UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION
CIVIL ACTION CASE NO. 5:09-cv-00244-KSF

filed electronically

C. MARTIN GASKELL PLAINTIFF

V. **DEFENDANT'S MOTION IN LIMINE TO PROHIBIT MICHAEL KOVASH FROM TESTIFYING REGARDING HIS KNOWLEDGE OF AN ADVISORY COMMITTEE MEMBER'S VIEWS REGARDING RELIGION**

UNIVERSITY OF KENTUCKY DEFENDANT

** ** ** ** ** ** ** **

In his Witness List, the Plaintiff identifies Michael Kovash as a witness who will be called testify on his behalf about "his knowledge of an Advisory Committee member's views regarding religion."

Michael Kovash was previously married to Sally Shafer, who served on the Advisory Committee for the search for an Observatory Director at the University of Kentucky. During this process, Kovash had no communications with Sally Shafer regarding the search process, what she considered in the search process, and why she recommended any candidate for the position of Observatory Director. Despite his lack of personal knowledge regarding Sally Shafer's role in the search process, at his deposition, Kovash volunteered that he considered Shafer "anti-religious" based on his marriage to her in the distant past. Kovash's opinion on Shafer's religious beliefs is irrelevant to this case. In light of the fact that he has no personal knowledge about Shafer's deliberations regarding the search process, any conclusions he has drawn based on information supplied to him by other people is incompetent evidence. Furthermore, allowing Kovash to testify regarding Shafer's views on religion would open the door to impeachment evidence regarding Kovash's bias against Shafer premised on marital issues that have nothing

whatsoever to do with the issues before the jury in this case. Allowing Kovash to testify regarding Shafer's views on religion is clearly impeachment on a collateral issue which will mislead the jury as to the ultimate issue in this case. Therefore, the Court is respectfully requested to preclude Michael Kovash from offering any testimony regarding his knowledge of Sally Shafer's views regarding religion.

Respectfully submitted,

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s/BARBARA A. KRIZ
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CERTIFICATE OF SERVICE

I hereby certify that on **December 22, 2010**, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following: Francis J. Manion, Geoffrey R. Surtees and Edward L. White, III.

s/Barbara A. Kriz
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V. **PROPOSED ORDER**

UNIVERSITY OF KENTUCKY DEFENDANT

** ** ** ** ** ** ** **

On Motion of the Defendant, University of Kentucky, to prohibit Michael Kovash from testifying regarding the religious views of one of the Advisory Committee's members, Sally Shafer, the Court having reviewed the Motion in Limine and being otherwise sufficiently advised, it is hereby ORDERED that the Motion is SUSTAINED. Michael Kovash is hereby prohibited from offering any testimony regarding Sally Shafer's views on religion.

ENTERED this _____ day of _____, 2010.

_____
HON. KARL S. FORESTER, JUDGE
UNITED STATES DISTRICT COURT
LEXINGTON DIVISION