at the</p> <p>20 national championship out of 18.</p> <p>21 And the reason why that is men's only is</p> <p>22 because of the type of boat. It's called a laser.</p> <p>23 It's an Olympic-class boat, and it's made for a</p> <p>24 bigger person. It's made for, like, a, you know,</p> <p>25 180-pound, 170-pound male to be in the boat. A</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Yeah, exactly. Yeah. It does not count</p> <p>2 for the nationals.</p> <p>3 Q. It's like most other college sports, then,</p> <p>4 in that way?</p> <p>5 A. Yeah.</p> <p>6 (Mr. Bryant joined the Zoom meeting.)</p> <p>7 MR. CRAIG: Just while you're looking at</p> <p>8 your questions, I don't know if it makes sense to</p> <p>9 have Mr. Bryant be identified in the transcript just</p> <p>10 to reflect that he has joined.</p> <p>11 MS. BULLOCK: Yeah. Mr. Bryant has --</p> <p>12 Arthur Bryant, attorney for plaintiff class, has</p> <p>13 joined the deposition.</p> <p>14 Q. (By Ms. Bullock) So the same question, but</p> <p>15 how many coed regattas does Brown enter in a typical</p> <p>16 season?</p> <p>17 A. You know, I would say you probably could</p> <p>18 say three on average a weekend over 18 weekends,</p> <p>19 plus the national championships. So probably 60,</p> <p>20 50-something.</p> <p>21 Q. Will that change with the creation of the</p> <p>22 varsity sailing program?</p> <p>23 MR. CRAIG: Objection to form. Vague.</p> <p>24 THE WITNESS: Yeah. I hope not.</p> <p>25 Q. (By Ms. Bullock) Is the schedule already</p>
<p style="text-align: right;">Page 51</p> <p>1 female can't sail it. So the females have their</p> <p>2 laser radials that they use. That's their</p> <p>3 Olympic-class singlehanded boat.</p> <p>4 Q. And so if you send student-athletes to an</p> <p>5 A-level coed, an A-level women's, does that still</p> <p>6 just count as just one weekend?</p> <p>7 A. Yes. Yeah.</p> <p>8 Q. How many all-women regattas does Brown</p> <p>9 typically enter in a season?</p> <p>10 A. Well, we're in one every single weekend.</p> <p>11 Some weekends we're in multiple if they're offered.</p> <p>12 So we try to go to all of them. But I would say,</p> <p>13 you know, if we're in 18 competition weekends, we'll</p> <p>14 do let's just say 18 at least women's only. But</p> <p>15 there's some weekends where there's multiple women's</p> <p>16 events.</p> <p>17 And then not included in that -- I</p> <p>18 probably should have said this earlier when you</p> <p>19 asked about the competition weekends. The national</p> <p>20 championship weekends don't count in those 18</p> <p>21 weekends. So when you add the nationals as well,</p> <p>22 you know, we could be in 20-something women's</p> <p>23 competitions a year.</p> <p>24 Q. So you don't have to reserve any of those</p> <p>25 weekends to use on the championships?</p>	<p style="text-align: right;">Page 53</p> <p>1 set -- you said that -- I believe you testified</p> <p>2 earlier that you typically set the schedule in</p> <p>3 December after the season when you do the draft,</p> <p>4 after the fall competitions?</p> <p>5 A. Yeah. Our schedule was set for the fall,</p> <p>6 and then we found out that we got elevated to</p> <p>7 varsity, and then we found out shortly after that</p> <p>8 that we weren't able to compete this fall in the Ivy</p> <p>9 League so, you know, we have no competition.</p> <p>10 And then the spring schedule for us, we</p> <p>11 have not set yet. We would set that, based on this</p> <p>12 fall, in December, but I think what we'll end up</p> <p>13 doing is taking our performance ranking from last</p> <p>14 year, and everybody's will just carry into next</p> <p>15 spring, because we have no fall season.</p> <p>16 Q. So will you still -- with the caveat that</p> <p>17 that is all probably very fluid --</p> <p>18 A. Yeah.</p> <p>19 Q. -- is there still the plan, if you're</p> <p>20 allowed to compete in the spring, to have that</p> <p>21 postseason or championship season at the end?</p> <p>22 MR. CRAIG: Objection to form. You can</p> <p>23 answer.</p> <p>24 THE WITNESS: Yeah. I mean, that's the</p> <p>25 plan. That's the plan. I don't think college</p>

<p style="text-align: right;">Page 54</p> <p>1 sailing will make a decision on the spring until 2 this winter, until we know. You know, we're sort of 3 doing -- we basically need to have 75 percent of the 4 teams able to compete in order to have a national 5 championship. That's what we've decided. So we 6 canceled the fall national championships because we 7 don't have 75 percent of the teams, and the spring 8 will be the same kind of thing.</p> <p>9 Q. (By Ms. Bullock) Do you know how the draft 10 will be conducted if there is a spring season?</p> <p>11 A. Yeah. I think, like I said, we'll carry 12 our performance ranking from last year, okay, since 13 we don't have a fall season, and we'll redo the 14 draft again for the spring.</p> <p>15 Q. And you would anticipate the scheduling 16 would be just as it's been the past 20 --</p> <p>17 A. Yeah, in December.</p> <p>18 MR. CRAIG: Objection to form.</p> <p>19 THE WITNESS: Yeah.</p> <p>20 Q. (By Ms. Bullock) Do the -- you kind of 21 answered this, but I just want to make sure I 22 understand. Do the different levels of regattas 23 play any part in your ability to qualify for 24 championships?</p> <p>25 A. Yes, they can. So the New England</p>	<p style="text-align: right;">Page 56</p> <p>1 A. Yeah. It depends on the event. There's a 2 lot of factors involved. One is the level of the 3 event. Okay? If it's an A-level event, we're going 4 to bring more people. You know, that's an event we 5 want to win.</p> <p>6 And so part of it is also the conditions 7 and the weather forecast. Okay. So if it looks 8 like it's going to be windy for the weekend, we're 9 going to bring more players. We need more bodies. 10 The windier it gets, the more weight you add to the 11 boat. Okay. So we might swap out one person in the 12 boat who's light for a heavier person if it looks 13 windy.</p> <p>14 Okay. So there's different role players 15 based on the conditions. Pretty much every skipper 16 on a team, the person that drives the boat, at the 17 highest level, has three crews. Okay? And then big 18 events, we'll bring multiple backup skippers as 19 well. So I would say a big event, like a 20 New England championship, a national championship, a 21 fall championship, we could bring as many as 12 22 student-athletes to the event.</p> <p>23 Q. So that's for a championship. What about 24 one of the A-level events?</p> <p>25 A. Yeah. And, again, if it looked like it</p>
<p style="text-align: right;">Page 55</p> <p>1 championship, for example -- so every conference 2 does it differently, but in New England, your 3 performance ranking, based on your regattas -- and 4 really the A-level events are the ones that really 5 count in that ranking if you want to have a good 6 ranking. That might determine if you even get into 7 the New England championship. Okay?</p> <p>8 In New England, we have 40 or so coed 9 programs. The top 18 get to the New England 10 championship, and that's based on performance.</p> <p>11 Okay? It's never a problem for our program, but 12 there are programs on the bubble that have to go out 13 and really try to do well in those B-level events 14 that might make up the 17th and 18th spot at the 15 New England championship.</p> <p>16 So, you know, your performance ranking, 17 it's important for your scheduling. Obviously, you 18 want to get the best events. You want the best 19 competition. That's how you get better. That's 20 what helps your ranking performance-wise, your 21 national ranking, getting you to the New England 22 championship, which ultimately is how you get to the 23 national championship.</p> <p>24 Q. How many student-athletes does Brown 25 typically send to one regatta?</p>	<p style="text-align: right;">Page 57</p> <p>1 was going to be windy, we could bring as many as, 2 you know, possibly 10 or 12. If -- there's 3 sometimes we might sail a different group each day. 4 So those things could happen too. As we sort of 5 manage our team and avoid burnout and different 6 opportunities for people here and there, you're 7 trying to develop kids as well and give them 8 opportunities at that level.</p> <p>9 Q. If it's not windy, what would be the 10 typical?</p> <p>11 A. You know, I would say for the most part at 12 an A-level event, we're always bringing at least six 13 people. It's possible if it's light, only four 14 people would sail, two in each boat, each division 15 the whole time. It just depends. It varies weekend 16 to weekend.</p> <p>17 Q. In those B-level events, same?</p> <p>18 A. B level, we'll do -- sometimes it's the 19 same group of four or five or six kids. Sometimes 20 we'll do a different group each day.</p> <p>21 Q. When you say do a different group of kids, 22 so the student-athletes that sail on Saturday don't 23 necessarily have to be the same student-athletes 24 that sail on Sunday?</p> <p>25 A. Exactly. Or they could sail in a</p>

