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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2019-CP-40-06624
Appellate Case No. 2025-000724

Abigail Rogers, ... Appellant,

v.

Benedict College, Roslyn Clark Artis, Janeen Witty,
and Charles Johnson, ... Respondents.

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INDEX

ORDERS

Order Granting Defendants' Motion for Summary Judgment filed March 7, 2025 5

Order Denying Plaintiff's Motion for Reconsideration filed March 18, 2025 39

PLEADINGS

Plaintiff's Summons and Complaint filed November 25, 2019.....41

Plaintiff's Amended Summons and Complaint filed November 27, 2019 65

Defendants' Answer to Plaintiff's Amended Complaint filed January 29, 2020.....89

TRANSCRIPTS

Transcript of September 20, 2023 Summary Judgment Hearing. 98

EXHIBITS AND OTHER MATERIALS OR DOCUMENTS

Defendants' Motion for Summary Judgment filed March 17, 2023 156

Defendants' Summary Judgment Exhibits A-PP and Depositions Excerpts 203

Exhibit A: Joint Committee Report 203

Exhibit B: Culliver Memorandum 210

Exhibit C: Osazuwa Memorandum.....212

Exhibit D: Witty Memorandum 215

Exhibit E: Complaints of Students, August 2018 217

Exhibit F: Complaints of Students, September 2018 219

Exhibit G: Student Complaint, October 2018.....222

Exhibit H: Email Dates October 17, 2018 230

Exhibit I: Texts Dated October 18, 2018 232

Exhibit J: Email Dated October 19, 2018 248

Exhibit K: Notice, October 23, 2018 250

Exhibit L: Committee Recommendation November 20, 2018 252

Exhibit M: Performance Improvement Plan Signed February 14, 2019 254

Exhibit N: Letter to Plaintiff's Counsel Dated February 12, 2019 258

Exhibit O: Minutes of Board Meeting May 10, 2019 261
Exhibit P: Letter to Plaintiff Dated April 16, 2019 265
Exhibit Q: Report to the Governance Committee May 1, 2019 267
Exhibit R: Letter from Johnson to Plaintiff dated June 7, 2019 270
Exhibit S: Letter to Blaney Coskrey July 25, 2019 272
Exhibit T: Notice of the Board of Trustees Meeting Dated September 11, 2019 274
Exhibit U: Minutes of the Board of Trustees Meeting September 18, 2019 278
Exhibit V: "Chronology of Concerns" and Student Complaints 282
Exhibit W: Transcript of Meeting September 4, 2019 292
Exhibit X: Email Chain September 6-9, 2019 302
Exhibit Y: Administrative Review of Faculty File Dated September 11, 2019 305
Exhibit Z: Email Chain Dated September 16, 2019 309
Exhibit AA: Statement of Jordan Rice-Woodruff Dated September 16, 2019 311
Exhibit BB: Handwritten Statement of Rice-Woodruff 313
Exhibit CC: Text Messages from Plaintiff to Rice-Woodruff 315
Exhibit DD: Peterson Statement 327
Exhibit EE: Policy and Procedure for Termination of Tenured Faculty 329
Exhibit FF: Suspension Letter Dated September 16, 2019 333
Exhibit GG: Request to Convene the "Ad Hoc Committee," September 17, 2019 335
Exhibit HH: Recommendation of the Ad Hoc Committee, September 18, 2019 337
Exhibit II: Letter of Deborah Durban Dated September 30, 2019 339
Exhibit JJ: Email from Durban to Coskrey Dated October 9, 2019 342
Exhibit KK: Recommendation of the Faculty and Staff Grievance and Appeal Committee Dated October 23, 2019 344
Exhibit LL: Green Email Chain Dated October 24-25, 2019 346
Exhibit MM: Durban Letter Dated November 6, 2019 349
Exhibit NN: Faculty Contract 352
Exhibit OO: Faculty Manual 354

Exhibit PP: “Pre-Amendment” Bylaws, Article I, Section 4 357
Charlie Johnson Deposition Excerpts 369
Abigail Rogers Volume 1 Deposition Excerpts 380
Abigail Rogers Volume 2 Deposition Excerpts 402
Janeen Witty Deposition Excerpts 423
Charles Austin Deposition Excerpts 439
Roslyn Clark Artis Deposition Excerpts 452
Jordan Rice-Woodruff Deposition Excerpts 470
Plaintiff’s Memorandum in Opposition to Defendants’ Motion for Summary Judgment filed September 13, 2023 490
Plaintiff’s Memorandum in Opposition Exhibits 1-36 508
Exhibit 1: Faculty Contract 511
Exhibit 2: Letter offering Tenure 515
Exhibit 3: 2016-2017 Performance Evaluation 517
Exhibit 4: 2017-2018 Performance Evaluation 520
Exhibit 5: 2007-2016 Performance Evaluations 523
Exhibit 6: Letter regarding Student Complaints, October 23, 2018 540
Exhibit 7: Coskrey Letter of Representation, ... 542
Exhibit 8: Committee Recommendation of Reinstatement, November 20, 2018 549
Exhibit 9: Coskrey Letter to Durban, February 8, 2019 551
Exhibit 10: Letter to Rogers April 16, 2019 556
Exhibit 11: Letter to Rogers revoking Board Position, June 7, 2019 558
Exhibit 12: Coskrey Letter to Board of Trustees, June 20, 2019 560
Exhibit 13: Coskrey Letter Receiving Notice of Meeting, July 25, 2019 565
Exhibit 14: Coskrey Letter regarding Inconsistencies, September 10, 2019 567
Exhibit 15: Email from Crawford re: notice of Convocation, September 12, 2019 569
Exhibit 16: Notice of Special Meeting, September 11, 2019 571
Exhibit 17: Faculty Contract 575

Exhibit 18: Email from Miller re: Student Complaints, September 6, 2019 577
Exhibit 19: Administrative Review of Faculty File, September 1, 2019.....579
Exhibit 20: Email from Witty regarding Administrative Review.....582
Exhibit 21: Roslyn Clark Artis Deposition Excerpts.....584
Exhibit 22: Suspension Letter, September 16, 2019.....588
Exhibit 23: Artis Letter Asking for Approval to Convene Ad Hoc Committee 590
Exhibit 24: Jordan Rice-Woodruff Written Statement.....592
Exhibit 25: Jordan Rice-Woodruff Typed Statement.....594
Exhibit 26: Declaration of Jordan Rice-Woodruff 596
Exhibit 27: Durban Email regarding Appeals Hearing, October 9, 2019.....599
Exhibit 28: Durban Letter regarding Appeals Hearing, September 30, 2019.....601
Exhibit 29: Durban Email regarding Gwenda Greene Vote, October 25, 2019.....604
Exhibit 30: Committee Decision upholding Termination, October 23, 2019 607
Exhibit 31: Dr. Sybil Rosado Deposition Excerpts.....609
Exhibit 32: Rosado Email regarding reason for "No" Vote.....614
Exhibit 33: Witty Letter regarding Appointment of Ashford-Carroll to Board.....620
Exhibit 34: Faculty Manual 624
Exhibit 35: Bylaws, last revised February 13, 2004 706
Exhibit 36: Bylaws, last revised May 22, 2020 718
Plaintiff's Motion to Reconsider filed on March 17, 2025 732
Emailed and Mailed Communications with the Court.....739
Plaintiff's Notice of Appeal filed April 15, 2025 761
Plaintiff's Proposed Order, submitted February 21, 2025 764
Defendant's Proposed Order, submitted February 21, 2025 778
CERTIFICATE OF APPELLANT'S COUNSEL
Certificate 815

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Abigail Rogers, Plaintiff, -vs- Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson,[1] Defendants.	FIFTH JUDICIAL CIRCUIT COURT OF COMMON PLEAS CIVIL ACTION NO.: 2019-CP-40-06624 **ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Defendants' Motion for Summary Judgment under Rule 56, SCRCP, came before this Court and is now ripe for ruling. In view of the pleadings filed, applicable law, and arguments of counsel, the Court grants Defendants' Motion for Summary Judgment, and dismisses the action in its entirety with prejudice, with each side to bear its own costs and fees.

Plaintiff Abigail Rogers is a former faculty member at Benedict College (the "College"). Collectively, Defendants are Benedict College, its President Roslyn Clark Artis, its Vice President for Academic Affairs Janeen Witty, and its Chairman of the Board of Trustees Charlie Johnson

Plaintiff has brought a total of six (6) causes of action[2] against these Defendants, variously related to the College's removal of three positions from the membership of its Board of Trustees in 2019, including the "faculty representative" position, and her termination from employment with the College in the Fall of 2019.

[1] The proper name for Defendant "Charles Johnson" is "Charlie Wilbur Johnson."

[2] Plaintiff has voluntarily dismissed her Second Cause of Action and her Eighth Cause of Action, which were related to her administrative suspension with pay in the Fall of 2018, and a purported claim under the South Carolina Non-Profit Corporation Act.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

FACTUAL RECORD

Benedict College was founded in 1870, then as the "Benedict Institute," to educate recently emancipated Black persons and prepare them to be "a power for good in society." In 1894, the South Carolina legislature chartered Benedict College (the "College") as a liberal arts college, and the College remains listed as a non-profit corporation by the South Carolina Secretary of State. From 1994 until 2017, David Swinton served as the College's President.

Plaintiff Abigail Rogers joined Benedict College as a faculty member in 1995. Then-President Swinton personally recruited her to teach criminal justice courses at the school.

Throughout Plaintiff's time at the College, students often complained about the way she treated them. For example:

- In 1998, Plaintiff's Department Chair noted that she was "receiving numerous complaints from students in your classroom concerning your classroom demeanor that she termed classroom student victimization, whereby your students are intimidated, ridiculed, humiliated, made to feel inferior and berated in the presence of other students." She found Plaintiff's behavior to be "unethical and unprofessional."

- By 2008, after continuing to receive complaints about Plaintiff's behavior towards students, her Department Chair reported that Plaintiff's "professional behavior, teaching quality, and general demeanor historically have been so contrary to Benedict's stated ideas and policies that several faculty, student, and parents alike question how Ms. Rogers has been able to maintain such longevity at this institution." Her supervisory chain – including incoming Vice President for Academic Affairs Janeen Witty – recommended to President Swinton that the College remove Plaintiff from the faculty.

Mr. Swinton did not act on any of these requests. Indeed, despite her abuse of students, and even though some of Plaintiff's supervisors recommended that she be removed from the faculty and not granted tenure, the College granted Plaintiff tenure in 2012.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

In June 2017, Benedict College's Board of Trustees unanimously appointed Dr. Roslyn Clark Artis to replace Dr. Swinton as the College's President. At that time, Dr. Janeen Witty was serving as the College's Vice President for Academic Affairs, and Charlie Johnson was serving as the Chairman of the College's Board of Trustees. During the academic year 2017-2018, Plaintiff and the individual Defendants had little interaction.

A. PLAINTIFF'S ADMINISTRATIVE SUSPENSION IN FALL 2018.

In the fall of 2018, the College again began to receive complaints from students about Plaintiff's abusive manner. Several students from her "Court System" class submitted an initial set of complaints at the beginning of the semester on August 20, 2018, which included, but were not limited to, the following:

- Plaintiff told them they would have to wait if she was late to class, and that Plaintiff would be late to class.
- Plaintiff told them that "[i]f one person messes up we all mess up and we all get a zero."
- Plaintiff made the comment that "If I dismiss the class early she still will get paid."

One month later, in September 2018, the College received other student complaints about Plaintiff, which detailed Plaintiff's insults to the students in question, changing the subject of an examination, telling one student she would never be a lawyer or make it to law school, and commenting that "she hates seeing black men with white women."[3]

In October 2018, the College continued to receive student complaints about Plaintiff, with one student complaining that Plaintiff insulted him by stating that he was "wasting her time" and

[3] Dr. Charles Austin, Sr., then the College's interim Dean of the School of Arts and Sciences, testified that he did not take note of Plaintiff's racist statement when he reviewed the student complaint. He also testified that he found the statement "disturbing," and that if he had not overlooked the statement, he would have addressed the matter with Plaintiff.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

"needed an easier class." By mid-October 2018, it became apparent to Plaintiff's supervisor, interim Dean Charles Austin, that the relationship between Plaintiff and two of her students had deteriorated to "a very toxic level." Consequently, he recommended to Vice President Witty that he should supervise the students for remainder of the semester.

After receiving Dr. Austin's directive, Plaintiff inflamed the situation further by sending an email to the two students. The email directed them not to return to her class, not to contact her for any reason, and not to even contact other students in the class about work or assignments. As a result, the other students in Plaintiff's class became concerned about Plaintiff's policy that "the hand of one is the hand of all" and circulated a text threatening bodily harm to the complaining students.

After he reviewed Plaintiff's email, Dr. Austin told Plaintiff that she had "exacerbated an environment of tension between students in your class," and at that point, he recommended that Plaintiff be removed from the classroom until further notice. On October 23, 2018, the College placed Plaintiff on a paid administrative leave while the College investigated the student complaints against her. In response, Plaintiff hired counsel to challenge the College's decision, and on November 20, 2018, the College's "Faculty & Staff Grievance and Appeals Committee" reviewed the matter and recommended that Plaintiff be permitted to return to duty effective December 15, 2018.[4] The Committee also recommended that Plaintiff and the College agree on a "Performance Improvement Plan and Conflict Resolution Plan" for Plaintiff.

Plaintiff returned to the classroom in Spring 2019 and completed the Performance Improvement Plan by the end of the semester.

[4] By December 15, 2018, Plaintiff no longer had any duties concerning classes held in the Fall 2018 semester.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

B. BENEDICT COLLEGE CHANGES THE COMPOSITION OF ITS BOARD OF TRUSTEES IN 2019.

When Dr. Artis became President of the College in 2017, she noted that the membership of the Board of Trustees included as voting members (1) the President herself, (2) one position elected annually by the faculty, and (3) one position elected by the student body. She specifically told the Board that she was concerned that these three positions – including her own – involved an "obvious conflict of interest." She also noted that the faculty representative on the Board – Dr. Samuel Darko[5] – had refused to vote for a budget that did not include salary increases for faculty, even though the "institution was incredibly financially constrained."

Charlie Johnson, as Chairman of the Board of Trustees, shared these concerns. For that reason, on April 9, 2019, Chairman Johnson appointed an "Ad Hoc Committee on Governance" to review the issue and make a recommendation to the full Board concerning the status of the President, faculty/staff representative, and the student representative as voting Board members.

On April 11, 2019, Benedict's faculty elected Plaintiff to replace Dr. Darko at the end of his service on the Board. Apparently believing that she would *immediately* replace Dr. Darko on the Board in April 2019, Plaintiff contacted several other Board members and told them she would immediately assume Dr. Darko's position. In response, Chairman Johnson and Board member William Thomas wrote a letter to Plaintiff, congratulating her on her election, but explaining that her term would commence at the beginning of the *following* academic year, i.e., after new member orientation in the 2019-20 academic year.

[5] At the beginning of the Spring semester of 2019, Dr. Samuel Darko, a professor of environmental engineering at the College, was serving as the elected faculty representative on the Board. Dr. Darko served in this capacity until the beginning of the 2019-2020 academic year.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

In any event, on May 1, 2019, at the request of Chairman Johnson, Dr. Artis sent the Board's Ad Hoc Committee on Governance a memorandum detailing whether peer institutions permitted faculty and student representatives to serve as voting members on their boards of trustees. Of the 45 institutions reviewed, fewer than 5 institutions permitted faculty and/or student representatives to be voting members of their respective Boards. Of the 6 HBCUs surveyed, none permitted faculty and student representatives to serve as voting members, and only one – S.C. State University – permitted these representatives to serve as non-voting members.

Informed by this research, at the Board of Trustees meeting on May 10, 2019, the Board voted to adopt the committee's recommendation to remove the three positions – President, faculty representative, and student representative – as voting members of the Board. Chairman Johnson notified Plaintiff of the Board's decision by letter dated June 7, 2019.

Later that summer, concerned that notice of its meeting on May 10, 2019 was insufficient, the Board decided to vote again on the matter at the beginning of the 2019-20 academic year. For that reason, counsel for the Board contacted Plaintiff's counsel on July 25, 2019, and advised him that the Board would notify Plaintiff of the next Board meeting, which it did.

At a special Board meeting for September 18, 2019, the Board voted again to adopt the proposed changes in Board membership. Plaintiff received notice of the special meeting, but was recorded as "absent" from the meeting. Consequently, the Bylaws were updated, and the President, faculty representative, and student representative were removed as voting members of the Board.[6]

C. PLAINTIFF'S EMPLOYMENT WITH BENEDICT COLLEGE IS TERMINATED IN THE FALL OF 2019.

[6] Overall, the maximum number of members who could serve on the Board was reduced from 36 to 30.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

When the Fall semester began in August 2019, Plaintiff had completed her Performance Improvement Plan and was otherwise a tenured faculty member in good standing at the College. However, from the very beginning of the Fall 2019 semester, students again began complaining about Plaintiff's conduct, such as being late, dismissing their concerns about errors in the schedule, dismissing them from the class, opining that she could not be fired, and otherwise behaving in an unprofessional manner. On September 4, 2019, Plaintiff met with her new interim Dean, Dr. Richard Miller, to discuss these issues.

By September 6, 2019, Dr. Miller reported to Dr. Witty that his review of the most recent student complaints and Plaintiff's faculty file led him to "recommend that Ms. Rogers be immediately removed from her classroom teaching responsibilities and given non-teaching duties as determined by her department chair, Dr. Leon Geter." Dr. Artis and Dr. Witty conferred and directed Dr. Miller to complete his review of Plaintiff's entire file before making a final recommendation. Dr. Witty also voiced her concern that assigning Plaintiff a non-teaching position at full regular pay would be regarded as "rewarding bad behavior."

On September 16, 2019, Dr. Miller submitted an "Administrative Review of Faculty File of Ms. Abigail Rogers" to Dr. Witty. The review indicated that Plaintiff's file was "replete with multiple filings of student complaints along with documentation from academic administrators of inappropriate, unprofessional behavior, and neglect of faculty compliance with expectations…It is clear that over a lengthy period of time Ms. Rogers has exhibited a consistent pattern of disrespectful and demeaning behavior toward students, disregard of faculty expectations, poor classroom management skills, and an intimidating classroom culture." Dr. Miller also included the following recommendation:

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

> Ms. Rogers should be removed from any interaction with students and, as a tenured faculty member, be assigned non-teaching responsibilities. As an interim dean of less than three (3) months, I leave it to the discretion of the Vice President for Academic Affairs, and President to pursue any additional course(s) of action.

However, before Dr. Witty or Dr. Artis could act on Dr. Miller's recommendation, another troubling issue came to the College's attention.

At the beginning of the Fall 2019 semester, Plaintiff was concerned about the prospect of not serving her term as the faculty representative on the College's Board of Trustees. For that reason, Plaintiff sought out student body president Jordan Rice-Woodruff to enlist his aid, and the aid of other students, in opposing changes to the membership of the College's Board of Trustees. According to Rice-Woodruff, Plaintiff pursued and solicited his support in the following ways:

- On August 22, 2019, Plaintiff approached Rice-Woodruff near the chapel, and told him that the faculty and student positions were in the process of being removed from the Board. Plaintiff identified individuals that Rice-Woodruff could contact to "help us get this overturned into our favor."

- Plaintiff also asked Rice-Woodruff to "put the matter out on social media; to spread the word to people on campuses; and also…to call those individuals [whose contacts I received from her]."

- Days after, Plaintiff asked another student, Henry Peterson, for Rice-Woodruff's cell phone number, which Peterson gave to Plaintiff.

- Later, on September 12, 2019, Plaintiff again contacted Rice-Woodruff and identified numerous individuals that she wanted him to contact to "express your concern that the faculty staff and student seats are taken off the board by the Board of Trustees."

- On September 14, 2019, in an effort to prompt Rice-Woodruff to write the letters she wanted him to send to the Board members, Plaintiff sent Rice-Woodruff "buzzwords" to use in his correspondence. Plaintiff also stated "Jordan you must go to social media also and get yourself some support you can't do this alone judge Rogers [*sic*]."[7]

[7] Rice-Woodruff also stated that, in the same telephone call on September 12, 2019, Plaintiff offered to write letters of recommendation to the USC School of Law both for him and for Henry Peterson. To Rice-Woodruff, it appeared that Plaintiff was offering to write him a recommendation if he did as she asked.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

- Rice-Woodruff did not send out letters as Plaintiff requested. Instead, he requested a meeting to discuss the matter with Dr. Artis and Chairman Johnson, which he later cancelled due to his own illness.

- On September 16, 2019, Rice-Woodruff received a telephone call on his cell phone from the WIS news station, which stated that Plaintiff had "given them my contact information and they wanted to speak with me about the Board of Trustees matter." Rice-Woodruff did not give Plaintiff permission to share his contact information with outside media outlets, and was alarmed that she had done so.

- After receiving the telephone call from WIS, Rice-Woodruff went to the College's Human Resources office, and was joined there by Henry Peterson. At the HR office, Rice-Woodruff and Peterson wrote out statements memorializing these events.

- Rice-Woodruff testified that no one at Benedict recommended any specific words to use in his statements, and confirmed that the events as described in his statements were true.

Following receipt of Rice-Woodruff's and Peterson's statements, Dr. Witty decided to suspend Plaintiff without pay, and recommended to Dr. Artis that Plaintiff's employment with the College be terminated.[8] Plaintiff received Dr. Witty's suspension notice on September 16, 2019, and the following day, Dr. Witty requested permission to convene the "Ad Hoc Committee" referenced in § 6.2.5 of the College's Faculty Manual.

In accordance with § 6.2.5 of the College's Faculty Handbook, on September 18, 2019, Dr. Witty convened the Ad Hoc Committee to review her recommendation of termination. The Ad

[8] Under § 6.2.4 of the College's Faculty Manual, a tenured faculty member may be fired for "adequate cause," which includes, but is not limited to, "inability to perform essential functions of the job" to "other conduct prejudicial to the College." The same section permits the College, at its discretion, to place the faculty member on leave without pay pending the outcomes of the hearing and appeals processes.

Hoc Committee reviewed all evidence presented to it by the College, and following its review, unanimously endorsed Dr. Witty's recommendation to terminate Plaintiff's employment.

Thereafter, Plaintiff appealed the recommendation of the Ad Hoc Committee to the full Faculty and Staff Grievance and Appeal Committee as permitted by § 6.2.6 of the College's Faculty Handbook.[9] In consultation with its legal counsel, the College outlined hearing procedures in a letter to Plaintiff's counsel, and delivered documents it intended to use at the hearing to Plaintiff's counsel.

Plaintiff and her counsel both appeared before the Faculty and Staff Grievance and Appeal Committee on October 23, 2019, and presented Plaintiff's argument. Dr. Witty presented the argument of the College. Following these presentations to the eight members on the committee, six (6) voted to recommend termination, and two (2) voted against termination.

After receiving the recommendation of the Faculty and Staff Grievance and Appeal Committee, Dr. Artis was required to make the final decision regarding the matter. She considered the recommendation of the committee and decided that terminating Plaintiff's employment was the appropriate decision. In Dr. Artis's view, Plaintiff's conduct was "grossly inappropriate."

After receiving notice of Dr. Artis's final decision, Plaintiff filed her Complaint against the Defendants on November 25, 2019, and a few days later filed an Amended Complaint.

[9] The Faculty and Staff Grievance and Appeal Committee is required to "review the petition for appeal and will hear the appeal within ten (10) days of receipt for appeal or as soon thereafter as feasible. The Committee will, after due deliberation, with or without the benefit of further hearings, issue its recommendation to the President." The President of the College reviews the recommendation of the Committee and makes the final decision on the appeal.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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PLAINTIFF'S AMENDED COMPLAINT

Plaintiff has voluntarily dismissed her Second and Eighth Causes of Action. Her remaining Causes of Action are as follows:

1. Against **Benedict College** only, Plaintiff has brought the following claims:

   - Breach of Contract (First Cause of Action) – Plaintiff claims that Benedict College breached its Faculty Manual by purportedly failing to abide by the procedures set forth in the College's Faculty Manual regarding her appeal of her termination in the Fall of 2019. She also claims that her termination breached the Faculty Manual's provision that tenured faculty could only be terminated "for cause."

   - Breach of Contract (Third Cause of Action) – Plaintiff claims that Benedict College breached her "Faculty Contract" for the academic year 2019-2020 when it terminated her.

   - Declaratory Relief (Fourth Cause of Action) – Plaintiff seeks a declaratory judgment that the action of the Board of Trustees to eliminate positions from the Board, including her own, was "unlawful."

2. Against **Benedict College and individual Defendants Artis, Witty, and Johnson**, Plaintiff has brought the following claims:

   - Breach of Contract Accompanied by a Fraudulent Act (Fifth Cause of Action) – Plaintiff claims that the Defendants fraudulently interfered with her Faculty Contract and the Faculty Manual by "secretly" ghost-writing the student complaints that led to her termination, by "secretly encouraging" the Board of Trustees to eliminate her position, among others, from the Board, and by "improperly" encouraging others to participate in these "secret actions."

   - Civil Conspiracy (Seventh Cause of Action) – Plaintiff claims that Benedict College and the individual Defendants "combined for the purpose of injuring Plaintiff," but does not otherwise distinguish this cause of action from any of her other causes of action.

3. Against **Benedict College and individual Defendants Artis and Witty**, Plaintiff has brought the following claims in her Amended Complaint:

   - Tortious Interference with Contract (Sixth Cause of Action) – Plaintiff claims that Defendants Artis and Witty "intentionally procured" breaches of the Faculty Contract and the Faculty Manual "without justification."

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LEGAL STANDARD

A suit for declaratory judgment is neither legal nor equitable, but is determined by the nature of the underlying issues. *Loadholt v. South Carolina State Budget and Control Bd., Div. of General Services, Ins. Reserve Fund*, 339 S.C. 165, 169, 528 S.E.2d 670, 672-73 (S.C. App. 2000). To the extent Plaintiff's declaratory judgment action is based on an alleged contract, "[o]ne cardinal rule of contract interpretation is to ascertain and give effect to the intention of the parties." *S.C. Dep't of Transp. v. M & T Enters. of Mt. Pleasant, LLC*, 379 S.C. 645, 655, 667 S.E.2d 7, 12 (S.C. App. 2008). In construing a contract, the court "must first look at the language of the contract to determine the intentions of the parties." *C.A.N. Enters., Inc. v. S.C. Health & Human Servs. Fin. Comm'n*, 296 S.C. 373, 377, 373 S.E.2d 584, 586 (1988). "[I]f the language is perfectly plain and capable of legal construction, it alone determines the document's force and effect." *Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC*, 374 S.C. 483, 498, 649 S.E.2d 494, 501 (S.C. App. 2007); *Kirkland v. Wolfson*, No. 2019-000203, 2022 WL 951251, at *3 (S.C. App. 2022).

As to other claims, "[s]ummary judgment is appropriate when there is no genuine issue of material fact such that the moving party must prevail as a matter of law." Rule 56, SCRCP; *Savannah Bank, N.A. v. Stalliard*, 400 S.C. 246, 250, 734 S.E.2d 161, 164 (2012) (citing *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002)). Summary Judgment is appropriate when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Gecy v. S.C. Bank & Tr.*, 422 S.C. 509, 516, 812 S.E.2d 750, 754 (S.C. App. 2018). As stated in *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 892 S.E.2d 297 (2023):

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

> We now clarify that the "mere scintilla" standard does not apply under Rule 56(c). Rather, the proper standard is the "genuine issue of material fact" standard set forth in the text of the Rule. As we stated in *Town of Hollywood v. Floyd*, "it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine." 403 S.C. at 477, 744 S.E.2d at 166.

440 S.C. at 463-64, 892 S.E.2d at 301.

LEGAL ARGUMENT

I. PLAINTIFF'S FIRST CAUSE OF ACTION FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT SUGGESTING THAT BENEDICT COLLEGE BREACHED ANY PROVISION OF THE FACULTY MANUAL REGARDING HER TERMINATION IN 2019.

Plaintiff's First Cause of Action is a claim for a Breach of Contract against the College based on her termination in 2019. Plaintiff claims that the College breached its Faculty Manual in the following ways:

(a) by failing to comply with the procedures set forth in the Faculty Manual, including Section 6.2.5.

(b) by failing to give Plaintiff notice of the Ad Hoc Committee hearing.

(c) by failing to provide for a "fair" and "impartial" hearing, or to allow for a consideration of "all the evidence."

(d) by imposing improper and unlawful restrictions on Plaintiff's participation in the hearing of the Faculty and Staff Appeals Committee, including, inter alia, not being allowed to present witnesses, not being allowed to have the full participation of counsel, not being allowed to cross-examine witnesses; not being informed of the specific bases for the termination; not being informed of the names of the students who allegedly complained; not being allowed to call those students as witnesses; and being limited to thirty minutes in her defense.

(e) by failing to apply the applicable standard for termination of a tenured faculty member, and

(f) by incorrectly finding the standard for termination of Plaintiff had been met.

Plaintiff's First Cause of Action is governed by the South Carolina Supreme Court's recent ruling in *Crenshaw v. Erskine College*, 432 S.C. 1, 20, 850 S.E.2d 1, 11 (2020), which held that a

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

tenured faculty member can sue for breach of contract based on alleged breaches of provisions of a faculty manual related to termination of employment. In describing the nature of this type of action against a private college like Benedict College, the Supreme Court stated as follows:

> Erskine College is a private institution. This case, therefore, is not about tenure. This case is not about whether Erskine denied Crenshaw due process, academic freedom, or free speech. This case is not about whether Crenshaw was correct the student should be taken to the hospital for evaluation, or whether Erskine's alleged "protocol" was medically unsound and Crenshaw was justified in criticizing it. This case is not about whether Crenshaw should be free to publicly criticize Erskine, or publicly argue it should split from the church. **Rather, this is an ordinary breach of contract case in which the terms of the contract are set forth in The College Faculty Manual.**

432 S.C. at 9-10, 850 S.E.2d at 18 (emphasis added).

Plaintiff's First Cause of Action fails initially because Plaintiff cannot point to a single procedure in §§ 6.2.4, 6.2.5, or 6.2.6 of the Faculty Manual that the College breached, or any damage that may have resulted from any alleged breach.[10] With regard to the initial procedures for terminating tenured faculty members for cause, § 6.2.5 provides as follows:

> 1. Action to terminate a faculty member for cause may be initiated by any Department Chair, Assistant or Associate Dean of a School, the Academic Vice President, or President upon determination that probable cause may exist to justify termination of the faculty member.
>
> 2. The initiating party must submit a written request to the Academic Vice President requesting the convening of a faculty hearing committee to consider the charges or other circumstances motivating the request to terminate the faculty member.
>
> 3. With the consent of the President the Vice President for Academic Affairs will convene a standing or Ad Hoc faculty hearing Committee.

[10] Plaintiff's reliance on § 4.1.2 of the Faculty Manual – which describes types of academic appointments – is particularly unavailing. In fact, that section specifically notes that a tenured faculty member may be fired "for cause…in accordance with Section 6.2.4" of the Faculty Manual, which is exactly what happened here.

4. The hearing committee will conduct a fair and impartial hearing of all the evidence and make a recommendation to the Vice President for Academic Affairs.

5. The Vice President for Academic affairs will review the decision concerning the matter and notify both the initiating party, the faculty member, and the Dean of the decision.

As set forth in great detail above, Dr. Witty had significant reason to initiate the action to terminate Plaintiff's employment. After the events of 2018 and the Performance Improvement Plan resulting therefrom, Plaintiff was once again the subject of numerous student complaints in the beginning of the Fall 2019 semester. Following his review of these more recent incidents, as well as Plaintiff's previous employment record, Dr. Miller recommended – at the very least – that Plaintiff should be removed from class, and that Drs. Witty and Artis might consider other sanctions as well. While Dr. Witty was reviewing Dr. Miller's recommendation, Jordan Rice-Woodruff reported additional misconduct by Plaintiff that included Plaintiff's release of his personal contact information to outside media outlets without his consent for her own purposes. These events provided ample reason for Dr. Witty to initiate termination proceedings against Plaintiff. As the initiating party, Dr. Witty directly requested permission from Dr. Artis to convene the Ad Hoc Committee, as the Faculty Manual provides, and which Dr. Artis granted.

While Plaintiff complains that she was not given notice of the meeting of the Ad Hoc committee, such notice is not required by the Faculty Manual. Plaintiff also has failed to produce any evidence that creates a genuine issue of material fact that the Ad Hoc Committee members did not conduct a "fair" and "impartial" review of the matter, nor did not consider "all the evidence" to its complete satisfaction.

With the regard to the hearing before the Faculty and Staff Grievance and Appeal Committee, Plaintiff again has failed to produce any evidence that creates a genuine issue of

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

material fact in support of her First Cause of Action, where § 6.2.6 provides that:

> (a) The Vice President for Academic Affairs will convene the Faculty and Staff Appeals Committee. The Committee will review the petition for appeal and will hear the appeal within ten (10) days of receipt of the appeal or as soon thereafter as feasible. The Committee will, after due deliberation, with or without the benefit of further hearings, issue its recommendation to the President.
>
> (b) The President will review the recommendation of the Appeals Committee and make the final decision concerning whether to uphold, vacate, or modify the recommendation of the Appeals Committee. The President will then notify all parties of the final decision.
>
> (c) The decision of the President is final and no further appeal is possible.

In this case, the Faculty and Staff Grievance and Appeal Committee convened on October 23, 2019, which was a date mutually chosen by the parties. The Committee reviewed Plaintiff's petition. Although not required by § 6.2.6, it actually heard argument from both Plaintiff and Dr. Witty. Plaintiff could have presented any supporting documentation she wished. Committee members were free to ask any questions that they wished. The College provided all documents to Plaintiff's counsel that it provided to the Committee. These measures far exceed anything "required" by the Faculty Manual.

Finally, Plaintiff has failed to produce any evidence that creates a genuine issue of material fact in support of her claim, other than her own opinion, that the College did not have "adequate cause" to fire her. Indeed, at every turn, from Dr. Witty's initial recommendation, to the recommendation of the Ad Hoc Committee, to the recommendation of the Faculty and Staff Grievance and Appeal Committee, to the ultimate decision of Dr. Artis as President of the College, each level concluded that adequate cause existed to terminate Plaintiff's employment.

Under South Carolina law, where an employee can only be fired "for cause," the focus of the court's inquiry is not whether the employee actually committed misconduct, but instead

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

whether the employer had a **reasonable good faith belief** that sufficient cause existed for the employee's termination. *Conner v. City of Forest Acres*, 348 S.C. 454, 464–65, 560 S.E.2d 606, 611 (2002); *Horton v. Darby Elec. Co.*, 360 S.C. 58, 68, 599 S.E.2d 456, 461 (2004) (summary judgment appropriate where "appellant's conduct was serious enough to proceed directly to termination"); *Lingard v. Carolina By-Prod.*, 361 S.C. 442, 452, 605 S.E.2d 545, 550 (S.C. App. 2004) (the conclusions of employers "do not have to be uncontested fact, but must instead simply be supported by enough evidence to support their good faith belief in the cause for termination"); *Nelson v. Charleston Cnty. Parks & Recreation Comm'n*, 362 S.C. 1, 11, 605 S.E.2d 744, 749 (S.C. App. 2004) (same).

The evidence of Plaintiff's misconduct in this matter does not merely support a "good faith belief" that termination was justified, it is overwhelming. When Plaintiff's misconduct allegations again arose in 2019, Dr. Witty received statements not only from complaining students in Plaintiff's classes, but also from Messrs. Rice-Woodruff and Peterson. There is absolutely no admissible evidence in the record that anyone other than Rice-Woodruff and Peterson wrote their statements.[11] "South Carolina courts have consistently held evidence must amount to more than speculation and conjecture to submit a case to the jury." *McKnight v. S.C. Dep't of Corr.*, 385 S.C. 380, 389, 684 S.E.2d 566, 570 (S.C. App. 2009).

Further, Plaintiff's other arguments to the contrary are unavailing. First, she relies on provisions of the Faculty Manual – such as § 7.2 – which are not related to termination of a tenured

[11] In fact, while Plaintiff has made unsupported assertions that Rice-Woodruff did not write his statement, her accusations are refuted directly by Rice-Woodruff's own sworn testimony. In any event, Plaintiff's unsupported assertions are inadequate to create a genuine issue of material fact sufficient to withstand summary judgment.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

faculty member. Provision § 7.2 is simply *not* a provision of the Faculty Manual applicable to termination of tenured faculty members.

While Plaintiff was dissatisfied with the review and recommendations of Ad Hoc Committee and the Faculty and Staff Appeals Committee, her dissatisfaction with their work is of no importance. There is no evidence in the record that either of these committees failed to meet their obligations, and the mere fact that Plaintiff disagreed with the majority of the members of each committee creates no genuine issue of material fact relevant to this lawsuit.

Finally, Plaintiff has curiously argued that President Artis never rendered a final decision on the recommendations to terminate Plaintiff's employment, as required by § 6.2.6(b) of the Faculty Manual. Plaintiff's argument is curious because it is not only contradicted by President Artis's own testimony describing her decision, it is also contradicted by Plaintiff's own allegations in her Amended Complaint, in which she admits that Benedict College terminated her employment.

For these reasons, Plaintiff's First Cause of Action must be dismissed with prejudice.

II. PLAINTIFF'S THIRD CAUSE OF ACTION FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT SUGGESTING THAT BENEDICT COLLEGE BREACHED ANY PROVISION OF ITS "FACULTY CONTRACT" WITH PLAINTIFF REGARDING HER TERMINATION IN 2019.

Plaintiff's Third Cause of Action is a claim for a Breach of Contract against the College for an alleged breach of Plaintiff's "Faculty Contract" signed on August 7, 2019, for the academic year 2019-2020. This contract is similar to all faculty contracts signed by the College's faculty members from year to year.

To the extent Plaintiff alleges that she cannot be fired because her "Faculty Contract" – as opposed to the Faculty Manual – lacks a specific termination provision, such a claim is without

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

merit. The Faculty Contract itself references Plaintiff's "acceptance of this appointment and conditions pertaining thereto." It also requires faculty members, including Plaintiff, to "fulfill responsibilities to the specifications above or in other capacities compatible with his/her qualifications." The College had ample evidence to demonstrate that Plaintiff failed to "fulfill responsibilities" of this type. Because the College viewed Plaintiff's misconduct as "adequate cause" for her termination, Plaintiff was fired.

In fact, even Plaintiff does not appear to believe that she was immune from termination, as the Amended Complaint also states that "[t]o the extent the law implies or allows grounds for termination in the absence of express grounds, those grounds were not present here." Thus, to that extent, Plaintiff's Third Cause of Action mirrors her First Cause of Action, and for the same reasons that the First Cause of Action fails, the Third Cause of Action must also fail.

For these reasons, Plaintiff's Third Cause of Action must be dismissed with prejudice.

III. PLAINTIFF'S FOURTH CAUSE OF ACTION FOR A DECLARATORY JUDGMENT FAILS BECAUSE (1) IT IS MOOT AND THERE IS NO JUSTICIABLE ISSUE THAT A DECLARATORY JUDGMENT CAN RESOLVE, AND (2) BENEDICT COLLEGE CORRECTLY CONSTRUED AND AMENDED ITS OWN BYLAWS REGARDING MEMBERSHIP OF ITS BOARD OF TRUSTEES.

Plaintiff's Fourth Cause of Action requests that this Court issue a Declaratory Judgment that "she was wrongfully denied her position on the Benedict College Board of Trustees, that as a result of her election to the Board on April 11, 2019, she has held and still holds such position, that all actions taken by the Board since her denial are of no legal effect." For the reasons set forth below, Plaintiff's claim has no merit and must be dismissed with prejudice.

In April 2019, the College's Bylaws provided that the one member of the Board would be elected annually by the faculty and another would be elected by the student body. In pertinent part, the pre-amendment Bylaws also provided for the following:

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

- The Board is "self-perpetuating and independent of any control other than this Board in both memberships for the Board and policy of this institution."

- The Board "shall have the authority to carry out all lawful functions that are permitted by these bylaws or by the articles of incorporation."

- The Bylaws "may be amended or repealed at a special meeting of the Board by vote of two-thirds of the member[s] present, provided that an exact statement of the proposed amendment or intention to repeal has been provided to the Board of Trustees with the call of the meeting."

- One-third of Board members are elected at the Annual Meetings of the Board and would serve a three-year term, "with the exception that faculty and staff trustees ***shall be elected*** from April to April, unless the official connection as faculty or student is served prior to the expiration of the term." (emphasis added).

The gravamen of Plaintiff's cause of action is that she wanted to be seated as the "faculty representative" on the Board *immediately* after her election in April 2019. Instead, consistent with the College's prior practice, Dr. Darko remained as the faculty representative on the Board until the end of the summer in 2019. Plaintiff alleged that Bylaws stated that her "term" ran from April to April, although the actual language in the pre-amendment[12] Bylaws clearly stated that the faculty trustee "shall be ***elected*** from April to April." For this reason alone, Plaintiff is not entitled to a Declaratory Judgment in her favor.

Benedict College amended its Bylaws in September 2019 that, among other things, eliminated seats from the Board in September 2019, including the President's seat, the seat for the student representative, and the seat for a faculty representative.

A. PLAINTIFF'S FOURTH CAUSE OF ACTION IS MOOT AND DOES NOT PRESENT A "JUSTICIABLE CONTROVERSY."

[12] The Bylaws in effect prior to the amendments approved on September 18, 2019, are referenced in this Brief as the "pre-amendment Bylaws".

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Under the Declaratory Judgment Act, courts only consider cases presenting a justiciable controversy. *Tourism Expenditure Rev. Comm. v. City of Myrtle Beach*, 403 S.C. 76, 81, 742 S.E.2d 371, 374 (2013); *Byrd v. Irmo High School*, 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996). A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract. *Id* at 431, 468 S.E.2d at 864. By contrast, a "moot" case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court. *Mathis v. South Carolina State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973). If there is no actual controversy, this Court will not decide moot or academic questions. *Id.* (citing *Jones v. Dillon–Marion Human Res. Dev. Comm'n.*, 277 S.C. 533, 535, 291 S.E.2d 195, 196 (1982)); *see also Wallace v. City of York*, 276 S.C. 693, 694, 281 S.E.2d 487, 488 (1981).

This cause of action has become moot on two separate grounds. First, the Board lawfully changed the structure of its membership in September 2019 under the provisions of the College's Bylaws and the South Carolina Non-Profit Corporation Act (the "Act"). As a result of that change, there is no longer a "faculty representative" seat on the Board, and there is no such seat on the Board for Plaintiff to presently occupy. Thus, she has no "position" on the Board into which the Court can place her.

Second, even if Plaintiff's interpretation of the pre-amendment bylaws was accurate, her term would have expired in April 2020. Plaintiff is simply not entitled, under any theory of law,

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

to perpetual membership on the Board.[13] *See Sasser v. S.C. Democratic Party*, 277 S.C. 67, 69, 282 S.E.2d 602, 604 (1981) ("In the instant case, the election has already occurred. It is therefore our determination that the issues raised by this action have been rendered moot."); *City of Charleston v. Masi*, 362 S.C. 505, 508, 609 S.E.2d 301, 303 (2005) ("We find the District correctly argues that this case regarding the Town residents' entitlement to vote in the District elections and the entitlement to serve as a District commissioner is moot given that the Town is a nullity.").

Two exceptions in which the court may address an issue despite mootness are (1) when the issue raised is capable of repetition, yet evading review, and (2) when the question considers matters of important public interest. *Sloan v. Friends of Hunley, Inc*., 369 S.C. 20, 26-27, 630 S.E.2d 474, 478 (2006). Neither exception applies here. As to the first exception, if a similar issue ever arises, the Court will again have an opportunity to review the issue. *Id*. at 27, 630 S.E.2d at 478 ("Although Friends admits that the current situation is capable of repetition, it does not evade review. Should another person bring an action against Friends for a violation of FOIA and Friends fails to produce the requested documents, the Court will have the opportunity to review the issue.") (*citing Seabrook v. City of Folly Beach*, 337 S.C. 304, 307, 523 S.E.2d 462, 463 (1999)). To determine whether the second exception applies – "matters of important public interest" – the court must find that the issue presents "questions of imperative and manifest urgency." *Sloan v. Greenville Cnty*., 361 S.C. 568, 571, 606 S.E.2d 464, 466 (2004). In light of the fact that Plaintiff's "term" has long since expired, and that the College amended its Bylaws in a manner that moots the entire issue, the matter cannot, as a matter of law, present any question of "imperative and manifest urgency." *Id*. at 572, 606 S.E.2d at 466 ("In light of these developments, we hold there

[13] In fact, because the College terminated Plaintiff's employment in 2019, her "official connection as faculty" with the College ended prior to the expiration of the term, and she could not continue as a member of the Board under its pre-amendment Bylaws.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

is no imperative or manifest urgency in obtaining an advisory opinion on the application of an obsolete procurement ordinance to these completed projects.").

For these reasons alone, her Fourth Cause of Action must be dismissed with prejudice.

B. BENEDICT COLLEGE CORRECTLY CONSTRUED AND AMENDED ITS OWN BYLAWS REGARDING THE MEMBERSHIP OF ITS BOARD OF TRUSTEES.

Even if Plaintiff's Fourth Cause of Action was not moot, and she could present a justiciable controversy, it would still fail. The Board's interpretation of its pre-amendment Bylaws was well within its latitude, and in amending the Bylaws, the Board stayed well within the spirit and letter of the existing Bylaws and the Act.

The College's pre-amendment practice of permitting an incumbent faculty representative to serve on the Board until the end of the summer, and for newly-elected faculty representative to begin his or her term at the beginning of the academic year following his or her election in April, was certainly not forbidden in the pre-amendment Bylaws. It is undisputed that Dr. Darko served on the Board through the end of the summer of 2019, and it is undisputed that Plaintiff received timely notice of the special meeting of the Board called in September 2019.

