

**From:** Lawrence Krauss <[REDACTED]>

**To:** J <jeevacation@gmail.com>

**Subject:** Fwd: Krauss settlement agreement - revised draft

**Date:** Mon, 15 Oct 2018 03:11:26 +0000

**Attachments:** Krauss\_Settlement\_Agreement\_-\_2018-10-13\_Revision--KD\_redline\_830\_pm\_EDT.docx

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tail between legs.

**Lawrence M. Krauss**

**Professor**

School of Earth & Space Exploration and Physics Department

[REDACTED]  
[REDACTED]  
[REDACTED]

Begin forwarded message:

**From:** Justin Dillon <[REDACTED]>

**Subject:** Fwd: Krauss settlement agreement - revised draft

**Date:** October 14, 2018 at 5:59:58 PM PDT

**To:** Lawrence Krauss <[REDACTED]>

FYI. I apologize for the error—I had two versions open when we were making these changes while I was sitting in my car, late to pick my daughter up from a birthday party. I knew something like this would happen, which is why I wanted to get it out earlier and why I was so angry that we kept tinkering on what I felt were minor points. But it's my fault, and it still shouldn't have happened. I am sorry I yelled, but I have been single-parenting all weekend and driving all over God's green earth for much of it. I was fine with working late Friday night, and fine going back and forth with drafts and doing phone calls as we did yesterday. I was even fine with doing all of that again this morning and this afternoon. But not getting it out by the time I had to leave and knew I would be gone for four hours was just the straw that broke the camel's back. One of the things that makes me good at my job is that I take *everything* personally, including my clients' problems.

Today, you saw the downside of doing that. Anyway, I'm sorry, and I will let you know when I hear back from Kim.

Justin Dillon

KaiserDillon PLLC

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Begin forwarded message:

**From:** Justin Dillon <[REDACTED]>

**Subject:** Re: Krauss settlement agreement - revised draft

**Date:** October 14, 2018 at 8:52:10 PM EDT

**To:** Kimberly Demarchi <[REDACTED]>

Kim,

I apologize, but I accidentally attached the wrong version. This correct version omits “due to Krauss’s decision to retire” from Paragraph 2, makes a parallel change in Paragraph 1, capitalizes Agreement, and fixes a few typos.

Thanks,

Justin

Justin Dillon

KaiserDillon PLLC

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

On Oct 14, 2018, at 4:32 PM, Justin Dillon <[REDACTED]> wrote:

Kim,

My redline is attached. I think this should address our various concerns, but please let me know what you think.

Thanks,

Justin

Justin Dillon

KaiserDillon PLLC

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

On Oct 13, 2018, at 9:19 PM, Kimberly Demarchi <[REDACTED]> wrote:

Justin,

I’m still conferring with my clients, but I have some feedback to give you now, which is reflected in the attached draft.

First, the revisions to the non-disparagement provisions you’ve proposed aren’t going to work on our end. Not only is ASU too large to effectively guarantee compliance by everyone at the University, but we have strong protections in both University policy and state law for free speech by faculty, staff, and students in their private capacity. That’s why the original draft specified particular individuals in leadership positions as the ones bound by the provisions, rather than the entire University. The attached version has some revisions that I hope address your client’s concerns while being feasible on our end.

Second, I've taken out the references to Professor Krauss being a Physics professor as well as in SESE. As a technical matter, ASU faculty only have a single home department, even when they periodically (or regularly) teach in other departments, and Professor Krauss's appointment was as faculty in SESE. I've attached his appointment letter so you can see. We'll need to use the correct language in the agreement and any public statement. If he'd prefer for the public statement to just say he has resigned his position as a professor (without specifying the department), that would be fine too – I've made that change in the attached so you can see what the statement looks like without referencing the specific department.

Lastly, the feedback I've gotten so far about the list of donors has included some concerns about the catchall provision you proposed (unspecified donors who went on an expedition). We're looking into the feasibility of that on our end, and in the interim I've taken the catchall provision out. If there's more specificity you can provide about how many donors are in this catchall category, or more names for the list, that may be helpful.

Would you let me know your client's position on these issues, and I'll present the final agreement for approval by ASU leadership?

Thanks,  
Kim

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**From:** Justin Dillon <[REDACTED]>  
**Sent:** Friday, October 12, 2018 2:45 PM  
**To:** Kimberly Demarchi <[REDACTED]>  
**Subject:** Re: Krauss settlement agreement - revised draft

Kim,

Here's my redline. If ASU will agree to this, we are prepared to sign today. Please feel free to call me at 202-421-5298 if you would like to discuss anything.

Thanks,

Justin

Justin Dillon

KaiserDillon PLLC  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

On Oct 12, 2018, at 4:04 PM, Kimberly Demarchi <[REDACTED]> wrote:

Here's the Word document. I've reached out about the extension and will get back to you.

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**From:** Justin Dillon <[REDACTED]>  
**Sent:** Friday, October 12, 2018 12:56 PM

To: Kimberly Demarchi <[REDACTED]>  
Subject: Re: Krauss settlement agreement - revised draft

Also, would you mind sending this to me in Word so I can redline as needed?

Thanks,

Justin

Justin Dillon

KaiserDillon PLLC

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

On Oct 12, 2018, at 3:08 PM, Kimberly Demarchi <[REDACTED]> wrote:

Justin,

[REDACTED] writing to follow up on our conversation and correspondence yesterday regarding the proposed settlement.

ASU is willing to agree that any funds donated by the Brown Foundation that remain unspent may be transferred from the ASU Foundation to another non-profit organization, if the Brown Foundation so directs. At this point, I've been able to determine that there is a total of \$1,209,479.32 on deposit with the ASU Foundation for the Origins Project's operating expenses. Some of that may be from other donors, so it is possible that not all of it would be transferred. But whatever is attributable to the Brown Foundation would be transferred, provided that the Brown Foundation directs the ASU Foundation to do so and tells it what nonprofit should receive the funds.

Although I do not agree with your analysis, we will agree to remove the reference to the ADEA from the release paragraph, which should put an end to the discussion regarding whether it is necessary to provide your client with a review period or the option to revoke.

ASU is not willing to extend the retirement date beyond May 2019 or make additional payments, nor is it willing to transfer the funds in its local accounts to another institution.

I have attached a revised agreement along these lines. I am available for discussion as needed.

Best wishes,  
Kim

**Kimberly A. Demarchi**

[Profile](#) | [Add me to your address book](#)



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[REDACTED]  
<Krauss settlement agreement - 2018-10-12 Revision.pdf>

<Krauss Settlement Agreement - 2018-10-12 Revision.docx>

<Krauss Settlement Agreement - 2018-10-13 Revision.docx><0766\_001.pdf>

<Krauss Settlement Agreement - 2018-10-13 Revision--KD redline 430 pm EDT.docx>