

HAYWARD, CALIFORNIA; MONDAY, SEPTEMBER 13, 2021  
2:09 P.M.

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THE COURT: Good afternoon to everybody. Sorry we had to put this over a few times, but unfortunately, I was down in Los Angeles with a family emergency that took me away from here for a while; although, I did some work down there. So this is on my calendar today. It's regarding an ex parte application brought by the plaintiff, Viji Nakka-Cammauf, for a temporary restraining order, an order to show cause re contempt for noncompliance with preliminary injunction, and order to show cause re further affirmative relief and preliminary injunction.

I'll tell you what I reviewed, and I can't say that I got every single document as far as the filing date, but I did read every single document that has been filed for this hearing. So I got the initial ex parte application that was filed on August 26, 2021, and there was a declaration of John C. McBride in support of the plaintiffs' ex parte application. Again, that was filed August 26, 2021. I've got a declaration of Dr. Viji Nakka-Cammauf re lack of documentation that was filed August 31st, and then I have a declaration of Lisa McCurdy in support of plaintiff's ex parte application. That was dated August 26, 2021. I have a September 1st as well as an August 31st declaration of, again, the plaintiff. That one was filed September 1st. I have a supplemental declaration of John C. McBride filed September 3, 2021. I have a declaration of Jeffrey Brandlin which was filed August 26th, CPA, in support of the ex parte application, and I do have another declaration of the plaintiff in this case, August 26, 2021, filing, and that is what I have on my desk because I came back to all the courtesy copies that I did not have down in Los Angeles.

So as far as the defendants, I have their opposition to plaintiffs' ex parte application filed

August 30, 2021. I have the declaration of N. Thomas Connally in support of opposition to the ex parte. That was filed August 30th. I have a declaration of Renee Jadushlever -- I probably said that wrong -- in support of the opposition of the ex parte, August 30, 2021, filing date. A declaration of Robynne Lofton in support of the opposition to the ex parte application filed August 30, 2021, and I have a declaration of Dr. Hillman, August 30, 2021, filing date; a declaration of Kathleen Sanborn in opposition as well of August 30, 2021; declaration of Maria Cammarata in support of the opposition to the ex parte filed August 30th; a declaration of Carrie Hall in opposition as well -- in support of opposition, August 30, 2021; and I have a supplemental declaration of Renee Jadushlever in support of the opposition. That was filed September 3rd, and a declaration of William Intner, I-N-T-N-E-R, in support of the opposition filed September 7th, and I have also a declaration -- a supplemental declaration of Kathleen Sanborn filed on September 7, 2021; and then basically the same type of declarations from board of trustee members, these were all filed on September 8, 2021: Kristen or Kristen Wolfe, a declaration of Karen May, a declaration of John S. Brabson, a declaration of Eric Roberts, Elizabeth A. Parker, Deborah Wood, Carmen Wiley, and Jay O'Brien, Alexandra Moses, Dr. Adrienne Foster, and I have a supplemental declaration of Kathleen Sanborn filed on the 8th as well, and then a declaration Leslie Decker, and these are board of trustee members, a declaration of Laurence Colton, Lyn Flanigan, Dr. Marilyn R. Schuster, Robert B. Thompson, Ophelia Basgal. There's a supplemental declaration of Dr. Hillman filed on the 8th, and I have an indexed exhibits in support of the opposition to the ex parte. That was filed back on August 31st. I have a supplemental declaration of Carrie Hall in opposition to the ex parte. That is September 1st. Then I have a second supplemental declaration of Carrie Hall filed September 3, 2021. So I don't know if I missed anything, but if I did, I

really didn't miss it because I know I have read everything on the register of actions.

So I obviously have read everything counsel. My initial concern when I first saw this new ex parte application was whether or not my order was complied with and my order of production of documents so that's what I focused on, and I have read many declarations on each side regarding that. I am of the opinion that the college made a good faith effort to produce the documents that they were supposed to produce.