Plaintiff also argues that these amendments were unlawful and violated S.C. Code Ann. § 33-31-808(b), which provides that "[i]f a director is elected by a class, chapter, or other organizational unit or by region or other geographic grouping, the director may be removed only by the members of that class, chapter, unit, or grouping." However, Plaintiff's reliance on S.C. Code Ann. § 33-31-808(b) is misplaced. That statute addresses the "removal" of a particular director, not the permanent deletion of a number of positions on a board of directors. In fact, the Act specifically permits a board of directors to increase or decrease the number of directors on the board "by amendment to or in the manner prescribed in the articles or bylaws." S.C. Code Ann. § 33-31-803(b); *see also* S.C. Code Ann. § 33-31-1021 (authorizing a board of directors to amend

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

or repeal the corporation's bylaws). By ignoring S.C. Code Ann. §§ 33-31-803(b) and 33-31-1021, Plaintiff also ignores the "cardinal rule of statutory construction" that, to ascertain and effectuate the actual intent of the legislature, "statutes which are part of the same Act must be read together." *Burns v. State Farm Mut. Auto. Ins. Co*., 297 S.C. 520, 522, 377 S.E.2d 569, 570 (1989). Further, sections which are part of the same general statutory law of the state must be construed together, and each provision must be given effect, if it can be done by any reasonable construction. *Smalls v. Weed***,** 293 S.C. 364, 370 360 S.E.2d 531, 534 (S.C. App. 1987) (quoting *State v. Fidelity & Deposit Co. of Maryland*, 114 S.C. 511, 104 S.E. 182 (1920)). Plaintiff's argument, if accepted, would require the Court to ignore the difference between removing a specific director and the Board's unquestioned authority – under both the Act and the pre-amendment Bylaws – to determine the number of directors on the Board, to amend its own Bylaws, and to determine membership on the Board.

Under the pre-amendment Bylaws, the College's Board had every right to amend the Bylaws in the manner it did. The Board was, and remains, a "self-perpetuating and independent of any control other than this Board in both memberships for the Board and policy of this institution." The Bylaws could be "amended or repealed at a special meeting of the Board by vote of two-thirds of the member[s] present, provided that an exact statement of the proposed amendment or intention to repeal has been provided to the Board of Trustees with the call of the meeting." Timely notice for the special meeting on September 18, 2019 was given on September 11, 2019 in accordance with the notice provisions of the pre-amendment Bylaws. Thus, the College and its Board were perfectly within their latitude to interpret their Bylaws and act as they did. For these reasons alone, Plaintiff's Fourth Cause of Action must be dismissed with prejudice.

IV. PLAINTIFF'S FIFTH CAUSE OF ACTION FOR A "BREACH OF CONTRACT ACCOMPANIED

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

BY A FRAUDULENT ACT" FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT IN THE RECORD SUPPORTING THE CLAIM'S ELEMENTS.

Plaintiff's Fifth Cause of Action is a claim for "Breach of Contract Accompanied by a Fraudulent Act" against Benedict College and individual Defendants Artis, Witty, and Johnson. Specifically, Plaintiff alleges that her "2019-2020 Faculty Contract and the Benedict College Faculty Manual constitute binding contracts" with Benedict College, and that each of the Defendants "breached one or more of Plaintiff's contracts with Benedict as described hereinabove." Plaintiff also alleges that the Defendants "had fraudulent intent relating to the breaching of the contract" and that they "engaged in fraudulent acts accompanying the breach," in that they:

(a) secretly participated in the composition, choice of words, writing, and content of student statements;

(b) well exceeded the scope of their responsibilities by secretly encouraging the Board of Directors, including Defendant Johnson, to exclude Plaintiff from her rightful position on the Board.

(c) improperly encouraged other persons, including Benedict employees whose livelihoods were dependant [*sic*] on Defendants, to participate in their secret actions.

For the reasons set forth below, Plaintiff's Fifth Cause of Action fails and must be dismissed with prejudice.

In order to maintain a claim for breach of contract accompanied by fraudulent act, a plaintiff must prove three elements: (1) a breach of contract; (2) fraudulent intent relating to the breaching of the contract, not merely to its making; and (3) a fraudulent act accompanying the breach. *Hotel & Motel Holdings, LLC v. BJC Enterprises, LLC*, 414 S.C. 635, 654, 780 S.E.2d 263, 273-74 (S.C. App. 2015). "With regard to the third element of this claim, the standard of

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

proof of clear and convincing evidence is applicable." *Osborn v. Univ. Med. Assocs. of Med. Univ. of S.C.*, 278 F. Supp. 2d 720, 740 (D.S.C. 2003) (emphasis added).

As an initial matter, as set forth above in the discussion of Plaintiff's First and Third Causes of Action, Plaintiff cannot maintain any of her claims for Breach of Contract. This is fatal to her claim for breach of contract accompanied by fraudulent act. *Hotel & Motel Holdings, LLC,* 414 S.C. at 654, 780 S.E.2d at 274; *Curtis v. Cafe Enterprises, Inc.*, 715 Fed. App'x 268, 270 (4th Cir. 2017) ("Further, because Curtis' evidence does not support a claim for breach of contract, it cannot support the claim of breach of contract accompanied by a fraudulent act."). For this reason alone, her claim must be dismissed with prejudice as to all Defendants.

Further, Plaintiff also cannot present admissible evidence supporting the second and third elements of the claim, and most certainly not by "clear and convincing" evidence. For instance, there is no evidence in the record that anyone "secretly participated in the composition, choice of words, writing, and content of student statements," and Jordan Rice-Woodruff's sworn testimony actually refutes Plaintiff's allegations on that point.[14] Other than Plaintiff's own conjecture, there is no admissible evidence in the record to support her allegations that anyone at the College "secretly encourag[ed] the Board of Directors, including Defendant Johnson, to exclude Plaintiff from her rightful position on the Board," or that anyone was "improperly encouraged" to "participate in [the Defendants'] secret actions." For these reasons, Plaintiff's Fifth Cause of Action must be dismissed with prejudice as to all Defendants.

V. PLAINTIFF'S SIXTH CAUSE OF ACTION FOR "TORTIOUS INTERFERENCE WITH CONTRACT" FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT IN THE RECORD SUPPORTING THE CLAIM'S ELEMENTS.

[14] Plaintiff's reliance on Sybil Rosado's testimony is particularly unavailing on this point, as Rosado herself relies on Rosado's repeating unsubstantiated and hearsay remarks allegedly made by Dr. Green.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Plaintiff alleges her Sixth Cause of Action for "Tortious Interference with Contract" against Defendants Benedict College and individual Defendants Artis and Witty. Plaintiff claims that Benedict College, Artis, and Witty "intentionally procured the breaches and/or otherwise interfered with the [Faculty Manual and Plaintiff's Faculty Contract]." For the reasons set forth below, Plaintiff's Sixth Cause of Action fails and must be dismissed with prejudice.

To establish a cause of action for tortious interference with contractual relations, a plaintiff must show: (1) the existence of a contract; (2) knowledge of the contract; (3) intentional procurement of its breach; (4) the absence of justification; and (5) resulting damages. *Eldeco, Inc. v. Charleston Cnty. Sch. Dist.*, 372 S.C. 470, 480, 642 S.E.2d 726, 731 (2007).

As with Plaintiff's Fifth Cause of Action, where there is no breach of contract, there can be no recovery for "Tortious Interference with Contract." Thus, as set forth above in the discussion of Plaintiff's First and Third Causes of Action, because Plaintiff cannot maintain any of her claims for Breach of Contract, she also cannot maintain a claim for "Tortious Interference with Contract." *Eldeco*, 372 S.C. at 481, 642 S.E.2d at 732.[15]

Further, because Benedict College is a party to the two contracts referenced in Plaintiff's Sixth Cause of Action – the Faculty Manual and Plaintiff's Faculty Contract – the College cannot be a proper party to this claim, and it must be dismissed from this claim with prejudice. *Dutch Fork Dev. Grp. II, LLC v. SEL Properties, LLC*, 406 S.C. 596, 604, 753 S.E.2d 840, 844 (2012) ("one cannot be held liable for tortious interference with a contract to which he is a party");

[15] To the extent Plaintiff bases any Breach of Contract claim, or variant thereof, on the College's decisions related to her participation or membership on the Board of Trustees, her claim suffers the same fate. She cannot show that any contract was "breached" by those decisions or events, and for those reasons, any related claim must be dismissed with prejudice. Notably, neither the Faculty Manual nor Plaintiff's annual Faculty Contract address or promise membership on the Board of Trustees.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Threlkeld v. Christoph, 280 S.C. 225, 227, 312 S.E.2d 14, 15 (S.C. App. 1984). Similarly, to the extent that Drs. Witty and Artis acted within the scopes of their employment with the College regarding an alleged breach of a contract, they are immune to this claim. *Dutch Fork Dev. Grp. II, LLC*, 406 S.C. at 605, 753 S.E.2d at 844.

Furthermore, there is no admissible evidence supporting Plaintiff's allegation that Benedict College, Dr. Witty, or Dr. Artis acted "outside the scope of their proper roles and of their authority" at any time with regard to Plaintiff's contracts, or how these alleged acts related to an intentional procurement of a breach of contract, or an absence of justification regarding such a breach. In fact, other than making this conclusory allegation, and the equally unsupported allegation that the Defendants acted "with personal motivation," there is simply no admissible evidence in the record that supports any of these allegations. For these reasons, Plaintiff's Sixth Cause of Action must be dismissed with prejudice.

VI. PLAINTIFF'S SEVENTH CAUSE OF ACTION FOR "CIVIL CONSPIRACY" FAILS BECAUSE (1) IT IS BARRED BY THE INTRACORPORATE CONSPIRACY DOCTRINE, (2) IT IS BARRED BY THE LACK OF "ADDITIONAL ACTS" IN SUPPORT OF THE CLAIM, AND (3) PLAINTIFF'S FAILURE TO PRODUCE ADMISSIBLE EVIDENCE SUPPORTING THE CLAIM'S ELEMENTS.

Plaintiff alleges her Seventh Cause of Action for "Civil Conspiracy" against Defendants Benedict College and individual Defendants Artis, Witty, and Johnson. For the reasons set forth below, the claim must be dismissed with prejudice as to all Defendants.

A. PLAINTIFF'S SEVENTH CAUSE OF ACTION IS BARRED BY THE "INTRACORPORATE CONSPIRACY DOCTRINE."

With regard to the civil conspiracy claim, a corporation cannot conspire with itself. *Broyhill v. Resolution Mgmt. Consultants, Inc.*, 401 S.C. 466, 477, 736 S.E.2d 867, 872 (S.C. App. 2012). However, a civil conspiracy cannot exist when the alleged acts arise in the context of a principal-agent relationship because by virtue of the relationship such acts do not involve separate

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

entities. *McMillan v. Oconee Mem'l Hosp., Inc.*, 367 S.C. 559, 564, 626 S.E.2d 884, 886-87 (2006), *overruled on other grounds by Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 861 S.E.2d 774 (2021); *Sales v. Res-Care, Inc.*, 2021 WL 1186553, at *6 (D.S.C. Mar. 30, 2021) ("With respect to Plaintiff's civil conspiracy claim, Plaintiff fails to present any colorable argument to challenge the intracorporate conspiracy doctrine, which mandates that there can be no conspiracy between an employer and its employees.").

While Plaintiff has alleged that "Defendants Witty, Artis, and Johnson were at times acting outside the scope of their agency with Benedict" in support of her civil conspiracy claim, she has failed to produce any evidence supporting such an allegation. Indeed, it would be impossible for these Defendants to conspire with Benedict College – the fourth Defendant that Plaintiff sued for civil conspiracy – outside the scope of their duties as officers or directors of Benedict College.

For this reason alone, Plaintiff's Seventh Cause of Action is barred and must be dismissed with prejudice.

B. PLAINTIFF'S SEVENTH CAUSE OF ACTION IS BARRED BY THE LACK OF "ADDITIONAL ACTS" IN SUPPORT OF THE CIVIL CONSPIRACY CLAIM.

A plaintiff asserting a civil conspiracy claim must establish (1) the combination or agreement of two or more persons, (2) to commit an unlawful act or a lawful act by unlawful means,[16] (3) together with the commission of an overt act in furtherance of the agreement, and (4)

[16] In Justice Kittredge's concurrence in *Paradis*, he explained that "[i]t is the second element – to commit an *unlawful act* or a lawful act by *unlawful means* – that restores an objective legal standard to this cause of action. When the appellate courts of this state approved of an analytical framework that allowed one's personal sense of fairness and right and wrong to be sufficient for a civil conspiracy claim, we created a rudderless cause of action. Justice Few correctly observes that the post-*Todd* sanctioned civil conspiracy claim 'permit[ted] the court and jury to impose liability for lawful, non-tortious conduct based on a court or juror's sense of fairness or responsibility.' I do not construe Justice Few's concurrence as 'abolishing' civil conspiracy. Rather, by restoring the traditional elements of a civil conspiracy claim and overruling *Todd*'s so-called special

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

damages proximately resulting to the plaintiff. *Paradis*, 433 S.C. at 574, 861 S.E.2d at 780 (abolishing the requirement that a plaintiff must plead "special damages" as part of a civil conspiracy claim). Also, in order to state a civil conspiracy following the Supreme Court's decision in *Paradis*, a plaintiff must also allege "additional acts" that are independent of the basis of any other of the plaintiff's causes of action.

> Although the *Paradis* court held that special damages are no longer a required element of a civil conspiracy claim in South Carolina, Lang's claim for conspiracy fails on two grounds independent thereof. First, the Magistrate Judge initially recommended dismissal of the conspiracy claim because Plaintiff did not identify concrete acts that are independent of any other alleged wrongdoing. Rather, Plaintiff based his civil conspiracy claim on the same alleged actions that serve as the basis for his other causes of action.

Lang v. Furman Univ., 2022 WL 816455, at *1 (D.S.C. Mar. 16, 2022); *Doe 9 v. Varsity Brands, LLC*, 679 F. Supp. 3d 464, 494 (D.S.C. 2023) ("But because Plaintiff has not identified "additional acts in furtherance of the conspiracy separate and independent from other wrongful acts alleged in [her] complaint," *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 682 S.E.2d 871, 875 (S.C. App. 2009), *overruled on other grounds by Paradis*, 861 S.E.2d at 780, she has failed to state a valid claim for civil conspiracy.").

Similarly, in the instant case, Plaintiff has failed to plead – and certainly has failed to produce evidence of – any "additional acts" in support of her civil conspiracy claim. In fact, Plaintiff herself cannot distinguish between her allegations supporting her other claims and her allegations supporting her civil conspiracy claim.

Indeed, Plaintiff's own pleading actually requires the court to look to other causes of action to define the nature of her civil conspiracy claim. Her Seventh Cause of Action does not describe

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damages pleading requirement, this Court returns civil conspiracy to its historical roots." *Paradis*, 433 S.C. at 578, 861 S.E.2d at 782

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

a single act taken in furtherance of the alleged civil conspiracy that it is not also alleged in her other causes of action. In fact, this cause of action explicitly incorporates and repeats the allegations supporting her other claims, and adds no new additional acts in support of her civil conspiracy claim.

For instance, in her claims for "Breach of Contract Accompanied by a Fraudulent Act" and "Tortious Interference with Contract," Plaintiff claims that Dr. Witty, Dr. Artis, and Chairman Johnson "well exceeded the scope of their responsibilities" and acted "with personal motivation" and "outside the scope of their proper roles and of their authority." The allegations mirror Plaintiff's allegations in support of her civil conspiracy claim stated as follows:

> 134. As a result of their personal goals related to Plaintiff as described herein, which were unrelated to any legitimate Benedict goals, Defendants Witty, Artis, and Johnson were at times acting outside the scope of their agency with Benedict.
>
> 135. Defendants Witty, Artis, and Johnson had their own independent personal stakes in achieving the unlawful objectives of violating Plaintiff's rights.

Plaintiff herself cannot explain the differences between her allegations supporting her other claims and her civil conspiracy claim:

> Q. I understand. Is there any personal motivation that you've already described, and frankly, you've described this before when you were talking about personal motivations with regard to paragraph 131, without asking you to belabor the point, is there any personal motivation that is different from an independent personal stake that you reference in both 131 and again in 135? Is there any difference?
>
> A. And as I said, I can't answer that.
>
> Q. You're the only person who could answer that. It's your complaint.
>
> MR. COSKREY: I object to the form.
>
> A. I don't have an answer. I cannot answer that at this particular time.

For this reason alone, Plaintiff's Seventh Cause of Action is barred and must be dismissed with prejudice.

C. PLAINTIFF'S SEVENTH CAUSE OF ACTION FAILS BECAUSE SHE HAS NOT, AND CANNOT, PRODUCE ADMISSIBLE EVIDENCE SUPPORTING THE ELEMENTS OF A CIVIL CONSPIRACY CLAIM.

Plaintiff has presented no evidence that any of the Defendants (1) combined with each other (2) to commit an unlawful act or a lawful act by unlawful means (3) together with the commission of an overt act in furtherance of the agreement (4) that proximately resulted in injuries to her. The record is, in fact, devoid of such evidence. For instance, Plaintiff has failed to produce evidence of any "unlawful act" or "lawful act by unlawful means" committed by a combination of the Defendants. Plaintiff has failed to point to any overt act in furtherance of the alleged conspiracy. In short, Plaintiff has produced no evidence, other than her own unsupported and vague assertions, that any of the Defendants engaged in a civil conspiracy to injure her. *See Rice v. M-E-C Co*., 2021 WL 5822645, at *6 (D.S.C. Dec. 8, 2021) ("Plaintiff has failed to demonstrate a genuine issue of material fact as to his civil conspiracy claim because Plaintiff has pointed to no evidence, other than his own unsupported assertions or assumptions, to show that Fisk combined with Lichtenfeld *with the specific intent to commit wrongful conduct and harm Plaintiff as a result*.") (citing to *Paradis*) (emphasis in the original). For this reason alone, Plaintiff's Seventh Cause of Action must be dismissed with prejudice.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

CONCLUSION

For the reasons set forth above, I hereby GRANT the Defendants' Motion for Summary Judgment, and Dismiss Plaintiff's claims with prejudice, with each side to bear its own costs and fees.

AND IT IS SO ORDERED.

The Honorable R. Ferrell Cothran, Jr.
Fifth Judicial Circuit

_____, 2025
Richland, South Carolina.

ELECTRONICALLY FILED - 2025 Mar 07 12:12 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Richland Common Pleas

Case Caption: Abigail Rogers vs Benedict College , defendant, et al

Case Number: 2019CP4006624

Type: Order/Other

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

ELECTRONICALLY FILED - 2025 Mar 18 1:18 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	
Abigail Rogers	)	
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	C/A NO. 2019-CP-40-06624
Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson,	)	
	)	
	)	
Defendants.	)	

This matter is before the Court pursuant to Rule 59 (e) SCRCP. The Plaintiff seeks an Order of this Court amending or altering its Order of March 7, 2025.

Pursuant to Rule 59 (f) SCRCP, this Court determines that the motion to alter or amend may be decided on briefs filed by the parties and without oral argument.

Having duly considered the motion to alter or amend of the Plaintiff, this Court has determined that its original Order dated March 7, 2025 is fully supported by the law and the evidence and is hereby ratified and reconfirmed. The motion to alter or amend the earlier Order is therefore DENIED.

AND IT IS SO ORDERED.

Manning, South Carolina

Dated:_____

_____

R. Ferrell Cothran, Jr.
Judge, Third Judicial Circuit

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Richland Common Pleas

Case Caption: Abigail Rogers vs Benedict College , defendant, et al

Case Number: 2019CP4006624

Type: Order/Other

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
Abigail Rogers,	)	
	)	
Plaintiff,	)	**SUMMONS**
	)	
vs.	)	(Jury Trial Demanded)
	)	
Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson	)	
	)	
Defendants.	)	

TO: Defendants above named.

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscriber at: Law Office of Blaney A. Coskrey, III, 1201 Main Street, Suite 1980, Columbia, South Carolina 29201 within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time period aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint.

s/ Blaney A. Coskrey, III

Blaney A. Coskrey, III (#13007)
1201 Main Street, Suite 1980
Columbia, South Carolina 29201
(803) 748-1202
coskrey@coskreylaw.com

ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina
November 25, 2019

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
Abigail Rogers,	)	
	)	
Plaintiff,	)	**COMPLAINT**
	)	
vs.	)	(Jury Trial Demanded)
	)	
Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson	)	
	)	
Defendants.	)	
	)	

TO: Defendants above named.

Plaintiff, Abigail Rogers, complaining of the Defendants, alleges and says:

THE PARTIES

1. Plaintiff is a citizen and resident of Richland County, South Carolina.

2. Plaintiff has been a professor at Benedict College ("Benedict") since 1995 and has been tenured since 2012.

3. Plaintiff was first a Visiting Professor, then an Assistant Professor, and an Associate Professor in the Criminal Justice Department of Benedict.

4. Defendant Benedict was founded in 1870 as a historically black college. It is currently a 501(c)(3) corporation and a private college located in Richland County, South Carolina. Benedict's principle place of business is 1600 Harden Street, Columbia, South Carolina.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

5. Benedict is governed by the Benedict College Board of Trustees ("the Board"), consisting of more than thirty members, including a faculty member and a student member.

6. Defendant Charles Williams is named in his individual capacity and was, for all periods relevant to the allegations herein, the Chairman of the Board of Trustees of Benedict College. Mr. Williams is a resident of Louisville, Kentucky.

7. Defendant Roslyn Clark Artis is named in her individual capacity and was, for all periods relevant to the allegations herein, President of Benedict, having assumed that position in the summer of 2017.

8. Defendant Janeen Witty is is named in her individual capacity and was, for all periods relevant to the allegations herein, the Vice President for Academic Affairs of Benedict.

JURISDICTION/VENUE

9. This Court has personal jurisdiction over Defendant Benedict in that it is organized under the laws of South Carolina, does business in South Carolina, maintains its principal place of business in South Carolina, contracts to supply services of things in South Carolina, and has an interest in real property in South Carolina. S.C. Code Ann. §§ 36-2-802, 36-2-803.

10. This Court has personal jurisdiction over Defendants Artis and Witty in that they are domiciled in South Carolina. S.C. Code Ann. § 36-2-802.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

11. The Court has personal jurisdiction over Defendant Williams in that he does business in South Carolina, including through his role as Chairman of the Board of Directors of Benedict College located in South Carolina.

12. Venue is proper in Richland County in that the causes of action asserted herein arose in Richland County. S.C. Code Ann. § 15-7-20.

13. To the extent any allegations are inconsistent, they are pled in the alternative.

FACTS/BACKGROUND

14. Prior to Defendant Artis's hiring as President of Benedict, Plaintiff met and exceeded the expectations of her supervisors and the rest of Benedict's administration.

15. Plaintiff relished the opportunity to teach and otherwise assist economically and academically disadvantaged students, and she demonstrated great talent and ability in her roles as both teacher and mentor to those students.

16. In recognition of her exemplary performance, Plaintiff received the grant of tenure status in or about 2012.

17. In addition to her responsibilities to her students, Plaintiff, as an attorney and former judge, was in a unique position to emphasize to students and the administration, including Defendants, of the need to follow all applicable rules and law.

18. Plaintiff repeatedly emphasized to Defendants the importance of following the laws and proper procedure because, *inter alia*, if the administration and Board

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

refused to follow its bylaws and other binding procedures, those actions would put Benedict's accreditation at risk, which meant the continued existence of the entire college would be at risk.

19. Defendant Artis, prior to her employment at Benedict, was the Provost of Mountain State University in West Virginia.

20. While Defendant Artis was a member of the administration at Mountain State University, the accrediting agency warned the university administration that its governance decisions were putting the University at accreditation risk. Specifically, the accrediting agency questioned whether "the institution operate[d] with integrity . . . and [whether] the institution's governance and administrative structures promote[d] effective leadership."

21. As a result of the administration and board's failure to take the necessary remedial steps in response to the warning about its governance decisions, Mountain State ultimately lost its accreditation and was forced to close.

22. The Benedict Board subsequently voted to hired Artis as President of Benedict on June 30, 2017.

23. Upon Artis's hiring, Plaintiff sought to work with Defendants Artis and Witty for the benefit of the Benedict students and the improvement and thirving of Benedict as an institution.

24. Defendants Artis, Witty, and other members of the administration were not receptive to Plaintiff's efforts and instead exhibited personal animosity toward Plaintiff.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

25. Over time, Plaintiff sensed and then learned that Defendants Artis and Witty, motivated by improper, personal reasons, were seeking to cause Plaintiff problems in her employment and ultimately bring about her termination.

26. Plaintiff's employment and board issues described herein, occurring between October 2018 and October 2019 stem in part from this personal animosity of Artis and Witty, which were disguised by them and those working with them.

27. On October 23, 2018, Defendant Benedict, acting through Defendants Artis and Witty, suspended Plaintiff from her tenured professor teaching position.

28. Plaintiff was given little explanation of the factual basis for the suspension despite repeatedly asking for that basis.

29. Over the next several months Plaintiff sought to grieve and appeal the suspension under the applicable, binding grievance policy, repeatedly asking for the specific grounds on which the decision was based. She was forced to guess about the specific grounds for the suspension. She submitted materials in support of her grievance and sought a hearing as provided in the grievance policy.

30. The Faculty and Staff Grievance Appeals Committee ("Grievance Committee") allegedly met in November 2018. Plaintiff received no notice of that hearing and was not allowed to participate in the meeting.

31. Without giving Plaintiff the opportunity to be present and participate, Defendants Artis and Witty improperly controlled the meeting of the Grievance Committee, the evidence that was presented, and the outcome.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

32. Plaintiff learned that students' Complaints allegedly formed the basis of the action that had been taken against her, even though the procedures for handling student complaints had not been followed.

32. Plaintiff was subsequently informed on or about November 20, 2018 that the Grievance Committee had unanimously recommended that she be reinstated, but that it had also recommended the establishment of a Performance Improvement Plan ("PIP"). The notice of the Grievance Committee's decision did not specify any factual findings, the basis for the decision, or what the terms of that Plan would be.

33. Plaintiff sought information about the actual terms of the PIP, which was included in the recommendation of the Grievance Committee at the improper insistence Defendants Witty and Artis.

34. Plaintiff was denied adequate answers about its specifics. As a result of not being told the specifics of a PIP whose terms might continue to wrongly suggest a factual basis that did not exist, Plaintiff on December 7, 2018 timely appealed the Grievance Committee's recommendation of the nonspecific PIP, asking for a formal hearing as provided in the grievance procedure.

35. The grievance procedure for that hearing provided for Plaintiff's right to present evidence and cross-examine all witnesses.

36. Despite multiple requests, Benedict never scheduled a hearing on the grievance appeal.

37. Instead, Benedict unilaterally imposed a PIP based on false and unsubstantiated factual conclusions that Plaintiff had never been given the opportunity to contest in a hearing.

38. Plaintiff objected, noting those objections to the PIP's factual portions on the PIP document itself.

39. Despite having not received the hearing provided by the grievance procedure, Plaintiff nevertheless attempted to execute the education and training requirements in the Plan.

40. Although Plaintiff made multiple attempts to carry out her part under the PIP, Benedict, Witty, and Artis did not perform their responsibilities under the PIP, which were necessary to its execution.

41. The fact that Benedict and its administrators were disinterested in performing their responsibilities necessary to the actual execution of the PIP demonstrates that it was, in fact, nothing more than a pretext for their planned action against Plaintiff.

42. Plaintiff was informed by Witty several months later that she was no longer subject to a PIP.

43. Defendants' long-running scheme to terminate Plaintiff was temporarily thwarted when on April 11, 2019, Plaintiff was elected by the faculty and staff as the faculty/staff member of the Benedict College Board of Trustees.

44. Upon counting the votes and before the result was announced, Defendants first sought not to recognize Plaintiff as the winner of the election. Finding no such

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

viable option, they announced to the faculty and staff that Plaintiff was the new faculty/staff representative to the Board of Trustees.

45. Plaintiff became a member of the Board of Trustees upon her election in April 2019. Under Benedict's by-laws describing the faculty representative's term as running for a period of one year, from April to April, she immediately became a board member upon her election on April 11, 2019.

46. Defendant Artis, Witty and other representatives of Benedict, acting well outside their responsibilities and for improper purposes, then sought to persuade the Board to take action to deny Plaintiff her rightful seat on the Board.

47. As a result of these improper actions outside of the proper duties and responsibilities of Artis, Witty and the others, Board Chairman Charles Johnson wrote Plaintiff on April 16, 2019 wrongly and unlawfully stating that her term did not begin until the following academic year, and that completing "new member orientation" was a necessary prerequisite to her assuming her position as a board member.

48. These representations were false and known to be false by Johnson, who as Chairman of the Board would be in a position to know what the bylaws said.

49. Johnson was acting at the urging, encouragement, and instruction of Artis, Witty, and others with improper purposes and personal motives.

50. Because they were taken without proper notice and by a improperly constituted board, all actions taken by the Benedict College Board after the denial of Plaintiff's rightful place on the Board are unlawful, ultra vires, and of no effect.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

51. Plaintiff received a second letter from Chairman Johnson Dated June 7, 2019 in which he stated that the Board "has adopted . . . the following: . . . Faculty staff and students shall not be members of the Benedict College Board of Trustees."

52. The attempt to remove Plaintiff from the Board of Trustees was another unlawful step by Defendants in the scheme and vendetta against Plaintiff, and was done without lawful authority and for improper purposes.

53. On June 20, 2019, Plaintiff objected to the Williams' position that she was no longer a Board member, pointing out that any Board actions since her election in April had unlawfully excluded her and were of no effect.

54. The Board persisted in its position of Plaintiff's exclusion, and held it annual meeting the weekend of June 22, 2019. Plaintiff received no notice of that meeting and was denied participation in the meeting.

55. Plaintiff repeatedly sought from the Board a clear and unambiguous statement that it would recognize her as a Board member, but was never provided that statement.

56. As a result, Plaintiff was never allowed to participate in any Board action despite her lawful election as the faculty/staff representative in April 2019.

57. In August and September 2019, Plaintiff was asked for advice by the president of the Benedict student body, Jordan Rice-Woodruff.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

58. Rice-Woodruff expressed concerns about the student representative having been eliminated from the Board and, because Plaintiff was already objecting to the faculty-staff representative being eliminated, asked Plaintiff what could be done.

59. Plaintiff responded to Rice-Woodruff's inquiries, giving him the advice that he sought about how he might stand up for the rights of the students to be represented on the Board.

60. Rice-Woodrufff also told Plaintiff that Defendant Artist had told him that Plaintiff was not and would not be a member of the Board.

61. On September 17, 2019, Plaintiff was told by Defendant Witty that she was being suspended without pay. She was not told the grounds for the suspension.

62. Plaintiff was escorted off the campus of Benedict by campus police. This escort was designed by Artis, Witty and Benedict to humiliate her in front of other faculty, staff, and students.

63. This action removing Plaintiff took place one day before the Benedict College Board of Trustees was scheduled to conduct a telephonic meeting.

64. On September 24, 2019, Plaintiff received a letter written by Witty that stated that her employment was terminated effective September 19, 2019.

65. The grounds given for the termination were that she was "insubordinate, rude and unprofessional." The letter generally referenced "numerous complaints received from multiple students" and mentioned Plaintiff allegedly giving out student phone numbers to "third parties." The letter provides no other specific

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

information underlying these allegations or providing Plaintiff with sufficient notice of the factual basis for the decision.

66. The letter further stated that "an ad hoc faculty meeting was convened on September 18 and concurred in the recommendation to terminate your employment."

67. Plaintiff received no notice of the ad hoc faculty hearing prior to its commencement and was not allowed to participate in any way.

68. The Faculty Manual provides that the first step in the process for terminating a faculty member for cause is to convene a "standing or Ad Hoc faculty hearing Committee" ("Ad Hoc Committee").

69. According to the binding Faculty Manual, that Ad Hoc Committee was required to "conduct a fair and impartial hearing of all the evidence . . . ."

70. The Ad Hoc Committee did not "conduct a fair and impartial hearing of all the evidence." In fact, Plaintiff was given no notice and was not allowed to participate or to present *any* evidence.

71. Plaintiff subsequently appealed her termination pursuant to Section 6.2.6 of the Faculty Manual, which provides for a hearing before the Faculty and Staff Appeals Committee.

72. The Faculty and Staff Appeals Committee met on October 23, 2019. Plaintiff was not allowed to present witnesses; was not allowed to have the full participation of counsel; was not allowed to cross-examine witnesses; was not

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

informed of the names of the students who allegedly complained; and was limited to thirty minutes in her defense.

73. None of the arbitrary limitations imposed by Benedict for the hearing are supported by the Faculty Manual, which provides that "all evidence" is to be considered. As a result, Plaintiff was denied her full rights as provided in the Faculty Manual.

74. The evidence presented did not meet the definition of "cause" for termination of a tenured faculty member. Indeed, Benedict did not even cite to or state the definition of cause found in the Faculty Manual. As a result, the Committee was unaware of and did not have occasion to apply the actual standard contained in the Faculty Manual for terminating a tenured professor.

75. The procedures employed as well as the substantive conclusions reached violated the faculty manual and other applicable rules, standards, and laws.

76. Moreover, the evidence relied on included statement(s) that Defendants had created.

77. Defendants secretly played undisclosed roles in secretly creating those statements in whole or in part, and then falsely presented those statements as the work product of Benedict students. In fact, Defendants were largely responsible for the statements' contents.

78. In reliance on those statement(s), the Faculty and Staff Appeals Committee, by a vote of 6-2, recommended that the termination go forward.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

FOR A FIRST CAUSE OF ACTION
(Breach of Contract - Termination)
(Benedict)

79. All prior allegations are realleged and incorporated herein.

80. The Benedict College Faculty Manual constitutes a binding contract between Benedict and its faculty.

81. Benedict College breached multiple sections of the contractually binding Faculty Manual in connection with its decision to terminate Plaintiff.

82. The Faculty Manual provides that tenured faculty may be terminated only "for cause, or financial exigency, or restructuring . . . ." Section 4.1.2.

83. Benedict has based its termination of Plaintiff on alleged "cause."

84. No facts meeting the definition of cause existed for the termination, thereby breaching her contractual rights.

85. In addition, the Faculty Manual provides that faculty members "are entitled to full freedom in their classrooms to teach and discuss anything relevant and pertinent to the subject being taught." Section 4.2.1.

86. Although they have been evasive about the specific grounds, at various times Defendants have suggested that Plaintiff's termination was based on Plaintiff's allegedly teaching certain concepts directly relevant and pertinent to the subject being taught, thereby breaching her contractual academic freedom rights.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

87. In addition to breaching the substantive provisions of the Faculty Manual related to "cause" and academic freedom, Defendants also breached the Manual's procedures.

88. The Faculty Manual provides for specific procedures for terminating faculty members for cause. Sections 6.2.4, 6.2.5, 6.2.6.

89. That procedure includes at the first level that "a standing or Ad Hoc faculty hearing Committee . . . will conduct a fair and impartial hearing of all the evidence . . . ." Section 6.2.5.

90. Defendant Benedict breached the contractually binding Faculty Manual by, *inter alia*,

(a) failing to comply with the procedures set forth in the Faculty Manual, including Section 6.2.5.

(b) failing to give Plaintiff notice of the Ad Hoc Committee hearing;

(c) failing to provide for a "fair" and "impartial" hearing, or to allow for a consideration of "all the evidence."

(d) imposing improper and unlawful restrictions on Plaintiff's participation in the hearing of the Faculty and Staff Appeals Committee, including, *inter alia*, not being allowed to present witnesses, not being allowed to have the full participation of counsel, not being allowed to cross-examine witnesses; not being informed of the specific bases for the termination; not being informed of the names of the students who allegedly

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

complained; not being allowed to call those students as witnesses; and being limited to thirty minutes in her defense.

(e) failing to apply the applicable standard for termination of a tenured faculty member.

(f) incorrectly finding the standard for termination of Plaintiff had been met.

91. As a result of Defendants' breach of the faculty manual, Plaintiff seeks and is entitled to compensatory damages in an amount to be determined by the trier of fact, reinstatement to her position, and other equitable relief.

FOR A SECOND CAUSE OF ACTION
(Breach of Contract - Grievance)
(Benedict)

92. All prior allegations are realleged and incorporated herein.

93. Plaintiff's suspension in October 2018 was without authority.

94. Defendants failed to follow contractually binding procedures in its handling of student complaints and the resulting grievance. Faculty Manual 7.2.

95. In particular, Defendants failed to allow Plaintiff a formal hearing before the Grievance and Appeals Committee as provided in Section 7.2(3) and 7.2(4).

96. The hearing, had it been allowed to occur, would have included the right to counsel at the formal hearing, at which the Committee would "hear the charge, receive facts and evidence, and entertain arguments from the parties or representatives." 7.2(5).

97. The hearing, had it been allowed to occur, would have included the right of Plaintiff "to present evidence and cross-examine all witnesses." Section 7.2(6).

98. Plaintiff was not afforded any of the rights associated with her grievance, which denials constitute breaches of the Faculty Manual.

99. As a result of the breach by Defendants, Plaintiff is entitled to and seeks compensatory damages.

FOR A THIRD CAUSE OF ACTION
(Breach of Contract - Faculty Contract)

100. All prior allegations are realleged and incorporated herein.

101. Benedict and Plaintiff entered into a binding contract ("Faculty Contract") for the upcoming academic year on August 2, 2019.

102. Pursuant to the terms of the Faculty Contract, Plaintiff's term of employment was one academic year.

103. That Faculty Contract did not include any grounds for early termination.

104. Plaintiff's termination was in breach of the Faculty Contract in that there were no grounds for such termination.

105. To the extent the law implies or allows grounds for termination in the absence of express grounds, those grounds were not present here.

106. As a result of the breach by Defendants, Plaintiff is entitled to and seeks compensatory damages.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

FOR A FOURTH CAUSE OF ACTION
(Declaratory Relief - Board Action)

107. All prior allegations are realleged and incorporated herein.

108. Plaintiff seeks a declaratory judgment pursuant to S.C. Code § 53-15-10, *et seq.* (S.C. Uniform Declaratory Judgment Act) and S.C. Code 33-31-101, *et seq.* (S.C. Nonprofit Corporation Act) that she was wrongfully denied her position on the Benedict College Board of Trustees, that as a result of her election to the Board on April 11, 2019, she has held and still holds such position, that all actions taken by the Board since her denial are of no legal effect.

109. Plaintiff was a member of the Board of Trustees upon her election on April 11, 2019.

110. On the day of the vote, upon counting the votes for the faculty representative, Defendants actively sought a way to keep Plaintiff off the Board. Upon finding no means to do so, they announced that Plaintiff had won the election and would be the faculty/staff representative.

111. According to the by-laws, Plaintiff's term on the Board ran from April to April.

112. Despite her lawful position on the Board, Plaintiff was not given notice or allowed to participate in subsequent Board actions.

113. The Board subsequently took actions that purportedly eliminated seats from the Board, and otherwise affected the procedures applicable to the administration of Benedict.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

114. Notice and the right to participate were not afforded Plaintiff who should have been recognized as a member of the Board, with all rights associated therewith, including the right to notice and participation in meetings and discussions.

115. The decisions made were not just procedurally flawed, but were also the result of improper meddling and influence by persons have no rightful authority or position.

116. The actions of the Board deviated from Benedict's bylaws in unlawfully and improperly changing the dictates of those bylaws on issues related how and when the faculty/staff member of the Board of Directors may take office and then serve.

117. Those meetings were the result of an improperly and unlawfully constituted board.

118. Moreover, the attempted and unlawful elimination of Plaintiff's position violated S.C Code § 33-31-808(b), which provides: "If a director is elected by a class, chapter, or other organization unit . . . . the director may be removed only by the members of that class, chapter, unit, or grouping."

119. Plaintiff seeks a declaratory judgment from this Court that she was and is a member of the Benedict College Board of Trustees, and that any action taken by the Benedict College Board of Trustees following the wrongful denial of her position in April 2019 is void and of no legal effect.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

FOR A FIFTH CAUSE OF ACTION
(Breach of Contract Accompanied by a Fraudulent Act)

120. All prior allegations are realleged and incorporated herein.

121. Plaintiff's 2019-2020 Faculty Contract and the Benedict College Faculty Manual constitute binding contracts.

122. Defendants breached one or more of Plaintiff's contracts with Benedict as described hereinabove.

123. Defendants had fraudulent intent relating to the breaching of the contract.

124. Defendants engaged in fraudulent acts accompanying the breach, in that they:

(a) secretly participated in the composition, choice of words, writing, and content of student statements;

(b) well exceeded the scope of their responsibilities by secretly encouraging the Board of Directors, including Defendant Johnson, to exclude Plaintiff from her rightful position on the Board.

(c) improperly encouraged other persons, including Benedict employees whose livelihoods were dependant on Defendants, to participate in their secret actions.

125. As a proximate result of Defendants' actions, Plaintiff seeks and is entitled to compensatory and punitive damages in an amount to be determined by the trier of fact.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

FOR A SIXTH CAUSE OF ACTION
(Tortious Interference with Contract)

126. All prior allegations are realleged and incorporated herein.

127. As described hereinabove, Plaintiff had entered into contracts with Benedict through both the Faculty manual and her Faculty Contract.

128. Defendants Artis and Witty had knowledge of the contracts.

130. Those contracts were breached by Defendant as described hereinabove.

131. Defendants Artis and Witty, with personal motivation and acting outside the scope of their proper roles and of their authority, intentionally procured the breaches and/or otherwise interfered with the contracts by Benedict without justification.

132. As a proximate result of Artis and Witty's actions, Plaintiff seeks and is entitled to compensatory and punitive damages in an amount to be determined by the trier of fact.

FOR A SEVENTH CAUSE OF ACTION
(Civil Conspiracy)

133. All prior allegations are realleged and incorporated herein.

134. As a result of their personal goals related to Plaintiff as described herein, which were unrelated to any legitimate Benedict goals, Defendants Witty, Artis, and Williams were at times acting outside the scope of their agency with Benedict.

135. Defendants Witty, Artis, and Williams had their own independent personal stakes in achieving the unlawful objectives of violating Plaintiff's rights.

136. Witty, Artis, Williams and others combined for the purpose of injuring Plaintiff.

137. That combination caused special damages, namely that Plaintiff was forced to incur costs and attorneys' fees beginning in October 2018 through the present to repeatedly resist the conspiracy.

138. As a proximate result of Witty, Artis and Williams' actions, Plaintiff seeks and is entitled to special and punitive damages in an amount to be determined by the trier of fact, including attorneys' fees.

FOR A SEVENTH CAUSE OF ACTION
(SC Nonprofit Corporation Act, S.C. Code § 33-31-101, *et seq*.)

139. All prior allegations are realleged and incorporated herein.

140. Defendant Benedict is incorporated under the S.C. Nonprofit Corporation Act and is subject to its provisions.

141. Plaintiff was a duly elected director as of April 22, 2019 and as such, has standing to brings this claim challenging the Board's actions. S.C. Code § 33-31-304(b), (c).

142. Pursuant to S.C. Code § 33-31-202, a director is liable for "acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law."

143. Defendant Williams and the Benedict Board, despite having full knowledge of Plaintiff's election to the Board in April 2019, unlawfully sought to exclude her from that position.

144. Defendant Williams first wrote Plaintiff on April 16, 2019, telling her that she was not yet on the board, and then again on June 7, 2019 informing her that Board action had been taken eliminating her position.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

145. The purported Board action mentioned in the June 7, 2019 letter occurred, if at all, in a meeting which Plaintiff had received no notice of, had been denied the right to attend, and had not been allowed to vote.

146. The actions taken by the Board also violated other procedural prerequisites, including the establishment of a quorum, the failure to properly notice the meeting as one to eliminate the position, and other violations of the Act. S.C. Code § 33-31-808.

147. Benedict's actions violated its own bylaws and therefore were also in violation of the S.C. Nonprofit Corporation Act.

148. The purported Board action mentioned in the June 7, 2019 letter also violated S.C Code § 33-31-808(b), which provides that "[i]f a director is elected by a class, chapter, or other organization unit . . . . the director may be removed only by the members of that class, chapter, unit, or grouping."

149. Plaintiff was removed not by the "class chapter or other organizational unit" that elected her (faculty and staff), but by the improperly constituted Board itself.

150. Plaintiff informed Defendant Williams and the Board of its unlawful actions, but Defendants refused to acknowledge its unlawful actions or allow Plaintiff to act as a lawful board member or to participate in subsequent board actions.

151. Defendant Williams and Benedict persisted in their unlawful actions despite the demands by Plaintiff that they follow the law. S.C. Code § 33-31-202.

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

152. The actions of Benedict and Williams were acts and omissions not in good faith and/or which involved intentional misconduct and/or a knowing violation of the law. S.C. Code § 33-31-202(b).

153. As a result, Defendant Williams and Benedict are liable to Plaintiff for compensatory damages in an amount to be determined by the trier of fact.

WHEREFORE, Plaintiff prays for judgment against Defendants to include compensatory damages, including front pay, back pay, the value of benefits lost, including health insurance benefits, damages for emotional distress, punitive damages, declaratory and equitable relief as described herein, reinstatement to her teaching position and board position, special damages to include attorneys' fees and costs, and such other and further relief and the court deems just and proper.

Plaintiff hereby demands a jury trial.

s/ Blaney A. Coskrey, III

Blaney A. Coskrey, III (#13007)
1201 Main Street, Suite 1980
Columbia, South Carolina 29201
(803) 748-1202
coskrey@coskreylaw.com

ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina
November 25, 2019

ELECTRONICALLY FILED - 2019 Nov 25 4:33 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
Abigail Rogers,	)	
	)	
Plaintiff,	)	**AMENDED SUMMONS**
	)	
vs.	)	(Jury Trial Demanded)
	)	
Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson	)	
	)	
Defendants.	)	

TO: Defendants above named.

YOU ARE HEREBY SUMMONED and required to answer the Amended Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Amended Complaint on the subscriber at: Law Office of Blaney A. Coskrey, III, 1201 Main Street, Suite 1980, Columbia, South Carolina 29201 within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Amended Complaint within the time period aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Amended Complaint.

s/ Blaney A. Coskrey, III

Blaney A. Coskrey, III (#13007)
1201 Main Street, Suite 1980
Columbia, South Carolina 29201
(803) 748-1202
coskrey@coskreylaw.com

ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina
November 27, 2019

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FIFTH JUDICIAL CIRCUIT
COUNTY OF RICHLAND	)	
Abigail Rogers,	)	
	)	
Plaintiff,	)	**AMENDED COMPLAINT**
	)	
vs.	)	(Jury Trial Demanded)
	)	
Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson	)	
	)	
Defendants.	)	
	)	

TO: Defendants above named.

Plaintiff, Abigail Rogers, complaining of the Defendants, alleges and says:

THE PARTIES

1. Plaintiff is a citizen and resident of Richland County, South Carolina.

2. Plaintiff has been a professor at Benedict College ("Benedict") since 1995 and has been tenured since 2012.

3. Plaintiff was first a Visiting Professor, then an Assistant Professor, and an Associate Professor in the Criminal Justice Department of Benedict.