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1 different event the next day. Or we might say,
2 "You're going to sail Saturday in the B-level event,
3 but we need you Sunday at the A-level event because
4 it's going to be windy and we're going to bring you
5 there." So it can change. The only big rule on the
6 weekend stuff is you can't sail in two different
7 events in one day, but you can change day to day.
8 Q. So other than wind, how do you make the
9 determination of which student-athletes you're
10 sending to a regatta?
11 A. You know, I would say early in the fall,
12 we're trying to give different people opportunities,
13 so we might mix it up a little bit in September.
14 Maybe not always have who we think might be our top
15 two sailors every weekend sailing in the A-level
16 event. We want to provide opportunity and see how
17 people do. Because the best way is to see how they
18 do in the regatta and what the result is.
19 But over time, you're going to send your
20 best team to the A-level events. And that shakes
21 out with regatta results, practice, team commitment.
22 Like any other sport, right, your best players are
23 going to start and play the most. So it shakes out
24 that way, you know, after that first month of the
25 year.

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1 Q. So if you send 10 to 12 kids on a windy
2 day to one regatta, or student-athletes --
3 A. Yeah.
4 Q. -- what are the student-athletes doing if
5 they're not in a boat sailing?
6 A. They're dressed, ready to go most of the
7 time. If they're not -- sometimes they're on the
8 water as a reserve in case they have to go in.
9 Sometimes they're down on the dock supporting their
10 teammates when they come in -- we do a lot of
11 switching boats. We rotate boats to make it even.
12 Because sometimes the boats are not all perfectly
13 the same. So every two races, you typically come in
14 and rotate.
15 And also you have to come in to get a
16 break, you know, like -- sailing is unique in that
17 it's not a two-hour game on a Saturday. It's all
18 day. Okay. So these kids are -- they're gone all
19 day on a Saturday competing, and then Sunday, it's
20 most of the day. So they need a break here and
21 there to use the bathroom. They get a quick lunch
22 break. You get an opportunity to switch out crews
23 or skippers if you need to.
24 Sometimes there's no wind and you're
25 sitting around half the day waiting for wind, and so

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1 they're doing homework and stuff like that.
2 Q. And so you had said they can -- sometimes
3 you'll send student-athletes to a different regatta
4 for Sunday. Do they otherwise typically stay
5 overnight between Saturday and Sunday wherever they
6 are?
7 A. Yeah. We don't have to travel very much.
8 They're sleeping in their own beds almost every
9 weekend. We do -- we do have to travel twice a
10 semester to Maryland, okay, for a qualifier and a
11 championship in the fall. We usually do -- the fall
12 championship and a qualifier are down there. They
13 rotate for coed and women's between New England and
14 the Mid-Atlantic. So we'll go to Maryland twice in
15 the fall. One time it's the women's team. One time
16 it's the coed team.
17 And then in the spring -- actually, the
18 last event that we competed in the spring before the
19 pandemic, we went down to Maryland for a women's
20 event and a coed event in different locations. So
21 we'll go down in the spring a couple times.
22 And outside of going to Maryland,
23 everything's in New England for us except national
24 championships, and the kids are in their own beds
25 90-plus percent of the weekends. And I would say

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1 the outliers on the weekend are Dartmouth and
2 Bowdoin. If we have to go there, we'll stay a
3 Saturday night at those venues.
4 Q. But the students can go from one regatta
5 on Sunday to a different -- or one regatta on
6 Saturday to a different regatta on Sunday?
7 A. They can, and we'll really only do that at
8 the local events, like between Boston and
9 Connecticut. You can't do that if they're up at
10 Dartmouth, for example.
11 Q. You do that very often?
12 A. I mean, not very much, but we do it. You
13 know, I would say it could happen, you know, to
14 somebody -- at least a person or two, it could
15 happen every weekend, every other weekend. It
16 could.
17 Q. Is it possible for every student-athlete
18 on the team to compete every weekend?
19 MR. CRAIG: Objection to form. Confusing.
20 THE WITNESS: Is it possible? It would be
21 difficult because there are enough regattas where
22 every single kid could compete, but trying to get
23 them all there at each event -- there's a lot of
24 moving pieces -- would be tough, and you have to
25 give kids weekends off. You know, college sailing's

<p style="text-align: right;">Page 62</p> <p>1 a grind. You know, it's a two-season sport. Like I 2 said, the games -- the regattas are all weekend. 3 So we try to manage our roster in a way 4 that we're giving a good amount of kids a weekend 5 off every weekend. So we try not to sail every kid 6 on the team every weekend the entire time. We just 7 can't do that. 8 And you have injuries. You have kids who 9 need a weekend off because school work. You know, 10 it's just -- you can't have everybody competing 11 every single weekend. You just can't do it. But 12 you could if there's enough regattas if we entered 13 them, we could do it. 14 Q. (By Ms. Bullock) And would you be able 15 to -- I guess, based on the draft, you'd be able to 16 enter Brown into that many regattas? 17 A. Yeah. We could. 18 Q. Do you anticipate the process that you 19 normally follow for giving, you know, kids the 20 weekend off or not competing everyone every weekend 21 to change at all at varsity status? 22 A. I don't think so. 23 MR. CRAIG: Objection to form. 24 MS. BULLOCK: Can you clarify your 25 objection, Matthew?</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. (By Ms. Bullock) Okay. Do you receive 2 some sort of written performance evaluation? 3 A. Yes. 4 Q. Is part of the written performance 5 evaluation overall team success? 6 A. It's on there. Yeah. 7 Q. When does your team start practicing for 8 the season? 9 A. In the fall, we usually start a week 10 before school starts, so we do a preseason. I think 11 that the rules now state that we're varsity that we 12 can start practice two weeks before the first 13 competition, so that's basically what we've been 14 doing, is about a week before school starts. 15 In the spring, we usually start early 16 February, you know, as soon as, you know, the kids 17 are back in school for a week or two. We let them 18 sort of get acclimated with classes and everything. 19 We get going, as long as it's safe to be on the 20 water. 21 Q. Does practice in February depend on the 22 weather? 23 A. Absolutely, yes. The last couple winters 24 have been mild so February we've had a lot of good 25 days of sailing. But, you know, we have to take it</p>
<p style="text-align: right;">Page 63</p> <p>1 MR. CRAIG: Calls for speculation. 2 MS. BULLOCK: You can answer. 3 MR. CRAIG: I believe he answered. 4 THE WITNESS: I don't see a whole lot 5 changing with how we've been operating. 6 Q. (By Ms. Bullock) Is your performance as a 7 coach evaluated in part on your team's success? 8 A. Yes, I think so. I don't do my evaluation 9 so you'd have to ask my supervisor, but she always 10 asks for our results. She follows how we do. And I 11 think it plays into it. 12 Q. And does that include making it to 13 championships and winning championships? 14 A. Sure, I would -- 15 MR. CRAIG: Objection to the form. 16 MS. BULLOCK: Matthew, again, I'm going to 17 ask that you just make sure that you clarify what 18 form objection you're making for the record. 19 MR. CRAIG: It called for speculation. He 20 had already answered that he doesn't do his own 21 evaluation, and your follow-up question asked what 22 his evaluation included, so it calls for 23 speculation. 24 MS. BULLOCK: You can answer. 25 MR. CRAIG: He already answered.</p>	<p style="text-align: right;">Page 65</p> <p>1 day by day. You know, we have to be careful if it's 2 too cold or too windy. Obviously, the water's 3 pretty cold. 4 Q. And so as varsity status, you anticipate 5 starting practice -- or, you know, as a varsity 6 team -- sorry -- you anticipate starting practice 7 the same time, one week before school starts? 8 A. Yes. 9 MR. CRAIG: Misstates prior testimony, but 10 you can go on. 11 Q. (By Ms. Bullock) How often do you 12 practice? 13 A. We practice four days a week, Tuesday 14 through Fridays, roughly 3 to 6 p.m. We always take 15 Mondays off. We have to have a mandatory day off so 16 Monday's our day off. And we do a team workout 17 every Tuesday morning from 7:30 to 8:30 or so. But 18 that will probably be increased now with the use of 19 strength and conditioning. 20 Q. I'm sorry. You cut out there at the end. 21 With what? 22 A. I would say our workouts will probably 23 increase now that we get use of strength and 24 conditioning as part of the varsity athletics. 25 Q. Does every student-athlete participate in</p>