This was not an easy issue. I have struggled with this a little bit about what the proper forum is for this case whether it's a courtroom or whether it's the board of trustees meetings or other places. You may or may not know that I was a board of trustee on a local school board in the Bay Area years ago before I became a judge. So I kind of know what it's like to be a board of trustee, and I know what information we get and what we rely on and what we can do ourselves. I certainly would always want any board of trustee member of a school board or otherwise to have all the information that they need to have, but I'm not so sure if it's my job to ensure that. I certainly will enforce whatever is there, whatever orders I've made and whatever issues that are in this case.

I'll be clear that where we're at today for the ex parte application, I'm mainly focused on the TRO right now. I know that the way we did it last time, of course, I issued a TRO. It did have an ending date, and I believe I gave it a date for preliminary injunction, but I can't, to be honest, remember right this moment. My focus now is whether I should issue this TRO, and I will tell everybody that I am, again, torn. I certainly understand each side to some degree. I am very concerned from everything that I've read to be honest that this delay is causing some harm to the school. They are not able to operate. They are not able to give their students certainty. They are not able to maintain their staff. ^^ This is not fact and is very much part of the litigation

There is just a lot of things that are happening, and I believe that, I will say, you know, that I know the plaintiff in this case is a member of the board of trustees. She has every right to do the inspections of documents pursuant to the bylaws and other issues. I did make an order that she has -- that she get records. Again, I just said I am of the belief from all that I read I think they may have enough information. My one main question is: How much is enough; how much does a member of a board of trustees of this particular college need? I mean, she has a responsibility in my mind to also perform her job as a trustee and reach out to get information. I'm well aware that staff produces things. I've seen your Web site. I didn't see it, but I know that I have seen the reference to the Web site. I know that I have seen the reference to the virtual room. I've seen all of that.

So I will say, again, maybe based upon my experience that I find it interesting that a number of the members of the board of trustees have decided to announce in the declaration their vote before the meeting. I don't know if I have ever seen that. I know that I would never announce my vote before a meeting. I'm not so sure that there's a particular act out there that might prohibit such a thing, but I'll leave that alone, but it did -- this is not a popularity contest for me. I am not taking a poll. I'm not having everybody raise their hand to tell me what they want to do and what they don't want to do, but you know, for the board of trustees before a meeting on the subject to tell me and tell probably everybody else that this is how they are going to vote is a little surprising; however, that is really not the main issue. I think it may be time, quite frankly -- and I will tell you where I'm leaning -- that it's time to have the meeting and time to debate and time to discuss; even though, I guess some people it's maybe a foregone conclusion, but we'll see. There needs to be a proper meeting. There needs to be a board meeting,

and this issue needs to be thoroughly discussed with all the information that's been provided with all that we have. I know there is an issue about the merger agreement that it's a draft. Well, it is probably not unusual to have a draft at this point. That's the purpose, quite frankly, in my mind of the meeting to formalize things, to have a hardy conversation, and debate amongst the board of trustees and to make a decision, but I'm sort of leaning to that's just what I think should happen. What I am indicating to you is, I am inclined to deny the temporary retraining order.

So if anybody wants to try to convince me otherwise, now is your time.

MS. MCCURDY: Yes, Your Honor. Lisa McCurdy for the plaintiff. Thank you for your initial comments. It's always helpful to get a sense of where your head is, and starting with your observation that perhaps it's time to have a meeting and have some discourse, I don't disagree with you that perhaps it's time for a meeting, but a meeting that calls for a vote on this is premature at this stage, and I would like to talk about why that is. I would like to talk about whether the merger is necessary, and whether the merger is good or bad, and we're certainly not here at this hearing to take a vote. What we're here to talk about is whether the vote should and can go forward at this time which as we understand it, as we're sitting here, would take place tomorrow morning. That's when it's schedule to take place.