4. Defendant Benedict was founded in 1870 as a historically black college. It is currently a 501(c)(3) corporation and a private college located in Richland County, South Carolina. Benedict's principle place of business is 1600 Harden Street, Columbia, South Carolina.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

5. Benedict is governed by the Benedict College Board of Trustees ("the Board"), consisting of more than thirty members, including a faculty member and a student member.

6. Defendant Charles Johnson is named in his individual capacity and was, for all periods relevant to the allegations herein, the Chairman of the Board of Trustees of Benedict College. Mr. Johnson is a resident of Louisville, Kentucky.

7. Defendant Roslyn Clark Artis is named in her individual capacity and was, for all periods relevant to the allegations herein, President of Benedict, having assumed that position in the summer of 2017.

8. Defendant Janeen Witty is is named in her individual capacity and was, for all periods relevant to the allegations herein, the Vice President for Academic Affairs of Benedict.

JURISDICTION/VENUE

9. This Court has personal jurisdiction over Defendant Benedict in that it is organized under the laws of South Carolina, does business in South Carolina, maintains its principal place of business in South Carolina, contracts to supply services of things in South Carolina, and has an interest in real property in South Carolina. S.C. Code Ann. §§ 36-2-802, 36-2-803.

10. This Court has personal jurisdiction over Defendants Artis and Witty in that they are domiciled in South Carolina. S.C. Code Ann. § 36-2-802.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

11. The Court has personal jurisdiction over Defendant Johnson in that he does business in South Carolina, including through his role as Chairman of the Board of Directors of Benedict College located in South Carolina.

12. Venue is proper in Richland County in that the causes of action asserted herein arose in Richland County. S.C. Code Ann. § 15-7-20.

13. To the extent any allegations are inconsistent, they are pled in the alternative.

FACTS/BACKGROUND

14. Prior to Defendant Artis's hiring as President of Benedict, Plaintiff met and exceeded the expectations of her supervisors and the rest of Benedict's administration.

15. Plaintiff relished the opportunity to teach and otherwise assist economically and academically disadvantaged students, and she demonstrated great talent and ability in her roles as both teacher and mentor to those students.

16. In recognition of her exemplary performance, Plaintiff received the grant of tenure status in or about 2012.

17. In addition to her responsibilities to her students, Plaintiff, as an attorney and former judge, was in a unique position to emphasize to students and the administration, including Defendants, of the need to follow all applicable rules and law.

18. Plaintiff repeatedly emphasized to Defendants the importance of following the laws and proper procedure because, *inter alia*, if the administration and Board

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

refused to follow its bylaws and other binding procedures, those actions would put Benedict's accreditation at risk, which meant the continued existence of the entire college would be at risk.

19. Defendant Artis, prior to her employment at Benedict, was the Provost of Mountain State University in West Virginia.

20. While Defendant Artis was a member of the administration at Mountain State University, the accrediting agency warned the university administration that its governance decisions were putting the University at accreditation risk. Specifically, the accrediting agency questioned whether "the institution operate[d] with integrity . . . and [whether] the institution's governance and administrative structures promote[d] effective leadership."

21. As a result of the administration and board's failure to take the necessary remedial steps in response to the warning about its governance decisions, Mountain State ultimately lost its accreditation and was forced to close.

22. The Benedict Board subsequently voted to hired Artis as President of Benedict on June 30, 2017.

23. Upon Artis's hiring, Plaintiff sought to work with Defendants Artis and Witty for the benefit of the Benedict students and the improvement and thirving of Benedict as an institution.

24. Defendants Artis, Witty, and other members of the administration were not receptive to Plaintiff's efforts and instead exhibited personal animosity toward Plaintiff.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

25. Over time, Plaintiff sensed and then learned that Defendants Artis and Witty, motivated by improper, personal reasons, were seeking to cause Plaintiff problems in her employment and ultimately bring about her termination.

26. Plaintiff's employment and board issues described herein, occurring between October 2018 and October 2019 stem in part from this personal animosity of Artis and Witty, which were disguised by them and those working with them.

27. On October 23, 2018, Defendant Benedict, acting through Defendants Artis and Witty, suspended Plaintiff from her tenured professor teaching position.

28. Plaintiff was given little explanation of the factual basis for the suspension despite repeatedly asking for that basis.

29. Over the next several months Plaintiff sought to grieve and appeal the suspension under the applicable, binding grievance policy, repeatedly asking for the specific grounds on which the decision was based. She was forced to guess about the specific grounds for the suspension. She submitted materials in support of her grievance and sought a hearing as provided in the grievance policy.

30. The Faculty and Staff Grievance Appeals Committee ("Grievance Committee") allegedly met in November 2018. Plaintiff received no notice of that hearing and was not allowed to participate in the meeting.

31. Without giving Plaintiff the opportunity to be present and participate, Defendants Artis and Witty improperly controlled the meeting of the Grievance Committee, the evidence that was presented, and the outcome.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

32. Plaintiff learned that students' Complaints allegedly formed the basis of the action that had been taken against her, even though the procedures for handling student complaints had not been followed.

32. Plaintiff was subsequently informed on or about November 20, 2018 that the Grievance Committee had unanimously recommended that she be reinstated, but that it had also recommended the establishment of a Performance Improvement Plan ("PIP"). The notice of the Grievance Committee's decision did not specify any factual findings, the basis for the decision, or what the terms of that Plan would be.

33. Plaintiff sought information about the actual terms of the PIP, which was included in the recommendation of the Grievance Committee at the improper insistence Defendants Witty and Artis.

34. Plaintiff was denied adequate answers about its specifics. As a result of not being told the specifics of a PIP whose terms might continue to wrongly suggest a factual basis that did not exist, Plaintiff on December 7, 2018 timely appealed the Grievance Committee's recommendation of the nonspecific PIP, asking for a formal hearing as provided in the grievance procedure.

35. The grievance procedure for that hearing provided for Plaintiff's right to present evidence and cross-examine all witnesses.

36. Despite multiple requests, Benedict never scheduled a hearing on the grievance appeal.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

37. Instead, Benedict unilaterally imposed a PIP based on false and unsubstantiated factual conclusions that Plaintiff had never been given the opportunity to contest in a hearing.

38. Plaintiff objected, noting those objections to the PIP's factual portions on the PIP document itself.

39. Despite having not received the hearing provided by the grievance procedure, Plaintiff nevertheless attempted to execute the education and training requirements in the Plan.

40. Although Plaintiff made multiple attempts to carry out her part under the PIP, Benedict, Witty, and Artis did not perform their responsibilities under the PIP, which were necessary to its execution.

41. The fact that Benedict and its administrators were disinterested in performing their responsibilities necessary to the actual execution of the PIP demonstrates that it was, in fact, nothing more than a pretext for their planned action against Plaintiff.

42. Plaintiff was informed by Witty several months later that she was no longer subject to a PIP.

43. Defendants' long-running scheme to terminate Plaintiff was temporarily thwarted when on April 11, 2019, Plaintiff was elected by the faculty and staff as the faculty/staff member of the Benedict College Board of Trustees.

44. Upon counting the votes and before the result was announced, Defendants first sought not to recognize Plaintiff as the winner of the election. Finding no such

viable option, they announced to the faculty and staff that Plaintiff was the new faculty/staff representative to the Board of Trustees.

45. Plaintiff became a member of the Board of Trustees upon her election in April 2019. Under Benedict's by-laws describing the faculty representative's term as running for a period of one year, from April to April, she immediately became a board member upon her election on April 11, 2019.

46. Defendant Artis, Witty and other representatives of Benedict, acting well outside their responsibilities and for improper purposes, then sought to persuade the Board to take action to deny Plaintiff her rightful seat on the Board.

47. As a result of these improper actions outside of the proper duties and responsibilities of Artis, Witty and the others, Board Chairman Charles Johnson wrote Plaintiff on April 16, 2019 wrongly and unlawfully stating that her term did not begin until the following academic year, and that completing "new member orientation" was a necessary prerequisite to her assuming her position as a board member.

48. These representations were false and known to be false by Johnson, who as Chairman of the Board would be in a position to know what the bylaws said.

49. Johnson was acting at the urging, encouragement, and instruction of Artis, Witty, and others with improper purposes and personal motives.

50. Because they were taken without proper notice and by a improperly constituted board, all actions taken by the Benedict College Board after the denial of Plaintiff's rightful place on the Board are unlawful, ultra vires, and of no effect.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

51. Plaintiff received a second letter from Chairman Johnson Dated June 7, 2019 in which he stated that the Board "has adopted . . . the following: . . . Faculty staff and students shall not be members of the Benedict College Board of Trustees."

52. The attempt to remove Plaintiff from the Board of Trustees was another unlawful step by Defendants in the scheme and vendetta against Plaintiff, and was done without lawful authority and for improper purposes.

53. On June 20, 2019, Plaintiff objected to the Johnson's position that she was no longer a Board member, pointing out that any Board actions since her election in April had unlawfully excluded her and were of no effect.

54. The Board persisted in its position of Plaintiff's exclusion, and held it annual meeting the weekend of June 22, 2019. Plaintiff received no notice of that meeting and was denied participation in the meeting.

55. Plaintiff repeatedly sought from the Board a clear and unambiguous statement that it would recognize her as a Board member, but was never provided that statement.

56. As a result, Plaintiff was never allowed to participate in any Board action despite her lawful election as the faculty/staff representative in April 2019.

57. In August and September 2019, Plaintiff was asked for advice by the president of the Benedict student body, Jordan Rice-Woodruff.

58. Rice-Woodruff expressed concerns about the student representative having been eliminated from the Board and, because Plaintiff was already objecting to the faculty-staff representative being eliminated, asked Plaintiff what could be done.

59. Plaintiff responded to Rice-Woodruff's inquiries, giving him the advice that he sought about how he might stand up for the rights of the students to be represented on the Board.

60. Rice-Woodrufff also told Plaintiff that Defendant Artist had told him that Plaintiff was not and would not be a member of the Board.

61. On September 17, 2019, Plaintiff was told by Defendant Witty that she was being suspended without pay. She was not told the grounds for the suspension.

62. Plaintiff was escorted off the campus of Benedict by campus police. This escort was designed by Artis, Witty and Benedict to humiliate her in front of other faculty, staff, and students.

63. This action removing Plaintiff took place one day before the Benedict College Board of Trustees was scheduled to conduct a telephonic meeting.

64. On September 24, 2019, Plaintiff received a letter written by Witty that stated that her employment was terminated effective September 19, 2019.

65. The grounds given for the termination were that she was "insubordinate, rude and unprofessional." The letter generally referenced "numerous complaints received from multiple students" and mentioned Plaintiff allegedly giving out student phone numbers to "third parties." The letter provides no other specific information underlying these allegations or providing Plaintiff with sufficient notice of the factual basis for the decision.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

66. The letter further stated that "an ad hoc faculty meeting was convened on September 18 and concurred in the recommendation to terminate your employment."

67. Plaintiff received no notice of the ad hoc faculty hearing prior to its commencement and was not allowed to participate in any way.

68. The Faculty Manual provides that the first step in the process for terminating a faculty member for cause is to convene a "standing or Ad Hoc faculty hearing Committee" ("Ad Hoc Committee").

69. According to the binding Faculty Manual, that Ad Hoc Committee was required to "conduct a fair and impartial hearing of all the evidence . . . ."

70. The Ad Hoc Committee did not "conduct a fair and impartial hearing of all the evidence." In fact, Plaintiff was given no notice and was not allowed to participate or to present *any* evidence.

71. Plaintiff subsequently appealed her termination pursuant to Section 6.2.6 of the Faculty Manual, which provides for a hearing before the Faculty and Staff Appeals Committee.

72. The Faculty and Staff Appeals Committee met on October 23, 2019. Plaintiff was not allowed to present witnesses; was not allowed to have the full participation of counsel; was not allowed to cross-examine witnesses; was not informed of the names of the students who allegedly complained; and was limited to thirty minutes in her defense.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

73. None of the arbitrary limitations imposed by Benedict for the hearing are supported by the Faculty Manual, which provides that "all evidence" is to be considered. As a result, Plaintiff was denied her full rights as provided in the Faculty Manual.

74. The evidence presented did not meet the definition of "cause" for termination of a tenured faculty member. Indeed, Benedict did not even cite to or state the definition of cause found in the Faculty Manual. As a result, the Committee was unaware of and did not have occasion to apply the actual standard contained in the Faculty Manual for terminating a tenured professor.

75. The procedures employed as well as the substantive conclusions reached violated the faculty manual and other applicable rules, standards, and laws.

76. Moreover, the evidence relied on included statement(s) that Defendants had created.

77. Defendants secretly played undisclosed roles in secretly creating those statements in whole or in part, and then falsely presented those statements as the work product of Benedict students. In fact, Defendants were largely responsible for the statements' contents.

78. In reliance on those statement(s), the Faculty and Staff Appeals Committee, by a vote of 6-2, recommended that the termination go forward.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

FOR A FIRST CAUSE OF ACTION
(Breach of Contract - Termination)
(Benedict)

79. All prior allegations are realleged and incorporated herein.

80. The Benedict College Faculty Manual constitutes a binding contract between Benedict and its faculty.

81. Benedict College breached multiple sections of the contractually binding Faculty Manual in connection with its decision to terminate Plaintiff.

82. The Faculty Manual provides that tenured faculty may be terminated only "for cause, or financial exigency, or restructuring . . . ." Section 4.1.2.

83. Benedict has based its termination of Plaintiff on alleged "cause."

84. No facts meeting the definition of cause existed for the termination, thereby breaching her contractual rights.

85. In addition, the Faculty Manual provides that faculty members "are entitled to full freedom in their classrooms to teach and discuss anything relevant and pertinent to the subject being taught." Section 4.2.1.

86. Although they have been evasive about the specific grounds, at various times Defendants have suggested that Plaintiff's termination was based on Plaintiff's allegedly teaching certain concepts directly relevant and pertinent to the subject being taught, thereby breaching her contractual academic freedom rights.

87. In addition to breaching the substantive provisions of the Faculty Manual related to "cause" and academic freedom, Defendants also breached the Manual's procedures.

88. The Faculty Manual provides for specific procedures for terminating faculty members for cause. Sections 6.2.4, 6.2.5, 6.2.6.

89. That procedure includes at the first level that "a standing or Ad Hoc faculty hearing Committee . . . will conduct a fair and impartial hearing of all the evidence . . . ." Section 6.2.5.

90. Defendant Benedict breached the contractually binding Faculty Manual by, *inter alia*,

(a) failing to comply with the procedures set forth in the Faculty Manual, including Section 6.2.5.

(b) failing to give Plaintiff notice of the Ad Hoc Committee hearing;

(c) failing to provide for a "fair" and "impartial" hearing, or to allow for a consideration of "all the evidence."

(d) imposing improper and unlawful restrictions on Plaintiff's participation in the hearing of the Faculty and Staff Appeals Committee, including, *inter alia*, not being allowed to present witnesses, not being allowed to have the full participation of counsel, not being allowed to cross-examine witnesses; not being informed of the specific bases for the termination; not being informed of the names of the students who allegedly complained;

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

not being allowed to call those students as witnesses; and being limited to thirty minutes in her defense.

(e) failing to apply the applicable standard for termination of a tenured faculty member.

(f) incorrectly finding the standard for termination of Plaintiff had been met.

91. As a result of Defendants' breach of the faculty manual, Plaintiff seeks and is entitled to compensatory damages in an amount to be determined by the trier of fact, reinstatement to her position, and other equitable relief.

FOR A SECOND CAUSE OF ACTION
(Breach of Contract - Grievance)
(Benedict)

92. All prior allegations are realleged and incorporated herein.

93. Plaintiff's suspension in October 2018 was without authority.

94. Defendants failed to follow contractually binding procedures in its handling of student complaints and the resulting grievance. Faculty Manual 7.2.

95. In particular, Defendants failed to allow Plaintiff a formal hearing before the Grievance and Appeals Committee as provided in Section 7.2(3) and 7.2(4).

96. The hearing, had it been allowed to occur, would have included the right to counsel at the formal hearing, at which the Committee would "hear the charge, receive facts and evidence, and entertain arguments from the parties or representatives." 7.2(5).

97. The hearing, had it been allowed to occur, would have included the right of Plaintiff "to present evidence and cross-examine all witnesses." Section 7.2(6).

98. Plaintiff was not afforded any of the rights associated with her grievance, which denials constitute breaches of the Faculty Manual.

99. As a result of the breach by Defendants, Plaintiff is entitled to and seeks compensatory damages.

FOR A THIRD CAUSE OF ACTION
(Breach of Contract - Faculty Contract)

100. All prior allegations are realleged and incorporated herein.

101. Benedict and Plaintiff entered into a binding contract ("Faculty Contract") for the upcoming academic year on August 2, 2019.

102. Pursuant to the terms of the Faculty Contract, Plaintiff's term of employment was one academic year.

103. That Faculty Contract did not include any grounds for early termination.

104. Plaintiff's termination was in breach of the Faculty Contract in that there were no grounds for such termination.

105. To the extent the law implies or allows grounds for termination in the absence of express grounds, those grounds were not present here.

106. As a result of the breach by Defendants, Plaintiff is entitled to and seeks compensatory damages.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

FOR A FOURTH CAUSE OF ACTION
(Declaratory Relief - Board Action)

107. All prior allegations are realleged and incorporated herein.

108. Plaintiff seeks a declaratory judgment pursuant to S.C. Code § 53-15-10, *et seq.* (S.C. Uniform Declaratory Judgment Act) and S.C. Code 33-31-101, *et seq.* (S.C. Nonprofit Corporation Act) that she was wrongfully denied her position on the Benedict College Board of Trustees, that as a result of her election to the Board on April 11, 2019, she has held and still holds such position, that all actions taken by the Board since her denial are of no legal effect.

109. Plaintiff was a member of the Board of Trustees upon her election on April 11, 2019.

110. On the day of the vote, upon counting the votes for the faculty representative, Defendants actively sought a way to keep Plaintiff off the Board. Upon finding no means to do so, they announced that Plaintiff had won the election and would be the faculty/staff representative.

111. According to the by-laws, Plaintiff's term on the Board ran from April to April.

112. Despite her lawful position on the Board, Plaintiff was not given notice or allowed to participate in subsequent Board actions.

113. The Board subsequently took actions that purportedly eliminated seats from the Board, and otherwise affected the procedures applicable to the administration of Benedict.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

114. Notice and the right to participate were not afforded Plaintiff who should have been recognized as a member of the Board, with all rights associated therewith, including the right to notice and participation in meetings and discussions.

115. The decisions made were not just procedurally flawed, but were also the result of improper meddling and influence by persons have no rightful authority or position.

116. The actions of the Board deviated from Benedict's bylaws in unlawfully and improperly changing the dictates of those bylaws on issues related how and when the faculty/staff member of the Board of Directors may take office and then serve.

117. Those meetings were the result of an improperly and unlawfully constituted board.

118. Moreover, the attempted and unlawful elimination of Plaintiff's position violated S.C Code § 33-31-808(b), which provides: "If a director is elected by a class, chapter, or other organization unit . . . . the director may be removed only by the members of that class, chapter, unit, or grouping."

119. Plaintiff seeks a declaratory judgment from this Court that she was and is a member of the Benedict College Board of Trustees, and that any action taken by the Benedict College Board of Trustees following the wrongful denial of her position in April 2019 is void and of no legal effect.

FOR A FIFTH CAUSE OF ACTION
(Breach of Contract Accompanied by a Fraudulent Act)

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

120. All prior allegations are realleged and incorporated herein.

121. Plaintiff's 2019-2020 Faculty Contract and the Benedict College Faculty Manual constitute binding contracts.

122. Defendants breached one or more of Plaintiff's contracts with Benedict as described hereinabove.

123. Defendants had fraudulent intent relating to the breaching of the contract.

124. Defendants engaged in fraudulent acts accompanying the breach, in that they:

(a) secretly participated in the composition, choice of words, writing, and content of student statements;

(b) well exceeded the scope of their responsibilities by secretly encouraging the Board of Directors, including Defendant Johnson, to exclude Plaintiff from her rightful position on the Board.

(c) improperly encouraged other persons, including Benedict employees whose livelihoods were dependant on Defendants, to participate in their secret actions.

125. As a proximate result of Defendants' actions, Plaintiff seeks and is entitled to compensatory and punitive damages in an amount to be determined by the trier of fact.

FOR A SIXTH CAUSE OF ACTION
(Tortious Interference with Contract)

126. All prior allegations are realleged and incorporated herein.

127. As described hereinabove, Plaintiff had entered into contracts with Benedict through both the Faculty manual and her Faculty Contract.

128. Defendants Artis and Witty had knowledge of the contracts.

130. Those contracts were breached by Defendant as described hereinabove.

131. Defendants Artis and Witty, with personal motivation and acting outside the scope of their proper roles and of their authority, intentionally procured the breaches and/or otherwise interfered with the contracts by Benedict without justification.

132. As a proximate result of Artis and Witty's actions, Plaintiff seeks and is entitled to compensatory and punitive damages in an amount to be determined by the trier of fact.

FOR A SEVENTH CAUSE OF ACTION
(Civil Conspiracy)

133. All prior allegations are realleged and incorporated herein.

134. As a result of their personal goals related to Plaintiff as described herein, which were unrelated to any legitimate Benedict goals, Defendants Witty, Artis, and Johnson were at times acting outside the scope of their agency with Benedict.

135. Defendants Witty, Artis, and Johnson had their own independent personal stakes in achieving the unlawful objectives of violating Plaintiff's rights.

136. Witty, Artis, Johnson and others combined for the purpose of injuring Plaintiff.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

137. That combination caused special damages, namely that Plaintiff was forced to incur costs and attorneys' fees beginning in October 2018 through the present to repeatedly resist the conspiracy.

138. As a proximate result of Witty, Artis and Johnson actions, Plaintiff seeks and is entitled to special and punitive damages in an amount to be determined by the trier of fact, including attorneys' fees.

FOR A SEVENTH CAUSE OF ACTION
(SC Nonprofit Corporation Act, S.C. Code § 33-31-101, *et seq*.)

139. All prior allegations are realleged and incorporated herein.

140. Defendant Benedict is incorporated under the S.C. Nonprofit Corporation Act and is subject to its provisions.

141. Plaintiff was a duly elected director as of April 22, 2019 and as such, has standing to brings this claim challenging the Board's actions. S.C. Code § 33-31-304(b), (c).

142. Pursuant to S.C. Code § 33-31-202, a director is liable for "acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law."

143. Defendant Johnson and the Benedict Board, despite having full knowledge of Plaintiff's election to the Board in April 2019, unlawfully sought to exclude her from that position.

144. Defendant Johnson first wrote Plaintiff on April 16, 2019, telling her that she was not yet on the board, and then again on June 7, 2019 informing her that Board action had been taken eliminating her position.

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

145. The purported Board action mentioned in the June 7, 2019 letter occurred, if at all, in a meeting which Plaintiff had received no notice of, had been denied the right to attend, and had not been allowed to vote.

146. The actions taken by the Board also violated other procedural prerequisites, including the establishment of a quorum, the failure to properly notice the meeting as one to eliminate the position, and other violations of the Act. S.C. Code § 33-31-808.

147. Benedict's actions violated its own bylaws and therefore were also in violation of the S.C. Nonprofit Corporation Act.

148. The purported Board action mentioned in the June 7, 2019 letter also violated S.C Code § 33-31-808(b), which provides that "[i]f a director is elected by a class, chapter, or other organization unit . . . . the director may be removed only by the members of that class, chapter, unit, or grouping."

149. Plaintiff was removed not by the "class chapter or other organizational unit" that elected her (faculty and staff), but by the improperly constituted Board itself.

150. Plaintiff informed Defendant Johnson and the Board of its unlawful actions, but Defendants refused to acknowledge its unlawful actions or allow Plaintiff to act as a lawful board member or to participate in subsequent board actions.

151. Defendant Johnson and Benedict persisted in their unlawful actions despite the demands by Plaintiff that they follow the law. S.C. Code § 33-31-202.

152. The actions of Benedict and Johnson were acts and omissions not in good faith and/or which involved intentional misconduct and/or a knowing violation of the law. S.C. Code § 33-31-202(b).

153. As a result, Defendant Johnson and Benedict are liable to Plaintiff for compensatory damages in an amount to be determined by the trier of fact.

WHEREFORE, Plaintiff prays for judgment against Defendants to include compensatory damages, including front pay, back pay, the value of benefits lost, including health insurance benefits, damages for emotional distress, punitive damages, declaratory and equitable relief as described herein, reinstatement to her teaching position and board position, special damages to include attorneys' fees and costs, and such other and further relief and the court deems just and proper.

Plaintiff hereby demands a jury trial.

s/ Blaney A. Coskrey, III

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Columbia, South Carolina
November 27, 2019

ELECTRONICALLY FILED - 2019 Nov 27 7:57 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2020 Jan 29 11:48 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Abigail Rogers, Plaintiff, -vs- Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson, Defendants.	FIFTH JUDICIAL CIRCUIT COURT OF COMMON PLEAS CIVIL ACTION NO.: 2019-CP-40-06624 **DEFENDANTS' ANSWER TO PLAINTIFF'S AMENDED COMPLAINT**

NOW COME Defendants Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson (hereinafter referenced jointly as the "Defendants"), by and through undersigned counsel, and answer the Plaintiff's Amended Complaint, denying all allegations not specifically admitted, as follows:

THE PARTIES

1. In Paragraphs 1 through 8 of Plaintiff's Amended Complaint, Plaintiff attempts to allege facts relevant to the identity of the parties. Benedict College is a private educational institution of higher learning and organized under the non-profit corporation in good standing organized under the laws of South Carolina. Defendants Artis, Witty, and Johnson have acted at all times within the course and scope of their respective duties and in good faith. Unless otherwise admitted, the remaining allegations in Paragraphs 1 through 8 of Plaintiff's Amended Complaint are denied.

ELECTRONICALLY FILED - 2020 Jan 29 11:48 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

JURISDICTION/VENUE

2. In Paragraphs 9 through 13 of Plaintiff's Amended Complaint, Plaintiff attempts to allege facts concerning jurisdiction and venue. To the extent that Plaintiff has sufficiently set forth justiciable claims, Defendants believe that jurisdiction and venue are proper in this Court. Unless otherwise admitted, the remaining allegations of Paragraphs 9 through 13 of Plaintiff's Amended Complaint are denied.

PLAINTIFF'S ALLEGATIONS

3. In Paragraphs 14 through 78 of Plaintiff's Amended Complaint, Plaintiff attempts to set forth factual allegations supporting her causes of action. The Defendants generally deny Plaintiff's allegations, and specifically deny any allegations that support her causes of action. Unless otherwise admitted, the remaining allegations of Paragraphs 14 through 78 of Plaintiff's Amended Complaint are denied and strict proof is demanded of the same.

FOR A FIRST CAUSE OF ACTION
(Breach of Contract-Termination)
(Against Benedict College)

4. Defendants incorporate their responses to the allegations in Paragraphs 1 through 78 of Plaintiff's Amended Complaint as if fully set forth herein.

5. In Paragraphs 79 through 91 of Plaintiff's Amended Complaint, Plaintiff attempts to set forth allegations supporting her claim for Breach of Contract against Benedict College based on her allegations that (1) the "Benedict College Faculty Manual" constitutes a contract between Benedict College and Plaintiff, and (2) Benedict College breached certain provisions of the Benedict College Faculty Manual regarding Plaintiff's termination from

employment. It is specifically denied that Benedict College breached any contract with Plaintiff. Further, Plaintiff fails to forecast evidence sufficient to establish the elements of the claim

6. Unless otherwise admitted, the remaining allegations of Paragraphs 79 through 91 of Plaintiff's Amended Complaint are denied and strict proof is demanded of the same.

FOR A SECOND CAUSE OF ACTION
(Breach of Contract – Grievance)
(Against Benedict College)

7. Defendants incorporate their responses to the allegations in Paragraphs 1 through 91 of Plaintiff's Amended Complaint as if fully set forth herein.

8. In Paragraphs 92 through 99 of Plaintiff's Amended Complaint, Plaintiff attempts to set forth allegations supporting her claim for a second cause of action for "Breach of Contract" against Benedict College. As with her First Cause of Action, Plaintiff appears to rely on references to the provisions of the Benedict College Faculty Manual as the "contract" that she alleges was breached. These allegations also appear to reference her suspension in October 2018, which was occasioned by her own misconduct. It is specifically denied that Benedict College breached any contract with Plaintiff. Further, Plaintiff fails to forecast evidence sufficient to establish the elements of the claim.

9. Unless otherwise admitted, the remaining allegations of Paragraphs 92 through 99 of Plaintiff's Amended Complaint are denied and strict proof is demanded of the same.

FOR A THIRD CAUSE OF ACTION
(Breach of Contract – Faculty Contract)
(Against Benedict College)

10. Defendants incorporate their responses to the allegations in Paragraphs 1 through 99 of Plaintiff's Amended Complaint as if fully set forth herein.

ELECTRONICALLY FILED - 2020 Jan 29 11:48 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2020 Jan 29 11:48 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

11. In Paragraphs 100 through 106 of Plaintiff's Amended Complaint, Plaintiff attempts to set forth allegations supporting her claim for a third cause of action for "Breach of Contract" against Benedict College. Plaintiff alleges that this cause of action is based on her "Faculty Contract" and suggests that she could not be terminated because the "Faculty Contract did not include any grounds for early termination." She also alleges that there were no grounds for her termination. These allegations are denied, especially in view of Plaintiff's record of misconduct. Further, Plaintiff fails to forecast evidence sufficient to establish the elements of the claim.

12. Unless otherwise admitted, the remaining allegations of Paragraphs 100 through 106 of Plaintiff's Amended Complaint are denied and strict proof is demanded of the same.

FOR A FOURTH CAUSE OF ACTION
(Declaratory Relief – Board Action)

13. Defendants incorporate their responses to the allegations in Paragraphs 1 through 106 of Plaintiff's Amended Complaint as if fully set forth herein.

14. In Paragraphs 107 through 119 of Plaintiff's Amended Complaint, Plaintiff attempts to set forth allegations supporting her claim for a Declaratory Judgment pursuant to S.C. Code Ann. § 15-53-10 *et seq*. Based on her allegations, Plaintiff is not entitled to a Declaratory Judgment, including but not limited to the provisions of S.C. Code Ann. § 15-53-70, where a court "may refuse to render or enter a declaratory judgment or decree when such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding," and S.C. Code Ann. § 15-53-80, which provides that "no declaration shall prejudice the rights of persons not parties to the proceeding."

15. Unless otherwise admitted, the remaining allegations of Paragraphs 107 through 119 of Plaintiff's Amended Complaint are denied and strict proof is demanded of the same.

ELECTRONICALLY FILED - 2020 Jan 29 11:48 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4000624

FOR A FIFTH CAUSE OF ACTION
(Breach of Contract Accompanied by a Fraudulent Act)
(Against All Defendants)

16. Defendants incorporate their responses to the allegations in Paragraphs 1 through 119 of Plaintiff's Amended Complaint as if fully set forth herein.

17. In Paragraphs 120 through 125 of Plaintiff's Amended Complaint, Plaintiff attempts to set forth allegations supporting her claim for Breach of Contract Accompanied by a Fraudulent Act. Plaintiff fails to forecast evidence sufficient to establish the elements of the claim.

18. Unless otherwise admitted, the remaining allegations of Paragraphs 120 through 125 of Plaintiff's Amended Complaint are denied and strict proof is demanded of the same.

FOR A SIXTH CAUSE OF ACTION
(Tortious Interference with Contract)
(Against Defendants Artis and Witty)

19. Defendants incorporate their responses to the allegations in Paragraphs 1 through 125 of Plaintiff's Amended Complaint as if fully set forth herein.

20. In Paragraphs 126 through 132 of Plaintiff's Amended Complaint, Plaintiff attempts to set forth allegations supporting her claim for Tortious Interference with a Contract. Plaintiff fails to forecast evidence sufficient to establish the elements of the claim.

21. Unless otherwise admitted, the remaining allegations of Paragraphs 126 through 132 of Plaintiff's Amended Complaint are denied and strict proof is demanded of the same.

FOR A SEVENTH CAUSE OF ACTION
(Civil Conspiracy)
(Against Defendants Artis, Witty, and Johnson)

22. Defendants incorporate their responses to the allegations in Paragraphs 1 through 132 of Plaintiff's Amended Complaint as if set forth herein.

ELECTRONICALLY FILED - 2020 Jan 29 11:48 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

23. In Paragraphs 133 through 138 of Plaintiff's Amended Complaint, Plaintiff attempts to set forth allegations supporting her claim for Civil Conspiracy. Plaintiff fails to forecast evidence sufficient to establish the elements of the claim.

24. Unless otherwise admitted, the remaining allegations of Paragraphs 133 through 138 of Plaintiff's Amended Complaint are denied and strict proof is demanded of the same.

FOR AN EIGHTH CAUSE OF ACTION
(South Carolina Nonprofit Corporation Act, S.C. Code § 33-31-101, *et seq*.)

25. Defendants incorporate their responses to the allegations in Paragraphs 1 through 138 of Plaintiff's Amended Complaint as if set forth herein.

26. In Paragraphs 139 through 153 of Plaintiff's Amended Complaint, Plaintiff attempts to set forth allegations supporting her claim under the South Carolina Nonprofit Corporation Act, S. C. Code § 33-31-101, *et seq*. Plaintiff fails to forecast evidence sufficient to establish the elements of the claim. Further, Plaintiff's claim is barred by the provisions of S.C. Code Ann. § 31-33-834.

27. Unless otherwise admitted, the remaining allegations of Paragraphs 139 through 153 of Plaintiff's Amended Complaint are denied and strict proof is demanded of the same.

NOW, THEREFORE, having fully answered Plaintiff's Amended Complaint herein, the Defendants now set forth their **DEFENSES AND AFFIRMATIVE DEFENSES**:

FOR A FIRST DEFENSE

1. The Amended Complaint fails to state a claim against these Defendants upon which relief may be granted by this Court. Therefore, the Amended Complaint must be dismissed pursuant to Rules 12 and/or 56, SCRCP.

ELECTRONICALLY FILED - 2020 Jan 29 11:48 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

FOR A SECOND DEFENSE

2. Plaintiff cannot establish the elements of the claims she has attempted to state, and she is therefore barred from recovery.

FOR A THIRD DEFENSE

3. Plaintiff's claims may be barred by the applicable statute of limitations and the equitable doctrines of unclean hands, laches, and/or estoppel.

FOR A FOURTH DEFENSE

4. Plaintiff's breach of contract claims are barred due to the defense of lack of contractual privity as to these Defendants, or by the application of S.C. Code Ann. § 41-1-110.

FOR A FIFTH DEFENSE

5. Plaintiff's claim for civil conspiracy is barred because she can show no "special damages""related solely to the claim for civil conspiracy.

FOR A SIXTH DEFENSE

6. Plaintiff's claim for civil conspiracy is barred because her allegations relevant to the claim are repetitive of those supporting her other claims.

FOR A SEVENTH DEFENSE

7. Plaintiff fails to state a claim for civil conspiracy because there is no evidence that the Defendants acted outside the scope of their duties in any manner relevant to Plaintiff.

FOR AN EIGHTH DEFENSE

8. The conduct of the Defendants is not the proximate cause of any of Plaintiff's alleged damages.

ELECTRONICALLY FILED - 2020 Jan 29 11:48 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

FOR A NINTH DEFENSE

9. Any award of damages against any of the Defendants is barred or limited by the provisions of S.C. Code Ann. § 33-56-180.

FOR A TENTH DEFENSE

10. That to the extent this action is one seeking to collect punitive damages brought against any of the Defendants, such an action for punitive damages is limited by the provisions of S.C. Code Ann. § 15-32-530, and is barred as a matter of law for a number of reasons, including, but not limited to: the due process clause of the Fifth Amendment as applied to the states through the Fourteenth Amendment to the United States Constitution; an arguable extension of the prohibition of the excessive fines clause of the Eighth Amendment, as applied to the states through the Fourteenth Amendment; an arguable extension of the provisions of the Sixth Amendment to the United States Constitution, made applicable to the states through the Fourteenth Amendment; relevant provisions of the South Carolina Constitution, including, but not limited to, Article I, Section 3; all of which are asserted as bars to recovery of punitive damages against any of the Defendants.

11. That, moreover, as the present case and statutory law standard to measure and confer power to a jury to award punitive damages under South Carolina law has not been formulated to comport with federal or state constitutional rights and guarantees, lacks objective criteria, lacks a meaningful standard, is void for vagueness, and violates constitutional due process and equal protection procedural protection; an award of punitive damages would violate Defendants' constitutional rights and guarantees.

12. That, further, the Plaintiff has failed as a matter of law to state a claim for which punitive damage relief is properly available against any of the Defendants.

ELECTRONICALLY FILED - 2020 Jan 29 11:48 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

WHEREFORE, having fully set forth their Answer, Defendants request trial by jury on any issue found to be triable, and further pray for an Order of this Court as follows.

1. The relief sought by Plaintiff be denied in each and every respect;

2. The claims asserted by Plaintiff be dismissed in their entirety with prejudice; and

3. The Defendants be awarded costs and attorney's fees under any applicable case and statutory laws and such other and further relief as this Court may deem just and proper.

Dated this the 29th day of January, 2020.

Respectfully submitted,

RICHARDSON PLOWDEN & ROBINSON, P.A.

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STATE OF SOUTH CAROLINA DOCKET NUMBER
2019-CP-40-06624

COMMON PLEAS

COUNTY OF RICHLAND

ABIGAIL ROGERS,)
)
Plaintiff,)
)
vs.)
)
)
)
BENEDICT COLLEGE,)
)
Defendant.)
)

September 20, 2023

MOTIONS HEARING

B E F O R E:

The Honorable Ralph Ferrell Cothran, Jr., Presiding Judge.

C O U R T:

South Carolina Circuit Court 5

T R A N S C R I B E D B Y:

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INDEX

DESCRIPTION	PAGE
WEDNESDAY, SEPTEMBER 20, 2023	4
MOTION FOR SUMMARY JUDGMENT	
Argument for the Defense - by Mr. Matthews	5, 52
Argument for the Plaintiff - by Mr. Porter	29
RECESS	57
CERTIFICATE OF TRANSCRIBER	58

P R O C E E D I N G S

(Whereupon, the following proceedings started at 1:56:05.)

THE COURT: All right. Now that brings me to Number 10, is Abigail Rogers versus Benedict College.

MR. MATTHEWS: Good morning, Your Honor. I'm Gene Matthews for the defendant. The general counsel for Benedict College is I.S.Leevy Johnson. He indicated he might be here. I knew he had a conflict of some regard. And I don't see him in the panel. But he sends you his best and asked me to continue in his absence. And we're happy to do so.

THE COURT: All right.

MR. MATTHEWS: And I see my good colleague, Paul Porter, is also here for the plaintiff.

THE COURT: So it is your Motion for Summary Judgment?

MR. MATTHEWS: Yes, sir, Your Honor.

And I know that both we and Mr. Porter delivered a rather lengthy document --

THE COURT: Yeah. I got it.

MR. MATTHEWS: -- with a large number of exhibits --

THE COURT: I got those emails.

MR. MATTHEWS: -- to your chambers.

And of course, we heard the earlier Summary Judgment Motion and, frankly, wanted to ask you if you wanted us to go through, kind of, the lengthy factual section or just dive right into the Causes of Action and refer back? That might be

more efficient in

THE COURT: Yeah. That's fine. Because I think I understand the factual background of this. I read most of what you-all sent.

MR. MATTHEWS: Thank you, Your Honor.

Well, then let's get to it.

The -- when Ms. Abigail Rogers first brought the claim, she brought eight Causes of Action against the four defendants. My understanding from Mr. Porter's brief is that two have been abandoned; that's the second and I think the eighth Cause of Action. So let's get into the meat of it, which is the Breach of Contract Claim.

In our view, the Breach of Contract Claim is governed largely by Crenshaw v. Erskine College, a recent case by the Supreme Court, 432. S.C.1., 2020. And Crenshaw is important because it governs tenure actions in private schools. And Benedict College -- and if there's any confusion, it's spelled, B-e-n-e-d-i-c-t.

Whenever a private school grants tenure to an academic, the tenure -- they're entitled to the process that the college says it is. And in this case, those are in sections, 6.2.4, 6.2.5., and 6.2.6. of the Faculty Manual, which is, of course, one of the exhibits to this brief.

Now, what brought us to here to terminating Ms. Rogers is, frankly, a -- not just a history of abusing students

throughout her career. The things that kind of brought this to a head, there was a new president that joined the college in 2017. By 2018 -- and this is apparently the abandoned claim -- she was suspended in the fall of 2018 for abusing students, and was given an opportunity to redeem her ways. In the spring of 2019, there were no apparent problems. And in the fall of 2019, the college was ready to go ahead and get started.

The -- however, in the fall of 2019, once again, there were problems with the way she was abusing students. And that's detailed, the page 11 and 12 and all. It's where she stated that -- you've been through that. On their own, her dean indicated that she should be removed as a teacher and left as he must, to the discretion of the vice president of academic affairs and the president to pursue any additional forces of action. And both of those officials thought that additional courses of action were appropriate, especially removal, since this was an issue that had repeated continuously.

In the meantime, and this is on pages 13 to 15 of our brief, details -- and referencing both depos and testimony of a student Jordan Rice Woodrow, who has also filed an affidavit and he has two written statements on the record. This is a point of time where the college was changing the constitution of its -- or the makeup of its board of trustees. It was

eliminating three position. And that is actually detailed early in the brief, the decisions to do that, I believe, on pages 8 through 11.

And Ms. -- as it happens, Ms. Rogers was one of the -- was in one of the positions that was being eliminated. There three: a student rep position, a faculty rep position, and the president herself, curiously enough, one of the defendants. Each of these three positions was being eliminated, in part because they posed perceived conflict of interests.

There's been a move by the college to do that early in 2019. The college was concerned that proper notice had not been given earlier in the year to eliminate those positions. So they indicated that they would revisit the issue by a special meeting in the fall of 2019, gave appropriate notice, and voted on that issue. And, in fact, the three positions were eliminated. You know, we talk about that again. We'll get to the legal part of that in just a few minutes.

Importantly, sir, we want to make sure you refer to -- or at least have an opportunity to refer to the comments of Rice-Woodruff, because they reflect the opposite of the allegations of the plaintiff. Rice-Woodruff was one of the people who came -- one of the students who came to HR, wrote out statements, and told the college, in this case, the HR Department, you know, the problems he was having with Ms.

Rogers. And specifically, and of great concern to him, Ms. Rogers had given his personal information out to WIS News Station and stated the plaintiff had given them contact information and wanted to speak with them about the Board of Trustees matter. Rice-Woodruff did not give plaintiff permission to share his contact information with outside media, and was in fact alarmed that he had done so.

And these two matters converged to prompt Vice President Witty to recommend to recommend plaintiff's termination. And the notices were sent out in September. The college followed assiduously the part of the Faculty Manual that has to do with termination of tenured faculty. There's a specific part of the Faculty Manual that deals with how you -- the process by which you go about terminating a tenured faculty member. And as we detail in our brief, that was done painstakingly and with the assistance of Nelson Mullins Law Firm.

The -- that brings us to the Breach of Contract Claim. Because the Breach of Contract Claim, as best we tell, is based on an allegation that the -- well, a couple of allegations.

First of all, that we didn't follow their procedure. And I understand why they made that claim, because Crenshaw pretty much says that if a college follows it's procedure in terminating an employee, there's really nothing else for us to talk about. And the actual quote from Crenshaw is from page,

I believe, 23. And I'll just read this because the language is so compelling. And the -- what the Court is doing is saying, "Well, we understand that Mr. Crenshaw argued that the college didn't have adequate cause to fire him."

And now I'll quote: "This argument, a good argument on the facts, fails as a matter of law. Under the clear terms of the College Faculty Manual, Crenshaw's contract, the decision to fire a tenured professor for cause belongs only to the Board of Trustees. Under the Faculty Manual, Norman's decision to seek termination through formal proceedings was a preliminary decision. Norman's decision was reviewable by the Hearing Committee, which had full power to overrule Norman. The Hearing Committee's decision, in turn, was reviewable by the Board. The Board had the ultimate authority to overrule or affirm the Hearing Committee. Under the terms of the Faculty Manual, the Board, not Norman, has exclusive authority to determine whether adequate cause exists for termination of a tenured professor, and if so, whether to terminate."

That's the legal standard. Now, how do we apply it to the (indiscernible)? Well, 6.2.4 of the Faculty Manual --

THE COURT: I may have lost you. I can't hear you.

MR. MATTHEWS: Can you hear me now, sir?

Sir, can you hear me now?

THE COURT: No. You're real faint.

MR. MATTHEWS: All right. Let me see if I can increase

the volume.

THE COURT: Well, you were doing good and all of a sudden you got real faint.

MR. MATTHEWS: How about now, sir?

THE COURT: Did you set a piece of paper on top of your speaker?

MR. MATTHEWS: I don't think so, sir.

How about now? Can you hear me now?

THE COURT: I can hear you good.

MR. MATTHEWS: Okay. I'll make sure I speak up.

The interesting thing here -- we lay this out on page 20 of our brief, we go through line by line and indicate this is the procedure, and this is what we did. You know, there had to be adequate cause. The adequate cause was her abuse of students and the way she treated Jordan Rice-Woodruff. "Other conduct or behavior prejudicious of the college," as quoted in the Faculty Manual. The person may be placed on leave --

(Technical difficulties.)

MR. MATTHEWS: -- the faculty member could, and this case did --

THE COURT: He's gone away again.

MR. MATTHEWS: Okay. How about now? Can you hear me now?

THE COURT: I can barely hear. You were real loud and then you went away.

MR. MATTHEWS: Sir -- I -- yes, sir. I promise I'm not moving or touching anything to do with a computer. So I'm -- let me make -- sir, if ever I go out, please, as you are, just shout out and I'll make sure I change --

THE COURT: I can barely hear you.

MR. MATTHEWS: Okay. Can you hear me now?

THE COURT: Yeah, just barely. But I can -- you're a little bit better than you were. I can at least understand you, now.

MR. MATTHEWS: Okay. I'll continue on.

THE COURT: Now, you're good.