<p style="text-align: right;">Page 66</p> <p>1 practices?</p> <p>2 A. Not everyone. And I would say as a club</p> <p>3 team in the past, if we had 42 kids on our roster</p> <p>4 last year, 30-something of them were super</p> <p>5 committed, you know, wanted to sail at the highest</p> <p>6 level, wanted to sail every weekend, and there were</p> <p>7 a handful of kids who, you know, they got into some</p> <p>8 events and they competed, but they weren't at</p> <p>9 practice every single day. We would kind of</p> <p>10 consider them to be yacht club-type sailors.</p> <p>11 Q. Do you anticipate that changing with</p> <p>12 varsity, every student practicing?</p> <p>13 A. Yeah. I mean, the varsity roster is going</p> <p>14 to be -- we're going to be held to -- you know, to</p> <p>15 certain numbers, and the kids that make that roster</p> <p>16 are going to be -- you know, it's going to be --</p> <p>17 their commitment's going to be a huge part of that,</p> <p>18 and if somebody is not going to be committed,</p> <p>19 they're not going to be on that roster and they</p> <p>20 would be on the yacht club team.</p> <p>21 Q. What is a yacht club sailor?</p> <p>22 A. You know, I think it could be one of two</p> <p>23 things. It's somebody who either doesn't want to</p> <p>24 make the commitment to sail varsity and the time</p> <p>25 commitment that it is, because it's a really big</p>	<p style="text-align: right;">Page 68</p> <p>1 A. Yeah.</p> <p>2 Q. -- you mean the women who are going to</p> <p>3 compete in the women's regatta that weekend?</p> <p>4 A. Yes. Yeah.</p> <p>5 Q. And so the other coach might be working</p> <p>6 with the men and women who are going to be competing</p> <p>7 in the coed regatta that weekend?</p> <p>8 A. Yes.</p> <p>9 Q. Do all of the students spend the same</p> <p>10 amount of time actually in a boat sailing during</p> <p>11 practice?</p> <p>12 A. Yeah, for the most part, unless somebody</p> <p>13 has to leave early for a class or something, yeah.</p> <p>14 Q. Do you anticipate that changing at all at</p> <p>15 varsity?</p> <p>16 A. No. I think there will always be</p> <p>17 conflicts. There's always kids who have a class</p> <p>18 that runs late and comes into practice or they have</p> <p>19 to leave early for a class, so those things are -- I</p> <p>20 don't think those things will ever go away.</p> <p>21 Q. When we're talking about the club team</p> <p>22 being elevated to varsity status, is there a varsity</p> <p>23 team at this moment?</p> <p>24 A. As far as I know, there is, yes.</p> <p>25 Q. Are all of the details about the varsity</p>
<p style="text-align: right;">Page 67</p> <p>1 time commitment, or somebody's just not qualified</p> <p>2 enough to be on the varsity team as a</p> <p>3 student-athlete.</p> <p>4 Q. Are the practices uniform for all of the</p> <p>5 student-athletes that are participating?</p> <p>6 MR. CRAIG: Objection to form. Vague.</p> <p>7 THE WITNESS: I would say it varies day to</p> <p>8 day. Some days we'll have -- with two coaches --</p> <p>9 there's always two coaches at practice. Some days</p> <p>10 we'll split into groups, and I might take the</p> <p>11 women's team that's going to compete, you know, in a</p> <p>12 women's event for the weekend and work with them.</p> <p>13 The other coach might have everybody else. Or we</p> <p>14 might bring everybody together and we all sail</p> <p>15 together. It kind of varies, you know.</p> <p>16 In general, the best way to get good at</p> <p>17 sailboat racing is to have as many boats as possible</p> <p>18 sailing against each other in practice, so for the</p> <p>19 most part, we sail 18 boats for practice most days.</p> <p>20 We have all 18 boats sailing on the same starting</p> <p>21 line, the same racecourse, with each other as much</p> <p>22 as we can.</p> <p>23 Q. (By Ms. Bullock) So when you say you might</p> <p>24 take the women's team and practice with them, do</p> <p>25 you --</p>	<p style="text-align: right;">Page 69</p> <p>1 team finalized?</p> <p>2 MR. CRAIG: Objection to form. Calls for</p> <p>3 speculation. You can answer.</p> <p>4 THE WITNESS: Yes. Could you please, I</p> <p>5 guess, rephrase that question?</p> <p>6 Q. (By Ms. Bullock) You just stated as far as</p> <p>7 you know, the varsity -- there is a varsity team at</p> <p>8 this moment, and I'm asking, is every detail about</p> <p>9 the varsity team finalized right now?</p> <p>10 MR. CRAIG: Objection to form. Vague.</p> <p>11 THE WITNESS: Can you describe what you</p> <p>12 mean by "every detail"?</p> <p>13 Q. (By Ms. Bullock) Your roster.</p> <p>14 A. No, not everything is finalized.</p> <p>15 There's -- the school announced two days ago that</p> <p>16 the kids aren't coming back now until maybe the</p> <p>17 middle of October or October 5th for in-person</p> <p>18 classes. The pandemic has really thrown everything</p> <p>19 for a loop. Things are changing all the time.</p> <p>20 There might be more kids that take a leave of</p> <p>21 absence or go remote now. There's just a lot of</p> <p>22 uncertainty. So the roster is changing all the</p> <p>23 time.</p> <p>24 Q. And we've already talked about, is the</p> <p>25 schedule set?</p>

<p style="text-align: right;">Page 70</p> <p>1 MR. CRAIG: Asked and answered.</p> <p>2 Q. (By Ms. Bullock) You can answer.</p> <p>3 A. The schedule set for when? The fall?</p> <p>4 Q. The competition season.</p> <p>5 A. There's no competition this fall.</p> <p>6 Q. And so that's, like the roster, changing?</p> <p>7 A. Well, that's not changing. We've already</p> <p>8 been told by the Ivy League there's no competition</p> <p>9 this fall, and Brown's following the Ivy League</p> <p>10 so ...</p> <p>11 Q. But there might be this spring, correct?</p> <p>12 A. Yeah, TBD. Sure hope so.</p> <p>13 Q. Do you have uniforms for the team, for the</p> <p>14 varsity team?</p> <p>15 A. Yes.</p> <p>16 Q. Practice clothes?</p> <p>17 A. There's really no practice clothes. They</p> <p>18 use their own equipment to sail in, and we provide</p> <p>19 uniforms for them for competition.</p> <p>20 Q. Do you know if that changes at all with</p> <p>21 varsity status?</p> <p>22 A. Don't think so. We might get new -- you</p> <p>23 know, we might get some additional uniforms or</p> <p>24 change the style of them, but no. We just wear a</p> <p>25 pinnie that goes over their life jacket.</p>	<p style="text-align: right;">Page 72</p> <p>1 you are not permitted to officially start doing</p> <p>2 team-related activities, correct?</p> <p>3 MR. CRAIG: Objection to form. Misstates</p> <p>4 testimony.</p> <p>5 THE WITNESS: That is correct. All we can</p> <p>6 do is our team meetings virtually.</p> <p>7 Q. (By Ms. Bullock) So earlier when I asked</p> <p>8 is there a varsity team at this moment and you said</p> <p>9 as far as you know, do you consider the items we</p> <p>10 have been discussing, the roster, the schedule, as</p> <p>11 part of the varsity team?</p> <p>12 A. Yes.</p> <p>13 MR. CRAIG: Objection to form. Vague.</p> <p>14 Q. (By Ms. Bullock) So as we speak this</p> <p>15 moment, there's not actually a varsity team,</p> <p>16 correct?</p> <p>17 MR. CRAIG: Objection to form.</p> <p>18 THE WITNESS: Yes, I believe that there is</p> <p>19 a varsity team at this moment.</p> <p>20 Q. (By Ms. Bullock) As the varsity team,</p> <p>21 does -- sorry. Strike that.</p> <p>22 Does being elevated to varsity status</p> <p>23 change the types of regattas that Brown is able to</p> <p>24 enter?</p> <p>25 A. No. We'll be competing in the same events</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. Do you know if other varsity teams at</p> <p>2 Brown get practice clothes?</p> <p>3 A. I have no idea.</p> <p>4 Q. Do the students have access to the varsity</p> <p>5 trainers?</p> <p>6 A. They will now, yes.</p> <p>7 Q. But they don't yet?</p> <p>8 A. No.</p> <p>9 Q. Do you know, is there a varsity</p> <p>10 nutritionist or some sort of similar-type role?</p> <p>11 A. We've been told that they're going to be</p> <p>12 hiring a nutritionist. I don't think there is one</p> <p>13 at the moment, but there will be, and they should</p> <p>14 have access to that nutritionist.</p> <p>15 Q. But they don't right now?</p> <p>16 A. No.</p> <p>17 MR. CRAIG: Objection to form. Vague.</p> <p>18 Q. (By Ms. Bullock) Do the students have --</p> <p>19 student-athletes have access to any of the varsity</p> <p>20 academic services?</p> <p>21 A. They're supposed to. They never have</p> <p>22 before so -- when we officially start being able to</p> <p>23 do team-related activity, they should have --</p> <p>24 they'll have access to all these things.</p> <p>25 Q. But as we sit here today, you haven't --</p>	<p style="text-align: right;">Page 73</p> <p>1 that we have in the past, and we may even add a few</p> <p>2 additional ones if our budget increases.</p> <p>3 Q. How does it change the teams you'll be</p> <p>4 competing against?</p> <p>5 A. It will be the same teams. We've been</p> <p>6 competing at the highest level of college sailing</p> <p>7 for almost the entirety of our existence, so we'll</p> <p>8 be sailing against mainly all the varsity teams.</p> <p>9 Q. Does it change the number of boats you're</p> <p>10 able to enter into a regatta?</p> <p>11 A. No.</p> <p>12 Q. Does it change the number of competition</p> <p>13 weekends that you're allowed to participate in?</p> <p>14 A. No.</p> <p>15 Q. Does it change the number of students that</p> <p>16 you assign to each boat?</p> <p>17 A. No. I will say, if I could go back on the</p> <p>18 number of competition weekends, that's a college</p> <p>19 sailing rule that we've always followed. The Ivy</p> <p>20 League may -- they've told me this in compliance</p> <p>21 that the Ivy League might dictate the number of</p> <p>22 weekends that college sailing Ivy League teams can</p> <p>23 compete in now, and we don't know yet that answer.</p> <p>24 So the Ivy League might supersede the ICSA on some</p> <p>25 things with sailing now that it's an Ivy League</p>