At the outset, I want to note something that I think is particularly important. Our client, and critically for this hearing, Dr. Nakka-Cammauf did not pursue this second application or the litigation in general to be dilatory or to be obstructionist. In fact, the opposite is true. The defendants have stated that Dr. Nakka-Cammauf doesn't want this vote to happen; that she doesn't want the merger to happen, but all of that remains to be seen. Unlike some of the defendants, she has not said what her vote

ultimately would be. What she's here to try to do is make an informed decision either way and not be forced to vote where she lacks necessary information, and I'll talk about that in a minute. So she's being subjected to some misplaced criticism here, and I just wanted to address that upfront.

The Court, we believe, needs to stop this vote from going forward now, and if it does go forward, it would be premature based on information that is incomplete -- but we know to be available -- that has not been produced, and it would be a vote on an unfinalized merger agreement with expressly incomplete terms, and it would be a vote to not only vote on an incomplete agreement, but what the board of trustees would be asked to do is effectively give away their authority to vote on the final terms, and instead, allow the agreement to be changed, finalized, and ultimately set in stone without the agreement ever having to come back to the board of trustees for that final stamp of approval. That is in the resolution that is being presented to the board of trustees. We submitted it under seal because it is deemed confidential.

THE COURT: Well, I'm going to interrupt. Are you saying that it's your belief or your understanding that the board of trustees is going to vote on a draft merger agreement without it being finalized?

MS. MCCURDY: Yes. That is in fact --

THE COURT: They are then going to give up their responsibilities and allow staff to fill that in or attorneys or whoever?

MS. MCCURDY: Yes. That is in fact --

THE COURT: I'll wait to hear what their response to that is because that would be somewhat concerning, but go ahead.

MS. MCCURDY: Thank you. That is in fact what -- and I'm sure counsel for defendants will speak to this -- but that is in fact what they are being asked to do, and of course, breach of fiduciary duty is

a cause of action in the complaint, and it is now one that is coming into clearer focus.

So getting to a key question that Your Honor posed whether defendants complied with the Court's order and have produced documents that were ordered to be produced, the answer is no; not even as of today. And we'll look at few of the areas in which they have failed to comply. Now, these are just some of the obvious areas. We don't know, obviously, what we don't know. We don't know what has not been produced, but here is some areas in which we know there was not compliance: financials, that is Category 1; critical fiscal year 2021 financials have not been provided to the trustees at all, and we know this because they were not in the production, and yet, we're not speaking to the specifics to what is in the merger agreement because, again, it's been noted as confidential; although, Your Honor has received the draft under seal, but the merger agreement does say that Northeastern was provided with a copy of unaudited financials fiscal year end 2021 that have not been provided to the trustees. So there are more current financials available that Dr. Nakka-Cammauf and the other trustees have not been provided. Form 990s for the last three years were not provided. Dr. Nakka-Cammauf and the other trustees were not even provided with a complete draft agreement until August 31st well after the court entered its order. Only one section of the agreement, Article VI had been provided. Clearly drafts of the complete agreement were going back and forth much prior to that between Mills College and Northeastern, and again, even as of today, it's still labeled "subject to negotiation." Key terms are still to be completed, and critically, the resolution, again, leaves open the possibility that the agreement will continue to be subject to change. The merger itself is not even set to close until sometime next year which begs the question: Why is this vote so critical to be done tomorrow when even

under its own terms it's not going to be finalized until sometime in the middle of next year? As I said, it is labeled -- each page of the agreement is labeled: "All terms subject to ongoing negotiations." Other critical terms like the maximum amount of a loan that is supposed to be coming from Northeastern, that remains unfinalized.

So our ask for this court is because there is no urgency to this vote, and we know there is no urgency to this vote because, again, even if this document gets signed tomorrow, the transaction itself is not going to close until next year. There are contingencies through the merger with respect to a bank affiliated with a college that needs to be worked out before the agreement can take effect. So it's a premature vote in the first place, and again, just those categories alone of documents that we identified financial information, a complete agreement with key terms completed on which to vote, current 990s for the college, all of that needs to be produced, and provided to Dr. Nakka-Cammauf and any trustee who is going to be exercising fiduciary duties on a transaction of this magnitude. There is no conceivable way that on this record that any trustee can fulfill his or her fiduciary obligations and vote in favor of that agreement tomorrow. So our ask of the Court is for an order of full compliance with the prior order, for time to review a complete agreement whenever that is presented in full along with the requisite information and the updated financial information.