MR. MATTHEWS: and if you have any issues at all, I want you to make sure --

THE COURT: (Indiscernible).

MR. MATTHEWS: -- you let me know.

THE COURT: Okay.

MR. MATTHEWS: Thank you, sir.

Here, the Ad Hoc committee was convened, which was kind of the first rank of review of the decision to terminate. It says, the experience --

(Technical difficulties.)

THE COURT: Now, you've lost you again.

MR. MATTHEWS: Sir?

THE COURT: I've lost you again.

You get real loud, you get -- you're normal and then you

get real loud, and then you go away.

MR. MATTHEWS: Okay.

MR. PORTER: Gene.

MR. MATTHEWS: Yeah.

MR. PORTER: Will you -- if you-all can hear me clear, Gene, and it makes sense, you're welcome to head over here. You're two blocks away.

MR. PORTER: Let me -- I'm going to do my best from right here.

Judge, can you hear me right now?

THE COURT: I can hear you barely. You were really loud and clear. Now you're really faint.

MR. MATTHEWS: I'll tell you what. Let me -- I'm going to check audio settings.

THE COURT: All right.

MR. MATTHEWS: How about now? Can you hear me now?

THE COURT: Yeah, I can hear you great now.

MR. MATTHEWS: Perfect. God-willing, it will continue.

Very well. The -- very well. Let me get back for a moment, to how the process went.

THE COURT: Okay.

MR. MATTHEWS: As I understand the plaintiff's argument, they believe that's its somehow ambiguous that the Ad Hoc Committee says it will conduct a fair and impartial hearing of all the evidence and make a recommendation to the vice

president for academic affairs. Well, that's exactly what it did. It didn't have a hearing in the way that a civil court would, but it did get evidence. It reviewed the termination. And, you know, it made a decision that, yeah, we agree with the vice president that this academic should be fired for abusing students. Yes.

Ms. Rogers also had an opportunity to appeal that recommendation to a Faculty and Staff Appeals Committee, which she did. And that's under 6.2.6, appeal of termination.

There, the committee convened. The vice president convened as she needed to, the Faculty and Staff Appeals Committee. It says that committee will, after due deliberation -- well, it will hear the appeal within 10 days of receipt of the appeal. It arranged with opposing counsel -- not -- at the time, not Mr. Porter -- to have the hearing.

They did have the hearing in the manner in which it did. Both sides had a chance to make its pitch, so to speak. Ms. Rogers could say, pretty much, whatever she wanted, and did. The -- as I understand it, one of the arguments of opposing counsel is, well, there are other parts and other sections of the Faculty Manual where you can actually have a full-blown, you know, contested hearing with confronting witnesses and all that. Which we argue, is of no moment, because your charge here, we believe as the trial court judge, is to give legal

affect to the intentions of the parties as expressed in the language of the contract. And where the contract is clear and capable of legal instruction, you can give the words their plain, ordinary, and popular meaning. Period.

And there's nothing -- there's no requirement in this language that Benedict College didn't meet. And Benedict College is the one that gets to decide what that process is and did in this section of the handbook. The fact that another part of a handbook dealing with some other issue might offer some other relief is of no moment. If anything, it indicates that the college knew exactly what it was doing when it said what it said here.

Now, to continue just on process matters, "The president will review the recommendations of the appeals committee and make the final decision and then notify all the parties of the final decision." It is unlike Crenshaw, in this case, the committee makes their final recommendation to the president, in this case, President Artis. President Artis made her decision.

In this case, that's -- the evidence in the record is clear. If you look, for instance, at page 24, 25, 23, you'll see at length how President Artis testifies about what she believed that Ms. Rogers did that was so grossly inappropriate. And so as to procedural matters, I think that addresses the issue.

As to the more substantive matter that plaintiff has raised, they say, "Well, there's really not adequate cause. Tenured faculty members can be fired for adequate cause." And they don't really address anywhere, as we do on page 25 of our brief, what adequate cause means, when someone can be fired for cause. That means that the employer has a reasonable good faith belief that sufficient cause existed for the employee's termination. And that is the settled law of our state. Of -- in Linguard, I think, we quote on 25, has an important explanation of that. "The conclusions of the importance of that have to be uncontested fact, but instead simply be supported by enough evidence to support their good faith believe in the cause for termination."

Well, Your Honor, with respect, there is a plethora of evidence supporting this decision. There's this -- the -- number 1, the statements of Jordan Rice-Woodruff and all the students that felt abused by Ms. Rogers. Then, there is the review that was conducted by not one, but two committees of faculty members who agree -- yes, you should be fired. Termination is appropriate. Then, there was the president who said, "I believe her conduct is grossly inappropriate. Then there is the -- not just the statements of Jordan Rice-Woodruff, but just later deposition testimony.

One of the things, one of the straws that Ms. Rogers has scratched for is her unsupported belief that Mr. Rice-Woodruff

didn't write his statements or was -- that those statements were ghost written. There's -- number 1, there's no evidence of that other than, frankly, inadmissable hearsay from her supporters. But most importantly, it's refuted directly by the sworn testimony of Jordan Rice-Woodruff. And unrefuted testimony, I might add. And the -- as I believe attorneys in the case before us indicated, certainly under what the Supreme Court's recent reminder to the courts about the proper standards of summary judgment motions. That's not a reasonable inference of anything and a material fact of nothing.

Jordan Rice-Woodruff said what he said under oath. And it's consistent. Clearly consistent. Now, he is -- actually was made, frankly, he didn't have nice things to say about President Artis, but he was very clear on the issue that no one wrote his statement for him. He did. And he was reporting events as he thought, when was under oath. He agreed with his prior statements.

So it's simply inconceivable that, given the -- frankly, just the stand of evidence in the record. The testimony -- the review given by two separate committees, who Ms. Rogers may or may not like or may or may not agree with. But that doesn't matter. They made recommendations to the president. Ms. Rogers may or may not like her either. It doesn't matter. She's the one that had the final decision.

And as you review the decision, I hope you'll find as we believe, that there's ample evidence in the record to support her good faith belief that Ms. Rogers acted in the words of President Artis, "in a grossly inappropriate matter" and deserved to be fired and to stop abusing students.

Now, I spent a good bit of time on the first Cause of Action, the Breach of Contract Claim, because several other Causes of Action are related to it. And if there's no breach, then the third Cause of Action can't survive because it's a -- essentially a repeat of the first Cause of Action. It's simply based instead of the Faculty Manual, it's based on her faculty contract, but the same rules apply.

The fourth -- I'm sorry -- the fifth Cause of Action is one for Breach of Contract Accompanied by a Fraudulent act. And the claims here are against Benedict College and defendants Artis, who's the president, Witty, who's the vice president for academic affairs, and against Charlie Johnson. Charlie Johnson is the chairman of the Board.

Now, it's clear, to us anyway, that if you don't have an underlying breach, you can't bring a Breach of Contract Claim accompanied by a fraudulent act. And we set forth the law of that on page 36 of our brief.

I want to make sure -- apparently there might be some confusion in the plaintiff's brief. They claim the claim is pled against the college. It's in this case, according to Ms.

Rogers herself in her deposition testimony, it's brought against Artis, Witty, and Johnson. That's from Volume 1, page 111 of her deposition.

Now, here, because there's no breach, you know, there's simply nothing for us really to discuss further about the claim. I will note that the fraud that they say that occurred it that transforms it from a Breach of Contract Claim to a Breach of Fraudulent Claim -- I'm on page 36 of our brief -- essentially, they argue that there's no -- the defendant secretly participated in the composition choice of words, writing it in content of student's statements. And of course, Mr. Rice-Woodruff's sworn testimony refutes that allegation on its face. And there's no evidence, other -- there's certainly no admissible evidence on the record, other than conjecture, that is otherwise.

And that's why, frankly, summary judgment, we believe, is appropriate. It doesn't matter that Ms. Rogers or her allies might say, "Well, that doesn't seem right to me." Well, that's evidence of nothing. That's not admissible.

The sixth Cause of Action, also, we believe fails because of the underlying failure of the Breach of Contract Claim, thus the tortious interference with contract issue. And that's made against Benedict College and Defendants Artis and Witty. I believe -- again, I believe that the plaintiff is not exactly accurate when they say the claim is pled against

defendants Artis and Witty, it's -- includes Benedict College.

Again, the -- that claim fails because of the lack of an underlying breach. And we set that forth on page 37 of our brief. And we also make the point here -- and this is also relevant to the civil conspiracy claim, when you sue an entity, like Benedict College, and you sue its agents, like Vice President Witty or President Artis, or the Chairman Johnson, you can't argue that you're acting outside the scope of your duty because you're suing both the entity and the agents of the entity. And it's a legal nullity to say I'm going to sue an entity but also individuals and you're all acting outside the scope of your duty. Because you're a principle and you are including the entity as a party, as a matter of law, you simply can't -- you know, that's just not the law. You can't make that claim.

And the most recent articulation of that, Hoagland v. Tecklenburg, which is a recent case, 2023, Russ Law, 259.2308. And Anvar v. Greenville Hospital System, 2007, W.L. 832.4255. We mention those cases some because those are the most recent articulations that, in a corporate conspiracy, (indiscernible) would apply. And I'll talk more about that when we get to this other conspiracy claim. In fact, why don't we go on to that right now.

In our brief, we forth why -- you know, several different grounds why I believe this was civil conspiracy claim should

be dismissed. Again, in Rogers' deposition testimony, she swears under oath, that she's suing Benedict College and three individual defendants for civil conspiracy. And that's Volume 1, page 231 of her -- and 232 of her deposition transcript.

When we asked her about the claim, we noticed that there were -- her claim that the parties were pursuing personal goals related solely to their purposes, unrelated to any legitimate Benedict goals, and they had their own personal stakes in achieving these unlawful objectives. This echoed -- or parroted the claims that she made in her Fifth Cause of Action and Sixth Cause of Action, paragraphs 124 and 131 of her Amended Complaint echoed, practically word for word, in her allegations for civil conspiracy.

And then I asked her in this -- we detailed this on page 39 and 40 of our brief -- "What's the difference? Is there any difference between what you're alleging here and what you're alleging in support of your other claims?"

And she said, "I can't answer that. I don't know." Well, she said, "As I've said, I can't answer that. I don't have an answer. I cannot answer that at this particular time."

And from there are at least three different reasons that the civil conspiracy claim is barred. One, of course, is intracorporate conspiracy doctrine. We've talked about that briefly before. You cannot sue an entity and the agents of

the entity, alleging that somehow the agents who are part of -- when Benedict College itself is part of the conspiracy, you can't sue the agents. Even if you allege that they're acting outside the scope of their duty, because they can't, as a matter of law, if they're conspiring with the entity itself. And, well, we look to cases like I've mentioned earlier, McMillan and Anvar and Hoagland, for that principle. And we stated in our brief, of course it would be impossible for these defendants to conspire with Benedict College outside the scope of their duty. It's a legal principle. You can't conspire with your entity outside the scope of your duty to the entity.

There's a second legal bar here, and that has to do with the failure to allege additional acts in support of the civil conspiracy claim. And here, I think, again, the plaintiff just makes a mistake. She indicates in her brief, on page of her brief, that plaintiff's conspiracy claim that's alleged against Johnson cannot be considered duplicative because it's the only claim alleged against him. And we know that's not true because as we set forth, and in her own deposition, she also reminded us that she's also suing Mr. Johnson for various -- for an exact thing in her Breach of Fraudulent Act Claim. So we know that's not true. And I think that was just a mistake made by the plaintiff.

Now, the issue that we have read in defendant -- I'm

sorry -- plaintiff's brief, is that it seems, because special damages is no longer a required element for civil conspiracy under the Supreme Court's recent ruling in Paradis, that we -- that the Court should also presume that additional acts are also no longer required. Well, that's not what Paradis said at all. And in fact, we would tell the Court of a more recent case, Lang V. Furman University that came out March 16th, 2022, which actually, then, this is post-Paradis. In fact the case actually references Paradis, where he says, "Well, it's true. Special damages are no longer a required element. However, you know, there are independent claims -- the reasons for recommending dismissal is because plaintiff did not identify concrete acts that are independent of any other alleged wrongdoing. Until the Supreme Court reverses that element or that requirement, it hasn't.

And again, the policy surrounding that is evidence. You -- a civil conspiracy claim is not a "me too" claim. You have to actually have done something different than your other claims in order to bring a civil conspiracy claim. And in her deposition, Ms. Rogers said she didn't -- she couldn't answer that. She couldn't tell us that. And she can't now contradict her deposition testimony in order to save her claim. The -- because of that, I mean, these are two kind of legal grounds that those claims should be dismissed.

There's also, frankly, kind of a substantive ground of

that. You know, you have to -- there's simply no evidence in the record, other than -- and, again, this is important -- unsupported testimony, self-serving testimony by the plaintiff, saying, "Well, I just don't like it. I don't think this is right." Well, that's not evidence. Your opinion is evidence of nothing, especially under the standard so recently articulated by the Supreme Court. That's not even a scintilla. And scintilla's not the rule anymore.

The thing that I wanted to end up with is the Declaratory Judgment Cause of Action. And that had to do with her -- what she perceives as her personal removal. I can't imagine, frankly, how someone would regard that as personal, because it wasn't just her claim, her -- the seat reserved were factually represente that was removed from the Board of Trustees. Indeed, one of the defendant's seats was removed from the Board of Trustees, the president's and the faculty representative -- and the student representative. All three were removed because of the perceived conflict of interest, as we discuss at length in our brief.

Now, let's -- if -- with your permission, let's go to the law of that. The statutes that govern what the college may do, what the board may do to govern its own affairs are set forth pretty clearly. And let's -- I just wanted to bring your attention, (indiscernible) underlying claims is -- you know, that the board somehow acted unlawfully by admitting its

bylaws, regarding membership of the Board of Trustees. And I'm going to refer you to page 34 of our brief. And I note that in their discussion -- or their response, plaintiffs simply don't address at all, the interplay between 33.31.803(b), which permits board of directors to increase or decrease the number of directors by amendment or in a manner prescribed by the articles or bylaws. Section 33.31.1021, which authorizes Board of Directors to amend or appeal their Non-profit Bylaws, and 808(b), which addresses removal of a particular director.

And, Your Honor, with your permission, I'd like to make this argument: they -- by focusing only on 808(b) and not even addressing 803(b) or 1021 of the Non-profit Act, they miss the forest for the trees. It's almost like they're saying, "you can't remove me for cause." And our argument is, no one removed you from the Board for cause. No one removed you, specifically, anyway. The Board gets to decide, if there's a particular position, a type of position that is -- that has a conflict of interest, including the president's, we ought to remove it. We get to do that because the non-profit, that says so, and our own bylaws say so. And if you look to, for instance, the nature of the bylaws themselves, on page 30 of our brief. You know, the bylaws may be appealed at special meetings, there needs to be a week notice of that meeting. All that was amply satisfied.

One of the arguments of -- I understand from the plaintiff is, that at the time before it was amended, the pre-amendment bylaw said that faculty and staff trustees shall be elected from April to April. Well, the longstanding practices at Benedict was, that's right; we elect our faculty reps in April and they assume office at the beginning of the next academic year. And, in fact, Dr. Darko, who was the then-serving faculty rep, remained in his position through the end of that academic year and into the summer and actually attended the summertime board meeting and served out his term. And Ms. Rogers got notice of the special meeting in the fall of 2019, like all other members. I think she chose not to attend. I think she was, you know, in the middle of her (indiscernible) at the time. But there's absolutely nothing wrong with what Benedict did or how it amended its bylaws.

And you have to -- again, you have to ignore rules of statutory construction in order to reach the conclusion that they want you to reach. You'd have to ignore 803 entirely. You'd have to ignore 1021 entirely. You'd have to ignore the bylaws themselves, entirely.

Now, it is true that in the early effort to amend the bylaws, was redone in the fall of 2019, because earlier in 2019 there was a question about, well, was notice appropriate given? And that gave Benedict College pause to say, you know what? We're going to do a do-over. We're going to make sure

notice is sent out appropriately. We're going to make sure everything -- all i's are dotted and all t's are crossed. And they were.

So that's one of the reasons -- there's another issue here, and not just with the substantive correctness of the minimum of the bylaws, and that's mootness. And in this case, this is a case like -- a lot like Sasser V. Democratic Party-- those are referenced on page 32 of our briefing. Here, the Court cannot restore her to a position that has been lawfully eliminated. Further, even if the Court had acted with alacrity, her term would have ended now, years ago. And there's no place to restore her to. She is -- her term was one year. Before her claim, if her position had not been eliminated along with others, it would have run its course. And in -- under the law of South Carolina, whether it's Sasser or Massey, also cited on page 32, or even the cases that they cite, the Sloan cases, which we also cite on Page 32 and 33 of our brief. There's just -- mootness applies when the Court, you know, in construing language of a statute or a contract or a document, if -- the Court is powerless to -- you know, what's the word I'm looking for? If there's already been a termination, that's been rendered moot -- or for -- in this case with Sasser. An election had already occurred. And the Court said, "well, you know, whatever issues you're bringing to us, Mr. Sasser, the election's occurred. We're not going

to redo it because we don't have the power to do that. It's moot."

Similarly in Massey, we find the district correctly argues this case regarding the town residence (indiscernible) the vote district elections, because -- given that the town itself is a nullity.

So for all of those reasons, we would argue in terms of the declaratory judgment, number one, it's moot. Two, even if we're not moot, Benedict College did what it should do. If you -- as you -- we think you should, construe all applicable statutes in the non-profit act, as the college did in righting its ship in terms of this. We think you'll agree that, number one, the question itself is moot. But, two, even if it weren't, you did what you should have done to control your own affairs.

And I believe I'm at a stopping point. I have some other comments, but if I could just briefly go through them, that they'll answer specific factual issues that the plaintiff has tried to raise, we think, unsuccessfully.

On page 11 of brief, I think we've addressed all those. She was fired with cause. You know, she doesn't get to determine how the Ad Hoc Committee does its business if it agrees that all the -- that's it's had a hearing of all the evidence. And that's -- she's powerless to force them to do otherwise.

It is of no moment that she wishes to import other sections of the Faculty Manual into 2.6 of the Faculty Manual. That's of -- essentially asking you to recreate the contract, which, as you're well aware, the Court's not permitted to do.

Curiously, it says the college president did not render a final decision. That's contrary, not just to the record, that's contrary to her own complaint. And when you look at paragraph 90 of the Amended Complaint, it states that one of the reasons she's suing Benedict is because it incorrectly found the standard of termination had been met. That the president did -- and again, as the president testified at length as quoted in the brief, she, you know, agreed with the committee. And not only notified all parties, but strangely was the best evidence that all parties were notified, is in a matter of a couple of weeks, they filed this lawsuit, stating that she'd been terminated. So we don't really understand that.

With regard to lack of ambiguity and some of the issues just related to making sure that Your Honor's aware of who's being sued under each claim, you know, we think, by all means can't count on, Judge, Roger's testimony that we've referenced in our brief under who's being sued under what claim. We were a little confused at first. That's why we asked.

And I believe I'm at the point where I'm happy to take any questions you may have.

THE COURT: I don't have any at this point.

MR. MATTHEWS: Yes, sir, Your Honor.

THE COURT: Thank you, sir.

Mr. Porter, you want to tell me anything?

MR. PORTER: Yes, Your Honor. Can you hear me okay?

THE COURT: Yes, sir.

MR. PORTER: Thank you.

And did Your Honor receive our brief as well, which was submitted mid-week --

THE COURT: Yes, sir. I did.

MR. PORTER: -- last week?

Thank you.

Respectfully, Your Honor, this is not a case for summary judgment. My friend, Mr. Matthews, is arguing facts and inferences to you. And this demonstrates that fact issues for the jury do underline this case, as least the five claims and six counts. There are two claims in the Breach of Contract Claim that were not stipulated to.

Given the length of Mr. Matthews' motion and his request for two hours to argue this, I felt it best for me to explain our position to you in a cogent fashion, to prepare a brief PowerPoint as a demonstrative. If you'll allow, Your Honor, I'd ask for permission to show that via ShareScreen.

MR. MATTHEWS: We've not seen it, Your Honor.

MR. PORTER: No. It -- no one's seen it but me. I made

it this morning.

Can you all see it?

THE COURT: Yes.

MR. MATTHEWS: Yes.

MR. PORTER: All right.

Thank you, Your Honor.

And again, the purpose of this is simply as a demonstrative, not as evidence.

So the facts, in our opinion, outline the claim in a lot of ways, particularly the Breach of Contract, which is so crucial.

By way of deep background, Abigail Rogers was hired as a visiting professor in 1995. Dr. Witty, who is defendant -- or excuse me, Ms. Witty, who's a defendant, she's the vice president of academic affairs, attempted to terminate her in 2008. Abigail Rogers is tenured in 2012. Her performance reviews for the 2016 and 2017 school years are both exceeds -- in the middle of those two reviews, another defendant, Dr. Artis, became the president of Benedict.

That brings us to the penultimate school year at issue, which is school year 2018 - 2019. On 10/23/18, Ms. Witty placed Dr. Rogers -- or Abigail Rogers on administrative leave with pay. Abigail hired Blaney Coskrey, an employment lawyer here in Columbia, who challenged both he placement on leave and the process by which she was placed. He said, you know,

she shouldn't have been placed substantively, but also, you didn't follow the procedures in your Faculty Manual.

Now, as Mr. Matthew notes, I have stipulated that that count of the Breach of Contract Claim, which is count 2 of 3, is not a Breach of Contract Claim at this juncture because there's no damages. As you see in the first line, her administrative leave was without pay. And I'll concede, Your Honor, you need damages to state a contract line.

11/20/18, the Faculty Staff Grievance and Appeals Committee met ex parte without Ms. Rogers' notice or presence and voted to reinstate her from this administrative leave, but to place her on a PIP according to the defense brief and the testimony of Ms. Rogers' supervisor at the time, who was Charles Alston. She successfully completed the PIP in May of 2019. That same semester, spring semester, is when she is elected to the Board of Trustees. On 4/11/19, she was elected to the Board of Trustees.

Mr. Matthews, during his argument, said that there was some discussion in the spring semester about removing the faculty position, the president's position, and the student's representative position as voting members of the Board of Trustees. There's nothing in the record and nothing in the documents that I've seen that say when that discussion happened, whether it was before 4/11 or afterwards.

Now, Mr. Matthews, in his brief, says it happened before

4/11. And he attaches to notes behind the May 2019 meeting, the Board meeting. Those notes don't have a date. I don't think the native of that document's been produced. And to my knowledge, there's not been testimony on when that document was typed. Admittedly, I came into this case midway, but I don't know of anything showing the date on when that decision was made. Nonetheless, it's not dispositive, but I think it is persuasive in our favor when we look at the time line.

So 4/11/19, Ms. Rogers is elected by the faculty; 4/16/19, she receives a letter from the Board Chair, Charlie Johnson, saying, "You're not on the board yet. Stop telling people that you are." On 6/7/19, she relieves -- receives another letter from Charlie Johnson saying, "your seat is going to be removed -- or your seat is removed, per a Board meeting that occurred in May.

Mr. Coskrey then writes a letter on Ms. Rogers's behalf again as he did with the suspension, saying, "Hey, your bylaws weren't followed."

The Board's lawyer at the time writes a letter saying, "Well, I'll tell you what. We're going to redo the meeting and give Abigail Rogers notice of the meeting." So let's look at those Bylaws that are at issue.

I've highlighted for you three different sections. And the articles, I believe, the first to your left, is Article 1, section 3 of the Bylaws. This says that a board member's term

shall run from April to April. And this is important because the next -- after the comma's important based on Mr. Matthew's comment of, "Well, Abigail did not show up to the September 2019 special call."

If you look, the term runs from April to April, unless the official connection as faculty or student is served -- I believe that's supposed to be severed, but the writing is "served" prior to the expiration of the term. So once Abigail's terminated, she can no longer be the faculty representative under the then-existing Bylaws, which are Exhibit 35.

Section 4, I believe this is Article 2, Section 4, provides that one -- there will be one board member elected by the faculty, one elected by the student body, and also these various other organizations.

And then Section 3, and this is Article 4, I believe, provides that notice of the time and place of such meetings shall be mailed to each member of the board at least a month in advance. The next section says you can do a week in advance for special call meetings. So I should have included that, but the next session allows for special call but still requires one-week notice.

So that brings us to fall semester 2019. Behind the scenes over the summer, we've had this dispute whether Abigail was supposed to be on the Board already. According to the

bylaws as written in effect at that time, yes, she was supposed to be. There was also this dispute about notice. I don't think there's any contest on the record that she was given notice of the May 2019 meeting, and that's why they redid it.

8/7/19, she signs an annual contract. It's a one-page contract in addition to the Faculty Manual. How it works at Benedict, is the tenure faculty members are guaranteed an annual contract every year, if not for three conditions: one, being financial exigency, one being for cause, and the other, I believe we'll see listed, but it's not germane in this case, and it escapes me.

9/6/19, and I submit to you that this student complaint is different from the cause proposed for her termination, so it's important to keep these tracks separate. 9/6/19, a new dean receives student complaints about Abigail and recommends that she be placed in a non-teaching role. Janeen Witty then asked the dean to do a deeper review of her full file, going back years and years, well before that contract had been entered into for 2019, the preceding year's contract, preceding years where she gets positive evaluations, even information prior to her being confirmed tenure in 2012.

Dean Miller does all of this. And as of 9/11, he still recommends a non-teaching assignment with Abigail Rogers tenure intact. In an email from Janeen Witty to President

Artis, she highlights this. She said, "He stopped short of recommending termination."

Roslyn Artis, in her deposition by Blaney Coskrey, said that she was unhappy with Dean Miller's assessment and she wasn't interest in creating a paying job for a faculty member that behave.

Then the second issue arises, this Jordan Rice-Woodruff. But I want to put us back in the context of this board meeting issue. On 9/11/21, Abigail Rogers is provided notice of the special called board meeting, where the board's going to, again, try to amend its bylaws to remove her position. That meeting is set to occur on 9/18/21, and Abigail, if she's a faculty member, will get a chance to present and participate as a board member because the bylaws have not been amended yet.

On 9/16/21, Rogers is suspended and then the terminations proceedings begin the next day, and it's all based on occurrences with the student body president, a gentleman named Jordan Rice-Woodruff. Two statements were taken by the college from Jordan Rice-Woodruff, which is kind of unusual. They were having him write one, then have him type, or vice versa in the order. The statements are one-sided, but even presuming the statements in the light most favorable to the college, they still leave fact issues as whether there was cause to terminate. Because what Rice-Woodruff ultimately

says is, you know, Abigail Rogers involved me in a situation that I wasn't involved in, which is not quite true. He was involved. His position was getting taken. What Abigail had done is said, hey, they're taking your position, they're taking mine; you know, I encourage you to oppose it.

Now, Mr. Matthews has made much about sharing this information with the media. Well, what his brief doesn't say is that Ms. Abigail Rogers violated FERPA by doing that, because she didn't violate FERPA. What she did was perfectly permissible. That's directory information under the law, and she didn't even get that information through the college's records.

When we look at tenure, why it's in place, it's all about the ability of faculty members to take unpopular stands or to try unpopular methods of teaching in order to further the educational process. That also includes taking stands and encouraging students to take stands too. We look at, you know, when tenure is written about by the AAUP. This is cited, I believe, in the Crenshaw pending at length. 1940(a), you UPEA cords on tenure, this is, you know, following the first kind of red scare, Eugene dabbed in socialism. And then these tenure issues become more implicit, more important with the Vietnam war era. And so when these private schools, in agreement with their faculty, take on tenure, there's a connection to academic freedom. And I don't intend to say

that she has every right that a public university professor would be. Under Crenshaw, we have a stateable claim. But what I intend to do here is to state that her communications with Jordan Rice-Woodruff in the context of his role as student body president and her role as a faculty representative on the board and a professor were appropriate.

Jordan Rice-Woodruff's declaration during the case, I think provides a better context of what happened than his statements do. It's not all favorable to us, and it's not all favorable to Benedict. And I think it's accurate. I've included this Exhibit 26 in your record, but I've included some portions here for the Court.

First, the context of how Jordan Rice-Woodruff gets involved in this: he says he learned in fall of 2019 from Abigail Rogers that his seat was set to be removed. This is the first he had heard about it. So he didn't even receive notice in the summer when they attempted this the first time. And she said, "She was protesting the move and encouraged me to do the same." It says, "I had no received prior notice that this was set to happen."

And what he says to Abigail, is I'm going to try to handle this politely. I'm going to talk to Ms. Artis, President Artis, Dr. Artis, and I'm going to talk to Charlie Johnson, if permitted to, the Board Chairman.

So he says, "I spoke to Ms. Artis about this at a prep

rally. And she told me not to speak to her about it because according to her, she knew I was involved in fighting the change. And she stated I was trying to effing sue her." This is a scared student body president talking to the president of his college, trying to figure out what's going on here.

Shortly thereafter, I believe a few weeks, the record will show, on 9-- I say 9/24/19. That's incorrect, obviously. On 9/16/19, he gets the calls from the media. He's already meeting with the Dean of Student Affairs at the time. So he didn't voluntarily go to HR. The Dean of Student Affairs said, "You should go to HR about this," and walks him to HR.

At HR, they ask him to do two statements, a typed, then a written. Halfway through, though I think the defense has contested which came first, the chicken or the egg, and I tend to agree with them, that I would think the written would come first and then they would switch to type. But one way or the other -- and I think there's a recording of it -- the two statements in HR. He writes the statements, "Roslyn Clark Artis then says to him that Abigail Rogers was using him" -- Jordan Rice-Woodruff -- "as a pawn to get her seat back." There were officers present when he's writing these statements, campus police officer says that Rogers is terminated and the officers are to remove them from her campus immediately.

So at that point, we find the grounds that the college is

using for Abigail Rogers' termination, not these student complaints, not student complaints, contract and contract and contract ago, but this issue with Jordan Rice-Woodruff which subject to multiple inferences and disputes about the fact.

That then takes us to the post-termination process, Your Honor. The Ad Hoc Committee heard the termination recommendation ex parte. That's Exhibit 27. The tenure hearing occurred on 10/23/19. Abigail Rogers was not permitted to have counsel present on her behalf, but was permitted to have counsel present. She was not allowed to call witnesses and not allowed to hear or cross-examine accusers. The tenure committee was presented with infractions going all the way back to 2006. And that's Exhibit 29. They vote 6 to 2 in favor of termination. On dissent then flips, fearing retribution.

Now, here's the Faculty Manual, and it's breaking a rule of PowerPoint here, so I'm not expecting you to read these provisions, but I will tell you there are substantive breaches of the Faculty Manual and then there are procedural.

Substantively, we assert that there was not adequate cause for Abigail Rogers' termination as defined by Section 6.2.4. And as stated in 4.1.2, there's either got to be that or two other contingencies that aren't at issue in this case. And also, to the extent the university take the -- or the college takes the position that Ms. Rogers is being terminated

for her pedagogical style, her teaching method. That would violate the promise -- and it's an unequivocal promise of academic freedom contained within the handbook. Now that's distinguished from the arguments that Mr. Matthews makes about Crenshaw in his brief, which is, you know, a private university professor can't argue that they're entitled to academic freedom under the First Amendment, they can only argue they're entitled to what's in the handbook. Well, here, that is in the handbook.

Next, there are -- I say procedural -- yes. Next, there are procedural violations. First, 6.2.54, Section 4, says the Ad Hoc committee will conduct a fair, impartial review of "all of the evidence." Our contention is that all of the evidence would have naturally, given that we're dealing with student complaints, Jordan Rice-Woodruff's complaint, Abigail Rogers' perspective on that had to have required some testimony. That didn't happen here. We don't feel the college carried their burden under 6.2.4.5 -- 6.2.5.(4).

Next, Section 6.2.6(a), the committee will hear the appeal. Now, nowhere in this provision does it define what the hearing means. In a letter that we'll look at shortly from the college's counsel at the time, Ms. Durivan, she defines what the college's position on what that means, but that's not in this section.

So we'll look at how hearing is defined elsewhere in the

manual. And, mind you, this Section 6.2.6 is dealing with tenure, which is the highest level of an appeal that a tenured faculty member -- you know, this is the Holy Grail of procedural rights in the faculty context.

And then, there's been no evidence in the record or anything that I'm aware of that shows compliance with 6.2.6(b). It says, "The President will review the recommendation of the faculty staff and appeals hearing and make the final decision. The president will then notify all parties of the final decision." There's no record evidence of that ever happening. There's no document, there' no letter saying, I've reviewed, here's my decision. That's how this works. We don't even have to look for an ambiguity. That didn't happen.

All right. So hearing defined. Section 7.2 (5-6) is the only definition of a hearing in the manual. And this deals with lower level grievances. So, again, tenure is the Holy Grail, lower level grievances are not going to be as important. And that's consistent with industry standard on how tenure proceedings work at multiple institutions. You usually receive less rights, fewer rights, for the grievances level. Which is what, most commonly, I will use when someone's been denied tenure -- than you do for tenure. And so our contention is with hearing not defined, that you have to look to see what it means.

Let's at least look at what a lower level would allow you. Here, it says, "The Faculty Staff Grievance and Appeals Committee -- mind you, this is the same exact committee at Benedict College that hears the tenure hearing, will hear the charge, receive facts into evidence, and entertain arguments from the parties of representatives. The chairperson of the committee will preside over therapy hearing. The faculty member will receive notification to be present at the hearing, and along with the college, is invited to present evidence in cross-examine all witnesses.

In any event -- in the event that the faculty member does not appear, the hearing will proceed in his or her absence. So a couple of things here. We've got, first, your representative -- your legal representative can present your case for you. You have the right to hear their charge, to actually receive the facts and the evidence, cross-examine witnesses, and to present your own.

Now, let's look at the -- and this is a final slide. And I appreciate you for allowing me to do this. I think it -- though it may have seemed like it took a long time, I think it kept this briefer than it might have otherwise been, whereby I respond to the facts in a different way. After this, I'll briefly address Mr. Matthews' legal points.

Exhibit 28 says, "each party's going to have 38 minutes to present. Ms. Rogers can be represented by an attorney, but

attorneys are not permitted to say anything during the hearing. Neither side will have witnesses, but Ms. Rogers is welcome to provide any supporting information as she wishes." Now, Mr. Matthews is going to -- I presume, say -- well, the college is perfectly within its rights to say that's a hearing, but where is that defined within Section 6.2.6? It doesn't say that. If it did say that, that this is how the hearings going to work, I think Mr. Matthews is right. But it doesn't.

So that's the conclusion of the PowerPoint. I'll shift now to the law, Your Honor, unless you have any questions before I make that pivot. And I know I've used a lot of your time. I swear to keep it as brief as a lawyer can.

THE COURT: (No audible response.)

MR. PORTER: All right. So looking at tenure, we think Crenshaw supports our position. I don't think there's anything in Crenshaw that hurts us. In Crenshaw, the Court said the promise of tenure leaves us with no doubt that the Faculty Manual is a contract. It says that with a private college, there are ordinary Breach of Contract cases, in which the terms of the contract are set forth in the Faculty Manual.

We also have two contracts here. We additionally have the annual employment contract, just for the contract year of 2019 -2020. That's count 3, whereas the Faculty Manuals count 1. Since that did not provide a mechanism for termination

within its four corners, the law says that the defendant has to show just cause. Showing just cause as matter of law is a pretty high burden.

I would cite, Your Honor, to Jones versus Ridgely Communications, 405.S.C.2d, 402, as kind of citing the typical law on just cause. There are cases where it can be found as a matter of law, but typically a jury issue's going to exist. In that case, they said, "A jury exists where the evidence is susceptible of more than one reasonable inference. We find in the record before us, evidence sufficient to create a jury issue as to whether Jones breached his contractual duty to Ridgely.

So if you find that the evidence is susceptible to more than one reasonable inference about what happened with Jordan Rice-Woodruff or about, with our contention, that Jordan Rice-Woodruff was merely a pretext for Ms. Rogers' termination, then there's a fact issue as to cause.

When we look at the Faculty Manual in these terms, since they're viewed as an ordinary contract under Crenshaw, we have to look at how we construe it. Under the law of our state, and I'll cite to South Atlantic Financial Services, a Court of Appeals Decision, 562, S.C.2d, 42, we construe any ambiguities against the drafter, I believe, hearing in 6.2.6 is ambiguous, given that it's not defined. And we do have it defined elsewhere in the contract.

That brings us to, is there a fact issue on construction and construction of an ambiguous contract is an issue of fact to be decided by the trier of fact. That's Pee Dee Stores versus Doyle.

And, that, Your Honor, is in summary, our argument on Breach of Contract.

The next claim is the DJ action. The pre-amendment bylaws, we've already gone through. They're violated, both, as to notice and to the term of service, the April to April. But there's also a statute in play, 33-31-808(b) says if a director is elected by a class, that director may only be removed by that class.

I'm going to first address Mr. Matthews' argument that that statute is ambiguous. I don't think it is. Within its plain language, it is not ambiguous. And it's consistent with the other statute cited. What that means, and when we look at the other statute, it says, "Yes, the Board could vote to remove the faculty seat prospectively. But they can't do it in the middle of a term. If they want Abigail removed in the middle of her April to April term, according to this statute, the non-profit corporation act, the only people that could remove her is the class that elected her, which would be the faculty body.

The issue of still right, not moot, these issues are germane to the elements of the Breach of Contract with the

Fraudulent Act Claim, the Element of Illegality Underlying the Conspiracy Claim, and to some extent, the Element of Justification Underlying the Tortuous Interference with Contract Claim. So they remain a justiciable controversy. Even if they were not, the exceptions under Sloan would apply particularly, exceptions 1 or 3.

Number 1, if the capable issue raises capable of repetition and will generally evade review, that might be a borderline determination I think you could apply it. This is a -- you have wide discretion in applying these exceptions under our law. Number 3, that I think applies clearly, "If a decision by the trial court may affect future events or have collateral consequences for the parties, on appeal from that decision is not moot, even though the appellate Court cannot give affective relief in the present case."

And that's going to apply where your decision on whether our -- the trial court, if the Court decides the DJ on whether or these two issues in the bylaws were violated and this statute was violated. That's going to have collateral consequences on the conspiracy claim, the breach of contract with a fraudulent actually claim, and to a lesser extent, the Tortious Interference Claim. So it's not moot, Your Honor.

Breach of Contract with a Fraudulent Act, the case law is more forgiving than I think Mr. Matthews' brief suggests. The Floyd versus Country Squire Mobile Homes case talks about a

jury reasonably inferring fraudulent intent from several circumstances relating to the breach. So they can circumstantially view the breach as a fact issue to find fraudulent intent.

In this particular record, I think the college's efforts to come up with a pretext, the college's attempt to come up with a different excuse immediately before they found the Jordan Rice-Woodruff excuse, their repeated disregard of her rights in the Faculty Manual and their improper and unlawful acts to remove plaintiff from the board could all be indicative of fraudulent intent, and could all serve as fraudulent, too, under Harper versus Ethridge, which says all that's required is dishonesty and fact, unfair dealing or unlawful appropriation of another person's property by design. And they cite to a case from 1921 that says fraud and breach of contract with a fraudulent act assume so many hues and forms that courts are compelled to contempt themselves with comparatively few general rules for its discovery and defeat and allow the facts and circumstances peculiar to each case to bear heavily upon the conscience and judgment of the Court or jury in determining its presence or absence.

Tortious interference with contract, Your Honor, turns on the issue of intracorporate immunity. Intracorporate immunity is only a qualified privilege. We have evidence here that would bring their actions outside the course and scope of

their employment, which is going to be a fact issue. That's called outsider liability. A 2012 case, 406.S.C.596, Dutch Fort Development Group held that a member could tortiously interfer with his LLC's contracts. And there's a recent certified question by the Supreme Court talking about interference with (indiscernible) employee's contracts, even though this is not in (indiscernible) employ.

The law calls this insider immunity in a context of tortious interference with contract a qualified privilege. Your Honor, respectfully, on this record, a qualified privilege is going to present a fact issue.

That brings us to conspiracy where the first argument is also intracorporate immunity. Likewise, there, it's also going to be a fact issue. Froneberger versus Smith talks about agency being a question of fact. McMillan versus Oconee County Memorial Hospital, same in the conspiracy context. Pridgen versus Ward, same in the conspiracy context; this is an issue of fact.

In Paradis, the Court explicitly said the Todd rule is out. And I understand that in Paradis, the component of the Todd rule was special damages, but the same provision from Corpus Juris Secundum, that the Paradis court said -- had been miscited in 40 years of civil conspiracy law is the same exact provision relied on with respect to this issue of duplicative allegations. The new elements of conspiracy are established

on this record, that being a combination of one or -- two or more people to commit an unlawful act or a lawful act by unlawful processes and damages result.

That unlawful premise takes us to the third and final ground. Unlawful within this definition includes tortious, and that would be from Lee versus Chesterfield General Hospital. It doesn't have to be criminally illegal, though we do also have unlawful conduct, too, being the removal from the Board.

And then the claim -- it's the only claim pled against Mr. Johnson, so it couldn't be duplicative with respect to him. Respectfully, Your Honor, we don't only have issues of fact, we have issues between counsel, apparently, about what claims are against what people. And I'm over here as the plaintiff saying, "No, I'm not suing that person for that."

You know, Breach of Contract and Breach of Contract with a Fraudulent Act can only be pled against the people with whom my people had a contract, which would be the college.

Tortious interference, they claim that my claim was pled against the college, Artis and Witty will -- you know, they don't make this argument, but I couldn't state a tortious interference claim because the college can't interfere tortiously with its own contracts. I think with the defense saying I'm pleading my claims against more people than the plaintiff's saying they're pleading their claims against

fewer, I think, Your Honor, at least from the summary judgment perspective -- and the pleadings support our position on who we're pleading the claims against, but I'll concede to you, the pleadings don't say, "Hey, this claim is against this person" as clearly as I would like them to. But here on summary judgment, I mean, we're only suing who we say we're suing. And we've told you that explicitly in our brief at page 2.

All in all, I think Mr. Matthews has presented a heck of an argument. It is very long, and I hope I've been up to the task. But it's simply not the right argument for this procedural posture. And here on Rule 56, under the standard it stated a week ago -- you know, I think if you're bringing a claim hoping to get by on a mere scintilla, you shouldn't be bringing the claim. And we're not. Under that standard in federal court and as stated a week ago, this record is ripe with issues of fact that has shown by the 500 pages submitted by me and Mr. Matthews to you last week.

Thank you, Your Honor.

THE COURT: (No audible response.)

MR. PORTER: We can't hear you, Your Honor. You're muted.

(Pause.)

MR. MATTHEWS: Your Honor, we still can't hear you.

THE COURT: Okay. Now can you hear me?

MR. MATTHEWS: Yes, sir.

THE COURT: Okay.

Back when you were talking about Section 33.31.808(b), about --

MR. MATTHEWS: Yes, sir.

THE COURT: And this -- Mr. Porter said that she couldn't be -- that faculty of a class. But doesn't that refer to her being taken off the board for misconduct? And based on, at least the facts that I've heard, that they didn't take her off the board. They did away with her seat. They did away with her position. And then the Board simply did away with three positions based on what they perceived as a conflict that it wasn't right for new, improving budgets and faculty pay that people who were getting paid get to vote on that or block that. And that was my understanding as the reason they did away with those three seats, because it was potential conflict because they were voting on their own salary --

MR. MATTHEWS: That's correct, Your Honor.

THE COURT: -- versus taking her off a cause and then the seat was still there, they just removed her, which would go -- as you pointed out, Mr. Porter, that the faculty is the one who put her there. But my understanding in this case, they didn't remove her from her seat; they did away with the seat.

Now, do you disagree with that, Mr. Porter?

MR. PORTER: I do, Your Honor. I think the statute would

say that they can remove the seat prospectively because it's going to remove her.

But, Your Honor, even if I can't convince you of that, there's still the notice violation, which is important to the DJ. And really, the removal is only pertaining to the DJ, while I'd ask for relief and you ruling in our favor on the DJ on my Memo in Op, I don't know that that's dispositive one way or the other, but I do take the opposite position of your analysis, Your Honor.

THE COURT: Okay.

Let's go -- so let me ask you. So you agree that they should put her back on this board?

MR. PORTER: Yes. And so I --

THE COURT: And the seat doesn't exist.

MR. MATTHEWS: Yes, as pled, the DJ said she gets to serve in perpetuity on the board because she hasn't been removed right. I agree. You can't put her back on the board. The reason I'm saying its not moot is because it's germane. It has collateral consequences for the case. And so the mootness doctrine is not implicated because it's a live dispute. It's a justiciable controversy. And even if it was that sloan, carve-out number 3 would apply.

THE COURT: Okay.

Mr. Matthew, do you want to tell me anything else?

MR. MATTHEWS: Very briefly. And I'm conscious of taxing

your patience.

We just have some severe disagreements on basis.

Number one, I noticed that there was a reference in the PowerPoint to a person's fearing retribution. There is absolutely no evidence in the record of that at all. We highly -- it's not even a material fact for dispute. It's just wrong. And we felt we needed to point that out.

THE COURT: Tell me that one more time. I missed the first part.

MR. MATTHEWS: Yes, sir.

In the -- I noticed in the chart, they noticed that one person on the faculty appeal committee changed their vote from 6 to 2, to 7 to 1 because she feared retribution. There is absolutely no record of that at all, other than an inadmissible hearsay from Ms. Rogers' allies. To put that in that presentation is wrong.

Second, opposing counsel is known for his excellence and his creativity. And -- however, let's be clear, though, with regard to being elected versus being seated. He used the term "began" in April under Article 1, Section 3. That is not what it says. It says elected. It says nothing about when the term begins. There was already a faculty member in that position until the fall of 2019, Dr. Darko. Now, if Ms. Rogers wants to sue Dr. Darko, have at it. I don't think she can, and I don't think she should. But she can't sue Benedict

College. She doesn't own the seat. And it is clear, what it says, elections for faculty members occur in April. That's it. It doesn't say the term begins in April. And she was reminded of that.

Now, listen, if I were in Mr. Porter's position, I might try to argue ambiguity, Section 6.2.6, but there is none. In fact, the fact that other -- another provision to a different cause within the Faculty Manual provided for different procedures means that the language that is different in 6.2.5 and 6.2.6 means what it says. And the fact that others -- that we can have, you know, aerial disagreements about what a word means, we give it its ordinary meaning. And it -- I can tell you, as an administrative practitioner, that does not always mean we get to cross-examine. We do it in front of -- do every day.