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1 sport. So they might tell us we can only do 16
2 weekends of competition. We don't know yet.
3 Q. Does it change the championships that
4 Brown is able to compete in?
5 A. No. The championships won't change.
6 There will be one new additional championship.
7 There will be an Ivy League women's championship now
8 because now women's varsity is an official Ivy
9 League sport.
10 Q. Can you explain that to me?
11 A. Yes. By having five varsity women's
12 programs in college sailing now, you can potentially
13 have an Ivy League championship for that sport. And
14 there are now five women's varsity teams now that
15 Brown's been elevated joining Harvard, Dartmouth,
16 Yale, Cornell.
17 Okay. For coed, we're the fourth Ivy
18 League team. Cornell is women's varsity only. And
19 we'll have a spring Ivy League championship in
20 women's now. We just don't know when it's going to
21 be. We haven't gotten that far yet.
22 Q. That hasn't been created yet?
23 A. You know, we've started talking about it.
24 The Ivy League is just beginning to make amendments
25 for the Ivy League rules for sailing and stuff like

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1 that and figuring out that championship and when
2 it's going to be, but it's going to be a very
3 meaningful championship now that will be added.
4 Q. Would that happen in the spring?
5 A. Yeah, that's the thought right now.
6 Q. Will it be able to appear this spring if
7 there's competition?
8 A. Yes.
9 MR. CRAIG: Objection.
10 THE WITNESS: If there's competition,
11 yeah, I believe so.
12 Q. (By Ms. Bullock) Does being varsity status
13 change the way Brown qualifies for championships?
14 A. No.
15 Q. Does it change the number of boats that
16 Brown gets to enter into a championship?
17 A. No.
18 Q. Does it change how you structure
19 practices?
20 MR. CRAIG: Objection to form. Asked and
21 answered.
22 THE WITNESS: Probably not. You know, I
23 think that there will be certainly a group at
24 practice that -- there might be some people that
25 could be on the yacht club team that might not be a

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1 part of the racing part of practice and they'll be
2 sailing doing their own thing or something, but
3 otherwise, it will be pretty similar.
4 Q. (By Ms. Bullock) Will it change how many
5 practices you hold?
6 A. No, unless the Ivy League gives us
7 different rules than the ICSA.
8 Q. I'm going to ask one clarifying question.
9 Is it your understanding that the Ivy League -- or
10 that the varsity team is authorized but you haven't
11 started the season yet, correct?
12 A. No. We're in the summer right now.
13 Q. That would be a detail that hasn't been
14 finalized yet either, correct?
15 MR. CRAIG: Objection to form. Misstates
16 testimony.
17 Q. (By Ms. Bullock) You can answer.
18 A. Yeah. I mean, I guess I'll ask you to
19 rephrase the question again because I'm not
20 understanding what you mean.
21 Q. Maybe it wasn't a very good question.
22 Strike that. We'll move on. So what is your
23 understanding of what will change for sailing as a
24 varsity program?
25 A. Yeah. So the added resources that we're

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1 going to gain are huge. We're going to get strength
2 and conditioning trainers, nutritionist, sports
3 psychology, academic resources, some publicity for
4 our team that's much deserved, like brownbears.com,
5 the Brown Daily Herald, the Providence Journal
6 newspaper. Admission support, which is a huge
7 thing. You know, we're losing recruits every year
8 to Yale, Dartmouth, Harvard, Stanford because
9 they're varsity programs and we're club.
10 And, you know, hopefully some additional
11 funding down the road. I don't think anything's
12 going to change in year funding-wise because of the
13 pandemic and we're probably going to have no
14 competition but, you know, everything. Everything's
15 going to be better. We're going to be finally given
16 the -- in my opinion, the -- you know, the respect
17 that we deserve as I think the top sport at Brown
18 University and the state of Rhode Island.
19 Q. You said admission support will change.
20 What does that mean?
21 A. Yeah. Like any varsity sport, you -- you
22 know, your sport could help you through the
23 admissions process, and it could make a difference
24 on whether you get accepted or not, and we're going
25 to have some more support with that.

1 will come down from the university in compliance,
2 you know, code of conduct, drug testing, you know,
3 commitment level, you know, that they're going to
4 have -- they're going to be learning, and that's
5 stuff we're going through right now with them.

6 Obviously even things like outside
7 competition NCAA rules, things they didn't have to
8 follow before, they're going to have to follow now.
9 So they're going to be giving up probably some of
10 the freedoms that they had being club sport
11 athletes, but, you know, I don't think outside of
12 that things are going to change.

13 Q. (By Ms. Bullock) Is it a lot of work to be
14 a Division I varsity athlete?

A. Yeah.

17 THE WITNESS: It's a lot of work to be an
18 athlete in any sport, you know, at the highest
19 level, and, you know, our program, we've been
20 competing at the highest level as a club team. It's
21 been a tremendous amount of work. And for us to be
22 able to gain these resources, it's just going to
23 make things a lot better and easier for our program.

Q. (By Ms. Bullock) And you said that you believe the commitment level will be something that

1 will change. How so?

2 A. You know, I think there will be more
3 strength and conditioning sessions. There's going
4 to be more meetings they'll have to attend within
5 athletics. There's already -- they're going through
6 the medical clearance stuff right now, which is
7 pretty -- it's pretty detailed, that they've never
8 had to do before. You know, so there's a lot more
9 rules they're going to have to follow. And I
10 think -- you know, like I said, we've held them to a
11 very high standard, and that standard is still going
12 to be higher, you know, than it's ever been, if not
13 the same.

14 So, you know, it's not like we're going
15 from a student-run club program to a varsity team.
16 We're going from a club team that has operated like
17 a varsity team, and I think is the -- probably the
18 best example of how to succeed as a club sport to a
19 varsity team. So it's not going to be, you know,
20 some crazy, crazy change for us.

21 Q. I'm going to have you look at what will be
22 marked Exhibit 2. If I can get this to work. Never
23 mind. I'm just -- we're going to try to make this
24 shorter. Do athletes make sacrifices in their life
25 in order to be able to compete at the varsity level

I think that they're going to have a lot more rules that are going to come into play that they didn't have before now that we're varsity that

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1 at Brown?

