

COMMONWEALTH OF MASSACHUSETTS  
COMMISSION AGAINST DISCRIMINATION

MASSACHUSETTS COMMISSION  
AGAINST DISCRIMINATION and  
LAUREL RADWIN,

Complainants,

v.

DOCKET NO. 10-BEM-01145

MASSACHUSETTS  
GENERAL HOSPITAL,

Respondent

Appearances: Dahlia C. Rudavsky, Esq. for Complainant  
Laurie F. Rubin Esq. and Kristen Knuuttila, Esq. for Respondent

DECISION OF THE HEARING OFFICER

I. PROCEDURAL HISTORY

On May 14, 2010, Complainant, Laurel Radwin filed a complaint with this Commission alleging that Respondent, Massachusetts General Hospital (MGH) had discriminated against her because of her religion (Jewish). On September 14, 2010, Complainant amended her complaint to assert a claim of retaliation for her having noted or protested the scheduling of certain events by MGH between 2007 and 2009, on Jewish holidays. Specifically, Complainant alleged that her termination from Respondent in January 2010 was motivated by religious discrimination and retaliation for engaging in protected activity. The Investigating Commissioner found probable cause to credit the allegations of the complaint. Efforts at conciliation were unsuccessful and a Hearing was held before the undersigned Hearing Officer on June 15-17, 24-26, 29-30, and July

23, 2015. The parties submitted post-hearing briefs in October of 2015. Having reviewed the evidence in the record and the post-hearing submissions of the parties, I make the following Findings of Fact and Conclusions of Law.

## II. FINDINGS OF FACT

1. Complainant, Laurel Radwin, R.N., Ph.D., is a nurse researcher who was employed at MGH's Munn Center for Nursing Research from the fall of 2006 until January of 2010. Immediately prior to coming to the Munn Center, Complainant was a tenured associate professor of nursing at the University of Massachusetts, Boston. She had earned a Ph.D. from Boston College School of nursing and had served as an RN at MGH. (Tr. Vol. I, pp. 30-33 ,43) By 2005, Complainant had achieved a significant record of publications and was recognized as a leading scholar in nursing research. (Ex. 37, C-11, Tr. Vol. V, p. 1099)
2. In 2007, the Munn Center was a newly-created organization devoted to nursing research within a larger organization at MGH, the Institute for Patient Care, (IPC). (Tr. Vol. I, p. 42; Vol. 7, pp. 1328-1330) Dorothy Jones was the first Director of the Munn Center. (Tr. Vol. 7, pp. 1323-24). Guardia Bannister, who began working at MGH in August of 2007, was the Executive Director of the Institute for Patient Care. (Tr. Vol. 3, p. 544) Bannister reported to Jeannette Ives Erickson, the Senior Vice President for Patient Care Services and Chief Nurse, the highest nursing position at MGH. (Tr. Vol. 3, p. 545) Erickson reported to Peter Slavin, President of MGH. (Tr. Vol. 3, p. 546)
3. In addition to serving as the Munn Center Director, Dorothy Jones maintained a regular faculty appointment at Boston College, where she was a full professor of Nursing. (Tr. Vol. 7, pp. 1331-1332) She spent approximately half of each week at the Munn Center. Jones had been

a member of Complainant's Ph.D. dissertation committee at Boston College and suggested an area of research to Complainant that became Complainant's area of focus. Jones recruited Complainant to come to the Munn Center and advocated for her hire. (Tr. Vol. II, pp. 193-195)

4. During Complainant's tenure at MGH, the Munn Center had approximately eight employees, several of whom were engaged in research or related activities. The Center also employed an administrative assistant, Linda Lyster, a professional development coordinator, Elaine Cohen, and beginning in the summer of 2008, a grants manager, Janice Kiley. (Tr. Vol. I, p. 60; Vol. 3, pp. 432, 433; Vol. 5, pp. 901-902; Vol. 7, pp. 1350-1357; Joint Ex. 66)

5. Complainant's title at the Munn Center was Yvonne L. Munn Nurse Researcher. She was one of two employees with the title of Nurse Researcher. The other was Diane Carroll, who had worked at MGH for decades before transferring to the Munn Center. (Tr. Vol. I, p. 43-44; Tr. Vol. 2, p. 284. Complainant had worked at MGH previously for nine years as a registered nurse and "unit teacher." (Tr. Vol. I, pp. 31-32)