THE COURT: How am I going to ultimately know if there has been a complete compliance with the record production? I'm not going to go through all the records myself. I guess I could appoint somebody to do that, but everybody -- and this happens, quite frankly, a lot. You probably all know that where there is an argument on a case: Each side, I produced it; the other side, no, you didn't, and we keep going back and forth, and if it goes back and forth too many



times, then I say: All right. It's time for a discovery referee. Now that takes time and that delays things, but you know, how will I ever know, and you have asked that maybe there be a certification of full compliance from the college, and if you get that, does that then satisfy you?

MS. MCCURDY: It would satisfy us, yes, largely, except for issues like the ones that we've identified here today where it's clear that there has not been compliance. Financials that we know exist that we don't have; a merger agreement that is not in draft form that has all terms finalized that has the form, you know, of what that merged entity is going to take attached to it, and a proper resolution where the board of trustees with full information in front of them are being asked to approve an actual merger agreement that is not subject to later ongoing change that would not then be brought back to the board.

THE COURT: All right. I really want to hear from the other side about that particular issue. I cannot see, quite frankly, the board right now voting on the draft agreement that I have seen. I don't know how you vote on a draft agreement that has got all kinds of blanks in it. I would never vote on that; however, as stated in one of the declarations, maybe there is more that is coming.

If the meeting is tomorrow morning, number one, I can't imagine how the board of trustees can vote unless they have the complete final agreement, and it certainly would be concerning to me if the board of trustees is meeting their obligations if that agreement can then be changed without any vote from

a period or a comma, but I'm concerned about that. So let me hear from the defendants on the issues that were just raised.

MS. YONEKURA: Yes, Your Honor. I do just want to state on the record that the various

individual defendants and many of the board of trustees are listening on livestream.

THE COURT: I assumed that.

MS. YONEKURA: With respect to -- I would actually like to take it back and address what plaintiffs' counsel has talked about because they very much are trying to convert the inspection rights into something that it's not. It's a pretext to hold up the vote and stop the Northeastern alliance and usurp the board of trustees' authority.

The plaintiff filed this TRO before attending the study session that was scheduled to walk her through the agreement without meeting and conferring with defense counsel, and that is actually going to be critical here, Your Honor. They didn't call one time to ask us about the records,

^^Categorically untrue. The Alumnae Trustees - all four of them - have been asking for documents since March.

and I'll talk about the fact that we actually approached them to meet and confer and walk through each and every one of their objections, and they didn't take us up on that offer. Even when you look at her objections themselves, it seems as though she didn't review -- she did not review or her attorneys did not review all of the records. An example of that would be that she makes a specific objection relating to communications with University of Berkeley, and there were 2,242 pages of communications with the University of Berkeley that were produced. So all of the documents as we indicated in our opposition have either been produced, are already available to Dr. Nakka-Cammauf as a board of trustee, were not requested -- that is actually also going to be an important bucket that I want to talk about -- or do not exist.

Instead, the second TRO is a veiled attempt to truly substitute plaintiffs' and the AAMC's judgment for the board of trustees who are -- who have the

authority to govern, and they are actually trying to get the Court to substitute its judgment for the board of trustees, and that is not what inspection rights are about. You did order us to provide records to plaintiff and her counsel and her consultant on August 18th, and we did so. In fact, if we look at the genesis of this lawsuit, it is hard not to see how plaintiff isn't using this lawsuit to hold up the vote. She filed the lawsuit on June 10th at a time when no unmet request was made. Instead, ten days later on June 17th, she filed these discovery-like requests that we have now completed and complied with. We actually went through -- we had senior-level college staff gathering these materials, and they spent countless hours, and this is already a staff that is stretched thin by layoffs and attrition in the midst of a pandemic, in the midst of a financial crisis while they are trying to consummate a deal with Northeastern in the best interest of the college.