2 MR. CRAIG: Objection to form. Vague.

3 Q. (By Ms. Bullock) You can answer.

4 A. Yes. I think any athlete's making

5 sacrifices for their sport. Our kids do it, have

6 been doing it every day. I think sailing is the

7 most time-consuming sport in college athletics. Two

8 seasons, all day on the weekends. Practices all

9 afternoon on the water. It's cold weather a lot of

10 the time. So they've been doing it, and they'll

11 continue to do it.

12 Q. We already talked about your roster from

13 last year, right?

14 A. Yeah.

15 Q. That's Exhibit 1. And it lists the

16 students -- student-athletes by class, correct?

17 A. Yeah.

18 Q. I was going to say grade, but I don't know

19 if that's the proper term in college really. How

20 will your roster next year be different?

21 A. Yeah. We've been given basically a

22 proportion that we have to -- you know, we have to

23 adhere to. Right now it's -- if we have 25 females,

24 we can have 10 males. That's what we've been given

25 right now. And we can basically make anything work

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1 so that's what we'll make work. This year is going

2 to be -- who knows. We might not have enough

3 females, you know, certainly to have 25 or even

4 maybe even 20 given the pandemic and people taking

5 the year off or being remote. So we don't know how

6 it's all going to shake out yet for the number of

7 females we'll have all together, but we'll stay

8 within our proportions.

9 Q. Have you been given a specific proportion

10 beyond the 25 females and 10 males?

11 A. No.

12 Q. Who gave you that proportion?

13 A. Athletic director Hayes.

14 Q. Did he tell you why?

15 A. He just said that we have -- you know, we

16 have to make sure we comply with Title IX and we're

17 going to have the guys -- it's going to be a 2 and a

18 half to 1 ratio females to males. We knew all along

19 that we want to have more females anyway so, you

20 know, we'll abide by whatever's given to us.

21 Q. Are you adding a new women's team to the

22 sailing program?

23 MR. CRAIG: Objection to form. Vague.

24 THE WITNESS: Can you rephrase that?

25 Adding a new women's team?

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1 Q. (By Ms. Bullock) So if you look at the

2 roster here, it's all of the students together.

3 That's the sailing roster. Correct?

4 A. Yeah. We just -- listen, we were a club

5 team, and we just put everybody there together. You

6 know, we didn't say, like, we're going to have all

7 the women on -- you know, we're a club team, so, you

8 know, we've always -- our women have always been on

9 a women's team and a coed team. We just -- we had

10 them all on one page.

11 So yes, now we're going to have a women's

12 team and we're going to have a coed team, and the

13 women are going to be able to be on both because

14 they're competing in two different disciplines,

15 which they've always done.

16 Q. Would you agree that you intend to list

17 every woman who's on the women's team on the coed

18 roster as well?

19 A. Yes.

20 MR. CRAIG: Objection to -- same objection

21 to form. Calls for speculation.

22 Q. (By Ms. Bullock) Have you ever -- has

23 that -- have you done that in the past?

24 MR. CRAIG: Objection to form. Vague.

25 THE WITNESS: Yeah. I haven't had to do

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1 that in the past. We've been a club team so -- you

2 know, the school hasn't even asked us before for a

3 roster.

4 Q. (By Ms. Bullock) Will the events that the

5 sailing program attends change by maintaining two

6 separate rosters?

7 MR. CRAIG: Objection to form. Asked and

8 answered.

9 THE WITNESS: We'll be attending the same

10 events we've always attended. And hopefully adding

11 some additional ones.

12 Q. (By Ms. Bullock) Who made the decision to

13 have two rosters?

14 A. That's how -- you know, I mean, it was

15 ultimately the athletic director, but that's how

16 it's done on many of the top college sailing teams.

17 The women are on the women's roster and they're on

18 the coed roster and they're counting women's and

19 they're counting coed, you know, for the women, and

20 that's -- you know, that's how -- at the varsity

21 level, that's how college sailing works.

22 And, you know, the women have the benefit

23 of competing in the women's circuit and the coed

24 circuit. It's more opportunities for females. It's

25 a great opportunity for them. And, you know, they

<p style="text-align: right;">Page 86</p> <p>1 have the opportunity to compete in many, many, many 2 national championships being a female. So I think 3 that we're just doing what is being done at Yale and 4 Stanford and Tulane and other top schools.</p> <p>5 Q. Did someone tell you that information 6 about the multiple opportunities, many 7 opportunities, or is that something you researched 8 yourself?</p> <p>9 A. It's common knowledge within the college 10 sailing world.</p> <p>11 Q. Is that how they do it at Harvard?</p> <p>12 A. I'm not sure what Harvard does.</p> <p>13 Everybody's a little bit different. You know, not 14 everybody's doing it the same way. I just gave you 15 examples of schools that are doing it.</p> <p>16 Q. Is that how they do it at Dartmouth?</p> <p>17 A. Not sure.</p> <p>18 Q. Didn't Stanford just cut its sailing 19 program?</p> <p>20 A. They just -- yeah, they just downgraded to 21 club.</p> <p>22 Q. Will there be separate practices for the 23 women's team and the coed team?</p> <p>24 A. You know, probably not very often. There 25 could be a time where we say we're going to bring</p>	<p style="text-align: right;">Page 88</p> <p>1 we've been discussing, Brown will still have a club 2 sailing team, correct?</p> <p>3 A. Yeah. We're going to call it the yacht 4 club.</p> <p>5 Q. But is it your intention to put your best 6 sailors on the varsity team and then the rest of the 7 student-athletes will be on the club team?</p> <p>8 A. Yeah. I think it's going to be people 9 that don't make the varsity team. We're going to 10 have a tryout period, a two-week tryout period, so 11 people that don't make it, people that aren't 12 qualified, and people that don't want to be 13 committed or showing the commitment level. I would 14 say those three things or all of the above.</p> <p>15 Q. Will you be the coach of the club team as 16 well?</p> <p>17 A. Yeah. I'm technically -- my title is 18 technically the director of sailing, the Barry 19 director family of sailing, so I'll oversee 20 everything and, you know, be -- you know, I'm also 21 the head coach too so ...</p> <p>22 Q. So does that mean you'll have double the 23 duties that you have right now or that you had last 24 year?</p> <p>25 A. Well, the duties have increased being a</p>
<p style="text-align: right;">Page 87</p> <p>1 the women's group down that's going to compete in 2 the women's event for the weekend and do something, 3 you know, they want to work on different. We do 4 things like that.</p> <p>5 And as I said earlier, there will be times 6 in practice where we do separate the group that's 7 going to the women's event from the coed group 8 because what they're doing is different, but for the 9 most part, we're competing together, 18 boats.</p> <p>10 Makes you better. Makes the team better. Practices 11 are better.</p> <p>12 That's the key in college sailing, is 13 simulating what a regatta's going to be like, and if 14 we have 18 teams at a regatta, we want to have 18 15 teams in practice on the starting line, you know, 16 competing. That's how you get better. So it 17 varies, but a lot of the time, we're together.</p> <p>18 Q. Are you able to schedule any additional 19 competition weekends for -- because you have a coed 20 team and a women's team?</p> <p>21 A. No. It's based on the university name.</p> <p>22 So our institution, Brown, we're committed to 18 23 weekends. It's not by your women's team or your 24 coed team. It's by your school.</p> <p>25 Q. So in addition to the varsity team that</p>	<p style="text-align: right;">Page 89</p> <p>1 varsity sport for sure, but in terms of practice and 2 stuff and managing the kids, it won't be any 3 different. You know, we've always had sort of what 4 we considered the varsity-level team, and we've 5 always had what we consider sort of the yacht club 6 rec sailing group, and they've all been at practice 7 together and they've all been given, you know, some 8 opportunities to sail on the weekends, so it's not 9 going to be any different.</p> <p>10 Q. Will the student-athletes on the club team 11 be permitted to compete in regattas with the varsity 12 team?</p> <p>13 A. No. They won't be able to compete with 14 anyone on the varsity roster. If they go to 15 regattas, they're going to be club sailors only at 16 those regattas. So they would go to a yacht 17 club-level event, which we could call, like, a 18 C-level event, something like that.</p> <p>19 Q. They will still compete, just at a 20 separate regatta?</p> <p>21 A. Exactly. Yeah. Amongst the club group.</p> <p>22 You know, they can't sail with anybody on the 23 varsity team.</p> <p>24 Q. So if there are women who are not 25 varsity-level student-athletes, will you cut them</p>