6. Complainant and Elaine Cohen, the professional development coordinator, are both Jewish. (Tr. Vol. I, p. 45, 59-60). Complainant described herself as an observant Jew somewhere in the middle of the spectrum between orthodox and very liberal. (Tr. Vol.1, pp. 45-46) Cohen testified that she grew up in a very Jewish community and went to Hebrew School. (Tr. Vol. 9 p. 1902) Cohen has a baccalaureate in nursing and Master of Science degree in psychiatric nursing from Boston University, worked for the Department of Health and Human Services Division of Nursing for some 25 years, ending her career there as a Branch Chief, and was recruited to MGH by Head Nurse Jeanette Ives Erickson. (Tr. Vol. 9, pp. 1782, 1784-1786, 1789-1792)

7. Jones testified that she was not aware of Complainant's religion at the time Complainant came to the Munn Center, but learned Complainant was Jewish when Complainant's father passed away in February of 2007 and Complainant was engaged in the Jewish mourning rituals. (Tr. Vol. 7, pp. 1342-1345; Ex. 5) Jones was supportive of Complainant at this time, and Complainant wrote to Jones thanking her for her "support and love." (Tr. Vol. 2, pp. 196-197, 203; Jt. Ex. 5) Complainant testified that Guardia Bannister also was aware of the fact that she was Jewish because they discussed the Jewish holiday of Passover in a meeting in July of 2009. Although Bannister did not recall this conversation, I find that it likely that she knew Complainant was Jewish.

8. In 2007, Complainant referenced her religion publically in a Munn-sponsored meeting, noting that a lecture by a visiting scholar at another organization within the Institute for Patient Care had been scheduled on the Jewish New Year, Rosh Hashanah, and that she and other Jewish nurses would be unable to attend. (Tr. Vol. 1, p. 48) Shortly thereafter, Jones' administrative assistant, Linda Lyster, circulated an email proposing a date for a meeting between the Munn Center and another MGH research entity that presented a conflict for Complainant because it fell on a Sabbath when she wanted to attend services. Complainant noted this in her response to Lyster but made the decision to attend the meeting when she was advised it was not possible to change the date. (Tr. Vol. 1, pp. 52-23) (Ex. 28) Complainant testified that she learned a "collaborative governance" nursing group (open to all MGH nurses) was scheduled for Rosh Hashanah in 2007 but was rescheduled when the conflict came to light.

9. In her second year at the Munn Center, Complainant sent Jones the dates of the Jewish High Holidays of Rosh Hashanah and Yom Kippur in advance, noting that she could not attend an event scheduled on the latter holiday. In September of 2008, Lyster offered some dates for an

Operations Research meeting noting parenthetically that two of the offerings were on Yom Kippur. Complainant emailed Jones that she was “uncomfortable” that Yom Kippur was being offered as a meeting date and wanted to let Jones know. (Tr. Vol. 1, p. 55; Joint Ex. 28) Jones testified that Lyster sent out the email without Jones’ reviewing it. Jones’ perception was that Lyster was pointing out the conflict with Yom Kippur to steer them away from that date and the meeting was not scheduled on that date. (Tr. Vol. 7, p. 1361-1364)

10. In her first year at the Munn Center, Complainant completed work on a multi-year project funded by the National Institutes of Health (NIH) which she had brought over from UMass. She applied for two Oncology Nursing Society grants that year and published a scholarly article. (Ex. 12 at Part IV) In her second year at the Munn Center, Complainant applied for three NIH grants, one of which was funded and an internal MGH Clinical Innovations Award (CIA). This proposal was ultimately funded by Partners, the parent corporation of MGH, following a presentation by Complainant to members of Partners’ leadership. (Tr. Vol. 1, ppp.65-67; Exs. 34, 40) During her first two years at the Munn Center, Complainant received favorable reviews from Jones in the fall of 2007 and 2008. (Tr. Vol. 1, p. 62-63; Joint Ex. 12; Tr. Vol. 1, p. 64; Jt. Ex. 31) She was enthusiastic about her job and working with Jones and Bannister, who both felt similarly. (Tr. Vol. 2, pp. 264-278; Jt. Exs. 5, 13, 14,17,18, 21,34).