The -- as to who they are suing, I am really quite sympathetic with Mr. Porter's position with one regard: he did not draft the amended complaint. He did not -- I don't think he was even present when the plaintiff was deposed. He is inheriting a lot in this case which is not of his creation. And I get that. But what I don't get is contradicting Ms. Rogers' own testimony. And as you will see in the brief, we asked her under oath, "Who are you suing?" And she told us. And you can't create an issue of fact or any issue by contradicting your own deposition testimony. That's not

allowed.

Again, I would just -- there's so much here, and I'm cognizant that it's nearly one o'clock. Let me end by this, Your Honor, the -- we do commend Crenshaw to you. Tenure is not a get-out-of-jail-free card or a license to abuse students. And the college gets to determine through its procedures when a tenure faculty member has crossed the line. And for whatever reason, it did.

There's plenty of evidence on the record to support that the fact that -- one thing that struck me as odd. You know, did Dr. Witty in -- and again, this is in our brief, in 2008, recommend to then President Swinton that, yeah, this lady's a problem. We need to let her go.

In fact, 10 years earlier -- this is on page 3 -- in 1998, the Department Chair found the plaintiff's behavior to be unethical and unprofessional. She had turned classroom student victimization -- her classroom demeanor, whereby her students are intimidated, ridiculed, humiliated, made to feel inferior and berated.

Well, finally in 2017, a new -- there was a new president that no longer tolerated this type of abuse. And we even gave her a chance in 2018, you need to cut this out. In 2019, it happened again, both with the students and with Jordan Rice-Woodruff, the student body president.

But I will say this, one curious thing. I think I may

have mentioned this in my earlier comments. He mentioned that there's -- well, the president didn't give anybody notice of her final decision. Of course she did. Where's the evidence? Its in the record we cited. Its in her deposition testimony, as we cite in our brief, and its in their complaint, their amended complaint. I know Mr. Porter did not draft that complaint, and I'm not blaming him for that complaint. But that's the complaint he has to live with.

In paragraph 90(f), she states whatever the complaint says, the college incorrectly found the standard for termination of the plaintiff had been met. In order to make that, you have to do what President Artis said she did. "Did you notify people?" "Yes." There it is.

Now, I will say this, to the extent that we also commend to you Jordan Rice-Woodruff's deposition testimony, which we've included, as to what happened when, if you believe that's important. But we do commend to you -- I mean, to us, the gravamen of the complaint is, have they stated a Breach of Contract Claim? If the answer to that question is no, then almost all of the other claims fail.

For the civil conspiracy claim, the intracorporate immunity does not qualify. It's qualified if it's a defamation claim. This is not a defamation claim. This is a civil conspiracy claim. Those are different concepts. And there's no -- there's nothing qualified about intracorporate

immunity. If you sue the entity and agents of the entity in civil conspiracy, the claim must be dismissed because the individuals can't be sued with the entity. That's just not how that works. And how do we know that Benedict College was sued for civil conspiracy in addition to the others? Because Ms. Rogers told us so under oath. So there's that.

Your Honor, if there's any -- of course, I believe Mr. Porter would join me in thanking you for your time and attention and your patience, frankly, both in listening to us and reading the briefs.

Is there -- and I'm sure he would also join me in asking you, is there anything else that we can do for you today?

THE COURT: I don't think so.

Let me see -- try to absorb all of this. And I will let you know my answer.

MR. MATTHEWS: Thank you, sir.

MR. PORTER: Thank you, Your Honor.

THE COURT: Thank you.

Bye, Gene. Thank you.

(At 3:25:31, the hearing concluded.)

END OF TRANSCRIPT.

CERTIFICATE OF TRANSCRIBER

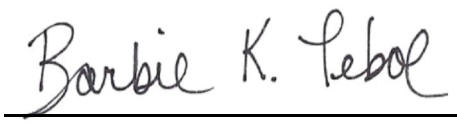
State of South Carolina

County of Richland

I, BARBIE TEBOE, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings and evidence introduced in the trial of the captioned case, relative appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 20th day of September, 2025.

I further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 24, 2025



Barbie Teboe,
Transcriber

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Abigail Rogers, Plaintiff, -vs- Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson,[1] Defendants.	FIFTH JUDICIAL CIRCUIT COURT OF COMMON PLEAS CIVIL ACTION NO.: 2019-CP-40-06624 **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

NOW COME Defendants Benedict College (the "College"), Roslyn Clark Artis, Janeen Witty, and Charlie Johnson (hereinafter referenced jointly as the "Defendants"), by and through counsel, and file this Motion for Summary Judgment under Rule 56, SCRCP.

Plaintiff Abigail Rogers is a former faculty member at the College. She has brought a total of eight (8) causes of action against these Defendants, variously related to (1) her administrative suspension with pay in the Fall of 2018, (2) the College's removal of three positions from the membership of its Board of Trustees in 2019, including the "faculty representative" position, and (3) her termination from employment with the College in the Fall of 2019.

For the reasons set forth below, the Defendants respectfully request that the Court GRANT their motion and DISMISS WITH PREJUDICE each of Plaintiff's claims, along with any other such relief as the Court deems just and proper.

[1] The proper name for Defendant "Charles Johnson" is "Charlie Wilbur Johnson." (***Deposition of Charlie Johnson, p. 5, lines 2-5***).

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FACTUAL RECORD

Benedict College was founded in 1870, then as the "Benedict Institute," to educate recently emancipated Black persons and prepare them to be "a power for good in society." In 1894, the South Carolina legislature chartered Benedict College (the "College") as a liberal arts college, and the College remains listed as a non-profit corporation by the South Carolina Secretary of State. From 1994 until 2017, David Swinton served as the College's President.

Plaintiff Abigail Rogers joined Benedict College as a faculty member in 1995 following her removal from office as a Family Court Judge. (***Rogers Deposition, Vol. II, p. 16, lines 3-16; Joint Committee Report, attached as Exhibit "A"***).[2] Plaintiff stated that then-President Swinton personally recruited her to teach criminal justice courses at the College as she was being formally removed from her position as a judge. (***Rogers Deposition, Vol. II, p. 27, lines 6-19***). According to Plaintiff, Swinton wanted to make a place for Plaintiff at the College in part because Plaintiff's parents "were big, you know, big contributors to Benedict and are the – graduates of Benedict and you're – your entire family, except for me, is – are big alumni of Benedict. Let us see if we can give you a rest [*sic*] to come here." (***Rogers Deposition, Vol. II, p. 27, lines 11-16***).

[2] The reasons for Plaintiff's removal as a Judge are remarkably similar to those causing her dismissal from Benedict College – namely, using her position to abuse others. The Joint Committee Report stated that "[t]he majority is particularly concerned by evidence of a situation in which Judge Rogers attempted to use her judicial office to intimidate her former secretary. The majority believes that Judge Rogers threatened to use a bench warrant for the arrest of her former secretary after the secretary took another job." (***Rogers Deposition, Vol. II, p. 20, lines 16-23; Exhibit "A"***). The Joint Committee Report also found that "[f]or these and other reasons, the majority believes that Judge Rogers threatened to issue a bench warrant for the secretary's arrest and was not truthful about this issue in her testimony under oath before the Joint Committee." (***Rogers Deposition, Vol. II, p. 21, lines 24-25; p. 22, lines 1-4; Exhibit "A"***). Finally, the majority of the Joint Committee noted that, "in its collective memory, the majority has no recollection of any candidate who, when confronted with a substantial body of evidence in contradiction, including testimony from a number of disinterested witnesses, either always shifted the blame, or failed to account for her own behavior." (***Rogers Deposition, Vol. II, p. 24, lines 16-23; Exhibit "A"***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Throughout Plaintiff's time at the College, students often complained about the way she abused them. For example:

- In 1998, Plaintiff's Department Chair noted that she was "receiving numerous complaints from students in your classroom concerning your classroom demeanor that she termed classroom student victimization, whereby your students are intimidated, ridiculed, humiliated, made to feel inferior and berated in the presence of other students." (***Rogers Deposition, Vol. II, p. 28, lines 17-23; Culliver Memorandum, attached as Exhibit "B"***). She found Plaintiff's behavior to be "unethical and unprofessional."

- By 2008, after continuing to receive complaints about her behavior towards students, her Department Chair reported that Plaintiff's "professional behavior, teaching quality, and general demeanor historically have been so contrary to Benedict's stated ideas and policies that several faculty, student, and parents alike question how Ms. Rogers has been able to maintain such longevity at this institution." (***Rogers Deposition, Vol. II, p. 32, lines 15-25; p. 33, line 1; Osazuwa Memorandum, attached as Exhibit "C"***). Her supervisory chain – including incoming Vice President for Academic Affairs Janeen Witty – recommended to President Swinton that the College remove Plaintiff from the faculty. (***Witty Memorandum, attached as Exhibit "D"***).

Mr. Swinton did not act on any of these requests. Indeed, despite her abuse of students, and even though some of Plaintiff's supervisors recommended that she be removed from the faculty and not granted tenure, the College granted Plaintiff tenure in 2012. (***Deposition of Janeen Witty, p. 89, lines 3-10***).

In June 2017, Benedict College's Board of Trustees unanimously appointed Dr. Roslyn Clark Artis to replace Dr. Swinton as the College's President. At that time, Dr. Janeen Witty was serving as the College's Vice President for Academic Affairs, and Charlie Johnson was serving as the Chairman of the College's Board of Trustees.

During the academic year 2017-2018, Plaintiff and the individual Defendants had little interaction.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. PLAINTIFF'S PAID ADMINISTRATIVE SUSPENSION IN FALL 2018.

In the fall of 2018, the College again began to receive complaints from students about Plaintiff's abusive manner. Several students from her "Court System" class submitted an initial set of complaints at the beginning of the semester on August 20, 2018, which included, but were not limited to, the following:

- Plaintiff told them they would have to wait if she was late to class, and that she would be late to class.
- Plaintiff told them that "[i]f one person messes up we all mess up and we all get a zero."
- Plaintiff made the comment that "If I dismiss the class early she still will get paid."

(***Complaints of Students, August 2018, attached as Exhibit "E"***).

One month later, in September 2018, the College received other student complaints about Plaintiff, which detailed Plaintiff's insults to the students in question, changing the subject of an examination, telling one student she would never be a lawyer or make it to law school, and commenting that "she hates seeing black men with white women."[3] (***Complaints of Students, September 2018, attached as Exhibit "F"***).

In October 2018, the College continued to receive student complaints about Plaintiff, with one student complaining that Plaintiff insulted him by stating that he was "wasting her time" and "needed an easier class." (***Student Complaint, October 2018, attached as Exhibit "G"***).

In response to these complaints, the College's interim Dean of the School of Arts and Sciences, Dr. Charles Austin, Sr., met with these students and with Plaintiff, and believed that the

[3] Dr. Charles Austin, Sr., testified that he did not take note of Plaintiff's racist statement when he reviewed the student complaint. (***Austin Deposition, p. 80, lines 1-4***). He also testified that he found the statement "disturbing," and that if he had not overlooked the statement, he would have addressed the matter with Plaintiff. (***Austin Deposition, p. 81, lines 3-17***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

students and Plaintiff had resolved their disputes. (***Deposition of Charles Austin, p. 37, lines 13-18; p. 38, lines 21-25; p. 39, lines 1-3; p. 45, lines 10-17***).

However, by mid-October 2018, it was apparent that this was not the case. Instead, Dr. Austin had concluded that the relationship between Plaintiff and two of her students had "deteriorated to what I considered to be a very toxic level. I believed, as the dean, that it would be disruptive to keep these two students in Professor Rogers' class so I made a recommendation to Dr. Witty that I would supervise the remainder of their time in the class for the semester. I received a copy of the syllabus from Professor Rogers and I, you know, gave the students assignments premised on her syllabus so we could get through the rest of the semester." (***Austin Deposition, p. 49, lines 3-12***).

After receiving Dr. Austin's directive, Plaintiff inflamed the situation further by sending an email to the two students directing the two students not to return to her class, not to contact her for any reason, and not to even contact other students in the class about work or assignments. (***Email dated October 17, 2018, attached as Exhibit "H"***). Furthermore, the other students in Plaintiff's class were concerned about Plaintiff's policy that "the hand of one is the hand of all" and circulated a text that included a threat of bodily harm to students [M] and [T]. (***Texts dated October 18, 2018, attached as Exhibit "I"; Deposition of Janeen Witty, p. 142, lines 3-21; Deposition of Roslyn Clark Artis, p. 101, lines 4-17***). The other students also expressed concern that, because of the complaints of [M] and [T], Plaintiff would no longer permit the class to re-take their mid-term examination. (***Rogers Deposition Vol. II, p. 58, lines 12-25; p. 60, lines 10-14***).

After he reviewed Plaintiff's email, Dr. Austin told Plaintiff that her email "exacerbated an environment of tension between students in your class who feel their grades hinge on the conduct

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

of other students specifically Ms. [M] and Ms. [T]." (***Email dated October 19, 2018, attached as Exhibit "J"***). Dr. Austin also testified that "there were students who were concerned that if Ms. [M] and Ms. [T] had continued in the class that they could have been affected -- adversely affected." (***Austin Deposition, p. 92, lines 12-15***). In the opinion of Dr. Witty, this set of circumstances was sufficient to warrant suspension of a tenured faculty member. (***Witty Deposition, p. 123, lines 10-22***).

At that point, Dr. Austin recommended that Plaintiff be removed from the classroom until further notice. (***Austin Deposition, p. 87, lines 6-20***). More specifically, Dr. Austin recommended the following:

> [T]here was a communication that I sent to Dr. Witty where I recommended that Professor Rogers be taken out of the classroom and that we needed someone to do research grants and to write grants, and recognizing her skill set as a grants writer that maybe that would be an appropriate resolve to the -- what was perceived as an issue with student complaints.

(***Austin Deposition, p. 60, lines 21-25; p. 61, lines 1-3***).

However, instead of assigning Plaintiff to a non-teaching grant writing position,[4] on October 23, 2018, the College placed Plaintiff on a paid administrative leave to remove her from class while the College investigated the student complaints against her. (***Notice, October 23, 2018, attached as Exhibit "K"***). In response, Plaintiff hired counsel to challenge the College's decision. (***Witty Deposition, p. 179, lines 10-12***).[5]

[4] There is no evidence that such a position actually existed. Apparently, it would need to be created.

[5] The College's "Faculty Grievance Procedures" are separate from the procedures by which a tenured faculty member may challenge a termination for cause. "Formal Grievance Procedures" are found at § 7.2 of the Faculty Handbook. Tenured faculty may appeal a proposed termination under §§ 6.2.5 and 6.2.6 of the Faculty Handbook. In either case, the decision of the President of the College is final.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

On November 20, 2018, the College's "Faculty & Staff Grievance and Appeals Committee" reviewed the matter and recommended that Plaintiff be permitted to return to duty effective December 15, 2018.[6] The Committee also recommended that Plaintiff and the College establish a "Performance Improvement Plan and Conflict Resolution Plan." (***Committee Recommendation, November 20, 2018, attached as Exhibit "L"***). The College accepted the recommendation and began working on the Performance Improvement Plan. Dr. Austin reviewed the Plan with Vice President Witty and agreed with its contents. (***Austin Deposition, p. 69, lines 10-18***). In fact, Dr. Austin testified that he "discussed it with Professor Rogers and we agreed -- there were just a couple of minor things that she wanted to be sure were addressed but, overall, we agreed to do it, and she successfully -- in my estimation, she successfully completed it. And that was it." (***Austin Deposition, p. 69, lines 18-23***). Plaintiff and her counsel were permitted to annotate the Plan with her objections, and in any event, Plaintiff completed it successfully by the end of semester in Spring 2019. (***Performance Improvement Plan, signed February 14, 2019, attached as Exhibit "M"; Witty Deposition, p. 189, lines 16-24***).

In addition, Plaintiff's counsel also requested a hearing before the Faculty & Staff Grievance and Appeals Committee to contest her removal from class from October 23, 2018 to December 15, 2018 with pay. To accommodate this request, the College agreed to schedule a hearing, and requested that Plaintiff submit her list of witnesses – including students – that she wished to call before the Committee. The letter stated that "[o]nce Benedict has received Ms. Rogers' list of students, if any, whom she wishes to call, Benedict will schedule a date for the appeal hearing that is mutually acceptable to both parties." (***Letter to Plaintiff's Counsel, dated***

[6] By December 15, 2018, Plaintiff no longer had any duties concerning classes held in the Fall 2018 semester. (***Rogers Deposition, Vol. II, p. 66, lines 15-19***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

February 12, 2019, attached as Exhibit "N"). Plaintiff does not know if she or her counsel ever submitted her list of witnesses to the College, or ever responded otherwise to the College's request for this information. (***Rogers Deposition, Vol. II, p. 67, lines 17-20***).

Because the College has never received such a list from Plaintiff or her counsel, this grievance hearing has not been scheduled.

B. BENEDICT COLLEGE CHANGES THE COMPOSITION OF ITS BOARD OF TRUSTEES IN 2019.

When Dr. Artis became President of the College in 2017, she noted that the membership of the Board of Trustees included the President, one position elected annually by the faculty, and one position elected by the student body as voting members. (***Deposition of Roslyn Clark Artis, p. 50, lines 20-25; p. 51, lines 1-22***). Dr. Artis specifically told the Board that she was concerned that these three positions – including her own – involved an "obvious conflict of interest." (***Artis Deposition, p. 51, lines 23-25; p. 51, lines 1-11***). As an example, Dr. Artis cited the position of a faculty representative on the Board – Dr. Samuel Darko[7] – who refused to vote for a budget that did not include salary increases for faculty, even though the "institution was incredibly financially constrained." (***Artis Deposition, p. 51, lines 23-25; p. 51, lines 1-11***).

Charlie W. Johnson, Chairman of the Board of Trustees, shared this concern. With regard to conflicts of interest held by both the student and faculty representatives on the Board, Chairman Johnson testified as follows:

> Well, when -- since I was on the board, okay, we get into financial trouble, the president comes in and says, "Well, you know, we're going to -- we can't give no raises, we want all the faculty to take a five percent cut." So that's -- so now you've got a person sitting here that's representing people that's going to get a five percent

[7] At the beginning of the Spring semester of 2019, Dr. Samuel Darko, a professor of environmental engineering at the College, was serving as the elected faculty representative on the Board. (***Rogers Deposition, Vol. II, p. 95, lines 3-9***). Dr. Darko served in this capacity until the beginning of the 2019-2020 academic year. (***Artis Deposition, p. 148, lines 2-15***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

> cut and it's an antagonistic situation. So that was one of the, you know, one of the things. And then the last -- the young lady, she was a brilliant girl, majored in math, had four actuary jobs. Insurance people, they wanted her because she was so brilliant. Well, we cut math out of there because you only had two or three people in the program so they cut it out. She raised hell about that. So you can't represent and then also be trying to -- it just don't work.

(***Deposition of Charlie W. Johnson, p. 21, lines 16-25; p. 22, lines 1-7***). Dr. Artis articulated similar sentiments as follows:

> I think I expressed a comment in a particular instance, and I will give you a perfect example when there would be minutes of this. We were voting on the budget and the then faculty member, who at that time was Dr. Darko, said, on behalf of the faculty, I cannot vote for a budget that does not include a salary increase for faculty. And I -- I said, you're voting on a budget that the institution can afford. The institution was incredibly financially constrained, as you know, based on the fact that we were sitting on financial monitoring. So when you articulate out loud, on behalf of my constituency, I can't support a vote that does not -- a budget that does not provide an increase, despite -- I understand why you're doing it, but I won't vote for it as a faculty member. That is a conflict of interest. That is a problem. A board member has to be globally concerned with the health and well-being of the financial stability of the entire institution.

(***Artis Deposition, p. 53, lines 18-25; p. 54, lines 1-12***).

For that reason, on April 9, 2019, Chairman Johnson appointed an "Ad Hoc Committee on Governance" to review the issue and make a recommendation to the full Board concerning the status of the President, faculty/staff representative, and the student representative as voting Board members. (***Minutes of Board Meeting, May 10, 2019, attached as Exhibit "O"***).

After Chairman Johnson appointed the Ad Hoc Committee on Governance, Plaintiff was elected on April 11, 2019 to replace Dr. Darko at the end of his service on the Board. (***Rogers Deposition, Vol. II, p. 78, lines 10-11***). Apparently believing that she would immediately replace Dr. Darko on the Board in April 2019, Plaintiff contacted several other Board members and told them she would immediately assume Dr. Darko's position. In response, Chairman Johnson and Board member William Thomas wrote a letter to Plaintiff, congratulating her on her election, and

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

explaining that her term would commence at the beginning of the following academic year following new member orientation. (***Johnson Deposition, p. 26, lines 3-25; p. 27, lines 1-23; Letter to Plaintiff dated April 16, 2019, attached as Exhibit "P"***). President Artis confirmed that the College's long-standing practice was for the incumbent – in this case, Dr. Darko – to complete service as the faculty-elected representative on the Board through the beginning of the following academic year, and that his successor – in this case, Plaintiff – would begin serving after new member orientation at the beginning following academic year. (***Artis Deposition, p. 148, lines 2-15***).

In any event, on May 1, 2019, at the request of Chairman Johnson, Dr. Artis sent the Board's Ad Hoc Committee on Governance a memorandum detailing whether peer institutions permitted faculty and student representatives to serve as voting members on their boards of trustees. Of the 45 institutions reviewed, fewer than 5 institutions permitted faculty and/or student representatives to be voting members of their respective Boards. With regard to the 6 HBCUs surveyed, none permitted faculty and student representatives to serve as voting members, and only one – S.C. State University – permitted these representatives to serve as non-voting members. (***Johnson Deposition, p. 33, lines 9-17; Artis Deposition, p. 152, lines 12-25; p. 153, lines 1-5; Report to the Governance Committee, May 1, 2019, attached as Exhibit "Q"***).

At the Board of Trustees meeting on May 10, 2019, the Board voted to adopt the committee's recommendation to remove the three positions – President, faculty representative, and student representative – as voting members of the Board. Chairman Johnson notified Plaintiff of the Board's decision by letter dated June 7, 2019. (***Johnson Deposition, p. 38, lines 20-25; p. 39, lines 1-11; Letter from Johnson to Plaintiff, dated June 7, 2019, attached as Exhibit "R"***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Thereafter, the Board decided to vote again on the matter at the beginning of the 2019-20 academic year, as the Board was concerned that notice of its meeting on May 10, 2019 was insufficient. (***Johnson Deposition, p. 47, lines 17-25; p. 48, lines 1-22***). For that reason, counsel for the Board contacted Plaintiff's counsel on July 25, 2019, and advised him that the Board would notify Plaintiff of the next Board meeting. (***Letter to Blaney Coskrey, July 25, 2019, attached as Exhibit "S"***).

At a special Board meeting properly noticed for September 18, 2019, the Board voted again to adopt the changes in Board membership. (***Artis Deposition, p. 184, lines 20-25; p. 185, lines 1-22***). Plaintiff received notice of the special meeting, but was recorded as "absent" from the meeting. (***Rogers Deposition, Vol. II, p. 96, lines 10-12; Notice of The Board of Trustees Special Meeting, dated September 11, 2019, attached as Exhibit "T"; Minutes of The Board of Trustees Special Meeting, September 18, 2019, attached as Exhibit "U"***). From that date, the Bylaws were updated and the organizations from which members on the Board are nominated in Article I, Section 4 of the Bylaws were reduced.[8]

C. PLAINTIFF'S EMPLOYMENT WITH BENEDICT COLLEGE IS TERMINATED IN THE FALL OF 2019.

When the Fall semester began in August 2019, Plaintiff had completed her Performance Improvement Plan and was otherwise a tenured faculty member in good standing at the College. (***Witty Deposition, p. 190, lines 10-12***). However, from the beginning of the Fall 2019 semester, students again complained about Plaintiff's conduct, such as being late, dismissing their concerns about errors in the schedule, dismissing them from the class, opining that she could not be fired,

[8] Overall, the maximum number of members who could serve on the Board was reduced from 36 to 30.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

and otherwise behaving in an unprofessional manner. (***"Chronology of Concerns" and Student Complaints, attached as Exhibit "V"***). On September 4, 2019, Plaintiff met with her new interim Dean, Dr. Richard Miller, to discuss these issues. (***Transcript of Meeting, September 4, 2019, attached as Exhibit "W"***).

By September 6, 2019, Dr. Miller reported to Dr. Witty that his review of the most recent student complaints and Plaintiff's faculty file led him to "recommend that Ms. Rogers be immediately removed from her classroom teaching responsibilities and given non-teaching duties as determined by her department chair, Dr. Leon Geter." (***Email chain, September 6-9, 2019, attached as Exhibit "X"***). Dr. Artis and Dr. Witty conferred and directed Dr. Miller to complete his review of Plaintiff's entire file and make his final recommendation. *Id*. Dr. Witty also voiced her concern that assigning Plaintiff a non-teaching position at full regular pay would be regarded as "rewarding bad behavior." (***Witty Deposition, p. 208, lines 13-21***).[9]

On September 16, 2019, Dr. Miller submitted an "Administrative Review of Faculty File of Ms. Abigail Rogers" to Dr. Witty. (***Administrative Review of Faculty File, dated September 11, 2019, attached as Exhibit "Y"; Email chain dated September 16, 2019, attached as Exhibit "Z"***). The review indicated that Plaintiff's file was "replete with multiple filings of student complaints along with documentation from academic administrators of inappropriate, unprofessional behavior, and neglect of faculty compliance with expectations…It is clear that over a lengthy period of time Ms. Rogers has exhibited a consistent pattern of disrespectful and demeaning behavior toward students, disregard of faculty expectations, poor classroom

[9] In the words of Dr. Artis, "I was unhappy with the assessment that she engaged in a pattern and practice of poor behavior and yet was suggesting I keep paying her and just find something else for her to do. We're a teaching institution." (***Artis Deposition, p. 234, lines 1-4***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

management skills, and an intimidating classroom culture." (***Exhibit "Y"***). Dr. Miller also included the following recommendation:

> Ms. Rogers should be removed from any interaction with students and, as a tenured faculty member, be assigned non-teaching responsibilities. As an interim dean of less than three (3) months, I leave it to the discretion of the Vice President for Academic Affairs, and President to pursue any additional course(s) of action.

(***Exhibit "Y"***).

However, before Dr. Witty or Dr. Artis could act on Dr. Miller's recommendation, another troubling issue came to the College's attention on September 16, 2019, primarily involving Plaintiff and student body president Jordan Rice-Woodruff, who had earlier been selected to serve as the "student representative" on the Board for the 2019-2020 school year.

At the beginning of the Fall 2019 semester, Plaintiff was concerned about the prospect of not serving her term as the faculty representative on the College's Board of Trustees. For that reason, Plaintiff sought out Jordan Rice-Woodruff to enlist his aid, and the aid of other students, in opposing changes to the membership of the College's Board of Trustees. According to Rice-Woodruff, the chronology of Plaintiff's pursuit of him is as follows:

- On August 22, 2019, Plaintiff approached Rice-Woodruff near the chapel, and told him that the faculty and student positions were in the process of being removed from the Board. (***Typed Statement of Jordan Rice-Woodruff, dated September 16, 2019, attached as Exhibit "AA"; Deposition of Jordan Rice-Woodruff, p. 19, lines 1-6***). Plaintiff identified individuals that Rice-Woodruff could contact to "help us get this overturned into our favor" (***Rice-Woodruff Deposition, p. 19, lines 10-19***).[10]

- Plaintiff also asked Rice-Woodruff to "put the matter out on social media; to spread the word to people on campuses; and also…to call those individuals [whose contacts I received from her], at which I did not." (***Rice-Woodruff Deposition, p. 20, lines 9-20***).

[10] Rice-Woodruff also wrote out part of a handwritten statement about these events as well as typing his full statement. (***Handwritten Statement attached as Exhibit "BB"***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

- Days after, Plaintiff asked another student, Henry Peterson, for Rice-Woodruff's cell phone number, which Peterson gave to Plaintiff. (***Rice-Woodruff Deposition, p. 32, lines 12-25; p. 33, lines 1-8***).

- Later, on September 12, 2019, Plaintiff again contacted Rice-Woodruff and identified numerous individuals that she wanted him to contact to "express your concern that the faculty staff and student seats are taken off the board by the Board of Trustees." (***Rice-Woodruff Deposition, p. 22, lines 7-24; p. 23, lines 14-25; p. 24, lines 1-10; p. 33, lines 9-25; p. 34, lines 1-25; Text messages from Plaintiff to Rice-Woodruff, attached as Exhibit "CC"***).

- On September 14, 2019, in an effort to prompt Rice-Woodruff to write the letters she wanted him to send to the Board members, Plaintiff sent Rice-Woodruff "buzzwords" to use in his correspondence. (***Rice-Woodruff Deposition, p. 29, lines 20-25; p. 30, lines 1-4; Exhibit "CC"***). Plaintiff also stated "Jordan you must go to social media also and get yourself some support you can't do this alone judge Rogers [*sic*]." (***Exhibit "CC"***).[11]

- Rice-Woodruff did not send out letters as Plaintiff requested. He did request a meeting with Dr. Artis and Chairman Johnson, which he later cancelled due to his own illness. (***Rice-Woodruff Deposition, p. 30, lines 7-22***).

- On September 16, 2019, Rice-Woodruff received a telephone call on his cell phone from the WIS news station, which stated that Plaintiff had "given them my contact information and they wanted to speak with me about the Board of Trustees matter." (***Rice-Woodruff Deposition, p. 39, lines 12-25; p. 40, lines 1-17; Exhibit "AA"***). Rice-Woodruff did not give Plaintiff permission to share his contact information with outside media outlets, and was alarmed that she had done so. (***Rice-Woodruff Deposition, p. 52, lines 8-16***).

- After receiving the telephone call from WIS, Rice-Woodruff went to the College's Human Resources office, and was joined there by Henry Peterson. (***Rice-Woodruff Deposition, p. 40, lines 22-25; p. 41, lines 1-22***).

[11] Rice-Woodruff also stated that, in the same telephone call on September 12, 2019, Plaintiff offered to write letters of recommendation to the USC School of Law both for him and for Henry Peterson. (***Rice-Woodruff Deposition, p. 35, lines 20-25; p. 36, lines 1-8; Exhibit "AA"***). To Rice-Woodruff, it appeared that Plaintiff was offering to write him a recommendation if he did as she asked. (***Rice-Woodruff Deposition, p. 37, lines 1-8***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

- At the HR office, Rice-Woodruff wrote out two statements. (***Rice-Woodruff statements attached as Exhibits "AA" and "BB"***). Peterson also wrote out a short statement. (***Peterson statement attached as Exhibit "DD"***). Rice-Woodruff testified that no one recommended any specific words to use in his statements, and confirmed that the events as described in his statements were true. (***Rice-Woodruff Deposition, p. 42, lines 11-22; p. 47, lines 6-20***).

Following receipt of Rice-Woodruff's and Peterson's statements, Dr. Witty decided to suspend Plaintiff without pay, and recommend to Dr. Artis that Plaintiff's employment with the College be terminated. (***Witty Deposition, p. 214, lines 4-25; p. 252, lines 12-14***).[12] Plaintiff received Dr. Witty's suspension notice on September 16, 2019, and the following day, Dr. Witty requested permission to convene the "ad hoc committee" referenced in § 6.2.5 of the College's Faculty Manual. (***Rogers Deposition, Vol. II, p. 129, lines 5-15; Suspension Letter, dated September 16, 2019, attached as Exhibit "FF"; Request to Convene the "Ad Hoc Committee," dated September 17, 2019, attached as Exhibit "GG"***).

In accordance with § 6.2.5 of the College's Faculty Handbook, on September 18, 2019, Dr. Witty convened the ad hoc committee to review her recommendation of termination. (***Witty Deposition, p. 222, lines 3-7; Exhibit "EE"***). The ad hoc committee reviewed all evidence presented to it by the College, and following its review, unanimously endorsed Dr. Witty's recommendation to terminate Plaintiff's employment. (***Recommendation of the Ad Hoc Committee, dated September 18, 2019, attached as Exhibit "HH"***).

[12] Under § 6.2.4 of the College's Faculty Manual, a tenured faculty member may be fired for "adequate cause," which includes, but is not limited to, "inability to perform essential functions of the job" to "other conduct prejudicial to the College." The same section permits the College, at its discretion, to place the faculty member on leave without pay pending the outcomes of the hearing and appeals processes. (***Policy and Procedure for Termination of Tenured Faculty, attached as Exhibit "EE"***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Thereafter, Plaintiff appealed the recommendation of the ad hoc committee to the full Faculty and Staff Grievance and Appeal Committee as permitted by § 6.2.6 of the College's Faculty Handbook.[13] In consultation with Deborah Durban, an attorney with the Nelson Mullins law firm, the College outlined hearing procedures in a letter from Durban to Plaintiff's counsel, and delivered documents to Plaintiff's counsel for use at the hearing. (***Witty Deposition, p. 232, lines 9-25; p. 233, lines 1-21; Letter of Deborah Durban, dated September 30, 2019, attached as Exhibit "II"; Email from Durban to Coskrey, dated October 9, 2019, attached as Exhibit "JJ"***).

Plaintiff and her counsel both appeared before the Faculty and Staff Grievance and Appeal Committee on October 23, 2019, and presented Plaintiff's argument. Dr. Witty presented the argument of the College. Of the eight members on the committee, six (6) voted to recommend termination, and two (2) voted against termination. (***Witty Deposition, p. 237, lines 7-18; Recommendation of the Faculty and Staff Grievance and Appeal Committee, dated October 23, 2019, attached as Exhibit "KK"***).

After receiving the recommendation of the Faculty and Staff Grievance and Appeal Committee, Dr. Artis was required to make the final decision regarding the matter. She considered the recommendation of the committee and decided that terminating Plaintiff's employment was the appropriate decision. (***Artis Deposition, p. 269, lines 7-17***). In Dr. Artis's view, Plaintiff's

[13] The Faculty and Staff Grievance and Appeal Committee is required to "review the petition for appeal and will hear the appeal within ten (10) days of receipt for appeal or as soon thereafter as feasible. The Committee will, after due deliberation, with or without the benefit of further hearings, issue its recommendation to the President." ***(§ 6.2.6(a), Exhibit "EE"***). The President of the College reviews the recommendation of the Committee and makes the final decision on the appeal. ***(§ 6.2.6(b) and (c), Exhibit "EE"***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

giving a student's personal contact information in that circumstance was "grossly inappropriate." (***Artis Deposition, p. 210, lines 15-24***).[14]

After receiving notice of Dr. Artis's final decision, Plaintiff filed her Complaint against the Defendants on November 25, 2019, and her Amended Complaint on November 27, 2019. Following discovery, Defendants now file this Motion for Summary Judgment as to each of Plaintiff's claims.

PLAINTIFF'S AMENDED COMPLAINT

1. Against **Benedict College** only, Plaintiff has brought the following claims in her Amended Complaint:

   - Breach of Contract (First Cause of Action) – Plaintiff claims that Benedict College breached its Faculty Manual by purportedly failing to abide by the procedures set forth in the College's Faculty Manual regarding her appeal of her termination in the Fall of 2019. (Amended Complaint, ¶ 90). She also claims that her termination breached the Faculty Manual's provision that tenured faculty could only be terminated "for cause." (Amended Complaint, ¶ 86).

   - Breach of Contract (Second Cause of Action) – Plaintiff claims that Benedict College breached the Faculty Manual in the way it handled her suspension with pay in the Fall of 2018. (Amended Complaint, ¶ 94).

   - Breach of Contract (Third Cause of Action) – Plaintiff claims that Benedict College breached her "Faculty Contract" for the academic year 2019-2020 when it terminated her. (Amended Complaint, ¶ 104).

[14] After the vote of the Faculty and Staff Grievance and Appeal Committee, the two members who voted against termination, Sybil Rosado and Gwendolyn Green, wrote memoranda explaining their votes. Dr. Rosado wrote to Dr. Artis to explain her vote, although Dr. Artis considered any attempt to involve her in the deliberative process of the committees to be inappropriate. (***Artis Deposition, p. 269, lines 18-25; p. 270, lines 1-22***). Dr. Green wrote to Dr. Witty to explain that she wished to change her vote and that she would "UNEQUIVOCALLY uphold that the berating needed to end and it would be YES if I could retract." (***Green email chain, dated October 24-25, 2019, attached as Exhibit "LL"***). Notably, after Ms. Durban shared Dr. Green's email with Plaintiff's counsel, Plaintiff admitted contacting at least one other faculty member concerning the email. (***Rogers, Vol. II, p. 144, lines 7-25; p. 145, 1-23***). Plaintiff's actions prompted Durban to write Plaintiff's counsel a "cease and desist" letter regarding Plaintiff's "threatening and defamatory statements" about Dr. Green and Dr. Green's child. (***Durban letter, dated November 6, 2019, attached as Exhibit "MM"***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

- Declaratory Relief (Fourth Cause of Action) – Plaintiff seeks a declaratory judgment that the action of the Board of Trustees to eliminate positions from the Board, including her own, was "unlawful." (Amended Complaint, ¶¶ 115-117).

2. Against **Benedict College and individual Defendants Artis, Witty, and Johnson**, Plaintiff has brought the following claims in her Amended Complaint:

   - Breach of Contract Accompanied by a Fraudulent Act (Fifth Cause of Action) – Plaintiff claims that the Defendants fraudulently interfered with her Faculty Contract and the Faculty Manual by "secretly" ghost-writing the student complaints that led to her termination, by "secretly encouraging" the Board of Trustees to eliminate her position, among others, from the Board, and by "improperly" encouraging others to participate in these "secret actions." (Amended Complaint, ¶ 124; ***Rogers Deposition, Vol. I, p. 111, lines 5-11***).

   - Civil Conspiracy (Seventh Cause of Action) – Plaintiff claims that Benedict College and the individual Defendants "combined for the purpose of injuring Plaintiff," but does not otherwise distinguish this cause of action from any of her other causes of action. (Amended Complaint, ¶¶ 133-138; ***Rogers Deposition, Vol. I, p. 231, lines 2-23; p. 232, lines 10-22***).

3. Against **Benedict College and individual Defendants Artis and Witty**, Plaintiff has brought the following claims in her Amended Complaint:

   - Tortious Interference with Contract (Sixth Cause of Action) – Plaintiff claims that Defendants Artis and Witty "intentionally procured" breaches of the Faculty Contract and the Faculty Manual "without justification." (Amended Complaint, ¶ 131; ***Rogers Deposition, Vol. I, p. 231, lines 24-25; p. 232, lines 1-9***).

4. Against **Benedict College and Defendant Johnson**, Plaintiff has brought the following claims in her Amended Complaint:

   - S.C. Code Ann. § 33-31-808 (Seventh Cause of Action) – Plaintiff claims that Benedict College and Defendant Johnson violated that part of the South Carolina Non-Profit Corporations Act (the "Act") that provides that "[i]f a director is elected by a class, chapter, or other organization unit…the director may only be removed by members of that class, chapter, unit, or grouping." Plaintiff believes that the action of the Board of Trustees to eliminate positions from the Board, including her position, was in violation of the Act. (Amended Complaint, ¶¶ 143, 150-152; ***Rogers Deposition, Vol. I, p. 235, lines 8-25; p. 236, lines 1-6***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

LEGAL STANDARD

A suit for declaratory judgment is neither legal nor equitable, but is determined by the nature of the underlying issues. *Loadholt v. South Carolina State Budget and Control Bd., Div. of General Services, Ins. Reserve Fund,* 339 S.C. 165, 169, 528 S.E.2d 670, 672-73 (S.C. App. 2000). "One cardinal rule of contract interpretation is to ascertain and give effect to the intention of the parties." *S.C. Dep't of Transp. v. M & T Enters. of Mt. Pleasant, LLC*, 379 S.C. 645, 655, 667 S.E.2d 7, 12 (S.C. App. 2008). In construing a contract, the court "must first look at the language of the contract to determine the intentions of the parties." *C.A.N. Enters., Inc. v. S.C. Health & Human Servs. Fin. Comm'n*, 296 S.C. 373, 377, 373 S.E.2d 584, 586 (1988). "[I]f the language is perfectly plain and capable of legal construction, it alone determines the document's force and effect." *Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC,* 374 S.C. 483, 498, 649 S.E.2d 494, 501 (S.C. App. 2007); *Kirkland v. Wolfson,* No. 2019-000203, 2022 WL 951251, at *3 (S.C. App. 2022).

As to other claims, "[s]ummary judgment is appropriate when there is no genuine issue of material fact such that the moving party must prevail as a matter of law." Rule 56, SCRCP; *Savannah Bank, N.A. v. Stalliard*, 400 S.C. 246, 250, 734 S.E.2d 161, 164 (2012) (citing *Fleming v. Rose,* 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002)).

LEGAL ARGUMENT

I. PLAINTIFF'S FIRST CAUSE OF ACTION FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT SUGGESTING THAT BENEDICT COLLEGE BREACHED ANY PROVISION OF THE FACULTY MANUAL REGARDING HER TERMINATION IN 2019.

Plaintiff's First Cause of Action is a claim for a Breach of Contract against the College based on her termination in 2019. Plaintiff claims that the College breached its Faculty Manual in the following ways:

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

(a) by failing to comply with the procedures set forth in the Faculty Manual, including Section 6.2.5.

(b) by failing to give Plaintiff notice of the Ad Hoc Committee hearing.

(c) by failing to provide for a "fair" and "impartial" hearing, or to allow for a consideration of "all the evidence."

(d) by imposing improper and unlawful restrictions on Plaintiff's participation in the hearing of the Faculty and Staff Appeals Committee, including, inter alia, not being allowed to present witnesses, not being allowed to have the full participation of counsel, not being allowed to cross-examine witnesses; not being informed of the specific bases for the termination; not being informed of the names of the students who allegedly complained; not being allowed to call those students as witnesses; and being limited to thirty minutes in her defense.

(e) by failing to apply the applicable standard for termination of a tenured faculty member, and

(f) by incorrectly finding the standard for termination of Plaintiff had been met.

(Plaintiff's Amended Complaint, ¶ 90). Plaintiff is not aware of any other way that the College may have breached the Faculty Manual. (***Rogers Deposition, Vol. I, p. 28, lines 14-25; p. 29, lines 1-6***).

Plaintiff's First Cause of Action is governed in large part by the South Carolina Supreme Court's recent ruling in *Crenshaw v. Erskine College*, 432 S.C. 1, 20, 850 S.E.2d 1, 11 (2020), which held that a tenured faculty member can sue for breach of contract based on alleged breaches of provisions of a faculty manual related to termination of employment. In describing the nature of this type of action at a private college, like Benedict College, the Supreme Court stated as follows:

> Erskine College is a private institution. This case, therefore, is not about tenure. This case is not about whether Erskine denied Crenshaw due process, academic freedom, or free speech. This case is not about whether Crenshaw was correct the student should be taken to the hospital for evaluation, or whether Erskine's alleged "protocol" was medically unsound and Crenshaw was justified in criticizing it. This case is not about whether Crenshaw should be free to publicly criticize Erskine, or publicly argue it should split from the church. **Rather, this is an ordinary breach**

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

of contract case in which the terms of the contract are set forth in The College Faculty Manual.

432 S.C. at 9-10, 850 S.E.2d at 18 (emphasis added).

Plaintiff's First Cause of Action fails initially because Plaintiff cannot point to a single procedure in §§ 6.2.4, 6.2.5, or 6.2.6 of the Faculty Manual that the College breached, or any damage that may have resulted from any alleged breach. With regard to the initial procedures for terminating tenured faculty members for cause, § 6.2.5 provides as follows:

1. Action to terminate a faculty member for cause may be initiated by any Department Chair, Assistant or Associate Dean of a School, the Academic Vice President, or President upon determination that probable cause may exist to justify termination of the faculty member.

2. The initiating party must submit a written request to the Academic Vice President requesting the convening of a faculty hearing committee to consider the charges or other circumstances motivating the request to terminate the faculty member.

3. With the consent of the President the Vice President for Academic Affairs will convene a standing or Ad Hoc faculty hearing Committee.

4. The hearing committee will conduct a fair and impartial hearing of all the evidence and make a recommendation to the Vice President for Academic Affairs.

5. The Vice President for Academic affairs will review the decision concerning the matter and notify both the initiating party, the faculty member, and the Dean of the decision.

(***Exhibit "EE"***).

As set forth in great detail above, Dr. Witty had significant reason to initiate the action to terminate Plaintiff's employment. After the events of 2018 and the Performance Improvement Plan resulting therefrom, Plaintiff was once again the subject of numerous student complaints in the beginning of the Fall 2019 semester. After a review of these incidents, and Plaintiff's complete file, Dr. Miller recommended – at the very least – that Plaintiff should be removed from class, and

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

that Drs. Witty and Artis may consider other sanctions as well. While Dr. Witty was reviewing Dr. Miller's recommendation, Jordan Rice-Woodruff reported additional misconduct by Plaintiff that included Plaintiff's release of his personal contact information to outside media outlets without his consent for her own purposes. (***Witty Deposition, p. 255, lines 14-17***). Specifically with regard to Jordan Rice-Woodruff, Dr. Witty testified as follows:

> Because my understanding was that he felt uncomfortable with his personal information being used that way and that was not what he thought he was getting himself into. And so that was another example, from my perspective, of a student being placed in a circumstance as a result of the faculty member where they felt unsafe.

(***Witty Deposition, p. 252, lines 19-25***). These events provided ample reason for Dr. Witty to initiate termination proceedings against Plaintiff.

As the initiating party, Dr. Witty directly requested permission from Dr. Artis to convene the ad hoc committee, as the Faculty Manual provides, and which Dr. Artis granted.

While Plaintiff complains that she was not given notice of the meeting of the ad hoc committee, such notice is not required by the Faculty Manual. Plaintiff also has failed entirely to produce any evidence that creates a genuine issue of material fact that the ad hoc committee members did not conduct a "fair" and "impartial" review of the matter, or did not consider "all the evidence" to its complete satisfaction.[15]

With the regard to the hearing before the Faculty and Staff Grievance and Appeal Committee, Plaintiff again has failed entirely to produce any evidence that creates a genuine issue of material fact in support of her First Cause of Action, where § 6.2.6 provides that:

[15] According to Dr. Artis, the Ad Hoc committee serves to "consider charges or other circumstances that motivated the request to terminate. So what -- on what basis was there a request to terminate made? It sounds like a probable-cause hearing for the most part for me -- to me." (***Artis Deposition, p. 131, lines 4-9***).