<p style="text-align: right;">Page 90</p> <p>1 from the varsity team even if that means you have to 2 have fewer men?</p> <p>3 A. Yes. Absolutely.</p> <p>4 Q. And you kind of already alluded to this, 5 but will there be separate practices for the club 6 team?</p> <p>7 A. I'd say that that's TBD. Not sure yet. 8 Haven't gotten that far. There could be. Could be 9 different times that they come down.</p> <p>10 Q. Could they also be permitted to practice 11 with the varsity team?</p> <p>12 A. Yeah. They -- yeah, I mean, they could. 13 Or we have two fleets of 18 boats. They could be, 14 you know, using the other kind of boats and doing 15 their own thing or they could be part of our 16 practice. I think it would depend.</p> <p>17 Q. If they're not practicing with you, who 18 would coach their practices?</p> <p>19 A. Probably my assistant coach, Mike. Or 20 myself.</p> <p>21 Q. Will the student-athletes on the club team 22 have access to the benefits that you mentioned 23 earlier for the varsity team?</p> <p>24 A. No.</p> <p>25 Q. When do you plan on making the</p>	<p style="text-align: right;">Page 92</p> <p>1 is just the one page. Sorry. So we'll just do one 2 page for this. Exhibit 2, 26428.</p> <p>3 Do you remember sending this email back 4 and forth with Jack Hayes?</p> <p>5 A. Yes.</p> <p>6 Q. And he asked you what the ideal roster 7 size would be, correct? Do you see that there?</p> <p>8 A. Yeah.</p> <p>9 Q. And you told him that the ideal roster 10 size would be 12 males and 18 females, correct?</p> <p>11 A. Yeah, at the time. Sure.</p> <p>12 Q. What do you mean by "at the time"?</p> <p>13 A. Yeah. I mean, you know, he asked me, you 14 know, kind of what I thought. I looked at what the 15 other Ivy League teams had for rosters. It was 16 somewhat similar. Some had more females. Some had 17 more males. You know, this was roughly a pretty 18 good number. And then, you know, once we were 19 elevated -- this was all pre-varsity elevation. You 20 know, he said, "We're going to have to have a 21 25-to-1 ratio," and, you know, that's the number 22 we've been given, and, you know, it's not going to 23 be a problem in terms of females. I don't know if 24 we'll hit 25, but if we don't, then we're going to 25 have a lot less males. We won't have 10 males.</p>
<p style="text-align: right;">Page 91</p> <p>1 determination of which students will be on the 2 varsity team versus the club team?</p> <p>3 A. Our roster will be finalized once we're 4 able to have a tryout, so I don't know. I mean, 5 again, there's so much -- so much craziness going on 6 with the pandemic and what's happening with school 7 announcements and everything that it's very, very 8 difficult to finalize a roster right now. There are 9 some schools and some sports programs where half 10 their kids on a roster are taking the year off. So 11 we're figuring out who's coming back, who's not.</p> <p>12 There's a lot. There's a lot of stuff 13 that's changing. It's very fluid, and our roster 14 won't be finalized until they tell us it has to be, 15 and we're hoping to have a two-week tryout period.</p> <p>16 Q. I'm going to mark as Exhibit 2, this is 17 Bates 26428 through 26431. Can you see this email, 18 Mr. Mollicone?</p> <p>19 A. Yes. Yeah.</p> <p>20 MR. CRAIG: If I could just ask that you 21 give him a chance to read the full email.</p> <p>22 MS. BULLOCK: Yeah.</p> <p>23 MR. CRAIG: Thank you.</p> <p>24 Q. (By Ms. Bullock) Oh, and I said that 25 wrong. It actually ends on -- this one ends at --</p>	<p style="text-align: right;">Page 93</p> <p>1 So that's where, you know, for me it's 2 going to be really hard. I'm going to have to cut 3 some males that I wish would make the team. Every 4 female that I have is fully qualified to be a 5 varsity athlete, and a lot of the males I have are 6 too, so I'm going to have some tough decisions to 7 make once we get going.</p> <p>8 Our women's team, I think last year we had 9 21 females. We have a very large freshman class 10 coming in this year, and with a lot of females. And 11 then we're going to be continuing to add more -- a 12 lot more females because -- especially because we're 13 a varsity team now.</p> <p>14 So, you know, we might be able to have -- 15 obviously, we'll be able to have more than the 18 16 that I put, but, I mean, whatever numbers we're 17 given, we can make them work, so we'll be in 18 proportion to, you know, the proportions that are 19 given to us.</p> <p>20 Q. Were you honest with Mr. Hayes, when you 21 said, though, that this would be your ideal team 22 size?</p> <p>23 A. Yeah. I mean, I think he asked me -- I 24 don't know how much thought I actually gave to it, 25 to be honest with you. I just looked quickly at,</p>

<p style="text-align: right;">Page 94</p> <p>1 like, some of the other rosters on other teams. 2 We've never had to worry about roster management in 3 any way before, all right, so, you know, our big 4 problem has always been how do we get everybody down 5 to practice. We've never had to worry about, you 6 know, playing with roster, roster limitations, this 7 and that. 8 So for me, you know, I got hit with this 9 question, and I think I did a little bit of quick 10 research, and he wanted an answer fairly quickly, 11 and that's what I gave him. 12 Q. Let me just make sure, for the record, 13 that is marked as Exhibit 2. 14 So based on the 2.5 women to 1 man ratio 15 that you're saying you've been given by Jack 16 Hayes -- 17 A. Yeah. 18 Q. -- does that mean that you could be faced 19 with refusing a spot for a varsity-level male 20 because you didn't have enough varsity-level women 21 to participate? 22 A. Yes. 23 Q. Have you communicated to your team that 24 you're going to have to artificially cap the number 25 of men on the team?</p>	<p style="text-align: right;">Page 96</p> <p>1 you're not going to be committed, you have to tell 2 me." And so far, nobody has. They all want to -- 3 they all want a shot at it. They know it's going to 4 be hard to make it for some of them, and if they 5 don't make it, they'll be on the yacht club team, so 6 they can still get on the water and do what they 7 love to do. 8 Q. Have you told them why you have to -- that 9 a lot of them -- and let me back up. When you say a 10 lot of them know they won't make the team, you mean 11 men, correct? 12 A. Yeah. I think I've -- you know, yes, they 13 know that we're having to have to have more females. 14 They do know that. I mean, I was just up front 15 about it. I said, "Listen, for Title IX reasons, 16 this is what I've been told." I'm just -- I'm told 17 something, you know, from people above and I've got 18 to follow the rule, and this is what we've been 19 given and, you know, they know that, and it's no 20 different for any roster in any other sport. You're 21 given a number and you got to try to be there. 22 So -- and I do think that yes, a lot of 23 our males are -- some of them are not going to make 24 this varsity team that I wish could be on it. 25 There's no doubt about that. So ...</p>
<p style="text-align: right;">Page 95</p> <p>1 A. Yes. 2 MR. CRAIG: Objection. Argumentative. 3 Q. (By Ms. Bullock) Mr. Mollicone, you guys 4 were talking at the same time. Can you ... 5 A. Yes, my team is aware that we are going to 6 be making cuts. 7 Q. How does your team feel about that? 8 A. You know, I think -- we're living in a 9 Zoom world mainly now so when we do these team 10 meetings and not having the kids around, it's always 11 hard to gauge -- you know, gauge the room, I guess 12 you would call it, as well as you normally would 13 when they're here, but I think, you know, from 14 everybody that I've spoken to on the team, they're 15 all super excited about, you know, being elevated. 16 It's much deserved, well deserved for our program. 17 They've earned it. 18 All of our kids that want to be varsity 19 athletes are all really excited about the resources 20 they're going to gain, and meanwhile, there are a 21 lot of them that know they might not make the 22 varsity team, and they've been great so far. 23 They've said, you know, "I want to make the team." 24 And I've told them up front "Some of you, 25 if you don't think you want to be on the team and</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. And did you tell them specifically it was 2 because of Title IX? 3 MR. CRAIG: Asked and answered. 4 THE WITNESS: Yes, I did. I did say for 5 Title IX reasons, this is what I've been given as 6 numbers. I think they understand that. 7 Q. (By Ms. Bullock) Did you have to explain 8 that to them at all? 9 A. I don't think I went into depth about it. 10 I just said for Title IX reasons, you know, like 11 proportionally, you know, female athletes have to be 12 the same percentage as the student body and, you 13 know, this is the number we've been given and, you 14 know, we'll make it work. So ... 15 Q. Do you know if the other schools that 16 you've talked about have that same, you know, 2.5 17 females to every 1 male kind of ratio in the Ivy 18 League? 19 A. You know, I'm not sure. Some schools, 20 some of my coach -- you know, head coach friends 21 tell me they have no -- they can just -- their 22 roster can be whatever. I guess they have no 23 problem. Some, they do have, like, a 2-to-1 ratio 24 or something, but I haven't had super in-depth 25 conversations about it so ...</p>

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1 Q. Did you talk to your team at all about
2 this case affecting the number of men or women that
3 you have on the team?