11. During Complainant’s first two years at the Munn Center, she had primarily worked on completing research projects that she had begun at UMass Boston for which she did not need administrative support. (Tr. Vol. 1, pp. 44-45, Vol. 3, p. 536) In November of 2008, Complainant learned that a grant application she had submitted in September of 2008 had been approved. (Tr. Vol. 1, p. 64) The grant involved studying the effects of prayer on the outcomes

of cancer patients (prayer study) and working with a co-Principal Investigator, who was a professor at UMass Boston. (Tr. Vol. 2, p. 381) Work on this grant required Complainant to work with grants personnel and the administrative support staff at the Munn Center.

12. The process for submitting grants at MGH required all grant proposals to go through a central office known as Grants and Contracts for approval before being submitted to the funding source. (Tr. Vol. II, p. 389; Tr. Vol. III, pp. 419-420; Tr. Vol. V, p. 907) Progress reports also needed to be reviewed by Grants and Contracts before going to the funding source. (Tr. Vol. V, p. 975) Jones also needed to review all grant applications prior to being signed off by Head Nurse Jeanette Ives Erickson. (Tr. Vol. VII, pp. 1450-1453) There was testimony about Complainant's failure to follow established protocols regarding grants. Complainant resisted providing Jones with full copies of her proposals for review because she was reluctant to share with Jones a copy of her "science" which she viewed as proprietary. (Tr. Vol. II, p. 371) Edita Mirkovic from the Grants and Contracts Department testified that Complainant failed to provide copies of her full proposals, including her science, to Grants and Contracts. (Tr. Vol. 6, p. 1167)

13. Jones testified that in 2009 Complainant's need for administrative support in the submission and follow-through of grant applications resulted in a number of increasing challenges around Complainant's completing documentation, including forms that needed to be signed, and her lack of clarity about the information associated with the budget process. Jones stated there were repeated attempts to clarify the expectations required of Complainant to complete the process of grant submission and multiple requests to Complainant to prepare information and submit data to the appropriate people. (Tr. Vol. 7, pp. 1393-1394). These challenges often came to Jones' attention through a numerous emails sent between Complainant and administrative staff, an enormous sequence of emails from Complainant to Jones requesting

meetings, and many meetings requiring Jones to intervene to resolve the conflicts presented. Jones testified that she had never received so many emails from one individual over the course of time or around one incident. Jones felt that many of these conflicts could be resolved by Complainant and were resulting in significant demands on Jones' time to the exclusion of her other obligations. (Tr. Vol. 7, pp. 1452-1454) Jones also began to have some concerns about Complainant's behavior involving her interactions with administrative support staff at the Munn Center.

14. In the Spring of 2009, Complainant applied for an award to conduct research on racial and ethnic disparities in cancer care to be funded by the National Institutes of Health (NIH) through a contract with the Dana Farber Cancer Institute. This was referred to as the "Nodal Award," and required the submission of documents by Dana Farber and documents required by MGH. Guardia Banister offered Complainant the services of her personal administrative assistant to assist with the preparation of documents to be submitted to the funder and Complainant testified that the process was productive. (Tr. Vol. 1, p. 80, Vol. 9, pp. 1934-35, Vol. 6, pp. 1235-1236, 1241-1242; Ex. C-23)

15. In the Spring of 2009, Jones also learned about complaints from the administrative support staff at the Munn Center that Complainant was treating them in a disrespectful way, they felt bullied by her, and she was placing an inordinate amount of demands on their time. (Tr. Vol. 7, 1449-1450) On April 21, 2009, Grants Manager, Janice Kiley emailed Jones and Complainant informing them that she intended to seek the assistance of Human Resources because she perceived Complainant's conduct towards her as demeaning and felt that Complainant belittled her competency. (Tr. Vol. 2, p. 297-298; Joint Ex. 54) Kiley sent this notice after receiving an email from Complainant characterizing Kiley's response to her as not helpful and demanding

