

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division**

STEPHEN BEHNKE, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	Case 2017 CA 005989 B
	:	
vs.	:	Judge Todd E. Edelman
	:	
DAVID H. HOFFMAN, <i>et al.</i> ,	:	Initial Conference
	:	Dec. 1, 2017, 9:30 AM
Defendants.	:	Courtroom 212

PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to District of Columbia Super. Ct. Civ. R. 34, Plaintiffs request that Defendants David H. Hoffman, Sidley Austin LLP, and Sidley Austin (DC) LLP (collectively, the “Sidley Defendants”) produce for inspection and copying all documents hereinafter designated at the offices of Plaintiffs’ District of Columbia counsel, James R. Klimaski, or at such other location as may be agreed to by the parties.

DEFINITIONS

1. The term APA refers to the American Psychological Association, together with its affiliated business entities, departments, divisions, or any other organization in which it has a management or controlling interest (including the APA Practice Directorate); its current and former directors, officers, employees, agents, and representatives; any person over which it had or has control; or any person acting on its behalf.

2. “Sidley” or “you” or “your” refer to David H. Hoffman, Sidley Austin LLP, Sidley Austin (DC) LLP, affiliated business entities, or any other organization in which they have a management or controlling interest; their current and former directors, officers, employees,

agents, partners, associates and representatives; any person over which they had or have control; or any person acting on their behalf.

3. "Correspondence" means any written exchange of information and/or data by electronic or regular mail, by telecopier, or by any other means.

4. "Document" refers to the term "document" as used in Super Ct. Civ. R. 34, and includes, without limitation, any printed, written, taped, recorded, graphic, computerized printout, electronically stored, or other tangible matter or materials from which information can be obtained. A draft or non-identical copy is a separate document within the meaning of this term.

5. A document "relates to" a given subject matter if it constitutes, contains, comprises, consists of, embodies, identifies, states, refers to, deals with, sets forth, proposes, shows, evidences, discloses, describes, discusses, explains, summarizes, concerns or otherwise addresses in any way that subject matter.

6. "Agents" refer to all persons acting on behalf of Sidley, including attorneys and LDiscovery.

7. "Requests" refers to the requests for the production of documents contained herein.

8. "Hard Drive" refers to the primary storage unit on PCs, consisting of one or more magnetic media platters on which digital data can be written and erased magnetically.

9. "Mirror Image" is a bit-by-bit copy of a computer hard drive that ensures the operating system is not altered during the forensic examination.

INSTRUCTIONS

1. All documents that respond, in whole or in part, to a Request should be produced in their entirety without any redaction(s). Documents that in the original condition were stapled,

clipped or otherwise fastened together should be produced in such form. Documents which are segregated or separated from other documents, whether by inclusion in binders, files, subfiles, or by use of dividers, tabs, or any other method, shall be left so segregated or separated. Documents shall be produced in the order in which they are maintained. Where multiple copies of documents exist, each non-identical copy should be produced.

2. All documents should be grouped together according to the individual paragraphs of the Request to which they are responsive or should be produced as they are kept in the usual course of business.

3. If, in responding to any Request, you object to responding to any part of the Request, you should respond to each part of the Request to which you do not object and state separately the grounds for objection.

4. If any privilege or protection is claimed as to any document, state the nature of the privilege or protection claimed (e.g., attorney-client, work product) and state the basis for claiming the privilege or protection. If less than an entire document is claimed to be privileged, furnish a copy of those portions of the document that are not privileged. For each document or portion of a document for which privilege or protection is claimed, provide the following information:

- A. the title of the document;
- B. the identity and title of each author;
- C. the identity and title of each recipient;
- D. the date of the document;
- E. a description of the document; and
- F. a statement of the basis on which privilege is claimed.

5. Use of the singular shall be deemed to include the plural and vice versa. The term “all” includes “any” and vice versa. The terms “and” and “or” should be interpreted as conjunctive, disjunctive, or both, depending on the context, so as to have their broadest meaning. Whenever necessary to bring within the scope of a Request all information or documents that might otherwise be construed to be outside its scope, the use of a verb in any tense shall be construed as the use of the verb in all other tenses.

6. All Requests referring to correspondence or other transactions between two or more persons shall include without limitation correspondence or other transactions made or conducted through intermediaries.

7. In responding to Requests seeking documents relating to correspondence, you should produce, *inter alia*, all documents identifying such correspondence (e.g., telephone or telecopier records, logs, calendars, diaries, journals and journal entries, e-mails or memoranda).

8. You are under a continuing obligation to supplement or amend your responses to this request for production of documents to the extent required by the Rules of Civil Procedure and any other applicable court rules.

9. To the extent that any copy of any document whose production is sought, whether a draft or a final version, is not identical to any other copy thereof, by reason of alterations, notes, comments, initials, underscoring, indication of routing or other material contained thereon or attached thereto, such non-identical copy should be produced separately.

10. Unless otherwise stated or required by necessary interpretation of the category, these requests cover documents generated from November 14, 2015, to the date of this request.

DOCUMENTS TO BE PRODUCED

1. A mirror image copy of all electronic data contained on the personal computer and hard drive of Dr. Stephen Behnke and retrieved by Sidley on or about February 5, 2015, as part of their investigation of APA. The mirror image should include active files, deleted files, deleted file fragments, hidden files, directories, all desktop folders, and any other data contained on the computer, or stored on the APA back-up server.

2. Any factual reports created by LDiscovery for Sidley regarding the contents of Dr. Stephen Behnke's computer or any analyses of the computer files or deleted files by LDiscovery.

3. Any conflict of interest policy, or any correspondence concerning such a policy, regulating the conduct of APA staff or APA governance members in 2005 received or reviewed during Sidley's investigation of APA.

4. All witness interview documents, memoranda, summaries, correspondence, or notes created during the investigation by Sidley.

Dated: August 30, 2017

Respectfully submitted,

/s/ Louis J. Freeh
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