4 A. No, I don't think that I directly said --
5 I may have said that there's a lawsuit against Brown
6 and the athletic department because I think some of
7 them had -- you know, they've heard about it, okay,
8 so -- I think it was quickly mentioned in a meeting
9 or something about it.

10 And then, you know, I think I may have
11 told my captains that -- a couple of our officers
12 that, you know, there was a lot going on about this
13 whole thing and it might impact our numbers, I just
14 don't know with our roster, you know, and I think
15 there's a lot of uncertainty. So yes, it was
16 mentioned briefly.

17 Q. Were you told about the 2.5 ratio from
18 Jack Hayes before or after the men's track and field
19 and cross country were reinstated?

20 A. Yes. I'm not sure. It was around the
21 time. And I don't know the exact date that Jack
22 told me. He called me to tell me, and I don't
23 remember if it was just before the track, field, and
24 cross country announcement or just after, but it was
25 right around there, and I'm not a hundred percent

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1 sure. I don't remember the date because it was a
2 phone call.

3 Q. So there was never a time where you were
4 told -- I guess, what did he say when he called you?

5 A. He just called me to tell me what our
6 numbers were going to be. You know, I think I had
7 asked a number of times, and, you know, we -- it was
8 basically that email that you had showed, you know,
9 I gave him what I thought, again, a quick answer,
10 and then we got elevated -- the next thing I know,
11 we get elevated to varsity a few weeks later. So I
12 had no idea what our roster numbers were going to be
13 in the end.

14 And then he finally got back to me. You
15 know, it was sometime around the re-elevation of
16 track and field. I just -- I don't know if it was
17 before or after. I'm not sure. I don't remember.
18 But he called me to tell me.

19 Q. Did the numbers change at all --

20 A. No.

21 Q. -- after that?

22 A. Since we were elevated, that's the number,
23 was a 2 and a half to 1 ratio.

24 Q. I'm going to share with you -- just one
25 second. In that phone call -- sorry. While I'm

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1 trying to find this, in that phone call, did he
2 mention the elevation or Title IX compliance?

3 A. He just mentioned to be compliant with
4 Title IX, you know, we're going to do the 25-to-10
5 number. That's all. It was a very brief
6 conversation. And I think I said something to the
7 effect of "I'd love to have more males," but, you
8 know, that's what we were given.

9 Q. What did he say in response to that?

10 A. He said, you know -- I honestly don't
11 remember. I don't remember his response.

12 Q. I'm going to share my screen with you.
13 We'll mark this as Exhibit 3. It's Bates 3608 to
14 3609. Let you read this. Have you ever seen this
15 email before?

16 A. I have not, no.

17 Q. Do you know where these written plans came
18 from?

19 MR. CRAIG: Objection to form. Vague.

20 Q. (By Ms. Bullock) If we look at the top
21 here --

22 A. Yeah.

23 Q. -- it says, "Written plan for sailing."

24 A. Yeah.

25 Q. Did you draft this?

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1 A. I did not draft that, but a part of it
2 could have come from conversations that Jack and I
3 had.

4 Q. Did he show it to you at all before --

5 MR. CRAIG: Objection. Form. Asked and
6 answered.

7 Q. (By Ms. Bullock) Show any part of it to
8 you?

9 A. No, but we did talk about some of these
10 things.

11 Q. Do you agree with everything that's in
12 here?

13 A. Just give me a minute to just thoroughly
14 look at it, okay?

15 Q. Sure.

16 A. Yeah. So everything looks to me like I've
17 been told. Or that I know of.

18 Q. Do you think there's anything else that
19 should be in a written plan for creating a varsity
20 team?

21 MR. CRAIG: Objection to form.

22 THE WITNESS: Do I think there should be
23 anything else in there? I mean, that hits on all
24 the major things. So I don't know.

25 Q. (By Ms. Bullock) Were you ever asked to

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1 sit down and create a written plan for the varsity
2 team?

3 MR. CRAIG: Objection to form. Vague.

4 **THE WITNESS: I was never asked to write a**
5 **plan, no. I just answered questions.**

6 Q. (By Ms. Bullock) Did you communicate to
7 your team that student-athletes would have the
8 opportunity to move up from the club team or maybe
9 demoted down to the club team from the varsity team?

10 A. We have talked about that a little bit,
11 yes.

12 Q. How do you plan on making that work?

13 A. Well, I think, you know, I look at it
14 like -- I compare it a little bit to like high
15 school varsity and JV. Somebody could be on the
16 yacht club team that maybe -- maybe they weren't
17 qualified to make the varsity team early on, say, as
18 a freshman or sophomore, but they have sailed a lot,
19 worked hard, gotten better. They could make the
20 varsity team.

21 That's the cool thing about our sport.
22 Somebody could work hard at it and get really good
23 that didn't have a ton of experience when they
24 started, but over a four-year period, they could get
25 really good. So yeah, somebody could move up. And,

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1 meanwhile, somebody's not doing their part on the
2 varsity team, yes, they could not make it the next
3 year. There's no doubt about that.

4 Q. So when you say they could not make it the
5 next year, do you anticipate that move happening
6 midseason?

7 A. I don't know. I don't know. I mean, I
8 haven't -- you know, I don't know what can happen.
9 I'm not sure yet.

10 Q. Have you been told that the 2.5:1 ratio
11 depends on counting the women athletes on both the
12 women and the coed team?

13 A. No. No.

14 Q. Have you been told you'll be allowed to
15 have more men if you can -- if Brown can count the
16 women on both the women and coed teams?

17 A. No, I haven't, and I think quickly I asked
18 that question at one point about "Well, what if we
19 had 27 women? Would we be able to have another
20 guy?" or whatever. And it's all a moving piece
21 within athletics, and all the other sports come into
22 play. So it doesn't mean if we have over 25 women
23 we can have more males. I think it all depends on
24 the compliance, you know, what the numbers are
25 between all the sports and everything. There's a

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1 lot of things that I'm still learning. So I don't
2 know.

3 Q. And I'm talking more specifically about
4 being able to count 25 women for the women's team
5 and 25 women for the coed team. Has anyone told you
6 that if Brown is allowed to do that, you will be
7 allowed to have more men?

8 A. No. No.

9 Q. Have you ever asked anyone if that's the
10 case?

11 MR. CRAIG: Objection, form. Vague.

12 **THE WITNESS: I don't remember if I asked**
13 **that question. I may have asked Jack, and he**
14 **probably didn't have an answer for me. I don't**
15 **remember.**

16 Q. (By Ms. Bullock) We've been going for
17 about another hour. Do we want to take a break here
18 in a minute?

19 A. I would love a five-minute bathroom break
20 if possible.

21 Q. Just a couple more questions in this line,
22 and then it will be a good pausing point.

23 A. Okay.

24 Q. Did you ever tell the students that you
25 could have as few -- your student-athletes that you

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1 could have as few as five men on the varsity team?

2 A. No, not that I recall.

3 Q. And other than that ratio, have you
4 ever -- has anyone at Brown told you that there is a
5 cap to the number of men that you are permitted to
6 have?

7 A. No.

8 MS. BULLOCK: We can take a quick bathroom
9 break. Off the record.

10 VIDEOGRAPHER: Off the record at
11 10:54 a.m.

12 (Recess taken from 10:54 to 11:11 a.m.)

13 VIDEOGRAPHER: On the record at 11:11 a.m.

14 Q. (By Ms. Bullock) So we just took a break,
15 Mr. Mollicone. Before the break, we were talking
16 about your communications with the team. I'm going
17 to share my screen with you. This is an email dated
18 6/19/2020. At the top at least. It's Bates-stamped
19 22380 through 22382. So we'll go ahead and mark
20 this as Exhibit 4. I believe that's right. Sonya
21 will correct me if it's not. I'll scroll down
22 through here. Give you an opportunity to see.

23 MR. CRAIG: I think go a little slower so
24 he can sort of -- if you want to start at the
25 bottom, so he can actually read what you're passing

1 over. Thank you.

2 MS. BULLOCK: Yeah. I'm sort of passing
3 over this large conglomerate of emails here.

4 MR. CRAIG: Yeah.

5 Q. (By Ms. Bullock) And, Mr. Mollicone, all I
6 really want to ask you about this, is this an
7 example of the type of communication we were talking
8 about where you talked to your team about, you know,
9 as for varsity stuff, we're going to be limited to
10 how many males? Yes?