they meet at a particular time to go over budget information that Kiley had prepared for Complainant's Nodal application . (Tr. Vol. 2, p. 306: Jt. Ex. 54) Complainant also criticized Kiley for delivering a draft budget for the Nodal application by slipping it under her door, notwithstanding that Complainant had asked Kiley not to email her budgets with salary information. (Jt. Ex 53) Similar communications and exchanges wherein Complainant was critical of Kiley continued in a series of emails to Jones in April of 2009. (See Jt. Exs. 55, 60, 61, 69, 77) Complainant testified that Kiley had miscalculated the principal investigators' salaries in her budget reaching the incorrect conclusion that Complainant was over-budget and requested Kiley meet with her. In a prior March email regarding a dispute about budget information, Complainant communicated to Kiley that she did not find Kiley's failure to provide her with a blank budget form helpful. (Tr. Vol. 1, p. 111-112) Kiley had sought information about why Complainant needed the form, asked a number of questions, and offered to meet with Complainant to discuss what was needed, but Complainant stated she would not have time to review this material. (Tr. Vol. 2, pp. 315-320)

16. Kiley felt that the Complainant's criticism of her was unwarranted but Complainant testified that she felt her emails were matter of fact, not demanding, and an attempt to be collegial. (Tr. Vol. 2, pp. 306-307, 319) Kiley testified that Complainant treated her in a demeaning and bullying manner on multiple occasions, by the tone of her voice and the manner of interaction, and that this was very stressful and upsetting to Kiley. (Tr. Vol. V, pp. 934-935, 937-938) She testified to one occasion where she was attempting to assist Complainant and Complainant flung some documents back at her stating she already had them. (Tr. Vol. V, p. 937) On another occasion Complainant pounded on her door with a full fist and Kiley did not open the door because she felt afraid. (Id. p. 943) Kiley testified that she had never approached

Human Resources about another employee. She became so upset at Complainant's behavior that she refused to meet alone with her. (Tr. Vol. V, pp. 915, 941; Ex. 56) Kiley's distress was very apparent as she testified about these issues and I credit her testimony about Complainant's demeaning manner and tone in their interactions.

17. Kiley testified that she interacted successfully with a number of other researchers at the Munn Center and stated that others were more transparent in their dealings with her. She stated that others were more willing to give her information and to allow her to help them, whereas Complainant frequently would not provide her with responses to basic questions that needed to be included in grant applications. She also discussed other specific problems around getting information from Complainant who would often state that she did not understand what Kiley needed or felt that Kiley should be responsible for a task. (Tr. Vol. V, pp. 924-932; 942-943)

18. Complainant testified in her previous position at UMass she had been responsible primarily for writing the "science," and grants, while administrative personnel handled the form pages and other administrative portions of grant applications. This level of assistance was not available at the Munn Center. Complainant sought assistance from Cohen, Kiley and Lyster with typing her grant pages and with other administrative support that they were not charged with providing, and Complainant was advised certain tasks were her responsibility. (Tr. Vol. I, pp. 37-39, Tr. II, p. 395-96, 398). She claimed there was no clear policy about the responsibility for administrative tasks such as completing forms and discovered this through trial and error. (Tr. Vol. II, pp. 377-78; 399, 402-404) The evidence indicates there were numerous issues with Complainant's completion of form pages and of Munn Center personnel directing her to complete certain tasks which she did not do. (Tr. Vol. V, pp. 948-953; Tr. Vol. VII, pp. 1429-1443; Tr. Vol. 9, pp. 1824-1839; Jt. Exs. 47, 48, 49, 50, 54, 67, 70,71, 72, 74, 75, 89,90,: Ex. R-

3) Complainant claimed and reported to Mattson that this confusion resulted from lack of clarity around roles and responsibilities at the Munn Center. (Tr. Vol. II, pp. 377-78; 399, 402-404, Tr. Vol. III, p. 489-90; Ex. 172) Kiley brought her concerns about Complainant to Jones. (Tr. Vol. 5, p. 978) Jones also heard from the administrative assistant Linda Lyster that she was having difficulty dealing with Complainant. (Tr. Vol. 7, p. 1446) Co-worker Elaine Cohen testified that she observed Complainant treat both Kiley and Lyster in a demeaning fashion. I found Cohen to be a very credible witness and grant credence to her assessment. Kiley and Cohen also expressed their concerns to Banister about what they perceived as Complainant's demeaning communication style. (Tr. Vol. 4, p. 739) Bannister testified that she heard from Kiley and Cohen that Complainant was demeaning and minimizing the contributions of some staff. (Tr. Vol. 4, p. 740)