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

(a) The Vice President for Academic Affairs will convene the Faculty and Staff Appeals Committee. The Committee will review the petition for appeal and will hear the appeal within ten (10) days of receipt of the appeal or as soon thereafter as feasible. The Committee will, after due deliberation, with or without the benefit of further hearings, issue its recommendation to the President.

(b) The President will review the recommendation of the Appeals Committee and make the final decision concerning whether to uphold, vacate, or modify the recommendation of the Appeals Committee. The President will then notify all parties of the final decision.

(c) The decision of the President is final and no further appeal is possible.

(***Exhibit "EE"***). In this case, the Faculty and Staff Grievance and Appeal Committee convened on October 23, 2019, which was a date mutually chosen by the parties. It reviewed Plaintiff's petition. Although not required by § 6.2.6, it actually heard argument from both Plaintiff and Dr. Witty. Plaintiff could present any supporting documentation she wished. Committee members were free to ask any questions they wished. The College provided all documents to Plaintiff's counsel that it provided to the committee. (***Exhibit "GG"***). These measures far exceed anything "required" by the Faculty Manual.

Finally, Plaintiff has failed to produce any evidence that creates a genuine issue of material fact in support of her claim, other than her own opinion, that the College did not have "adequate cause" to fire her. Indeed, at every turn, from Dr. Witty's initial recommendation, to the recommendation of the Ad Hoc committee, to the recommendation of the Faculty and Staff Grievance and Appeal Committee, to the ultimate decision of Dr. Artis as President of the College, each level concluded that adequate cause existed to terminate Plaintiff's employment.

For instance, Dr. Artis, the ultimate decision maker in this matter, testified as follows with regard to Jordan Rice-Woodruff's complaints about Plaintiff:

Q. Which of the facts contained in Exhibit 33, the alleged facts, in your mind reflect behavior by Professor Rogers warranting termination?

A. ["]She continued to contact me throughout the weekend, providing numbers and email addresses. I received a call from WIS News Station stating Rogers had given them my contact information and they wanted to speak to me about the board of trustees matter.["][16] **You gave a reporter a student's personal contact information. That is grossly inappropriate**.

Q. All right. So giving the number was inappropriate. Was having –

A. Absolutely. Without his permission?

Q. Well, we'll come back to that. Was having the discussion with him about board composition inappropriate, in your opinion?

A. Yes. I think it was.

Q. Why is that? I mean, why was that crossing the line?

A. Because this conversation is couched as though it were expressed -- an expression of concern for the students when, in fact, obviously, this has a lot more to do with her in her role than it does with these students. **And so to pull these students in as your personal army to try to effectively create a smokescreen and negative PR, encouraging them to go to social media and all those sorts of things, I think it's really beneath an adult**.

Q. In what way? I mean, why, if the board composition issue affected both the students and their representative as well as the faculty and their representative, why is it inappropriate to discuss that common concern?

A. I don't have a challenge with discussing a common concern, but everything in here relates directly to the students. If Ms. Rogers had an issue then Ms. Rogers can pursue that issue, as she has chosen to do. Why is it necessary to engage the students and encourage them to place confidential board matters by the way, in social media. It's just grossly inappropriate. It's my opinion and I stand by it. I think this is grossly inappropriate and beneath an adult.

Q. And I'm trying to understand which part of that? And I understand the giving the number out. We'll talk about that more in a minute, but I'm trying to be precise about why, in your view, if the student rep and the faculty rep shared the same interest of board representation, why that conversation would be inappropriate in your view?

A. Because the student clearly has demonstrated more emotional intelligence in saying, no, we are not going to post to social media, we're going to do the proper

[16] At direction of opposing counsel, Dr. Artis quoted from the document attached to this motion as Exhibit AA.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

> thing and speak to Dr. Artis and the board chairman concerning this matter on the representative. No, no, no, it would not be best to talk to Dr. Artis. Why? You are encouraging a student to go around – **it doesn't matter how many times you ask me, my opinion is that this is grossly inappropriate**.

(***Artis Deposition, p. 210, lines 15-25; p. 211, lines 1-25; p. 212, lines 1-22***) (emphasis added).

Under South Carolina law, where an employee can only be fired "for cause," the focus of the court's inquiry is not whether the employee actually committed misconduct, but instead on whether the employer had a **reasonable good faith belief** that sufficient cause existed for the employee's termination. *Conner v. City of Forest Acres,* 348 S.C. 454, 464–65, 560 S.E.2d 606, 611 (2002); *Horton v. Darby Elec. Co.*, 360 S.C. 58, 68, 599 S.E.2d 456, 461 (2004) (summary judgment appropriate where "appellant's conduct was serious enough to proceed directly to termination"); *Lingard v. Carolina By-Prod.*, 361 S.C. 442, 452, 605 S.E.2d 545, 550 (S.C. App. 2004) (the conclusions of employers "do not have to be uncontested fact, but must instead simply be supported by enough evidence to support their good faith belief in the cause for termination"); *Nelson v. Charleston Cnty. Parks & Recreation Comm'n*, 362 S.C. 1, 11, 605 S.E.2d 744, 749 (S.C. App. 2004) (same).

The evidence of Plaintiff's misconduct in this matter does not merely support a "good faith belief" that termination was justified, it is overwhelming. Even in the face of misconduct allegations in 2018, Plaintiff was not terminated at that time, or even docked one dime of pay. When Plaintiff's misconduct allegations again arose in 2019, Dr. Witty received statements not only from complaining students in Plaintiff's classes, but also from Messrs. Rice-Woodruff and Peterson. There is absolutely no admissible evidence in the record that anyone other than Rice-Woodruff and Peterson wrote their statements. In fact, Plaintiff's unsupported assertions that Rice-Woodruff did not write his statement is refuted directly by Rice-Woodruff's own sworn testimony, and in any event, is insufficient to withstand summary judgment. "South Carolina courts have

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

consistently held evidence must amount to more than speculation and conjecture to submit a case to the jury." *McKnight v. S.C. Dep't of Corr.*, 385 S.C. 380, 389, 684 S.E.2d 566, 570 (S.C. App. 2009).

For these reasons, Plaintiff's First Cause of Action must be dismissed with prejudice.

II. PLAINTIFF'S SECOND CAUSE OF ACTION FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT SUGGESTING THAT BENEDICT COLLEGE BREACHED ANY PROVISION OF THE FACULTY MANUAL REGARDING HER SUSPENSION IN 2018.

Plaintiff's Second Cause of Action is a claim for a Breach of Contract against the College for allegedly failing to "follow contractually binding procedures in its handling of student complaints and the resulting grievance" with regard to Plaintiff's suspension from class with pay in October 2018, referencing § 7.2 of the Faculty Manual. (Amended Complaint, ¶¶ 94-95). Specifically, Plaintiff claims that the College "failed to allow Plaintiff a formal hearing before the Grievance and Appeals Committee as provided in Section 7.2(3) and 7.2(4)." (Amended Complaint, ¶ 94).

Because Plaintiff did not lose any pay during her suspension from teaching class, the relief she is seeking under this cause of action is unknown. (***Rogers Deposition, Vol. I, p. 65, lines 1-8***). In fact, even though she was asked on three separate occasions whether she could identify any compensatory loss related to this claim, Plaintiff answered that she "cannot recall at this particular time," she "can't answer that," or she "[does] not remember." (***Rogers Deposition, Vol. I, p. 63, lines 19-25; p. 64, lines 1-25; p. 65, lines 1-8***).

More importantly, as set forth above, Plaintiff cannot refute that the College offered to schedule a hearing before the Faculty & Staff Grievance and Appeals Committee on this matter, and was willing to do so once Plaintiff submitted her list of witnesses – including students – that she wished to call before the Committee. (***Exhibit "N"***). Plaintiff does not know if she or her

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

counsel ever submitted her list of witnesses to the College, or ever responded otherwise to the College's request for this information. (***Rogers Deposition, Vol. I, p. 62, lines 4-8; p. 63, lines 8-18***). Because the College has never received such a list from Plaintiff or her counsel, this grievance hearing has not been scheduled. In short, this record does not describe or even suggest a breach of contract by Benedict College.

Plaintiff also fails to suggest how the College failed to abide by § 7.2 of the Faculty Manual. For instance, § 7.2.4 provides that, "[u]pon receipt of a written request for a formal hearing, the Committee will then issue a written invitation to the faculty member to attend a formal hearing. The parties may bring an advisor or counsel. The Faculty Grievance and Appeals Committee has a right to utilize the services of an attorney provided by the College." The College issued such an invitation to Plaintiff and her counsel. (***Exhibit "N"***). In fact, at this point, Plaintiff does not even know if she wants the proceed with the grievance hearing. (***Rogers Deposition, Vol. I, p. 59, lines 22-25; p. 60, lines 1-4***).

The elements for a breach of contract are the existence of a contract, its breach, and damages caused by such breach. *Hotel & Motel Holdings, LLC v. BJC Enterprises, LLC*, 414 S.C. 635, 652, 780 S.E.2d 263, 272 (S.C. App. 2015). The record shows no evidence of at least two of these three basic elements. Presuming Plaintiff had a contractual right to a hearing, the College has offered to schedule it and to assist with witnesses. (***Exhibit "N"***). Plaintiff also cannot identify with any specificity any damages she might recover under this cause of action. (***Rogers Deposition, Vol. I, p. 63, lines 19-25; p. 64, lines 1-25; p. 65, lines 1-8***).

Because Plaintiff cannot establish at least two of these three basic elements of her Second Cause of Action, it must be dismissed with prejudice.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

III. PLAINTIFF'S THIRD CAUSE OF ACTION FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT SUGGESTING THAT BENEDICT COLLEGE BREACHED ANY PROVISION OF ITS "FACULTY CONTRACT" WITH PLAINTIFF REGARDING HER TERMINATION IN 2019.

Plaintiff's Third Cause of Action is a claim for a Breach of Contract against the College for an alleged breach of Plaintiff's "Faculty Contract" signed on August 7, 2019, for the academic year 2019-2020. (***Faculty Contract attached as Exhibit "NN"***). This contract is similar to all faculty contracts signed by the College's faculty members from year to year.

Plaintiff claims not to know whether her Faculty Contract for the 2019-2020 academic year could be ended prior to the end of the academic year. Illustrative of her testimony was this answer at her deposition:

> Q. My question to you is in terms of your allegation that Benedict College violated the faculty contract, is your allegation that the faculty contract itself is violated because it does not state that you can be fired for cause?
>
> MR. COSKREY: Form objection.
>
> A. I can't answer that.
>
> Q. Okay. Well, ma'am, when you read the complaint and thought it was true before it was filed, what did you consider the third cause of action to be attempting to address?
>
> MR. COSKREY: Form objection.
>
> A. That there were no grounds for termination. To the extent that the law implies and allows grounds for termination, in the absence of express grounds, those grounds were not present here. And there were no grounds to fire me.

(***Rogers Deposition, Vol. I, p. 86, lines 5-22; see also p. 88, lines 4-22 and p. 91, lines 3-9***).

To the extent Plaintiff alleges that she cannot be fired because her "Faculty Contract" – as opposed to the Faculty Manual – lacks a specific termination provision, such a claim is ridiculous. The Faculty Contract itself references Plaintiff's "acceptance of this appointment and conditions

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

pertaining thereto." (***Exhibit "NN"***). It also requires faculty members, including Plaintiff, to "fulfill responsibilities to the specifications above or in other capacities compatible with his/her qualifications." (***Exhibit "NN"***). As set forth above at length, the College had ample evidence to demonstrate that Plaintiff failed to "fulfill responsibilities" of this type. For example, these conditions and responsibilities include those stated in § 4.3.2 of the Faculty Manual, such as "respect and support for all students" or the expectation to "meet every class promptly and on time." ***(§ 4.3.2 of the Faculty Manual, attached as Exhibit "OO"***). Because the College viewed Plaintiff's misconduct as "adequate cause" for her termination, Plaintiff was fired.

In fact, even Plaintiff does not appear to believe that she was immune from termination, as the Amended Complaint also states that "[t]o the extent the law implies or allows grounds for termination in the absence of express grounds, those grounds were not present here." (Amended Complaint, ¶ 105). Thus, to that extent, Plaintiff's Third Cause of Action mirrors her First Cause of Action, and for the same reasons that the First Cause of Action fails, the Third Cause of Action must also fail.

For these reasons, Plaintiff's Third Cause of Action must be dismissed with prejudice.

IV. PLAINTIFF'S FOURTH CAUSE OF ACTION FAILS BECAUSE (1) IT IS MOOT AND THERE IS NO JUSTICIABLE ISSUE THAT A DECLARATORY JUDGMENT CAN RESOLVE, AND (2) BENEDICT COLLEGE CORRECTLY CONSTRUED AND AMENDED ITS OWN BYLAWS REGARDING MEMBERSHIP OF ITS BOARD OF TRUSTEES.

Plaintiff's Fourth Cause of Action requests that this Court issue a Declaratory Judgment that "she was wrongfully denied her position on the Benedict College Board of Trustees, that as a result of her election to the Board on April 11, 2019, she has held and still holds such position, that all actions taken by the Board since her denial are of no legal effect." (Amended Complaint,

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

¶ 108). For the reasons set forth below, Plaintiff's claim has no merit and must be dismissed with prejudice.

In April 2019, the College's Bylaws provided that the one member of the Board would be elected annually by the faculty and another would be elected by the student body. ***("Pre-Amendment" Bylaws, Article 1, Section 4, attached as Exhibit "PP"***). In pertinent part, the pre-amendment Bylaws also provided for the following:

- The Board is "self-perpetuating and independent of any control other than this Board in both memberships for the Board and policy of this institution." (***Article I, Section 1, Exhibit "PP"***).

- The Board "shall have the authority to carry out all lawful functions that are permitted by these bylaws or by the articles of incorporation." (***Article I, Section 2, Exhibit "PP"***).

- The Bylaws "may be amended or repealed at a special meeting of the Board by vote of two-thirds of the member[s] present, provided that an exact statement of the proposed amendment or intention to repeal has been provided to the Board of Trustees with the call of the meeting." (***Article VIII, Section 2, Exhibit "PP"***).

- One-third of Board members are elected at the Annual Meetings of the Board and would serve a three-year term, "with the exception that faculty and staff trustees ***shall be elected*** from April to April, unless the official connection as faculty or student is served prior to the expiration of the term." (***Article I, Section 3, Exhibit "PP"***) (emphasis added).

The gravamen of Plaintiff's is her complaint that she wanted to be seated as the "faculty representative" on the Board immediately after her election in April 2019. Instead, consistent with the College's prior practice, Dr. Darko remained as the faculty representative on the Board until the end of the summer in 2019. (***Artis Deposition, p. 148, lines 2-15***). Plaintiff alleged that Bylaws stated that her "term" ran from April to April, although the actual language in the pre-amendment[17]

[17] The Bylaws in effect prior to the amendments approved on September 18, 2019, are referenced in this Brief as the "pre-amendment Bylaws".

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Bylaws clearly stated that the faculty trustee "shall be ***elected*** from April to April." (Amended Complaint, ¶ 111; ***Article I, Section 3, Exhibit "PP"***). Plaintiff also claims that the amendments that eliminated seats from the Board in September 2019 – including the President's seat, the seat for the student representative, and the seat for a faculty representative – were unlawful and violated S.C. Code Ann. § 33-31-808(b), which provides that "[i]f a director is elected by a class, chapter, or other organizational unit or by region or other geographic grouping, the director may be removed only by the members of that class, chapter, unit, or grouping." Finally, although apparently unrelated to her request for a Declaratory Judgment, she also alleges that these amendments passed in September 2019 were the result of "improper meddling and influence by persons [who] have no rightful authority or position." (Amended Complaint, ¶ 115).

A. PLAINTIFF'S FOURTH CAUSE OF ACTION IS MOOT AND DOES NOT PRESENT A "JUSTICIABLE CONTROVERSY."

Under the Declaratory Judgment Act, courts only consider cases presenting a justiciable controversy. *Tourism Expenditure Rev. Comm. v. City of Myrtle Beach*, 403 S.C. 76, 81, 742 S.E.2d 371, 374 (2013); *Byrd v. Irmo High School*, 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996). A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract. *Id* at 431, 468 S.E.2d at 864. By contrast, a "moot" case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court. *Mathis v. South Carolina State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973). If there is no actual controversy, this Court will not decide moot or academic questions. *Id.* (citing *Jones v. Dillon–Marion Human Res. Dev. Comm'n.*, 277 S.C. 533, 535, 291

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

S.E.2d 195, 196 (1982)); *see also Wallace v. City of York*, 276 S.C. 693, 694, 281 S.E.2d 487, 488 (1981).

This cause of action has become moot on two separate grounds. First, as more fully set forth below, the Board lawfully changed the structure of its membership in September 2019 under the provisions of the College's Bylaws and the South Carolina Non-Profit Corporation Act (the "Act"). As a result of that change, there is no longer a "faculty representative" seat on the Board, and there is no such seat on the Board for Plaintiff to presently occupy. Thus, she has no "position" on the Board into which the Court can place her. Second, even if Plaintiff's interpretation of the pre-amendment bylaws was accurate, her term would have expired in April 2020. Plaintiff is simply not entitled, under any theory of law, to perpetual membership on the Board.[18] *See Sasser v. S.C. Democratic Party*, 277 S.C. 67, 69, 282 S.E.2d 602, 604 (1981) ("In the instant case, the election has already occurred. It is therefore our determination that the issues raised by this action have been rendered moot."); *City of Charleston v. Masi*, 362 S.C. 505, 508, 609 S.E.2d 301, 303 (2005) ("We find the District correctly argues that this case regarding the Town residents' entitlement to vote in the District elections and the entitlement to serve as a District commissioner is moot given that the Town is a nullity.").

Two exceptions in which the court may address an issue despite mootness are (1) when the issue raised is capable of repetition, yet evading review, and (2) when the question considers matters of important public interest. *Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 26-27, 630 S.E.2d 474, 478 (2006). Neither exception applies here. As to the first exception, if a similar issue arises, the court will again have an opportunity to review the issue. *Id*. at 27, 630 S.E.2d at 478

[18] In fact, because the College terminated Plaintiff's employment in 2019, her "official connection as faculty" with the College ended prior to the expiration of the term, and she could not continue as a member of the Board under its pre-amendment Bylaws. (***Article I, Section 3, Exhibit "PP"***).

("Although Friends admits that the current situation is capable of repetition, it does not evade review. Should another person bring an action against Friends for a violation of FOIA and Friends fails to produce the requested documents, the Court will have the opportunity to review the issue.") (*citing Seabrook v. City of Folly Beach*, 337 S.C. 304, 307, 523 S.E.2d 462, 463 (1999)). To determine whether the second exception applies – "matters of important public interest" – the court must find that the issue presents "questions of imperative and manifest urgency." *Sloan v. Greenville Cnty.*, 361 S.C. 568, 571, 606 S.E.2d 464, 466 (2004). In light of the fact that Plaintiff's "term" has long since expired, and that the College amended its Bylaws in a manner that moots the entire issue, the matter cannot, as a matter of law, present any question of "imperative and manifest urgency." *Id.* at 572, 606 S.E.2d at 466 ("In light of these developments, we hold there is no imperative or manifest urgency in obtaining an advisory opinion on the application of an obsolete procurement ordinance to these completed projects.").

For these reasons alone, her Fourth Cause of Action must be dismissed with prejudice.

B. BENEDICT COLLEGE CORRECTLY CONSTRUED AND AMENDED ITS OWN BYLAWS REGARDING THE MEMBERSHIP OF ITS BOARD OF TRUSTEES.

Even if Plaintiff's Fourth Cause of Action was not moot, and she could present a justiciable controversy, it would still fail. The Board's interpretation of its pre-amendment Bylaws was well within its latitude, and in amending the Bylaws, the Board stayed well within the spirit and letter of the existing Bylaws and the Act.

The College's pre-amendment practice of permitting an incumbent faculty representative to serve on the Board until the end of the summer, and for newly-elected faculty representative to begin his or her term at the beginning of the academic year following his or her election in April, is certainly not forbidden in the pre-amendment Bylaws. It is undisputed that Dr. Darko served

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

on the Board through the end of the summer of 2019, and it is undisputed that Plaintiff received timely notice of the special meeting of the Board called in September 2019.

Further, Plaintiff's reliance on S.C. Code Ann. § 33-31-808(b) is entirely misplaced. That statute addresses the "removal" of a particular director, not the permanent deletion of a number of positions on a board of directors. In fact, the Act specifically permits a board of directors to increase or decrease the number of directors on the board "by amendment to or in the manner prescribed in the articles or bylaws." S.C. Code Ann. § 33-31-803(b); *see also* S.C. Code Ann. § 33-31-1021 (authorizing a board of directors to amend or repeal the corporation's bylaws). By ignoring S.C. Code Ann. §§ 33-31-803(b) and 33-31-1021, Plaintiff also ignores the "cardinal rule of statutory construction" that, to ascertain and effectuate the actual intent of the legislature, "statutes which are part of the same Act must be read together." *Burns v. State Farm Mut. Auto. Ins. Co.*, 297 S.C. 520, 522, 377 S.E.2d 569, 570 (1989). Further, sections which are part of the same general statutory law of the state must be construed together, and each provision must be given effect, if it can be done by any reasonable construction. *Smalls v. Weed***,** 293 S.C. 364, 370 360 S.E.2d 531, 534 (S.C. App. 1987) (quoting *State v. Fidelity & Deposit Co. of Maryland,* 114 S.C. 511, 104 S.E. 182 (1920)). Plaintiff's argument, if accepted, would require the Court to ignore the difference between removing a specific director and the Board's unquestioned authority – under both the Act and the pre-amendment Bylaws – to determine the number of directors on the Board, to amend its own Bylaws, and to determine membership on the Board.

Under the pre-amendment Bylaws, the College's Board had every right to amend the Bylaws in the manner it did. The Board was, and remains, a "self-perpetuating and independent of any control other than this Board in both memberships for the Board and policy of this institution." (***Article I, Section 1, Exhibit "PP"***). The Bylaws could be "amended or repealed at

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

a special meeting of the Board by vote of two-thirds of the member[s] present, provided that an exact statement of the proposed amendment or intention to repeal has been provided to the Board of Trustees with the call of the meeting." (***Article VIII, Section 2, Exhibit "PP"***). Timely notice for the special meeting on September 18, 2019 was given on September 11, 2019 in accordance with the notice provisions of the pre-amendment Bylaws. (***Article II, Section 4, Exhibit "PP"; Exhibit "T"***). Thus, the College and its Board were perfectly within their latitude to interpret their Bylaws and act as they did.

For these reasons alone, Plaintiff's Fourth Cause of Action must be dismissed with prejudice.

V. PLAINTIFF'S FIFTH CAUSE OF ACTION FOR A "BREACH OF CONTRACT ACCOMPANIED BY A FRAUDULENT ACT" FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT IN THE RECORD SUPPORTING THE CLAIM'S ELEMENTS.

Plaintiff's Fifth Cause of Action is a claim for "Breach of Contract Accompanied by a Fraudulent Act" against Benedict College and individual Defendants Artis, Witty, and Johnson. (***Rogers Deposition, Vol. I, p. 111, lines 3-11***). Specifically, Plaintiff alleges that her "2019-2020 Faculty Contract and the Benedict College Faculty Manual constitute binding contracts" with Benedict College, and that each of the Defendants "breached one or more of Plaintiff's contracts with Benedict as described hereinabove." (Amended Complaint, ¶¶ 121-122). Plaintiff also alleges that the Defendants "had fraudulent intent relating to the breaching of the contract" and that they "engaged in fraudulent acts accompanying the breach," in that they:

(a) secretly participated in the composition, choice of words, writing, and content of student statements;

(b) well exceeded the scope of their responsibilities by secretly encouraging the Board of Directors, including Defendant Johnson, to exclude Plaintiff from her rightful position on the Board.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

(c) improperly encouraged other persons, including Benedict employees whose livelihoods were dependant [*sic*] on Defendants, to participate in their secret actions.

(Amended Complaint, ¶¶ 123-124). For the reasons set forth below, Plaintiff's Fifth Cause of Action fails and must be dismissed with prejudice.

In order to maintain a claim for breach of contract accompanied by fraudulent act, a plaintiff must prove three elements: (1) a breach of contract; (2) fraudulent intent relating to the breaching of the contract, not merely to its making; and (3) a fraudulent act accompanying the breach. *Hotel & Motel Holdings, LLC v. BJC Enterprises, LLC*, 414 S.C. 635, 654, 780 S.E.2d 263, 273-74 (S.C. App. 2015). "With regard to the third element of this claim, the standard of proof of clear and convincing evidence is applicable." *Osborn v. Univ. Med. Assocs. of Med. Univ. of S.C.*, 278 F. Supp. 2d 720, 740 (D.S.C. 2003).

As an initial matter, as set forth above in the discussion of Plaintiff's First, Second, and Third Causes of Action, Plaintiff cannot maintain any of her claims for Breach of Contract. This is fatal to her claim for breach of contract accompanied by fraudulent act. *Hotel & Motel Holdings, LLC*, 414 S.C. at 654, 780 S.E.2d at 274; *Curtis v. Cafe Enterprises, Inc.*, 715 Fed. App'x 268, 270 (4th Cir. 2017) ("Further, because Curtis' evidence does not support a claim for breach of contract, it cannot support the claim of breach of contract accompanied by a fraudulent act."). For this reason alone, her claim must be dismissed with prejudice as to all Defendants.

Further, Plaintiff also cannot present admissible evidence supporting the second and third elements of the claim. For instance, there is no evidence in the record that anyone "secretly participated in the composition, choice of words, writing, and content of student statements," and Jordan Rice-Woodruff's sworn testimony actually refutes Plaintiff's allegations on that point. (***Rice-Woodruff Deposition, p. 42, lines 11-22; p. 47, lines 6-20***). Other than Plaintiff's own self-

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

serving conjecture, there is no admissible evidence in the record that anyone at the College "secretly encourage[ed] the Board of Directors, including Defendant Johnson, to exclude Plaintiff from her rightful position on the Board," or that anyone was "improperly encouraged" to "participate in [the Defendants'] secret actions." (Amended Complaint, ¶ 124).

For these reasons, Plaintiff's Fifth Cause of Action must be dismissed with prejudice as to all Defendants.

VI. PLAINTIFF'S SIXTH CAUSE OF ACTION FOR "TORTIOUS INTERFERENCE WITH CONTRACT" FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT IN THE RECORD SUPPORTING THE CLAIM'S ELEMENTS.

Plaintiff alleges her Sixth Cause of Action for "Tortious Interference with Contract" against Defendants Benedict College and individual Defendants Artis and Witty. (***Rogers Deposition, Vol. I, p. 203, lines 12-25; p. 204, lines 1-2***). Plaintiff claims that Benedict College, Artis, and Witty "intentionally procured the breaches and/or otherwise interfered with the [Faculty Manual and Plaintiff's Faculty Contract]." (Amended Complaint, ¶¶ 127, 131). For the reasons set forth below, Plaintiff's Sixth Cause of Action fails and must be dismissed with prejudice.

To establish a cause of action for tortious interference with contractual relations, a plaintiff must show: (1) the existence of a contract; (2) knowledge of the contract; (3) intentional procurement of its breach; (4) the absence of justification; and (5) resulting damages. *Eldeco, Inc. v. Charleston Cnty. Sch. Dist.*, 372 S.C. 470, 480, 642 S.E.2d 726, 731 (2007).

As with Plaintiff's Fifth Cause of Action, where there is no breach of contract, there can be no recovery for "Tortious Interference with Contract." Thus, as set forth above in the discussion of Plaintiff's First, Second, and Third Causes of Action, because Plaintiff cannot maintain any of

her claims for Breach of Contract, she also cannot maintain a claim for "Tortious Interference with Contract." *Eldeco*, 372 S.C. at 481, 642 S.E.2d at 732.[19]

Further, because Benedict College is a party to the two contracts referenced in Plaintiff's Sixth Cause of Action – the Faculty Manual and Plaintiff's Faculty Contract – the College cannot be a proper party to this claim, and it must be dismissed from this claim with prejudice. *Dutch Fork Dev. Grp. II, LLC v. SEL Properties, LLC*, 406 S.C. 596, 604, 753 S.E.2d 840, 844 (2012) ("one cannot be held liable for tortious interference with a contract to which he is a party"); *Threlkeld v. Christoph,* 280 S.C. 225, 227, 312 S.E.2d 14, 15 (S.C. App. 1984). Similarly, to the extent that Drs. Witty and Artis acted within the scopes of their employment with the College regarding an alleged breach of a contract, they are similarly immune from a claim for tortious interference with the contract. *Dutch Fork Dev. Grp. II, LLC*, 406 S.C. at 605, 753 S.E.2d at 844.

Furthermore, there is no admissible evidence supporting Plaintiff's allegation that Benedict College, Dr. Witty, or Dr. Artis acted "outside the scope of their proper roles and of their authority" at any time with regard to Plaintiff's contracts, or how these alleged acts related to an intentional procurement of a breach of contract, or an absence of justification regarding such a breach. In fact, other than making this conclusory allegation, and the equally unsupported allegation that the Defendants acted "with personal motivation," there is simply no admissible evidence in the record that supports any of these allegations.

[19] To the extent Plaintiff bases any Breach of Contract claim, or variant thereof, on the College's decisions related to her participation or membership on the Board of Trustees, her claim suffers the same fate. She cannot show that any contract was "breached" by those decisions or events, and for those reasons, any related claim must be dismissed with prejudice. Notably, neither the Faculty Manual nor Plaintiff's annual Faculty Contract address or promise membership on the Board of Trustees.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

For these reasons, Plaintiff's Sixth Cause of Action must be dismissed with prejudice as to all Defendants.

VII. PLAINTIFF'S SEVENTH CAUSE OF ACTION FOR "CIVIL CONSPIRACY" FAILS BECAUSE (1) IT IS BARRED BY THE INTRACORPORATE CONSPIRACY DOCTRINE, (2) IT IS BARRED BY THE LACK OF "ADDITIONAL ACTS" IN SUPPORT OF THE CLAIM, AND (3) PLAINTIFF'S FAILURE TO PRODUCE ADMISSIBLE EVIDENCE SUPPORTING THE CLAIM'S ELEMENTS.

Plaintiff alleges her Seventh Cause of Action for "Civil Conspiracy" against Defendants Benedict College and individual Defendants Artis, Witty, and Johnson. (***Rogers Deposition, Vol. I, p. 231, lines 9-25; p. 232, lines 1-22***). This cause of action incorporates and repeats the allegations supporting her other claims, and adds no new additional acts in support of her civil conspiracy claim. For instance, in her claims for "Breach of Contract Accompanied by a Fraudulent Act" and "Tortious Interference with Contract," Plaintiff claims that Dr. Witty, Dr. Artis, and Chairman Johnson "well exceeded the scope of their responsibilities" and acted "with personal motivation" and "outside the scope of their proper roles and of their authority." (Amended Complaint, ¶¶ 124, 131). The allegations mirror Plaintiff's allegations in support of her civil conspiracy claim stated as follows:

> 134. As a result of their personal goals related to Plaintiff as described herein, which were unrelated to any legitimate Benedict goals, Defendants Witty, Artis, and Johnson were at times acting outside the scope of their agency with Benedict.
>
> 135. Defendants Witty, Artis, and Johnson had their own independent personal stakes in achieving the unlawful objectives of violating Plaintiff's rights.

(Amended Complaint, ¶¶ 134-135). Plaintiff herself cannot explain the differences between her allegations supporting her other claims and her civil conspiracy claim:

> Q. I understand. Is there any personal motivation that you've already described, and frankly, you've described this before when you were talking about personal motivations with regard to paragraph 131, without asking you to belabor the point, is there any personal motivation that is different from an independent

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

personal stake that you reference in both 131 and again in 135? Is there any difference?

A. And as I said, I can't answer that.

Q. You're the only person who could answer that. It's your complaint.

MR. COSKREY: I object to the form.

A. I don't have an answer. I cannot answer that at this particular time.

(***Rogers Deposition, Vol. I, p. 230, lines 12-25; p. 231, line 1***).

A. PLAINTIFF'S SEVENTH CAUSE OF ACTION IS BARRED BY THE "INTRACORPORATE CONSPIRACY DOCTRINE."

With regard to the civil conspiracy claim, a corporation cannot conspire with itself. *Broyhill v. Resolution Mgmt. Consultants, Inc*., 401 S.C. 466, 477, 736 S.E.2d 867, 872 (S.C. App. 2012). However, a civil conspiracy cannot exist when the alleged acts arise in the context of a principal-agent relationship because by virtue of the relationship such acts do not involve separate entities. *McMillan v. Oconee Mem'l Hosp., Inc*., 367 S.C. 559, 564, 626 S.E.2d 884, 886-87 (2006), *overruled on other grounds by Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 861 S.E.2d 774 (2021); *Sales v. Res-Care, Inc*., 2021 WL 1186553, at *6 (D.S.C. Mar. 30, 2021) ("With respect to Plaintiff's civil conspiracy claim, Plaintiff fails to present any colorable argument to challenge the intracorporate conspiracy doctrine, which mandates that there can be no conspiracy between an employer and its employees.").

While Plaintiff has alleged that "Defendants Witty, Artis, and Johnson were at times acting outside the scope of their agency with Benedict" in support of her civil conspiracy claim, she has failed to produce any evidence supporting such an allegation. Indeed, it would be impossible for these Defendants to conspire with Benedict College – the fourth Defendant that Plaintiff sued for civil conspiracy – outside the scope of their duties as officers or directors of Benedict College.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

For this reason alone, Plaintiff's Seventh Cause of Action is barred and must be dismissed with prejudice.

B. PLAINTIFF'S SEVENTH CAUSE OF ACTION IS BARRED BY THE LACK OF "ADDITIONAL ACTS" IN SUPPORT OF THE CIVIL CONSPIRACY CLAIM.

A plaintiff asserting a civil conspiracy claim must establish (1) the combination or agreement of two or more persons, (2) to commit an unlawful act or a lawful act by unlawful means,[20] (3) together with the commission of an overt act in furtherance of the agreement, and (4) damages proximately resulting to the plaintiff. *Paradis*, 433 S.C. at 574, 861 S.E.2d at 780 (abolishing the requirement that a plaintiff must plead "special damages" as part of a civil conspiracy claim). Also, in order to state a civil conspiracy following the Supreme Court's decision in *Paradis*, a plaintiff must also allege "additional acts" that are independent of the basis of any other of the plaintiff's causes of action.

> Although the *Paradis* court held that special damages are no longer a required element of a civil conspiracy claim in South Carolina, Lang's claim for conspiracy fails on two grounds independent thereof. First, the Magistrate Judge initially recommended dismissal of the conspiracy claim because Plaintiff did not identify concrete acts that are independent of any other alleged wrongdoing. Rather, Plaintiff based his civil conspiracy claim on the same alleged actions that serve as the basis for his other causes of action.

[20] In Justice Kittredge's concurrence in *Paradis*, he explained that "[i]t is the second element – to commit an *unlawful act* or a lawful act by *unlawful means* – that restores an objective legal standard to this cause of action. When the appellate courts of this state approved of an analytical framework that allowed one's personal sense of fairness and right and wrong to be sufficient for a civil conspiracy claim, we created a rudderless cause of action. Justice Few correctly observes that the post-*Todd* sanctioned civil conspiracy claim 'permit[ted] the court and jury to impose liability for lawful, non-tortious conduct based on a court or juror's sense of fairness or responsibility.' I do not construe Justice Few's concurrence as 'abolishing' civil conspiracy. Rather, by restoring the traditional elements of a civil conspiracy claim and overruling *Todd*'s so-called special damages pleading requirement, this Court returns civil conspiracy to its historical roots." *Paradis*, 433 S.C. at 578, 861 S.E.2d at 782

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Lang v. Furman Univ., 2022 WL 816455, at *1 (D.S.C. Mar. 16, 2022). Similarly, in the instant case, Plaintiff has failed to plead – and certainly has failed to produce evidence of – any "additional acts" in support of her civil conspiracy claim. In fact, Plaintiff herself cannot distinguish between her allegations supporting her other claims and her allegations supporting her civil conspiracy claim. (***Rogers Deposition, Vol. I, p. 227, lines 14-25; p. 288, lines 1-16; p. 230, lines 12-25; p. 231, line 1***).

Indeed, Plaintiff's pleading actually requires the court to look to other causes of action to define the nature of her civil conspiracy claim. Her Seventh Cause of Action does not describe a single act taken in furtherance of the alleged civil conspiracy that it is not also alleged in her other causes of action. (Amended Complaint, ¶¶ 133-138).

For this reason alone, Plaintiff's Seventh Cause of Action is barred and must be dismissed with prejudice.

C. PLAINTIFF'S SEVENTH CAUSE OF ACTION FAILS BECAUSE SHE HAS NOT, AND CANNOT, PRODUCE ADMISSIBLE EVIDENCE SUPPORTING THE ELEMENTS OF A CIVIL CONSPIRACY CLAIM.

Plaintiff has presented no evidence that any of the Defendants (1) combined with each other (2) to commit an unlawful act or a lawful act by unlawful means (3) together with the commission of an overt act in furtherance of the agreement (4) that proximately resulted in injuries to her. The record is, in fact, devoid of such evidence. For instance, Plaintiff has failed to produce evidence of any "unlawful act" or "lawful act by unlawful means" committed by a combination of the Defendants. Plaintiff has failed to point to any overt act in furtherance of the alleged conspiracy. In short, Plaintiff has produced no evidence, other than her own unsupported and vague assertions, that any of the Defendants engaged in a civil conspiracy to injure her. *See Rice v. M-E-C Co.*, 2021 WL 5822645, at *6 (D.S.C. Dec. 8, 2021) ("Plaintiff has failed to demonstrate a genuine issue of material fact as to his civil conspiracy claim because Plaintiff has

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

pointed to no evidence, other than his own unsupported assertions or assumptions, to show that Fisk combined with Lichtenfeld *with the specific intent to commit wrongful conduct and harm Plaintiff as a result*.") (citing to *Paradis*) (emphasis in the original).

For this reason alone, Plaintiff's Seventh Cause of Action must be dismissed with prejudice.

VIII. PLAINTIFF'S EIGHTH CAUSE OF ACTION UNDER THE SOUTH CAROLINA NONPROFIT CORPORATION ACT FAILS BECAUSE (1) PLAINTIFF HAS FAILED TO PRODUCE EVIDENCE SUGGESTING THAT ANY DEFENDANT VIOLATED ANY PROVISION OF THE ACT, (2) SHE DOES NOT HAVE THE STANDING TO BRING SUCH A CLAIM, AND (3) SHE HAS NOT BROUGHT HER CLAIM PURSUANT TO A STATUTE THAT CONTAINS A PRIVATE RIGHT OF ACTION, OR FOR WHICH THERE IS AN IMPLIED PRIVATE RIGHT OF ACTION.

Plaintiff has attempted to bring her Eighth Cause of Action under the South Carolina Nonprofit Corporations Act (the "Act") against the College and Chairman Johnson. (***Rogers Deposition, Vol. I, p. 235, lines 19-25; p. 236, lines 1-6***). However, the nature of her claim is unclear, as she testified that she does not know if the Act provides her a private right of action, and cannot identify any compensatory damages that may be available to her under the Act. (***Rogers Deposition, Vol. I, p. 236, lines 14-18***). Further, it is unclear from her Amended Complaint whether she is bringing her claim under a specific statute under the Act, or whether she believes any particular statute under the Act includes an "implied" private right of action. (Amended Complaint, ¶¶ 139-153). In any event, because the evidence in the record does not support her "claim" under her Eighth Cause of Action, it must be dismissed with prejudice.

Substantively, Plaintiff appears to focus the allegations of the Eighth Cause of Action on the College's alleged violations of S.C. Code Ann. § 33-31-808, which relates to removal of a

specific director. (Amended Complaint, ¶¶ 146, 148).[21] For the reasons that Plaintiff's Fourth Cause of Action fails, Plaintiff's allegations that any Defendant violated S.C. Code Ann. § 33-31-808 fail, and for that reason, her Eighth Cause of Action also fails. (See above, pp. 29-33). Further, S.C. Code Ann. § 33-31-808 also contains no provisions for a private right of action. For this reason alone, Plaintiff's Eighth Cause of Action must be dismissed with prejudice.

Plaintiff's references to other statutes in the Act are also unavailing. For instance, her reference in S.C. Code Ann. § 33-31-304 provides no support for her claim. This section of the Act governs *ultra vires* actions. *Williamson v. Bermuda Run Inv. Dev. Grp., Inc*., 2006 WL 7286063, at *3 (S.C. App. June 13, 2006). An *ultra vires* act by a corporation is one in which the corporation act outside the scope of its powers granted to it by law, articles of incorporation, and bylaws. *Fisher v. Shipyard Vill. Council of Co-Owners, Inc.*, 409 S.C. 164, 180, 760 S.E.2d 121, 130 (S.C. App. 2014), *aff'd as modified*, 415 S.C. 256, 781 S.E.2d 903 (2016) ("[A] corporation may exercise only those powers which are granted to it by law, by its charter or articles of incorporation, and by any bylaws made pursuant thereto; acts beyond the scope of the powers so granted are *ultra vires."*). As set forth above, the College clearly has the authority, both under the Act and its own Bylaws, to reduce the number and change the source of those positions on its own Board as defined in its own Bylaws. Because Plaintiff has failed to provide any evidence to support her claim that the College or Chairman Johnson committed any *ultra vires* act, S.C. Code Ann. § 33-31-304 does not apply to this case in any regard. Also, as with S.C. Code Ann. § 33-31-808, S.C. Code Ann. § 33-31-304 contains no provisions for a private right of action.

[21] Plaintiff has not, and cannot, produce any evidence that the College violated any "procedural prerequisites" referenced in ¶ 146 of the Amended Complaint related to the College's vote on the amendments to the Bylaws on September 18, 2019 that changed the organizations from which the membership of the Board is drawn.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

S.C. Code Ann. § 33-31-304(b) and (c) actually forbid Plaintiff from bringing an *ultra vires* claim, because she does not have standing to do so. S.C. Code Ann. § 33-31-304(b) states that an *ultra vires* action can be brought against a corporation only by "the Attorney General, a director, or by a member or members in a derivative proceeding." S.C. Code Ann. § 33-31-304(b). Where the *ultra vires* claim is against an incumbent or former director, officer, employee, or agent of the corporation, the claim may only be brought by "a director, the corporation, directly, derivatively, or through a receiver, a trustee, or other legal representative, or in the case of a public benefit corporation, by the Attorney General." S.C. Code Ann. § 33-31-304 (c). As Plaintiff brought this action only after the faculty representative seat on the Board had been deleted, she has no standing to bring an *ultra vires* action of any type.

S.C. Code Ann. § 33-31-202 is also not a private right of action. Rather, it merely describes the general immunity that directors enjoin from liability for monetary damages for breach of any duty to the corporation or members, and the circumstances where that immunity does not apply. In that manner, it provides no private right of action, but analogous to the S.C Tort Claims Act, merely describes certain circumstances where a party may assert immunity.

Finally, Plaintiff does not, and cannot, point to any statute she has invoked that has an "implied" private right of action. When a statute does not specifically create a private cause of action, one can be implied only if the legislation was enacted for the "special benefit of a private party." In a similar circumstance involving a matter arising under the Consolidated Procurement Code, the Supreme Court ruled as follows:

> It is our view that the purposes and policies of Section 11–35–50, The South Carolina Consolidated Procurement Code, evinces no underlying intent to benefit concerned citizens' groups or private parties. This Court construes the requirement for utilization of competitive procurement practices to be in furtherance of the stated purposes for the benefit of those having a direct, intrinsic interest in the

> procurement practices of governmental entities. We conclude that no implied right of private action accrues to the appellants under Section 11–35–50.

Citizens for Lee Cnty., Inc. v. Lee Cnty., 308 S.C. 23, 28-29, 416 S.E.2d 641, 645 (1992) *see also Doe v. Marion*, 373 S.C. 390, 397, 645 S.E.2d 245, 248 (2007) (no implied private right of action created by the reporting statute on the Children's Code where defendant was not a public official, and also, under the circumstances had no authority to act); *Adkins v. SCDC*, 360 S.C. 413, 419, 602 S.E.2d 51, 55 (2004) (no private right of action where "nothing in the statutes [regarding prevailing wages for inmates] indicates a legislative intent to create civil liability for a violation of the statutes"); *Ballard v. Newberry County*, 432 S.C. 526, 532, 854 S.E.2d 848, 851 (S.C. App. 2021) ("If we were to recognize a general right to seek a declaratory judgment that the Public Records Act has been violated, we would be creating something the General Assembly did not create and might not create if it considered the issue. We are not at liberty to add to the statutory law or subtract from it."); *Whitworth v. Fast Fare Markets of S.C., Inc.*, 289 S.C. 418, 420, 338 S.E.2d 155, 156 (1985) (regarding "delinquency of a minor" statute, "the general rule is that a statute which does not purport to establish a civil liability, but merely makes provision to secure the safety or welfare of the public as an entity is not subject to a construction establishing a civil liability."). As with the Procurement Code, the Children's Code, prevailing wage statutes, or the Public Records Act, the provisions of the South Carolina Nonprofit Corporations Act are to designed to secure the welfare of the public in assisting with the formation and operation of nonprofit entities, not for the "special benefit of any private party."

For these reasons, Plaintiff's Eighth Cause of Action must be dismissed with prejudice.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

CONCLUSION

For the reasons set forth below, the Defendants respectfully request that the Court GRANT their motion and DISMISS WITH PREJUDICE each of Plaintiff's claims, along with other such relief as the Court deems just and proper.

Dated this the 16th day of March, 2023.

Respectfully submitted,

RICHARDSON PLOWDEN & ROBINSON, P.A.

/s/Eugene H. Matthews
Eugene H. Matthews, 10193
Post Office Drawer 7788
Columbia, South Carolina 29202
T: 803.771.4400
F: 803.779.0016
Email: gmatthews@RichardsonPlowden.com

COUNSEL FOR DEFENDANTS

EXHIBIT A
JOINT COMMITTEE REPORT

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

We believe that Judge Charles' conduct was inexcusable. Judge Charles attempted to protect himself by intimidating a witness. Such behavior is repugnant, particularly when the conduct is by a member of the judiciary. Judge Charles admitted on the record that he contacted the witness' attorney and said "It's my decision when my neck's on the line." We believe that this matter is of such a serious nature that we cannot in good conscience find Judge Charles qualified for further service on the bench.