11 A. Yeah.

12 Q. And you say here the re-elevation of men's
13 track has now hurt all of men's varsity athletic
14 rosters?

15 A. Yeah.

16 Q. What did you mean by that?

17 A. I was just -- I was saying that, you know,
18 now that men's track and field and cross country got
19 re-elevated, that threw however many males back into
20 the, you know, varsity roster, and, you know, for
21 us, we probably wouldn't be able to have as many
22 males on our team as we once thought we would so --
23 and that they understood that, and I think they did.
24 So they all know what Title IX is.

25 Q. Did you send this to every member of your

1 team?

2 A. Yeah. That's our entire team right there.

3 Q. Did you get responses from most, if not
4 all, of the student-athletes?

5 A. Well, I mean, yes. I mean, I asked all of
6 them for that information, so yes, they all
7 responded to me at some point.

8 Q. Did you have additional in-person
9 conversations as well -- or I guess --

10 A. In person? You can't do that.

11 Q. In person. Virtually over Zoom, which is
12 about as in person as it gets right now.

13 A. Yeah. I mean, just -- the only Zoom stuff
14 that I do is with the whole team.

15 Q. Okay.

16 A. So there could be phone calls. There
17 could be text messages, emails.

18 Q. And you wrote that email, correct?

19 A. I did. Yeah.

20 Q. I'm going to share my screen again. We'll
21 mark this as Exhibit 5 Bates stamped 433 to 434. Do
22 you recognize this document?

23 A. Yes.

24 Q. And is this the preseason roster
25 declaration?

1 A. Yeah. They asked me to get in my roster
2 if I had to decide today what would be the women's
3 and what would be the coed. This is kind of where
4 we were at, what was it, around July 17th.

5 Q. Who asked for this?

6 A. I think my supervisor, Jeanne, or Colin
7 Sullivan, the deputy AD, one of the two, I believe.

8 Q. Have you ever put something like this
9 together before?

10 A. No. I mean, just -- since we were
11 elevated to varsity, it's the first time I've gone
12 through this whole thing.

13 Q. Just for completeness, this is the same
14 preseason roster for the coed team, correct?

15 A. Yeah.

16 Q. This is Bates 430 to 432. We'll mark that
17 as Exhibit 6. And you put these together yourself,
18 correct?

19 A. Yes.

20 Q. You stated earlier both in regards to
21 funding for the team and for your salary that a lot
22 of that was funded by fundraising, correct?

23 A. Yes.

24 Q. Do you publish a report of the sailing
25 program's fundraising each year?

1 A. Do I publish a report? There are
2 newsletters that we do to our alumni parents, and we
3 might put in there what our fundraising goal is,
4 along with all of our -- what's going on with the
5 team and everything, but we don't publish, you know,
6 who's getting the money, where all the dollars are
7 coming from and stuff. We might just put what our
8 goal is.

9 Q. Do you ever list who your benefactors are?

10 A. We have if they -- if they endowed a
11 position, or when we built our new sailing center, a
12 family gave a big donation toward the facility. We
13 have done that before, yes, but we normally don't
14 put donors' names in our newsletters and stuff.

15 Q. And you said a family gave. Who is that?

16 A. Many, many families. Alumni, parents.

17 Q. You said specifically when you opened the
18 new facility a family.

19 A. Oh, we had multiple -- many families gave
20 money. So, I mean, I could go through every room in
21 the facility and tell you who basically gave us the
22 money for it.

23 [REDACTED]
[REDACTED]
[REDACTED]

[illegible]

1 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

8 Q. In addition to those, or maybe including
9 those -- I'm not sure -- does each room in the
10 facility have a name that's named after a donor?
11 A. Yes.
12 Q. Is it on a plaque somewhere?
13 A. It's on a plaque, yeah.
14 Q. So anybody who walks into the facility
15 could see the name of that donor?
16 A. Yeah.
17 Q. I'm going to -- so to that extent, those
18 donors are not confidential, correct?
19 A. Yeah, they're not. We recognized all of
20 them when we did our opening of the new facility.
21 Q. And when you say "recognized," do you mean
22 publicly?
23 A. Yeah. Yeah. Ted Turner was there. We
24 did a 200-person, you know, opening ceremony for our
25 sailing center.

1 Q. I want to show you what we will mark
2 Exhibit 7. And just before we look at this, for
3 clarification, when was that ceremony?
4 A. 2018. May.
5 Q. And who is the Barry family?
6 A. The Barry family, John and Daria Barry,
7 two of their children sailed at Brown for me.
8 Q. Do you remember how long ago?
9 A. Yeah. Their daughter Elizabeth graduated
10 in 2011, and their son James graduated in 2016.
11 Q. When you did that ceremony and you
12 recognized the donors, do you recognize how much
13 they gave, either dollar amount or like by level of
14 donation?
15 A. No, not that I remember. I don't think --
16 and, you know, the head of the sports foundation at
17 Brown, the executive director, Kim Insalaco, she was
18 there as well to thank those donors, and I don't
19 think we ever, in anything that we do, talk about
20 how much money. We just thank the donors. And we
21 had -- you know, we had stuff we gave them.
22 Q. And just to make sure that I've covered it
23 completely, I know sometimes organizations will
24 list -- you know, they'll assign different levels,
25 like gold donors and silver donors, and it's --

1 A. Yeah.

2 Q. -- anybody who's given over a thousand or
3 50,000. Do you do that kind of publication?

4 A. We don't, you know. I would say probably
5 well over 10, 12 years ago, the athletic -- or the
6 sports foundation did have us do that in one of our
7 newsletters, but I can only remember one time we've
8 ever done that in terms of sailing. Now, they might
9 do it in the sports foundation publications. They
10 might have the numbers, right, 50,000-plus,
11 10,000-plus, but I don't personally do that. We
12 don't do that in our sailing stuff.

13 Q. You just list their names?

14 A. Yeah. If we list them at all. I mean, we
15 don't normally do that.

16 Q. This is an email. At the top, it's dated
17 December 5th, 2019, Bates stamp 24174 through 24175,
18 that we'll mark as Exhibit 7.

19 A. Yeah.

20 Q. I'm going to scroll through here for you.
21 Let's start at the bottom. That might be easier
22 because that's how these emails are organized so --
23 am I good to scroll up? Do you remember sending
24 emails back and forth with this individual?

25 A. Sure. Yeah.

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1 Q. Do you know who this is?

2 A. Yeah. He's an alum.

3 Q. Is he a donor?

4 A. He might be a very small donor, like, you

5 know, less than a couple hundred dollars a year kind

6 of guy or less.

7 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

17 Q. (By Ms. Bullock) Do you get emails often

18 from alumni?

19 A. Yes.

20 MS. BULLOCK: I am done with my

21 questioning.

22 MR. CRAIG: I believe that we don't

23 anticipate any redirect, but let me just -- let me

24 just hop on the phone with co-counsel and we'll be

25 back in just one minute.

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1 MS. BULLOCK: Okay.

2 VIDEOGRAPHER: Off the record at

3 11:29 a.m.

4 (Recess taken from 11:29 to 11:33 a.m.)

5 VIDEOGRAPHER: On the record at 11:33 a.m.

6 MR. CRAIG: So from defendants, we have no

7 questions of our own so I think that ends it for

8 Mr. Mollicone.

9 VIDEOGRAPHER: Off the record ending the

10 deposition at 11:33 a.m.

11 (Deposition concluded at 11:34 a.m.)

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CERTIFICATE OF REPORTER

1 I, the undersigned, a Certified Shorthand

2 Reporter of the State of Iowa, do hereby certify

3 that there came before me via Zoom video conference

4 at the time and date hereinbefore indicated, the

5 witness named on the caption sheet hereof, who was

6 by me duly sworn to testify to the truth of said

7 witness's knowledge, that the witness was thereupon

8 examined under oath, the examination taken down by

9 me in shorthand and later reduced to a transcript

10 through the use of a computer-aided transcript

11 device under my supervision and direction, and that

12 the deposition is a true record of the testimony

13 given and of all objections interposed.

14

15 I further certify that I am neither attorney or

16 counsel for, nor related to or employed by any of

17 the parties to the action in which this deposition

18 is taken, and further that I am not a relative or

19 employee of any attorney or counsel employed by the

20 parties hereto or financially interested in the

21 action.

22 Dated this 14th day of August, 2020.

23 *Sonya M. Wright*

24 _____

25 SONYA M. WRIGHT, RPR-CSR

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