19. Jones also testified that there was difficulty getting information from Complainant, that she received complaints from the Grants and Contract division about forms not being completed, and often did not receive the grant submission herself. According to Jones, forms were generally simple, and with repeated discussion about expectations and no follow-through, Complainant's conduct became "ridiculous" and "excessive." (Tr. Vol. VII, p.1455) Jones testified that Complainant was very reluctant to share any information with her regarding the "science" of her projects because she felt this was proprietary information and feared that it might be misappropriated. Jones needed to have some basic information about the "science" to offer feedback as the Director and to discuss with Jeannette Ives Erikson, who was the final sign off on grants, and to determine if the studies were an appropriate focus for the Center and would be funded by the appropriate source. Jones stated that any materials Complainant regarded as proprietary would be kept protected and confidential. (Tr. Vol. 7, pp. 1447, 1450-1452)

20. Jones testified that she made efforts to facilitate a discussion with Kiley and Complainant in an attempt to resolve some of their challenges. Complainant denied that Jones offered to facilitate such a meeting and testified that Jones never reached out to her to hear her perspective after receiving Kiley's April 21<sup>st</sup> email stating that she would seek the intervention of HR. (Tr. Vol. 1. p. 114) Complainant later admitted that Jones did meet with her and did seek her perspective. (Tr. Vol. II, pp. 325-335; Ex. 55; 57) I credit the testimony that Jones communicated with Complainant in an attempt to improve Complainant's relationship with Kiley, but that Complainant was not entirely receptive to her efforts.

21. Jones had begun sharing her concerns about Complainant's conduct with Banister in early 2009, but did not seek her assistance. (Tr. Vol. 4, pp. 728, 731-732; 734) Sometime in the Spring of 2009, Jones informed Banister that the situation was not improving. Banister sought guidance from Human Resources personnel, first in the Spring of 2009, from Generalist Rod Mattson, and later from HR Director, Steve Taranto. (Tr. Vol. 4, pp.740-741; Tr. Vol. 5, p. 1054)

22. Jones and Banister met with Complainant on June 3, 2009 as suggested by Matson to discuss her interaction with colleagues and the areas of concern about her behavior. (Tr. Vol. 4, p. 748, 756; Tr. Vol. VII, pp. 1447-1449) At the June meeting, Jones and Banister stressed that they valued Complainant's scholarship, her talents as a researcher and were looking to her to be a leader at the Munn Center. (Tr. Vol. 1, p. 15; Tr. Vol. 2, pp. 363-364) Jones testified that she had hopes that Complainant might potentially take over as director of the Munn Center. (Tr. Vol. 7, p. 1458) They also discussed their concerns about Complainant's communication style, her need to be mentor, and the difficulties that some of the Munn Center staff were experiencing with her style. (Tr. Vol. 2, p. 365; Ex. 92) Jones' agenda also reflects that they sought to discuss

the need for Complainant to work collaboratively with others at the Munn Center, her excessive emails and demands on Jones' time, and the Center's inability to provide the level of administrative support Complainant expected with tasks she needed to complete independently.

(Ex. 92) They also discussed stress management since Complainant had been heard banging file cabinet doors loudly in her office when she was feeling stress over deadlines and completion of work. On the one occasion where Jones overheard such banging she intervened to ask Complainant if everything was alright. (Tr. VII, pp. 1454-55)