The judicial screening process depends on witnesses being able to appear before the Joint Committee without fear of reprisal or intimidation or being subject to chilling influences. Interference with witnesses strikes at the heart of this process, and judges should be held to the highest standards in this regard.

VOTING AGAINST CANDIDATE:
/s/Senator Glenn F. McConnell, Chairman
/s/Senator John R. Russell
/s/Rep. F. Greg Delleney, Jr., Vice-Chairman
/s/Rep. W. Douglas Smith

Printed Page 3076 . . . . . Tuesday, May 23, 1995

The Honorable William K. Charles, Jr.

Candidate for Re-election to the Family Court

of the 8th Judicial Circuit

Report of Members Voting to Find Judge Charles Qualified

Judge Charles has had a long record of service on the bench and has served with distinction. Judge Charles may have acted improperly in contacting the witness' attorney, but he was honest and forthright about having made the contact and this was one isolated incident which should not disqualify him from further service on the bench.

VOTING IN SUPPORT OF CANDIDATE:
/s/Senator Edward E. Saleeby
/s/Senator Thomas L. Moore
/s/Rep. Paula H. Thomas
/s/Rep. Ralph W. Canty

The Honorable Abigail Rogers
Candidate for Re-election to the Family Court
of the 5th Judicial Circuit
Report of the Majority

Joint Committee's Finding: Not Qualified

Judge Rogers was screened on May 11, 12, and 16, 1995, after a thorough investigation. The majority's findings as they relate to the nine evaluative criteria are as follows:
(1) **Integrity and Impartiality:**
The input the Joint Committee received from the public and from members of the Bar was very divided. Some individuals reported that Judge Rogers' integrity and impartiality are excellent, but the Joint Committee received evidence that Judge Rogers is at times arrogant and attempts to intimidate people by using the power and prestige of her office.
The majority is particularly concerned by evidence of a situation in which Judge Rogers attempted to use her judicial office to intimidate her former secretary. The majority believes that Judge Rogers threatened to issue a bench warrant for the arrest of her former secretary after the secretary took another job. The majority is aware of

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

inconsistencies in the testimony on this issue, particularly with respect to when telephone calls were made, how many telephone calls were made, and whether the secretary had given Judge Rogers notice of her intent to resign, but the majority believes that these inconsistencies were not material and actually help to corroborate the secretary and her

employer because they tend to indicate that the witnesses had not rehearsed their testimony. The secretary and her employer were subpoenaed late at night to immediately appear before the Joint Committee, had not previously contacted the Joint Committee, and reluctantly testified. Their testimony was corroborated by a family court judge and several other witnesses who appeared only after being subpoenaed. For these and other reasons, the majority believes that Judge Rogers threatened to issue a bench warrant for the secretary's arrest and was not truthful about this issue in her testimony under oath before the Joint Committee. The majority believes that they cannot, in view of the evidence, find a judge who abused her power and did not tell the truth under oath to the General Assembly's screening committee qualified for further service on the bench.

The majority was also very troubled by testimony that Judge Rogers issued an invalid subpoena to Southern Bell and then attempted to intimidate a Southern Bell employee into complying with the subpoena. Southern Bell's custodian of records testified that she was served with a subpoena duces tecum which Judge Rogers had signed and which attempted to compel her to produce the records of incoming local telephone calls to Judge Rogers' residence. The custodian of records contacted Judge Rogers about the subpoena because she believed it to be invalid. The custodian of records testified that Judge Rogers' tone was harsh and that Judge Rogers used her judicial office in an attempt to intimidate the custodian of records into complying with an invalid subpoena. Judge Rogers admitted issuing the subpoena, but said she did so at the suggestion of a Southern Bell employee whom she could not name. Judge Rogers denied attempting to intimidate the custodian of records. The majority is troubled by this incident because it believes that Judge Rogers abused her judicial power by issuing the subpoena and, most importantly, by attempting to intimidate the custodian of records.

(2) **Legal Knowledge and Ability:**

The majority believes that Judge Rogers is intelligent and knowledgeable. Her performance on the Joint Committee's practice and procedure questions met expectations.

Judge Rogers' record on appeal since her election in 1991 has been good as she has been appealed in two reported appellate decisions and was affirmed in both of those matters. She was, however, reversed in several **unreported** appellate decisions. These matters concern the majority as they dealt with situations in which the appellate court believed that Judge Rogers improperly incarcerated juveniles. In June

of 1992 the Supreme Court granted a habeas corpus petition in the matter of **In re Christopher B.** in part because Judge Rogers had ordered a 17-year old confined to DYS custody for a status offense. In this matter the status offense was truancy and the minor had been charged with only one such offense. In March of 1993, Judge Rogers' order in **In re Stacey R.** incarcerating a 15-year old female for incorrigibility was vacated by a per curiam order of the Supreme Court. The court stated that it must "again remind family court judges that mere status offenders are not to be placed in detention facilities." In April of 1994 in **In re Beatrice N.**, the Supreme Court issued another per curiam order reversing Judge Rogers' detention of a 15 year old female for a status offense, this time for the offenses of incorrigibility and truancy. The majority understand that judges make mistakes of law and are reversed from time-to-time, but the majority is troubled that Judge Rogers has been repeatedly reversed on the very important issue of when juveniles are to be incarcerated.

(3) **Professional Experience:**

Judge Rogers was admitted to the Bar in 1983. She described her legal experience as follows:

(a) 1982-1985 Fifth Circuit Assistant Solicitor. Tried cases in both Family and General Sessions Court.

(b) 1985-1991 Assistant Chief counsel, S.C. Highway Department. Judge Rogers did some criminal work, but the main focus of her practice was in civil litigation, workers' compensation, and appellate practice.

(c) 1991-Present Family Court Judge, Fifth Judicial Circuit

Judge Rogers had little family court experience prior to her election to the bench in 1991. She testified that she attempted to compensate for that lack of experience by studying the law and attending CLE forums.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

(4) **Judicial Temperament:**
The majority believes that Judge Rogers is capable of exhibiting good judicial temperament and often does so. The majority also believes, however, that Judge Rogers tends to lose her temper and sometimes treats individuals who appear before her very poorly. The majority believes that judges should be stern and that it is often appropriate for a family court judge to be firm with litigants and lawyers in the courtroom. However, the majority believes that Judge Rogers' demeanor can be imperious instead of merely stern.

Printed Page 3079 . . . . . Tuesday, May 23, 1995

(5)**Diligence and Industry:**
Judge Rogers testified that she was late and had to take frequent breaks during the period in which she was pregnant and nursing her child. Others, including courtroom personnel, litigants, lawyers, family court judges, and witnesses who testified on Judge Rogers' behalf, testified that she was frequently very late in the morning and returning from lunch and from breaks. The majority is not persuaded by the excuses Judge Rogers offered for her tardiness. The majority also believes, on the basis of testimony from a retired family court judge and other evidence, that the problem was not confined strictly to that time period during which Judge Rogers was pregnant and nursing. The majority views such problems of punctuality as very serious because they demonstrate a lack of respect for litigants, lawyers, and other courtroom participants.
The majority is also very concerned about evidence that Judge Rogers does not pay attention to affidavits and other documents she is to consider. The majority was moved by the testimony of one father who appeared before Judge Rogers in a custody matter. The father and his attorney testified that they submitted affidavits for Judge Rogers to consider, but the lengthy affidavits were clocked-in at 8:59 a.m. and the hearing began at 9:00 a.m. Judge Rogers testified that she had read the affidavits, but was concerned that the father did not understand that she had done so. Judge Rogers testified that she learned from this incident and would be more careful to ensure that litigants understood she had read their materials. The majority appreciates Judge Rogers' testimony on this issue, but is not convinced that Judge Rogers could have read the affidavits under the circumstances of this case. Furthermore, there was also testimony about another matter in which Judge Rogers asked a couple if they could be reconciled when they had been divorced for many years. The majority believes that Judge Rogers' failure to read materials presented for her consideration is further evidence of her lack of respect for litigants and lawyers and a very serious failure in her performance on the bench.
In the early period of Judge Rogers' service on the bench, she was slow in the production of orders and in one situation did not report all the matters she had under advisement to Court Administration as judges are required to do. The majority is troubled by Judge Rogers' problems in this regard, but believes that she has improved in this area.
(6) **Mental and Physical Capabilities:**
Judge Rogers appears to be mentally and physically capable of performing the duties of the office she seeks.

| BACK ONE PAGE Printed Page 3060, May 23 | Printed Page 3080, May 23 NEXT PAGE |

Page Finder Index

This web page was last updated on Monday, June 29, 2009 at 2:11 P.M.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Journal of the Senate
of the First Session of the 111th General Assembly
of the State of South Carolina
being the Regular Session Beginning Tuesday, January 10, 1995

Page Finder Index



| Printed Page 3070, May 23 | Printed Page 3090, May 23 

|

Printed Page 3080 . . . . . Tuesday, May 23, 1995

(7)**Financial Responsibility:**
The Joint Committee's investigation did not reveal any evidence of a troubled financial status.
(8) **Public Service:**
Judge Rogers has been a Family Court Judge since 1991.
Judge Rogers was very active in undergraduate and law school activities.
Judge Rogers is very active in professional and community activities. She has been the recipient of several awards including:

(a) ABA "Outstanding Young Jurist" (1994);
(b) U.S.C. 1994 Distinguished Black Alumni;

(c) Woman of Achievement, S.C. Commission on Women (1992); and

(d) University of South Carolina's 1992 Distinguished Young Alumni.
(9) **Ethics:**
Judge Rogers reported on her application materials that she has spent $1,395.22 on her campaign.
Judge Rogers testified that she has not:
(a) sought or received the pledge of any legislator prior to screening;
(b) sought or been offered a conditional pledge of support by a legislator pending the outcome of screening; or
(c) asked third persons to contact members of the General Assembly prior to screening.
(10) **Miscellaneous:**
Judge Rogers meets the constitutional and statutory requirements for the offices she seeks.
While the Bar found Judge Rogers qualified, it noted a number of concerns. The Bar's report is as follows:
Most of those interviewed feel that she is of good character and integrity.
Opinions as to the extent of her knowledge of the law were mixed. Initially, Judge Rogers had very little experience in Family Court. Of grave concern were a series of incarcerations of status offenders. It is generally conceded that she has improved in her knowledge of the law.
Concerns were expressed by some of those interviewed as to her judicial temperament. Some lawyers felt that she was fair and courteous; others felt that she was discourteous to both lawyers and litigants.
The greatest number of concerns were expressed about her consistent failure to be on the bench when court was scheduled to start (usually being very late) and her frequent absences from the

Printed Page 3081 . . . . . Tuesday, May 23, 1995

bench during times when matters were scheduled. This behavior is perceived as disrespectful of litigants, witnesses, and lawyers (particularly because explanations were not offered) and is disruptive to efficient disposition of matters and movement of the docket. It was described by some as a failure to manage her courtroom.
Numerous concerns were expressed as to her tardiness in deciding cases and producing orders. In one instance the South Carolina Supreme Court ordered her to file an order in a case; Judge Rogers complied immediately.
There was testimony that Judge Rogers has been the victim of a conspiracy to defeat her bid for re-election, but

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

these allegations lacked specificity and substance and the majority found no evidence of such a conspiracy. There were certainly conversations among members of the Bar and public about Judge Rogers' qualifications for judicial office. Such conversations do not constitute a conspiracy, however, because they do not involve plans for illegal or improper activity.

The majority feels that Judge Rogers is not the first judge to be tardy, late with matters under advisement, or to have lost her temper and acted imprudently. However, in its collective memory, the majority has no recollection of any candidate who when confronted with a substantial body of evidence in contradiction, including testimony from a number of disinterested witnesses, either always shifted the blame or failed to account for her own behavior. This presents problems to a committee called upon to administer oaths and prepare accurate accounts of qualifications, and the majority believes that such behavior is repugnant to public service in general and service on the bench or as a role model in particular. Based on the totality of the circumstances, including the evidence herein, the admissions, and the veracity of Judge Rogers under oath, the majority has no option other than to find her not qualified and to reopen the Joint Committee's process for the acceptance of applications.

MAJORITY REPORT:
/s/Senator Glenn F. McConnell, Chairman
/s/Senator John R. Russell
/s/Rep. F. Greg Delleney, Jr., Vice-Chairman
/s/Rep. Paula H. Thomas
/s/Rep. W. Douglas Smith

Printed Page 3082 . . . . . Tuesday, May 23, 1995

The Honorable Abigail R. Rogers
Dissenting Opinion

We, the undersigned minority of the Judicial Screening Committee, would find that Judge Abigail R. Rogers is qualified for continued service on the Family Court bench for the Fifth Judicial Circuit. While we are concerned by testimony that she has not always been punctual in her service on the bench, we are not prepared to find her unqualified on this issue as lack of punctuality plagues many of the members of the bench as a whole. In view of the majority's insistence on Judge Rogers' adherence to punctuality, we would expect the Committee, as a whole, to insist upon punctuality of all judges who will be screened in the future, and by copy of our opinion, serve notice upon members of the bench that punctuality is expected of all judges. We are also aware of testimony given to the Committee that at times Judge Rogers appeared to make decisions without benefit or resort to pleadings or affidavits filed with her court. In our opinion, we would find that this seeming lack of attention is more a matter of appearance than reality, and would encourage all judges to ensure that litigants understand that the court has given their cases careful attention, whether such attention is given in the courtroom or in chambers. The majority of the Committee appear to be most troubled by inconsistencies in Judge Rogers' testimony and testimony of those who alleged that she threatened arrest and/or service of a bench warrant if her former secretary did not return to her employ. We would find that many of the witnesses who testified before the Committee have diminished recollections of events which occurred nearly two years ago. We also would find that many of these witnesses appeared to have interconnecting interests which leads us to believe that their testimony was geared more toward unseating Judge Rogers than assisting the Committee in determining a true account of what occurred two years ago.

Each of us has wrangled with the substantial amount of testimony presented to the Committee on the number of issues presented regarding Judge Rogers' qualifications. In our opinion, Judge Rogers' tremendous talents and proven success in dealing with our state's substantial juvenile delinquency and justice problems deserve recognition. In view of this and of the lack of any clear evidence of misconduct on her part, we would, therefore, find her qualified.

MINORITY REPORT:
/s/Senator Edward E. Saleeby

/s/Senator Thomas L. Moore
/s/Rep. Ralph W. Canty

Printed Page 3083 . . . . . Tuesday, May 23, 1995

(On motion of Senator McCONNELL, ordered printed in the Journal)

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

MESSAGE FROM THE GOVERNOR

STATE OF SOUTH CAROLINA

OFFICE OF THE GOVERNOR

April 27, 1995
Mr. President and Members of the Senate:

I am transmitting herewith an appointment for confirmation. This appointment is made with the "advice and consent of the Senate," and is, therefore, submitted for your consideration.

Respectfully,
David M. Beasley

Statewide Appointment

Initial Appointment, John de la Howe School Board of Trustees, with term to commence April 1, 1993, and to expire April 1, 1998:

At-Large:

Ms. Diane J. Brock, 213 Polaris Street, Anderson, S.C. 29621 VICE Hugh Z. Graham

Received as information.

MESSAGE FROM THE GOVERNOR

STATE OF SOUTH CAROLINA

OFFICE OF THE GOVERNOR

May 19, 1995
Mr. President and Members of the Senate:

I am transmitting herewith appointments for confirmation. These appointments are made with the "advice and consent of the Senate," and are, therefore, submitted for your consideration.

Respectfully,
David M. Beasley

Printed Page 3084 . . . . . Tuesday, May 23, 1995

Local Appointments

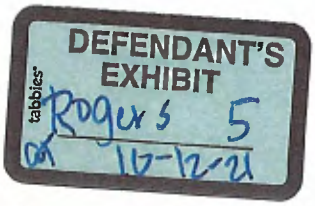
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EXHIBIT B
CULLIVER MEMORANDUM

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CORRECTED COPY



Inter-Office

MEMORANDUM

To: Professor Abigail Rogers

From: Dr. Concetta Culliver, Chairperson, Criminal Justice Department

Date: February 16, 1998

cc: Dr. David Swinton, President
Dr. George Reid, Senior Vice President for Academic and Student Affairs
Dr. Reginald Avery, Dean, School of Professional Programs
File

Subject: **Student Complaints - Professor Rogers**

Since the onset of the current semester, numerous complaints have come to my attention from students concerning your classroom demeanor toward them - - a style of teaching that incorporates use of what I term "classroom student victimization," whereby your students are intimidated, ridiculed, humiliated, made to feel inferior, and berated in the presence of other students.

For example, one male student complained how he was humiliated and embarrassed in the presence of fellow students on his first day of class (student registered late due to matters beyond his control), by being made to stand up as you reprimanded his for failing to turn in his homework assignment.

In another instance, as the student attempted to report on her internship progress to you, you became explosive and bombastic, and even uttered to the student that one day she would become a "bum," even though she was smart.

Moreover, this student reported other experiences where she had been ill-treated by you in the presence of other students. This student further stated that your behavior toward her had caused her to want to question her own feelings of self-worth.

In following Benedict College's philosophy (including Criminal Justice) relevant to student development and achievement, faculty are charged with the responsibility of assisting students in developing to their fullest potential: academically, emotionally, socially. Thus operating with a classroom teaching style that does not parallel that of Benedict College's mandated philosophy is detrimental to the needs, goals, and growth of our students. Moreover, this behavior is unethical and unprofessional.

I have maintained contact with Dean Avery in search of a suitable solution to this matter.

CC/kd

EXHIBIT C
OSAZUWA MEMORANDUM

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Department of Social Sciences and
Criminal Justice

DEFENDANT'S EXHIBIT
tabbies
Rogers 7
10-12-21 at

MEMORANDUM

To: Dr. Burnett Joiner, Senior Vice-President
Academic Affairs

Through: Dr. Linda Quillian, Dean,
School of Humanities, Arts and Social Sciences

From: Dr. Sylvester Odigie-Osazuwa, Chairperson,
Department of Social Sciences and Criminal Justice

Date: June 10, 2008

Subject: Ms. Abigail Rogers

The mission statement indicates that "Benedict College will be a power for good in society. We will be a full opportunity college with high quality programs of teaching, research, and public service. These programs will provide our students and community with knowledge, skills, understandings, and values required to make the world a better place..." I am a firm believer in these ideas, as well as those stated in the Benedict College Faculty Handbook. Yet, when I review the bulky file of Ms. Abigail Rogers, I find the complete opposite is evidenced. In fact, this Criminal Justice faculty member's professional behavior, teaching quality, and general demeanor historically have been so contrary to Benedict's stated ideas and policies that several faculty, students, and parents alike question how Ms. Rogers has been able to maintain such longevity at this institution. I am asking the same question and believe it is past time to remedy the situation. I therefore request that Ms. Abigail Rogers be removed from the classroom immediately and reassigned,where possible, or terminated if no reassignment can be executed.

The support evidence for this request is not new. Ms. Rogers' demonstrated lack of professionalism is ongoing and never-ending. The mounting complaints from irate parents threatening legal recourse is legend. Her defiance of written policy and her disrespect of her supervisors are common knowledge throughout the administrative chain. Her disruptive behavior at departmental meetings is well documented within recorded minutes. Her questionable behavior in the classroom, as well as on campus with student audiences have been repeatedly reflected in her annual performance evaluations. Numerous examples of belligerence and rudeness exist. Yet, Ms. Rogers is still here. Why?

Ms. Rogers, for example, has refused to turn in the required faculty evaluation portfolio for at least the past three years. She has also constantly earned a performance evaluation rating of "1" or "2" during this same time. She does not utilize or turn in the required roll book at the end of each semester. She does not submit the required documents for the beginning of each semester until close to mid-term. She ignores departmental request for faculty office hours, composites, course syllabi, etc. Students avoid her classes, when possible, -and they constantly complain about her unprofessional and unethical attitude in class when they attend. Yet, she is still here, and hurting the departmental student retention effort every semester. Any other faculty with the same track record as Ms. Rogers would have been terminated long ago.

Since Ms. Rogers has not demonstrated positive worth in teaching, research, interpersonal relationships, and collegiality at Benedict College, during the past three years, and has been more of a menace than an asset, I recommend that the administration immediately take this important matter in hand and deal with it swiftly and decisively.

See attachments

cc: Dr. George Devlin, Vice- President, Academic Affairs
Ms. Betty Jenkins, Director, Human Resources
File

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EXHIBIT D
WITTY MEMORANDUM

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BENEDICT COLLEGE
1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

School of Education

DEFENDANT'S EXHIBIT
tabbies
Rogers 8
10-12-21 CH

MEMORANDUM

TO: Dr. David H. Swinton
President

FROM: Janeen P. Witty
Incoming Vice President for Academic Affairs

RE: Abigail Rogers

DATE: June 25, 2008

Based on my review of a substantial amount of documentation, I support the recommendations of Drs. Joiner, Quillian, and Osazuwa to remove Abigail Rogers from the faculty in the School of Humanities, Arts, and Social Sciences. I share my recommendation with you now in the interest of time so that if you approve, the next steps to be taken can get started without delay.

Thank you for your consideration on this matter.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT E
COMPLAINTS OF STUDENTS, AUGUST 2018

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

DEFENDANT'S EXHIBIT
Rogers 9
10-12-21 at
Off 112

Course: Court System 2:30 - 3:45
Judge Rodgers

August 20, 2018.

[redacted]

In the First 15 mins. of class the following things happened:

- Judge Rodgers said, "If she is late we have to wait for her to arrive, because she is going to be late."

- If one person messes up we all mess up and we all get a zero. She will give us a pop quiz on something we do not know.

- She said if we do not understand something about the class, to ask a student in the class questions not her.

- A student came to class at 2:30 she would not allow the student to come in. Eventually the student just walked in and she stopped him, he said that he did not want to miss instructional time and she dismissed the class.

- She made the comment, "If I dismiss the class early she still will get paid."

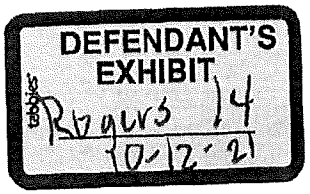
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EXHIBIT F
COMPLAINTS OF STUDENTS, SEPTEMBER 2018

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Sept. 28, 2018



Dear Dr. Devlin,

As per our conversation, I am submitting this letter to explain what transpired in my Court Systems class. Yesterday in class, Professor Rogers was asking how the grand jury and indictment correlate to each other. I attempted to answer the question, she told me I was wrong and proceeded to call on other students in the class. After about another 5 students answered it wrong, she still did not give the correct answer. When she does give answers she purposely starts to talk fast and I still miss the information. When it comes to her teaching, I do not fully understand what she is asking or how she wants me to apply it because I do not understand the material. When I ask a question directly to her, she gives me a look and then ask if a student knows the answer and when no one raises their hand, she proceeds to call on them. She then gave us 5 minutes to look up the correct answer. When time was up the first student she called on gave the wrong answer, and then she began to go on saying, "In prosecution you have to be able to apply, and recall information no one is going to keep repeating the question over again." I strongly feel that I am not the only one that has a problem understanding the material she is giving us. She also told us beforehand that our midterm was going to be on definitions that she gave us. She then says yesterday that she lied and it is going to be on how we apply the definitions and on Brett Kavanaugh. We have not talked about Kavanaugh in class or what he does. I understand it is a current event but I do not exactly know what she wants us to know about him. She also made a comment in class saying how she hates seeing black men with white women.

I have had a one on one with her about my paper that I did not pass. She told me I did not give her the correct criteria on what she wanted in the paper, but she did not give a rubric of what she wanted either. During our one on one she stated to me that I should not get any certificates because they do not mean anything and it would hurt my chances of getting a job. When I asked another professor if getting a certificate would hurt my chances of getting a job they said no because it shows that you are certified in a certain area. The more certification you have the better. Also, during this meeting she called her daughter and gave her my name and said that I wanted to get a certificate. Her daughter then says, "A certificate is a waste of time, and that there is no need for a certificate."

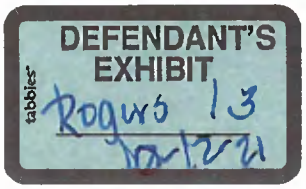
I strongly feel if I continue to stay in her class, I will be singled out and fail. I am on track for graduating in May 2019, but if I do not pass her class this semester I will have to come back next fall to retake this one class. In being an honor student with my cumulative GPA being above a 3.0 I feel that I am not getting a fair chance in showing her my abilities to pass her class.

Sincerely,

[redacted]

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Sept. 28. 2018



Dear Dr.Devilu,

Yesterday during my Court System class on September 27, 2018, Judge Rogers asked the class if we knew what Indictment was and how does it apply to the grand jury. She called on me twice, I gave Judge Rogers the answer I had on my paper she then stated my answer was wrong. Judge Rogers continued to ask other students the same question. After asking about five more students the same question, she still did not give the class the correct answer. Judge Rogers gave the class five minutes to look up the right answer. After the five minutes was up, Judge Rogers called on me first. I then gave her another answer, this time from chapter one, again Judge Rogers stated my answer was wrong. Judge Rogers then asked a few more students the same question, again the answers were wrong. After the class continued to get the same question wrong, Judge Rogers began to go on a rant about how a prosecution works. I ask Judge Rogers if she could repeat her question because I could not hear what Judge Rogers had stated. She gives me an attitude and then states you cannot be in court saying "what you say" the Judge will not repeat the question again.

Moving on to the end of the class a student asked a question about midterms. Last week she informed us our midterm would be on definitions and that she would be giving us forty more terms to study. Yesterday in class she said, "I fooled yall the midterm would be on all the courts, the order of a prosecution of a felony and the hearing of Kavanaugh." since last year 2017 – 2018 I was her advisee and upon meeting her for the first time she stated "You're lucky if you see me here in my office am I never here" I went on proceeding with the unexpected meeting. She asked me what my major was I reply Criminal Justice she laughed at me and then she asked what field I wanted to go into I stated, I wanted to become a criminal defense lawyer. She told me I would never be a lawyer and never would make it to law school. Since I have been in her class I have yet to learn the necessary tools I need to be successful in her class. Please be aware that I am a honor student apart of the National Society of Collegiate Students holding the position as Vice President for Community service. I feel like my chances of being successful in Judge Rogers class are very slim.

Sincerely,

[redacted]

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EXHIBIT G
STUDENT COMPLAINT, OCTOBER 2018

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

STUDENT CONCERN
OFFICE OF THE DEAN

DEFENDANT'S EXHIBIT
Rogers 16
12-17-21 AS

Student Name: [redacted] Date: October 8, 2018

Email: [redacted] Last 4 SSN: [redacted]

Dorm/Home Number: ( ) ____ - ____ Cell: ( ) [redacted]

Address/Dorm: 103 (Room#) _____ (City) _____ (State) _____ (Zip)

Facebook: _____ Twitter: _____ LinkedIn: _____

Classification: Senior Major: Criminal Justice Advisor: _____

Number of Hours Enrolled this semester: 19 Number of Service Learning hours acquired to date: _____

What is your cumulative G.P.A.? 2.82 Expected Graduation Date: December 20____ May 20 19

Reason for visit: ( ) Personal (✓) Academic ( ) Other (explain in reason for visit)

Compliance with the Chain of Command:

( ) Consultation with Faculty (if applicable) Date: _____ Time: _____

( ) Consultation with Department Chair (if applicable) Date: _____ Time: _____

Briefly describe the reason for your visit.

The reason for my visit to the Dean's office is Judge Rogers has been quite rude and unprofessional as of late. She constantly shames the intelligence of myself and my classmates, and she barely actually teaches while shamelessly expecting us to learn. I once answered a question incorrectly, and she proceeded to tell me how I got 'mostly' her type that I must have a need for an easier class (reflecting my intelligence), and she even threatened to go to the dean. A fellow student answered a question incorrectly, and she proceeded to pop quiz us on the same subject matter that he showed a lack of knowledge in. Today myself and three others were told to leave due to us not having our textbooks, despite us telling her that we were told by her assistant when she had asked less than 5 minutes prior. Also, as is being spoken, she assigned myself and one of the students we don't have a book each a chapter from the book. She wants us to both annotate the chapters and be able to teach the class, despite the fact we JUST TOLD HER that we were unable to procure our books, something that is the fault of none of us.

BC1646

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Other relevant issues/Factors

Student Signature: [redacted] Date: October 8, 2018

BC1647

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Recommendation(s)/ Resolution(s)

1. [redacted] was referred to meet with Mr. Rogers to discuss Rio's academic concerns. Report back to Dean Martin about the discussion.
2. [redacted] did not return to meet with me as requested. I met with [redacted] on 10/31/2018 regarding Rio's stated concerns. We will issue letters of assignments to those he has completed for CT 431 C, Officers of the Constitution.
3. As the assignments can be graded by Ms. Lisa Taylor.

Follow-Up/ Action Items:

Dean's/Reviewer's Signature [signature] Date: 10/8/2018

BC1648

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DEFENDANT'S EXHIBIT
Rogers 17
10-22-21

BENEDICT COLLEGE
DIVISION OF ACADEMIC AFFAIRS

Summary of Written Student Complaint/Issue and Resolution

Date Submitted to Office of Academic Affairs: _____

Name of Student: [redacted]

Cell Phone Number: [redacted] Email address: [redacted]

Local Mailing Address: _____
Street Address Apt.# City State Zip Code

Major: Criminal Justice

Nature of Complaint/Issue (check all that apply)

- ☐ Scheduling Problem
- ☑ Conflict with Faculty or Academic Staff Member
- ☐ Disagreement with Assessment by Faculty Member (Grades)
- ☐ Financial Matter that Impacts Academic Standing
- ☐ General Academic Concern (circle all that apply)
  - o Lack of Textbooks
  - o Work/Class Schedule Conflict
  - o Family Issues
  - o Medical Issues

Summary of Complaint/Issue (fill in blanks below or attach written complaint)

This morning, there was a small incident; my professor insulted my intelligence in front of the whole class, ridiculed my personal goals, and even believed to have the class assist her in proving her point. She kept me afterwards when class ended just to reiterate what she said, only slightly worse.

Persons contacted by student prior to submitting this complaint to the Office of Academic Affairs: _____

-OVER-

BC1649

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Steps taken by Office of Academic Affairs	Date
Student's concern had already been discussed with the Vice Dean. Dean asked student to speak with the Ms. Rogers + make my student aware not to return to Dean.	

Resolution of Complaint/Issue	Attach documentation
This case became resolved as the issues involved with the faculty member. A resolution was reached in administrative action that	

Persons Notified of Resolution	Attach documentation

Date Case Was Closed by Office of Academic Affairs: _____

Signed: _____

Update: Administrative Action was taken re: faculty member on October 23, 2018

BC1650

[redacted] Judge Rogers 10.17.18 4:00pm

MWF 9:02 am

Place + Constitution

Had spoken to Dean Austin previously. Absent 2 weeks ago.

Asked [redacted] a question, he could not answer.

She said he will not make it as an FBI agent.

Don't waste his time.

Started when he could not answer her question.

Asked [redacted] to stay after class.

Classmates said not immediately after graduation.

Junior - May 2019.

Not doing well in the class (no textbook).

Needs a B previously.

Faculty's conduct was unprofessional.

Insulted him in front of the class.

Asked the class to become involved.

Resolution - Faculty needs to be less brutal. Instead of correcting him, she became a bully.

Student walked away after the meeting after class

Faculty asks students to answer questions that students ask often.

BC1651

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Earlier Incident

[redacted] gave a wrong answer, red her face
to [redacted] course was probably too difficult for her.

Methodology

- Lecture style

Resolution: Faculty needs to teach; not embarrass students.

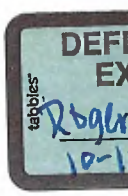
Demeanor - frustration

EXHIBIT H
EMAIL DATED OCTOBER 17, 2018

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

T-Mobile LTE 11:10 PM 19%





From: Abigail Rogers
Date: 10/17/2018 10:46:pm

After meeting with you yesterday and speaking at length with Dean Austin about the most recent developments we both agreed that it is best that you:

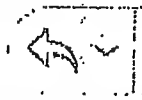
1. Not return to my Court Systems class this semester and
2. Not contact me for any reason and
3. Not contact the students in my class about my class work or assignments.
4. Just to be clear do not attend my classes or show up in or to my classroom. All future communications will be through the Deans office ONLY.

I will forward any and all future assignments and instructions to the Deans Office. If you have questions forward them to the Deans office.

You are officially removed from classes.

Abigail R. Rogers ,Esq.

JD MA Criminology / MCJ Ph.D. Candidate (ABD)









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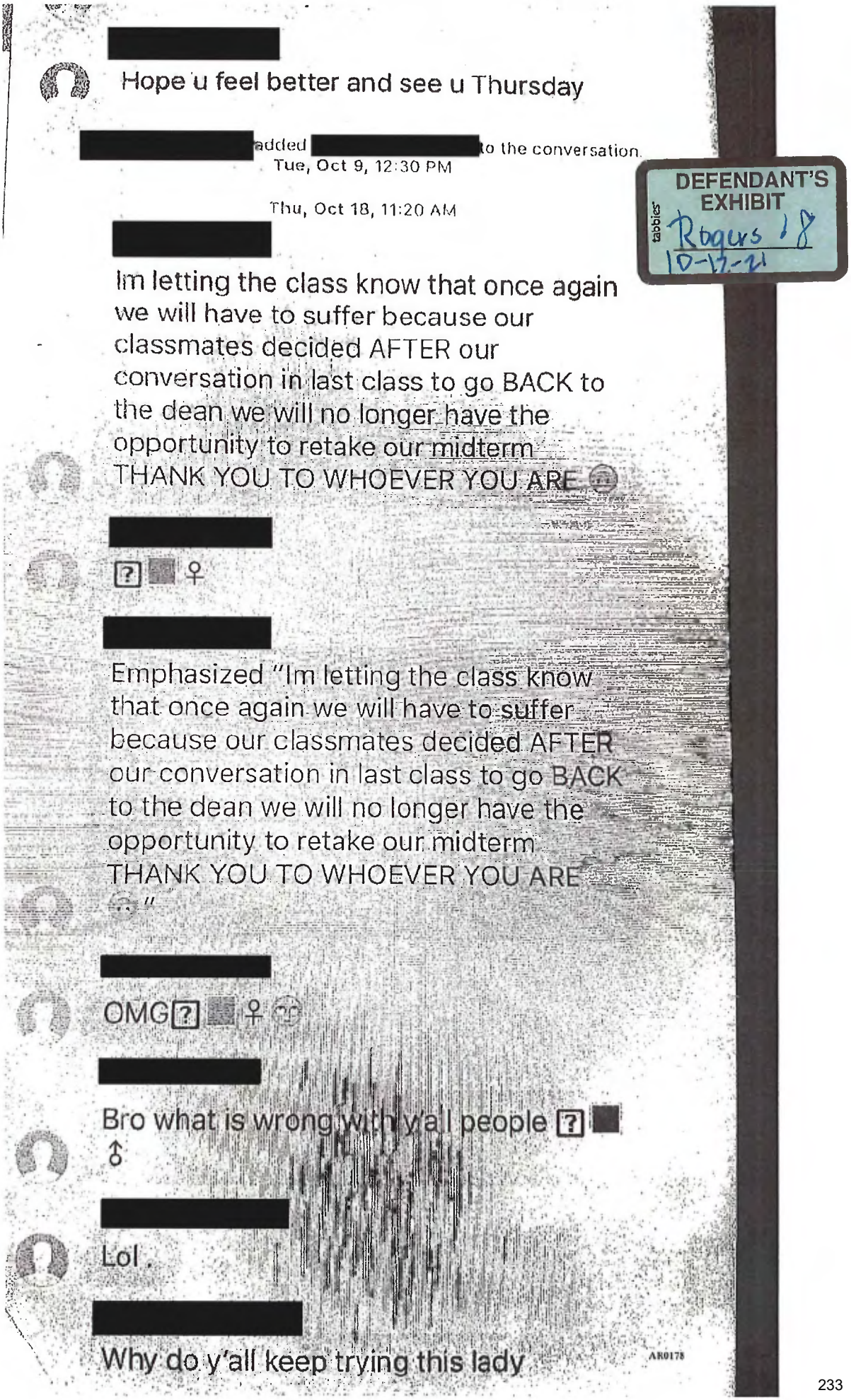
CONFIDENTIAL

EXH I AR0229

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EXHIBIT I
TEXTS DATED OCTOBER 18, 2018

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[redacted]

Hope u feel better and see u Thursday

[redacted] added [redacted] to the conversation.
Tue, Oct 9, 12:30 PM

Thu, Oct 18, 11:20 AM

[redacted]

Im letting the class know that once again we will have to suffer because our classmates decided AFTER our conversation in last class to go BACK to the dean we will no longer have the opportunity to retake our midterm THANK YOU TO WHOEVER YOU ARE

[redacted]

[redacted]

Emphasized "Im letting the class know that once again we will have to suffer because our classmates decided AFTER our conversation in last class to go BACK to the dean we will no longer have the opportunity to retake our midterm THANK YOU TO WHOEVER YOU ARE "

[redacted]

OMG

[redacted]

Bro what is wrong with y'all people

[redacted]

Lol .

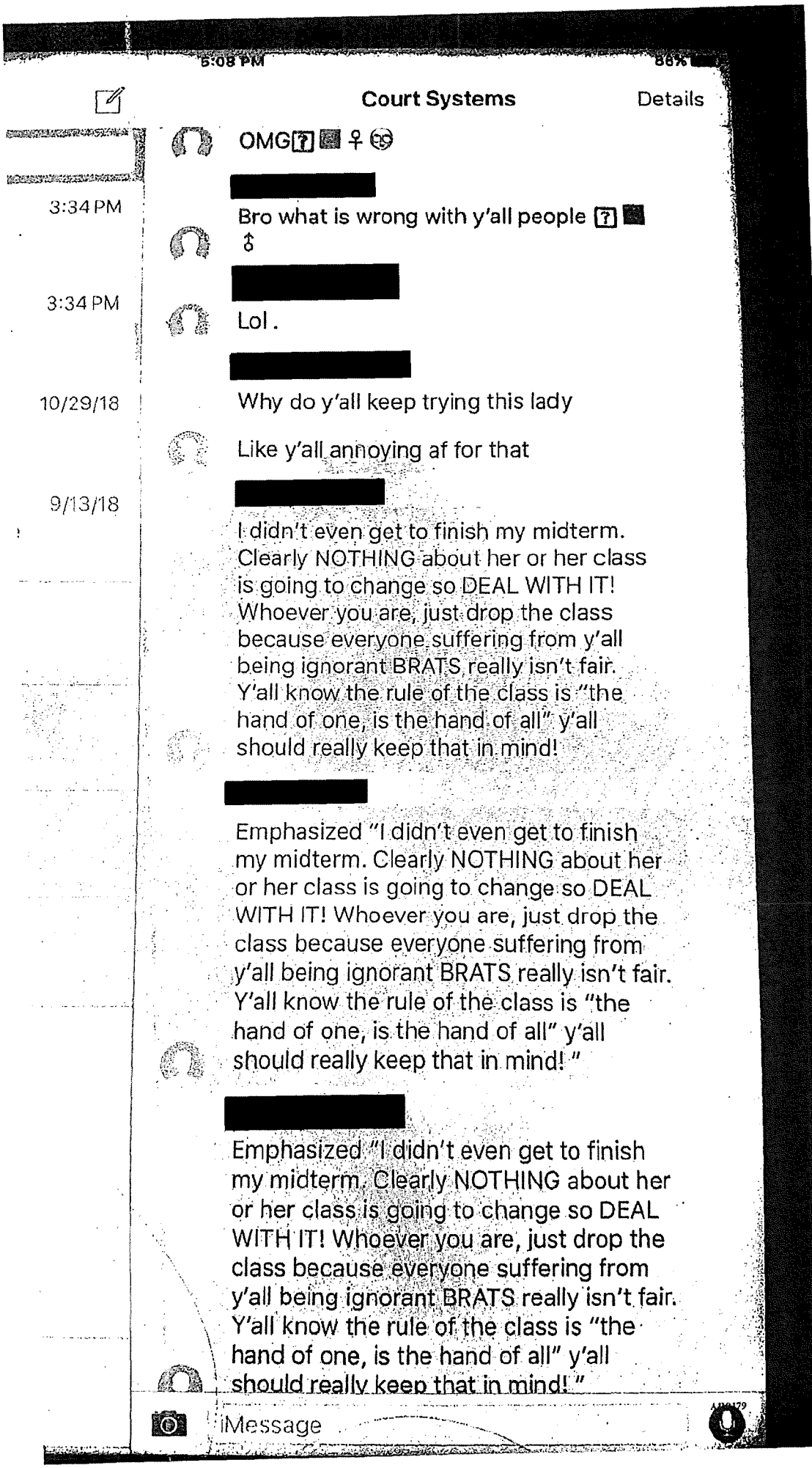
[redacted]

Why do y'all keep trying this lady

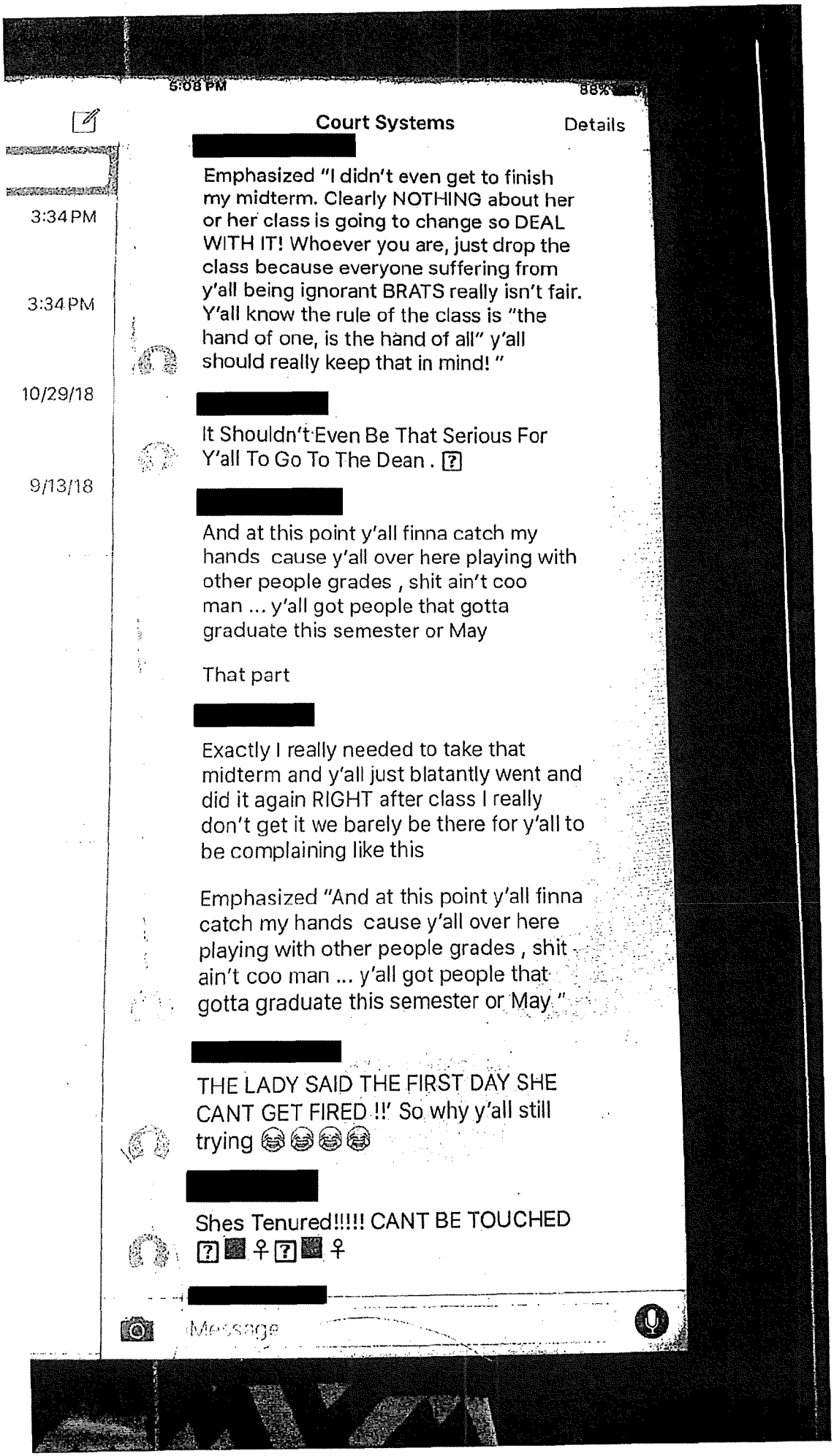
DEFENDANT'S EXHIBIT
Rogers 18
10-12-21

AR0178

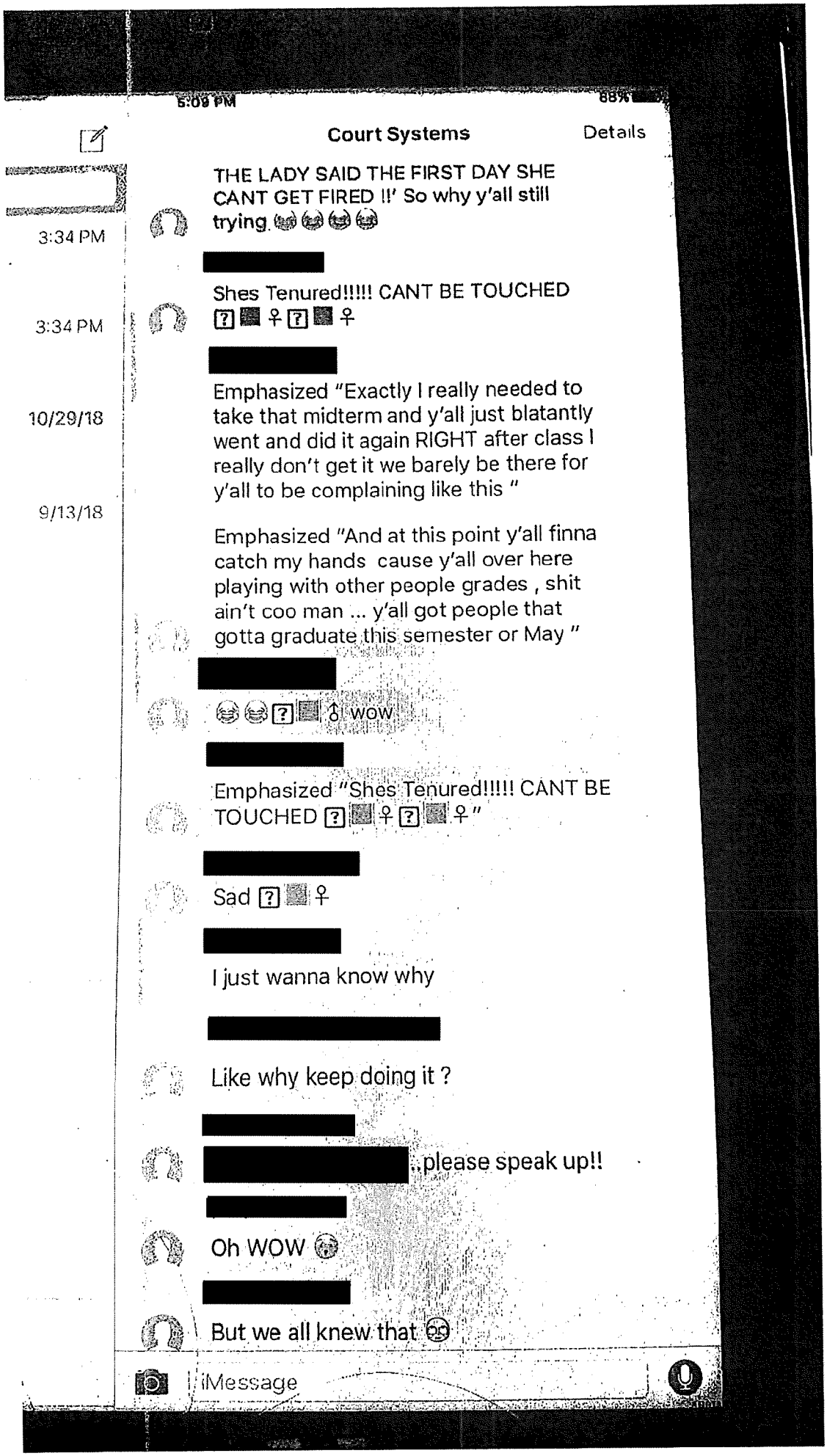
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Search

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nd Failure

[redacted]..please speak up!!