Now, we produced those records as required by the Court, and in fact, in our opposition, Your Honor, we spent a lot of time -- we knew that would be your question: Did you comply with my order? And, yes, we did. That's Exhibit 45. We actually lay out exactly what was produced, what didn't exist, what was already available, or what was trying to be shoehorned into the June 17th request because as the Court will remember and as plaintiffs well know, when the Court made that order on August 16th, you explicitly limited it to those June 17th requests. You noted that quote -- actually, the purpose of granting the inspection rights was:

"Is to make sure that the plaintiff can make an informed decision; not whether or not some CPA can go out and give an opinion whether Mills College is financially stable or not."

And that is what they are trying to do. We have produced every single record.

^^Categorically untrue

On September 3rd defense counsel reached out to plaintiffs and said why don't we meet and confer. We actually have complied with every single request on June 17th for the reasons why I just told Your Honor. We will sit with one of the college staff and let Dr. Nakka-Cammauf and the attorneys go through every single objection that you have, and we can tell you what it is, but with respect to the laying out of each one of those, we did that in Exhibit 45. We went through pain-staking efforts to make it abundantly clear that we have complied with the Court's order and that June 17th request leaving no question by looking at that chart. So the defendants -- the plaintiff didn't take us up on that offer. They didn't meet and confer with us and walk through those requests. We offered again on September 8th, and they didn't take us up on that request, and meanwhile what they did is, they filed this TRO before plaintiff was supposed to attend a scheduled study session within a day of filing the TRO where she would have learned more about the transaction.

Since the filing of the TRO, she has attended the study session. She has attended two board meetings. Two board meetings that had to -- where the board of trustees weren't permitted to vote. They still had the board meetings to discuss the Northeastern transaction and further educate the board. At that time, plaintiff had the opportunity to ask questions. She has now seen a full draft agreement. I'll get to that part of your question in a minute, Your Honor. But the trustees feel like they have the information that is needed to vote. I feel as though they have indicated they have the information they need, but they haven't necessarily indicated how they are going to vote, but they, as they sit here, believe that the both Northeastern alliance is the best alternative, but that they have the information to vote.

So we're here, and we're not talking about inspection rights. It is about -- the plaintiffs' counsel just said that we can have another meeting tomorrow. It would be the third board meeting that would be put off instead of voting, but it is actually time to vote. We understand that this is a hard decision for each and every trustee, and that it is a hard decision for plaintiff, but life is full of hard decisions, and that is what boards of trustees are supposed to do. The statute does not give her the right to hold up the vote because a decision is hard, and she can't decide. The statute doesn't give her the right to commission her own financial consultant funded by the AAMC and hold up the board vote while we wait, and instead, it is in fact, as the Court noted, time to return this discussion to the boardroom. Plaintiff can discuss with her fellow trustees her questions about the materials. She can ask the board to retain a financial consultant in the interest of the board which she never did. She can discuss the relevance of the June 17th documents that she has received. She can even advocate why the Northeastern alliance is not a good idea, but it is time to vote, and with respect to what plaintiffs' counsel said of it not being urgent: It is beyond urgent.

The students -- we included the letter from Annalise Totten. She wants this lawsuit to stop. She wants an answer. She wants to know if she has to transfer, and believe me. She's not alone in that regard. With respect to the students who want to know if they are going to be able to stay at Mills College and get a degree. The staff has chimed in. The faculty voted. 80 percent of that voting faculty think that the Northeastern alliance is the best option to pursue. The board of trustees haven't been able to exercise their fiduciary duty, and the community is going to suffer harm when they forever lose this cherished institution if it's forced to close.

^^ There is no evidence shown to support this statement. This is part of the suit.

But for plaintiff's counsel to act like it's not urgent because the deal doesn't actually close for a while, that's because in the real world transactions like this need transition time. They need to be able to plan what programs they are going to keep. They need to plan whether or not the students are going to stay, if they are going to transfer so it doesn't drop on a dime.