23. Complainant made notes of that meeting and her notes reflect discussion of her behavior being perceived as disrespectful and of complaints that she thought she was better than others at the Center and too good to do certain tasks. According to Complainant there was also discussion of the need for her to share more information with Jones and to get Jones out of the middle, presumably a reference to Jones being called upon frequently to arbitrate and settle issues arising between Complainant and others. Complainant tried to explain that some of the difficulties were caused by confusion around expectations and the need to clarify roles and responsibilities at the Munn Center. (Jt. Ex. 93) Banister asked why Complainant could not do her own typing and Complainant responded that she had difficulty with forms. Banister stated that they could not facilitate a full time assistant for Complainant, and that Banister's prior loan to Complainant of her administrative assistant was a one-time thing. (Ex. 93; Tr. V. 1, pp. 114-116) Both Jones and Bannister felt the meeting had gone well and testified that Complainant was receptive and not defensive. (Tr. Vol. 4, p. 757; Tr. Vol. VII, pp. 1457-58) Banister left the meeting optimistic that Complainant would address the issues that they discussed. (Tr. Vol. 4, p. 763-764) Complainant stated that there was no discussion of disciplinary action at the June 2009

meeting and she denied any discussion of a follow-up meeting with Jones and Bannister. (Tr. Vol. 1. p. 121)

24. Complainant testified that she had no understanding that her conduct was inappropriate or belittling to Kiley and she did not understand Kiley's concerns. (Tr. Vol. II, pp. 311, 324, 336) She did not recall ever acting disrespectfully or in a demeaning way to any Munn Center employee. She claimed that Kiley blamed the entire situation on her and Kiley would not accept shared responsibility. (Ex. 105) She did not apologize to Kiley or try to understand Kiley's concerns, stating that considering other's perceptions without specific "behavioral indicators," was not something she did. (Tr. Vol. II, pp. 324-325; Tr. Vol. III, p. 487-488)

25. Complainant testified that upon reflection, some of the things that Bannister said about her behavior during the June meeting made her uncomfortable because they reminded her of the stereotype of an "entitled Jewish woman." The comments Complainant referred to were about her acting like she was better than everyone else, that she expected other people to do things that others did for themselves, that she was perceived as too good to do certain things, and as disrespectful. After the June meeting Complainant also did an internet search, finding a definition of "Jewish American Princess" that she felt echoed the substance of what Bannister had said about her conduct and others' perceptions. (Ex. C-5) She stated that this phrase is intended to promote a stereotype about young women who are spoiled...self-absorbed, high-maintenance... and snobby."

26. Complainant's concerns about Banister's comments and how her behavior was being perceived caused her to reach out to Mattson in HR for advice after the June 2009 meeting. (Tr. Vol. I, pp. 116 -118) She had initially communicated with Mattson in May of 2009. (Tr. Vol. III, p. 480-482) Mattson's notes of this initial meeting reflect that they discussed a number of

topics, including Complainant's concerns about sharing information about her research projects with Jones, her relationships with Munn employees and taking ownership of her "incivility."<sup>1</sup> They also discussed her frustration in pinning down meeting times with Jones, and her lack of clarity around roles. (Joint Ex. 172; Tr. Vol. III, p. 482-485) Complainant recalled discussing some of these topics in her meetings with Mattson but did not recall discussing taking ownership of her own "incivility." (Tr. Vol. III, pp. 482-485) Mattson's notes also reflect that in the latter meeting he told Complainant that she had a strong personality, and that she asked him if it was too late for her to recover after alienating so many people. Complainant claimed not to recall this piece of their discussion. (Jt. Ex. 172, entry for week of 6/22/09; Tr. Vol. III, p. 490) I find it unlikely that Mattson would have fabricated certain topics of their discussion in his notes.

27. Complainant continued to meet regularly with HR Generalist Mattson between May and November of 2009, and she telephoned and emailed him on occasion. (Tr. Vol. III, p. 488, 493; Jt. Ex. 152, 172) Human Resources Director, Steve Taranto, testified that as an HR Generalist, Mattson was responsible for supporting approximately 900 employees, and that it was unusual for him to spend as much time with one person as he did with Complainant. (Tr. Vol. V, pp. 1063, 1072) Complainant continued to seek Mattson's advice about ongoing issues that arose with her colleagues and his assistance in addressing others' negative perceptions about her. (Tr. Vol. III, p. 489, Vol. I, p. 119) Despite her numerous communications with Mattson regarding difficulties she was experiencing with some of her colleagues, Complainant claimed not to understand why some colleagues perceived her treatment as disrespectful. (Tr. Vol. III, p. 493) She testified that she understood from Mattson's coaching that she should maintain utmost civility with her colleagues and should just remain silent if someone said something she did not like. (Tr. Vol. III, pp. 493, 496-498) Complainant claimed that after the June meeting she made

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<sup>1</sup> Mattson's notes were admitted into evidence because he died prior to the public hearing.

every effort not to ask support staff for clerical assistance and did so only with Jones' permission. (Ex. 167) She testified and wrote in a self-assessment that she attempted to limit the number of emails she sent to Jones and to deal directly with staff rather than copy Jones on emails. (Tr. I, p. 119; Ex. 167) Jones and Complainant worked out a method of sharing information that eased Complainant's concerns about sharing proprietary information. (Tr. Vol. IX, pp. 1961-1962)

28. After the June meeting, Jones met repeatedly with Complainant, sometimes alone and sometimes with Kiley and others. (e.g. Tr. Vol. VII, p. 1462; Jt. Exs. 97,105,108,118,123,124) These meetings focused on the progress of on-going work and performance and office issues. Complainant generally kept detailed and voluminous notes of meetings. Her notes reflect discussion of ongoing friction between her and Kiley, and quote Jones as stating on July 16, 2009, "this has to stop." (Jt. Ex. 105) On at least two occasions in the summer of 2009, Complainant sought to meet alone with Kiley, despite Kiley's stated wish not to meet one on one with her. Complainant could not understand Kiley's reticence to meet alone with her. (Tr. Vol. III, pp. 503, 504) Complainant's notes of the July 16<sup>th</sup> meeting also reflect that Jones asked her if she would consider a meeting with Kiley facilitated by Mattson and that Complainant responded she would prefer to just move on and not meet with Kiley. (Tr. Vol. III, p. 505. Jt. Ex. 105) Complainant's notes of this meeting also indicate that she raised some concerns about Elaine Cohen's interactions with her. (Tr. Vol. III, p. 518- 519; Jt. Ex. 105)

29. Complainant received news in July of 2009 that she had received the Nodal award. She received widespread congratulations on this award and a card and flowers from Banister. (See e.g. Ex. 100, 102, 104; Tr. IV, 774; Ex. 101) Bannister neglected to include notice of Complainant's award of the Nodal Grant in the announcements section of the agenda for the next

meeting of the Institute for Patient Care which she chaired monthly, but stated that this was not intentional. (Tr. Vol. IV, pp. 770-771; Ex. 98)

30. Shortly thereafter Complainant learned of an opportunity to seek additional funds for the Prayer Study which NIH had initially been funded in 2008. Complainant prepared the application papers and forwarded them to Edita Murkovic, the Munn Center's contact in the MGH's Office of Grants and Contracts. (Tr. Vol. I, p. 123; Tr. Vol. VI, pp. 1206-1207; Ex. 107) In late July of 2009, Complainant, Jones, Kiley and Mirkovic had to meet to clarify and resolve certain questions that had arisen relative to the Prayer Study's budget, the time Complainant would spend on the project, and a cost-sharing question, information that needed to be included in a progress report to the NIH. (Exs. 4, 5; Tr. Vol. II, pp. 382-387; Tr. Vol. III, p. 560) The budget Complainant presented to Grants and Contracts for her Prayer Study grant was different from the budget her co-principal investigator provided to the funding source. This resulted in confusion which necessitated the meeting with Grant and Contracts. Complainant had a number of explanations for the discrepancy including that she lacked both sets of budgets and disclaiming her responsibility to ensure that the information she provided to Grants and Contracts was consistent with the information she provided to the funding source. (Exs. 4, 5; Tr. Vol. II, pp. 382-387; Tr. Vol. III, p. 560)

31. The progress report on the NIH prayer study grant was due on June 1<sup>st</sup> and Mirkovic asked Complainant for the progress report on June 9, 2009. The report was not finalized until September 25, 2009. (TR. Vol. VI, p. 1172, 1146, 1173; Jt. Ex. 146) Complainant also failed to meet the internal ten-day deadline for providing Grants and Contracts with her Nodal proposal. (Tr. Vol. II, pp. 388-389) Complainant's failure to comply with these deadlines made Kiley's job more difficult and created a crisis environment where Munn Center employees were often