And by the way, the minute the transaction is consummated if the board decides to vote in favor of the Northeastern alliance, Northeastern has agreed to assume the responsibility for the operating deficit, and that's the death spiral that we've been talking about. As we showed, the operating expenses will exceed the income or the revenue of the college by November or December. Without that financial support of Northeastern, the college is actually going to have to start the closure process for the benefit of the students and for the benefit of the staff who actually need to know what they are going to be doing this spring with respect to whether or not the Northeastern transaction is going to go through.

I will talk about your question about the agreement itself. Although, I do have to say I do think that the plaintiff is truly trying to take the inspection rights and make it something that it's not because we have complied with your order to produce the required documents, but I will still address the question about the merger agreement. The merger agreement is final. The board was told that yesterday, but Your Honor, that doesn't mean that there is, in fact, a resolution that the president and others can make changes as necessary consistent with the intent of the board. That is in the resolution, and that is actually common practice under -- it is common practice under corporate law for a board to be able to finalize an agreement. It's Ballantine & Sterling

California Corporation Law. It says:

"In approving an agreement of merger, the board should ordinarily consider and approve a specific form of agreement" -- which we do have here -- "in front of a board, but in most cases, should also grant authority to identify officers to approve formal and less important substantive changes in the agreement."

And in fact, that same resolution, Your Honor, indicates that any amendments or changes will be discussed, but it still gives the authority to the officers to finalize that agreement so they don't have to come back every single time. The agreement that the board reviewed on Friday is the final agreement.

THE COURT: That is not the one that I have, correct?

MS. YONEKURA: It is not the one that you have, Your Honor.

THE COURT: Thank you. What about the 2021 financials? Were those produced?

MS. YONEKURA: Hold on, Your Honor. I was actually looking at that. To the extent -- I would love for Ms. McCurdy to tell us which request that falls under. That is actually part of the issue, Your Honor. They have records that Mr. Brandlin requested that are not necessarily responsive to the June 17th request. They claim that we haven't produced records when in fact we have produced all of the records as it relates to the June 17th request. I don't know if this answers your question, but here is where they tried to shoehorn most of that. In request number seven, request seven requested weekly or monthly cash flow projections for fiscal years '22, '23, '24, and in their objections to the filings, they said we didn't produce 2021. If you look at that request, it did not request 2021. I don't know if Ms. McCurdy has a different request that she feels that those 2021 records would be responsive, too, but that's where I

remember the 2021 records coming up in their objections.

MS. MCCURDY: Your Honor, Lisa McCurdy for plaintiffs.

There are multiple requests where those would fall. Request number 11, also in addition to what defense counsel is stating and also just simply, request number one, we had requested materials that were provided to potential partners of Mills College, one of which obviously is Northeastern, and again, the merger agreement at Paragraph 4.4 itself says that these materials were provided to Northeastern, but they provided to the trustees. It doesn't make sense.

THE COURT: Well, you know, the trustees for it.

MS. MCCURDY: That's what we did, and Your Honor ordered them to be produced.

THE COURT: No, no, no. I'm not talking about what I did. If I wasn't around in the case at least, a board of trustees member can ask: Staff, get me those 2021 financials. I want to see them. I want that.

MS. MCCURDY: You're right, Your Honor, and that request is what was the underpinnings of our first ex parte application.

THE COURT: I understand that. But, you know, the plaintiff can ask for it. Any board of trustees member can ask for information and get it. They should get it.

MS. MCCURDY: Agreed.

THE COURT: That's part of their job.

MS. MCCURDY: We agree. The only reason we're weren't can ask here is because that is not what happened. The request was made, and it was not responded to.

THE COURT: Tell me what you all see as -- all right. I've got another question. Ms. McCurdy, was there a meet and confer request to you?



MS. MCCURDY: Yes. And we did meet and confer.

THE COURT: You did meet and confer?

MS. MCCURDY: Yes. Defense counsel reached out to us the Friday before Labor Day weekend. We spoke in the afternoon at some length for at least a half hour. I had indicated that -- they wanted to talk over that weekend. I indicated I was not available because I was preparing for a deposition and suggested that in order for us to have a meaningful conversation that they agree to a short continuance of the vote because at the time that was hanging over everybody's head, and we were continuing to review records and prepare for the vote and the hearing, and they would not agree to that. So we were forced to continue on preparing for the hearing which then got continued, but that's fine, and to prepare our client to understand these records that were being produced. We were still reviewing them at that point, and not in any small part because they did produce -- and they have conceded this -- they did produce some of the materials after the production date.

THE COURT: All right. So what do you all see is the future of this case? No matter how I rule today on the ex parte TRO request, where do you see us heading with this case? Will there be an evidentiary hearing? Will there be a trial coming up? Sooner or later?

MS. MCCURDY: Well, we think that depends. In large part, it depends on what Your Honor does decide today, obviously, that will affect the trajectory. You know, whatever additional materials may be provided in discovery could affect the trajectory. I really -- I wish I had a better answer for you, but truly can't say as I sit here today.

THE COURT: All right. Does defense counsel want to say anything about my question?

MS. YONEKURA: Your Honor, we would want it

to be over. We have spent a exorbitant amount of time and money and effort on addressing Dr. Nakka-Cammauf's requests, and it is time, in our opinion, for the Court -- I mean, for the board of trustees to be able to govern and to go save this college. So I would hope that there wouldn't be an evidentiary hearing, but --

THE COURT: I'm asking -- I don't mean to interrupt -- but I'm asking because we have got a complaint. **We have got a First Amended Complaint.** We have got a cross-complaint. We have got all kinds of pleadings out there that are still out there so that's why I was asking the question.

MS. YONEKURA: I understand, Your Honor. I don't know how to answer that question either.

THE COURT: Okay. You don't have to answer it. I got it.

All right. So I want the trustees to have the 2021 financials, particularly **I want the plaintiffs in this case to have the 2021 financials.** And those should be -- the meeting is tomorrow; is that correct?

MS. YONEKURA: Yes --

MS. MCCURDY: And Your Honor --

MS. YONEKURA: I apologize, Ms. McCurdy.

MS. MCCURDY: I was just clarifying that, yes, there is a meeting, but on the agenda for the meeting is a vote on what we call the draft agreement and what defendants' counsel is now saying is effectively final, but it's the resolution that we described which allows for subsequent changes to be made.

THE COURT: But there is an action item on the agenda to vote on this alliance, correct?

MS. MCCURDY: Correct.

THE COURT: Very good. **I want the plaintiff in this case to have the 2021 financials by the end of**

today. I don't know how you get them to her or how you do it, but it seems to me it shouldn't be difficult. Subject to that, however, I'm going to deny the request for the TRO.

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like not to have to come back in front of you yet again.

THE COURT: Well, I love having you all, but go ahead.

YONEKURA: Your Honor?

COURT: Yes.

YONEKURA: We will do that. I just would

MS. YONEKURA: We will commit to produce what exists for 2021 that would have been referenced in those documents that Ms. McCurdy indicated. One of the disconnects has been that Jeffrey Brandlin thinks records should exist that don't exist. So I will confirm that we will produce what we have with respect to 2021.

THE COURT: Okay. It is hard to produce something that you don't have so whatever you have you produce so that takes care of that.

All right. I'm going to deny the TRO. That's my ruling. Defense, if you wish to submit an order to me on that, you can -- or I do have an order. Hold on.

MS. MCCURDY: Just for clarity, Your Honor, would that production of records that would be any records that are currently available audited or unaudited, correct?

THE COURT: Yes. All right. I do have an order from defense counsel. So I will look at this.

I'm going to have change a few things about the dates and stuff. I'll use that. All right. I want to thank you all very much. I hope this can stay on a path of, again, what is best for the college, and good luck to everybody, and thank you very much.

MS. YONEKURA: Thank you, Your Honor.

MS. MCCURDY: Thank you, Your Honor.

(Time ending: 2:54 p.m.)