[redacted]
Oh WOW

[redacted]
But we all knew that

[redacted]
Laughed at [redacted]..please speak up!!"

[redacted]
We did, but they're just sitting here probably looking at the msgs . I just want to know why??

[redacted]
Emphasized "We did, but they're just sitting here probably looking at the msgs . I just want to know why?? "

[redacted]
Everybody send they names , so can save y'all numbers

*|

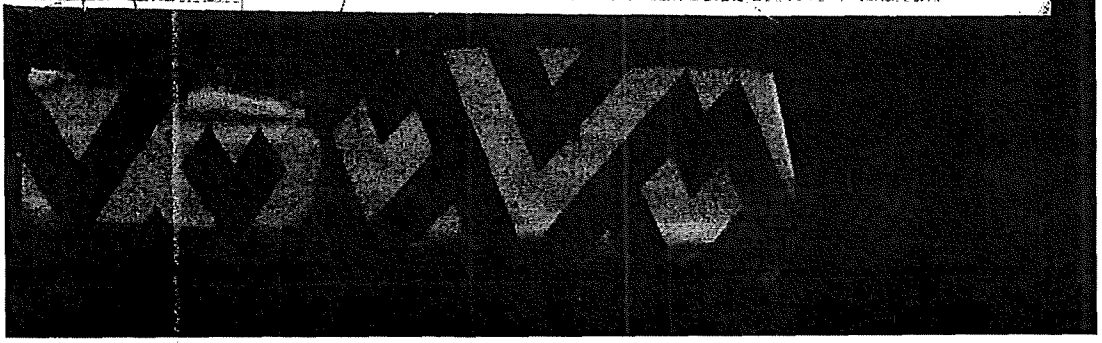
[redacted]
Y'all don't be so hard on them at the end of the day we all know what we gotta do . Stay on top of your work , do what she tells us , study hard and we'll be ok . It honestly don't matter why , everyone has their own personal reasons why we do anything in this world . Let's just buckle down and do what we gotta do . Y'all gon stay mad or move on . Ya'll still got til finals to get right

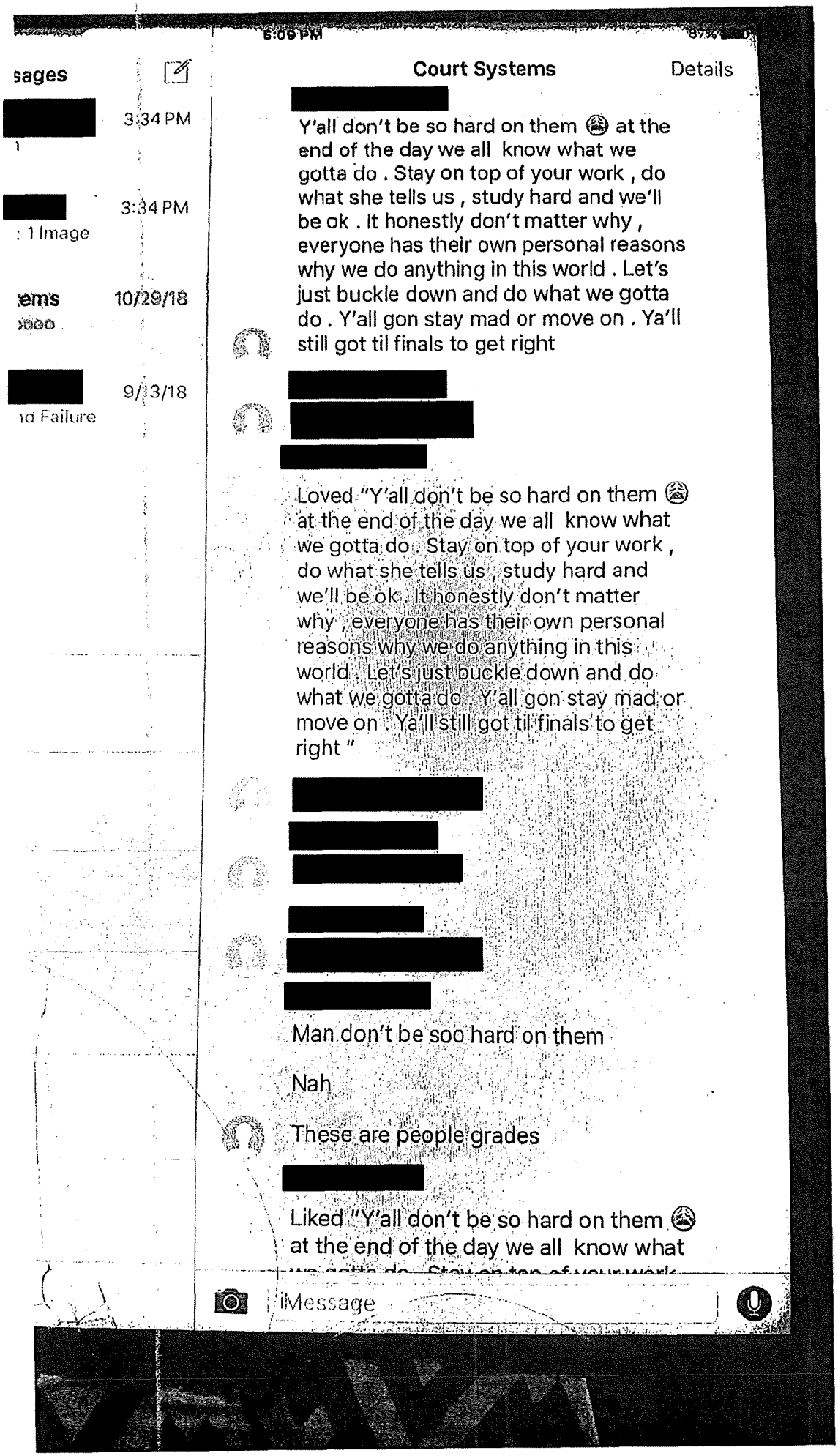
[redacted]

[redacted]

[redacted]
Loved "Y'all don't be so hard on them at the end of the day we all know what

iMessage





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Court Systems Details

These are people grades

[redacted]

Liked "Y'all don't be so hard on them 😩 at the end of the day we all know what we gotta do . Stay on top of your work , do what she tells us , study hard and we'll be ok . It honestly don't matter why , everyone has their own personal reasons why we do anything in this world . Let's just buckle down and do what we gotta do . Y'all gon stay mad or move on . Ya'll still got til finals to get right "

[redacted]

843, agreed! But since that's the case, they could've come to ANY of us and talked out anything they had a problem with and we could've worked as a class to fix the problem and change what WE do.

[redacted]

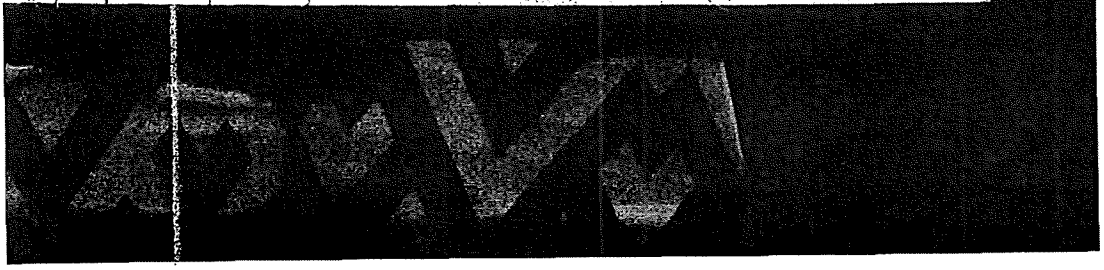
Liked "Y'all don't be so hard on them 😩 at the end of the day we all know what we gotta do . Stay on top of your work , do what she tells us , study hard and we'll be ok . It honestly don't matter why , everyone has their own personal reasons why we do anything in this world . Let's just buckle down and do what we gotta do . Y'all gon stay mad or move on . Ya'll still got til finals to get right "

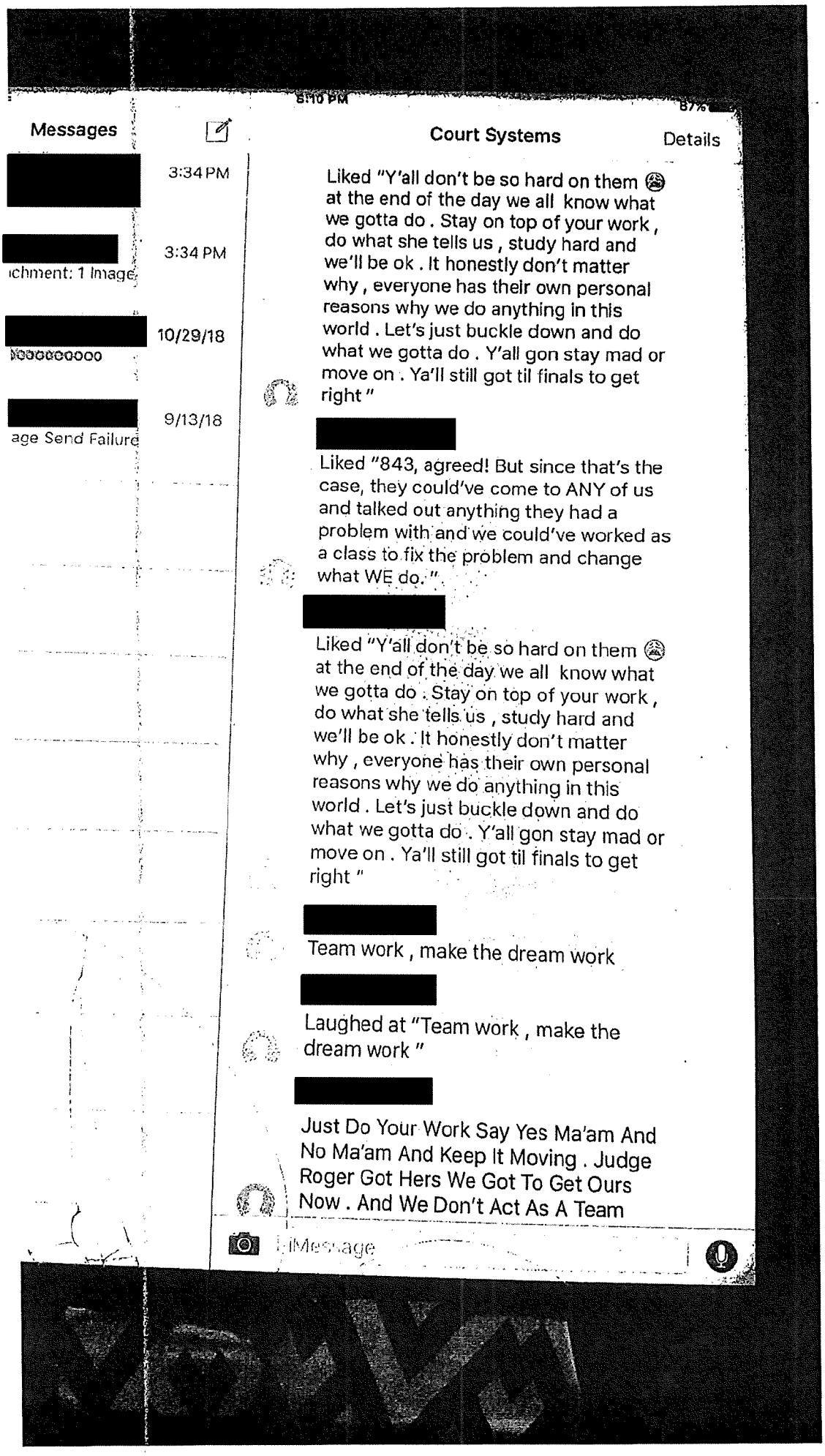
[redacted]

Liked "843, agreed! But since that's the case, they could've come to ANY of us and talked out anything they had a problem with and we could've worked as a class to fix the problem and change what WE do. "

Liked "Y'all don't be so hard on them 😩 at the end of the day we all know what

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Court Systems Details

Just Do Your Work Say Yes Ma'am And No Ma'am And Keep It Moving . Judge Roger Got Hers We Got To Get Ours Now . And We Don't Act As A Team

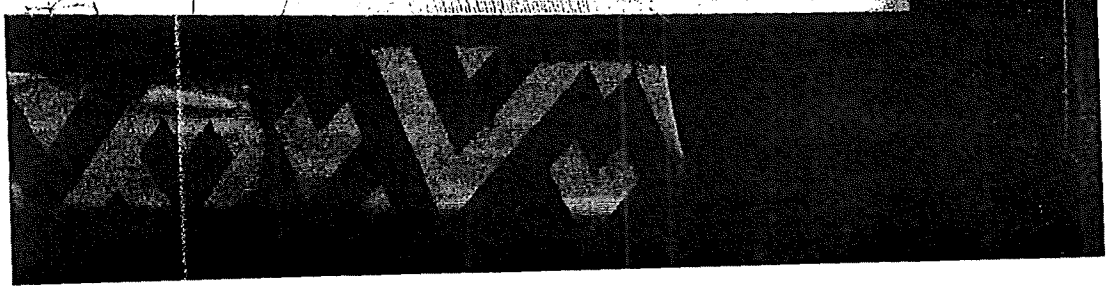
[redacted]

Yes but the facts are that they didn't want that . We're individual adults now , everyone won't have the same feelings or thought process about how they want to do things , I've told everyone from day 1 how to go about taking the class and dealing with everything that comes with it because I've taken her classes before this and though I agree that teamwork makes the dream work , everyone won't agree and I'm fine with that . I know as an individual adult that at the end of the day I'm still doing this alone and if I do what I gotta do and stay on top of myself then I got this . Nobody helped me through the classes before this , there was no FKN team for me I was my team . Just do what you gotta do 💪

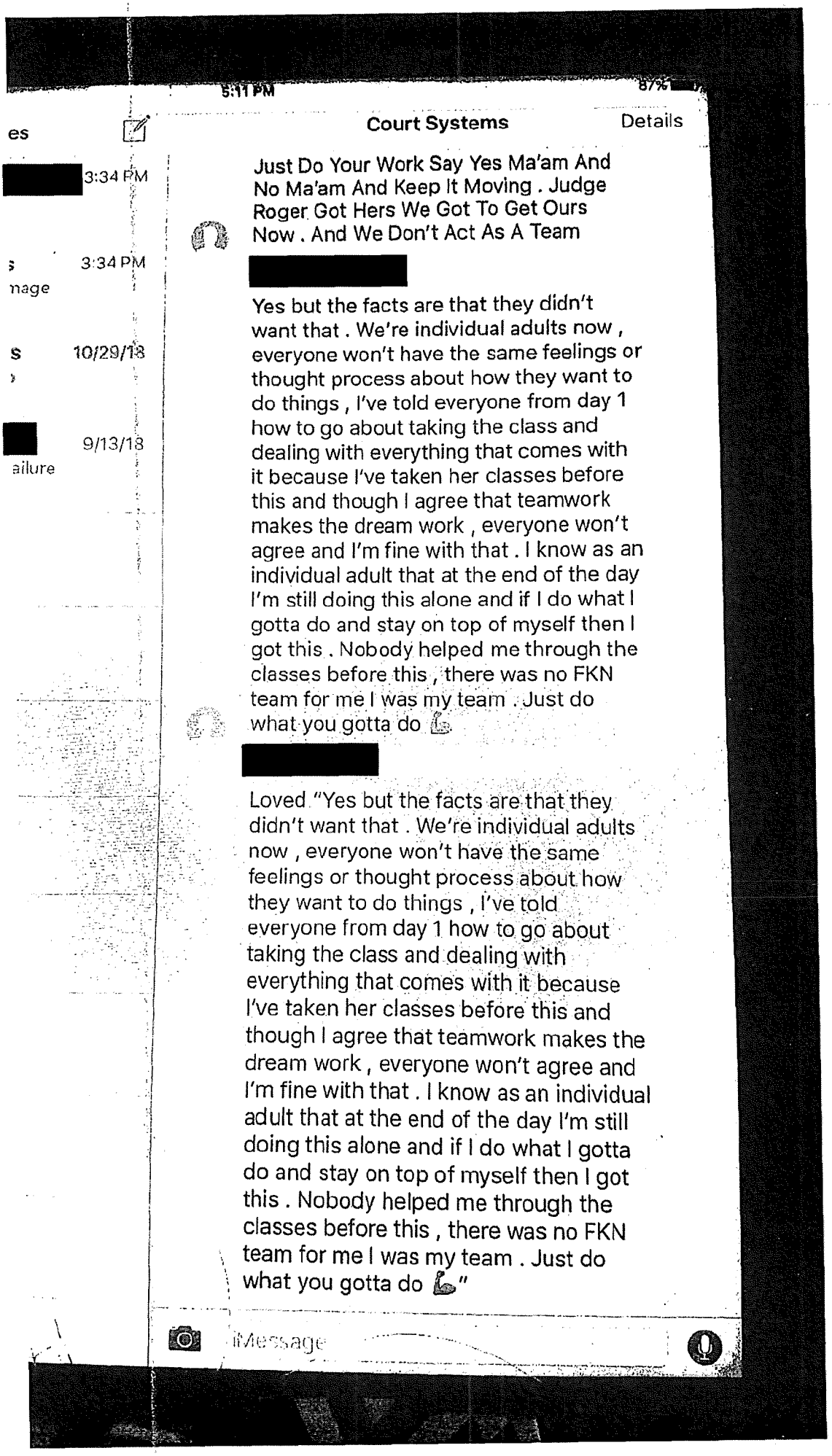
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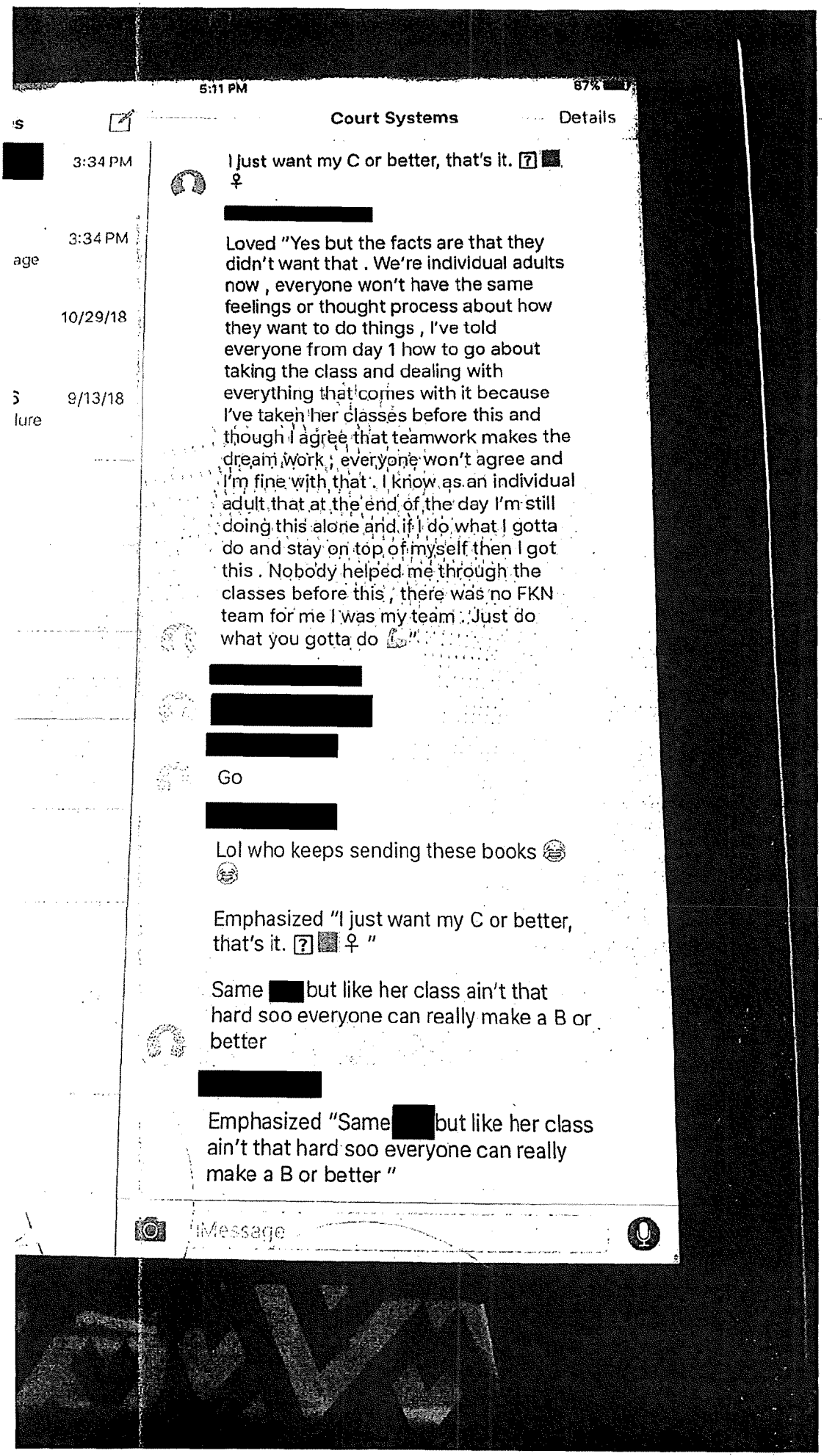
Loved "Yes but the facts are that they didn't want that . We're individual adults now , everyone won't have the same feelings or thought process about how they want to do things , I've told everyone from day 1 how to go about taking the class and dealing with everything that comes with it because I've taken her classes before this and though I agree that teamwork makes the dream work , everyone won't agree and I'm fine with that . I know as an individual adult that at the end of the day I'm still doing this alone and if I do what I gotta do and stay on top of myself then I got this . Nobody helped me through the classes before this , there was no FKN team for me I was my team . Just do what you gotta do 💪"

iMessage

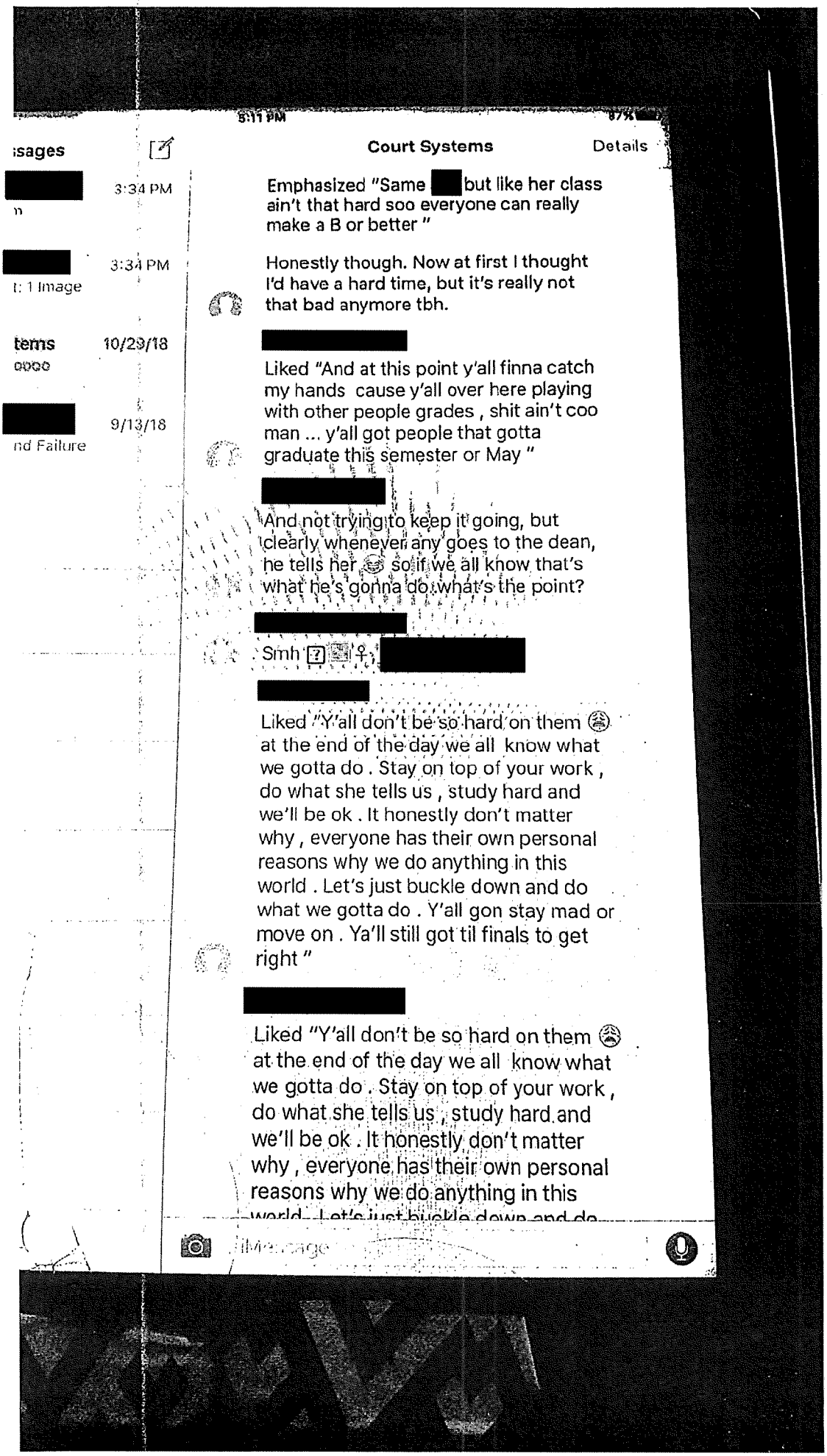


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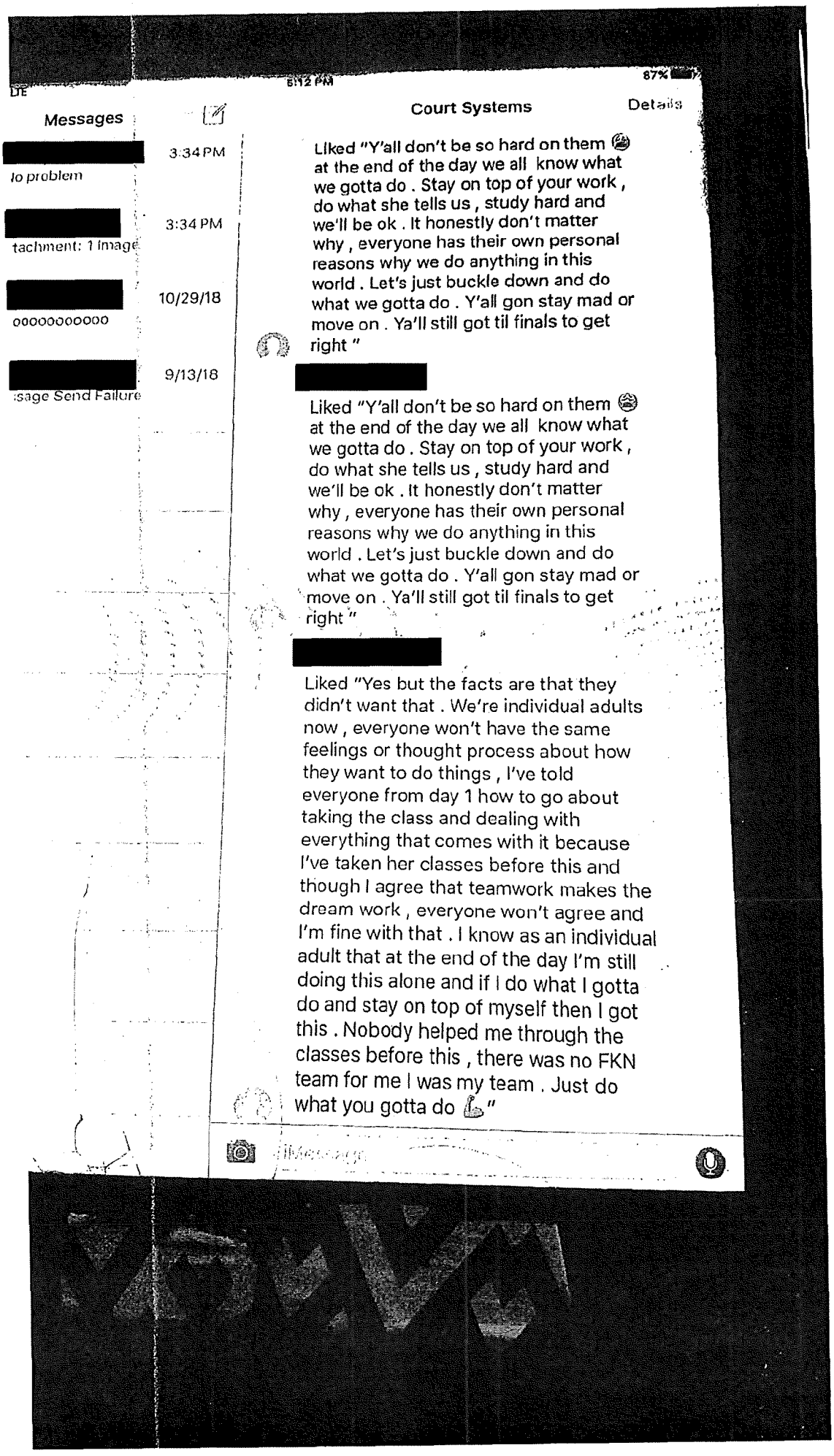




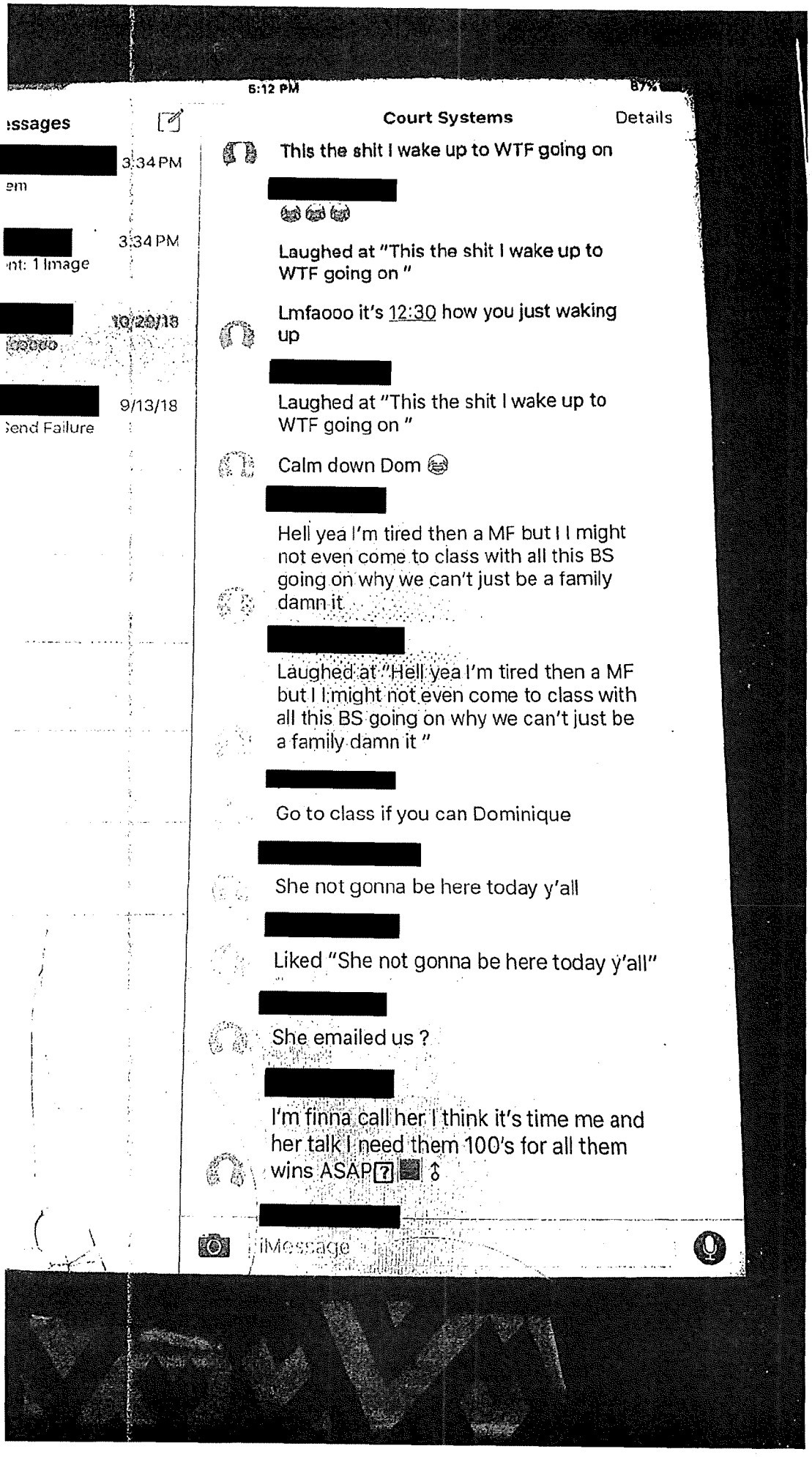
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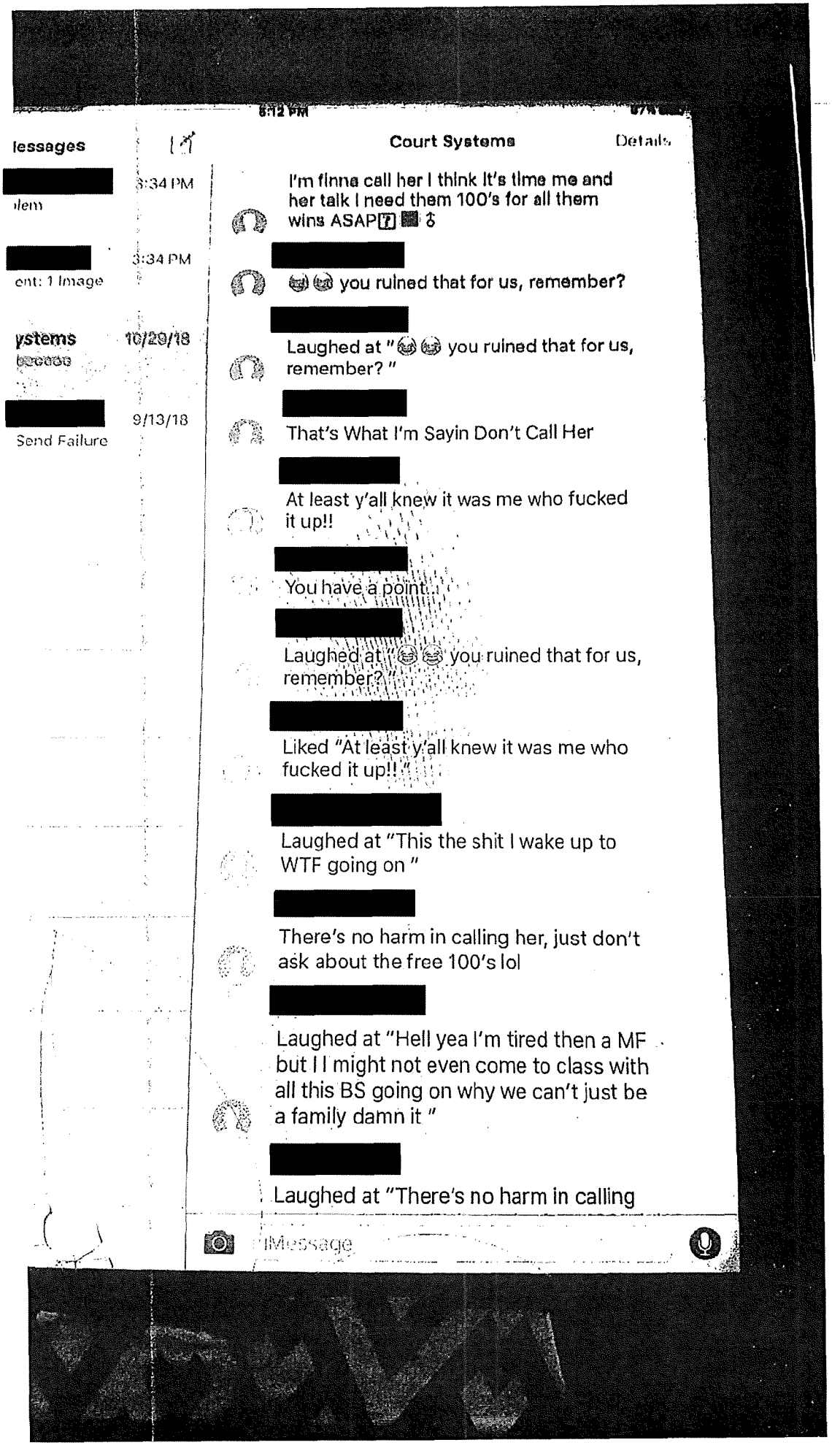
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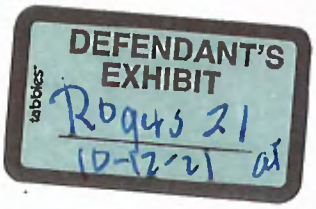


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EXHIBIT J
EMAIL DATED OCTOBER 19, 2018

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Reply all | Delete Junk | ...

Student Concerns

Charles Austin
Fri 10/19, 2:36 PM
Abigail Rogers; Janeen Witty; George Devlin

Reply all |

Inbox

Ms Rogers: I met yesterday with [redacted] regarding an email that you sent them dated October 17, 2018 10:48 P M.
The communication Directed [redacted] not to return to your CJ 333 The Court System Class; also, you told [redacted] not contact you for any reason, and they should not contact the students in your class about class work or assignments. Finally, you told [redacted] not to attend your classes or show up in or to your classroom and all future communications will be through the Office of the Dean only.
During our meeting on October 17, I advised you that I submitted recommendation to Dr. Witty that I will facilitate academic work in CJ 333 for the remainder of the Fall, 2018 Semester. We agreed that I will administer assignments, to include exams for [redacted] for the remainder of the semester.
As I expressed to you during our meeting today, I am concerned about the tone of the terms that were outlined in your email and the manner in which they were communicated.. I believe it exacerbated an environment of tension between students in your class who feel their grades hinge on the conduct of other students, specifically [redacted]
While I hoped this matter could have been resolved through earlier intervention strategies, I believe the situation has deteriorated to a point that is not conducive for [redacted] to continue in your class. Therefore, effective Thursday, October 18, the students began reporting to FAHC 304 for instructional purposes and I will oversee their work in CJ 333.
I recommend that you and I meet with Dr. Janeen P Witty, Vice President for Academic Affairs to further discuss this situation and how we can eliminate a repeat of similar occurences.
Respectfully,
Charles P. Austin, Sr., PhD
Interim Dean School of Arts and Sciences
Interim Chair Department of CJASS
(803)705-4653
Charles.austin@benedict.edu

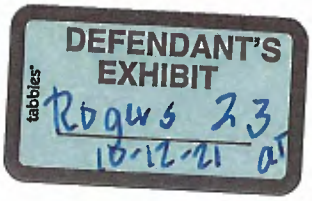
EXHIBIT K
NOTICE, OCTOBER 23, 2018

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BENEDICT COLLEGE
1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

OFFICE OF THE VICE PRESIDENT
FOR ACADEMIC AFFAIRS



October 23, 2018

Ms. Abigail Rogers
Department of Criminal Justice Administration & Social Sciences
School of Arts & Sciences
Benedict College

Ms. Rogers:

This communication is to notify you that multiple complaints have been alleged against you by students in your courses. Due to the serious nature of this matter, effective immediately, you are being placed on paid administrative leave while an investigation takes place.

Going forth, you are not to communicate with students in your courses. During this time, you will not be permitted on campus.

Thank you in advance for your cooperation. I will contact you directly upon the conclusion of the investigation.

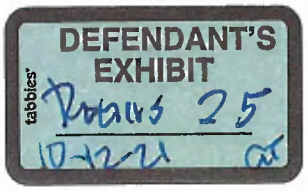
Sincerely,

Janeen P. Witty, Ph.D.
Vice President for Academic Affairs

EXHIBIT L
COMMITTEE RECOMMENDATION
NOVEMBER 20, 2018

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

BENEDICT



To: Dr. Janeen Witty
Vice President of Academic Affairs

From: Ms. Brenda A. Clark
Chair, Faculty and Staff Grievance and Appeals Committee

Subject: Ms. Abagail Rogers

Date: November 20, 2018

The committee recommends that Ms. Rogers be re-instated effective December 15, 2018.

In addition, establishment of a Professional Improvement Plan and a Conflict Resolution Plan be developed in collaboration with Ms. Rogers and the Academic Administration (Chair, Dean, and Vice-President).

The vote was unanimous with seven (7) of the nine (9) committee members present.

Members Present:
Ms. Brenda Clark, Chair
Ms. Loraine Dunbar
Dr. Tracy Dunn
Dr. Raymond Lee
Dr. Rush Oliver
Mr. Jesse Outen
Dr. Sue Sadik

Members Absent:
Ms. Taranne Roberts
Dr. Richard Williams

Dorothy L. Richardson
Ms. Dorothy L. Richardson
Recorder

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EXHIBIT M
PERFORMANCE IMPROVEMENT PLAN
SIGNED FEBRUARY 14, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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PERFORMANCE IMPROVEMENT PLAN FOR ABIGAIL ROGERS

Goals of the PIP:

I have not used a full-class penalty.

1. To eliminate the number of student complaints resulting from use of full-class penalty (or threats of such) for individual actions or inactions (hand of one)

I have not retaliated or threatened retaliation against students

2. To eliminate possible retaliatory actions (and threats of such) against students who use the chain of command to voice opinions, concerns, & complaints

I have not done any of these things.

3. To improve classroom management (reduce back and forth debates with students; de-personalize classroom interactions; eliminate threatening and demeaning messages -- verbal and written, etc.)

The only back-and-forth debate is the type that is appropriate for a law class. I have not demeaned or threatened students, and I will not in the future.

Improvement Area #1: To eliminate the number of student complaints resulting from use of full-class penalty (or threats of such) for individual actions or inactions (hand of one).

I have always treated, graded, and evaluated students individually.

Faculty members are not permitted to penalize or threat to penalize an entire class of students based on the behavior(s) of one or more students. Multiple students have complained that Ms. Rogers has expressed the philosophy of "the hand of one is the hand of all" and has used that approach in her classroom management. The College expects faculty to hold each student accountable for his/her grades and class performance. Students should not be subjected to penalties based on other students' behaviors. There should be zero instances in which students are penalized or threatened to be penalized for the behavior(s) of other students.

"The hand of one..." is a legal doctrine, not a means of collectively punishing students

During the 30-day period, Ms. Rogers must:

I do not disagree with these goals. I disagree with the premise that I did the things suggested.

- Complete a series of classroom management training sessions (DVDs & Online) (titles such as How Do I Stay Calm When Students Push My Buttons, Working with Difficult Students; Handling Annoying, Disruptive, and Dangerous Students, and How Can I Effectively Teach Unprepared Students).
- Implement a classroom management approach that encourages student responsibility for their individual behaviors on individual assignments and for working in groups without penalizing the entire class or other members of a group for the behavior(s) of other students.
- Implement a classroom management approach that is void of threats and intimidation.

My approach has been and will continue to be "void of threats and intimidation."

During the 30-day period, Academic Affairs staff will:

- Provide Ms. Rogers with access to a classroom management training session and related resources for her to use in the development of a classroom management approach appropriate for college students.

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- Provide Ms. Rogers with technical assistance in the form of classroom observation feedback from an academic administrator.

I have not taken such retaliatory actions against students

Improvement Area #2: To eliminate possible retaliatory actions (and threats of such) against students who use the chain of command to voice opinions, concerns, & complaints

I have no issue with the goal. The underlying suggestion that I have done these things in the past is false.

Faculty members are to refrain from retaliating against or threatening to retaliate against students for any reason, including their use of the chain of command, voicing their opinions, concerns and complaints.

During the 30-day period, Ms. Rogers must:

- Demonstrate classroom management skills that support student learning without threats or intimidation.
- Document her concerns about student behaviors so that each situation can be reviewed jointly with her supervisors.

I have always brought serious student behavior issues to my supervisor, Dean Austin, and will continue to do so.

During the 30-day period, Academic Affairs will:

- Provide reading materials on classroom management through the Center for Teaching and Learning to include titles such as:
  - Managing Hot Moments in the Classroom: Concrete Strategies for Cooling Down Tension
  - Seven Bricks to Lay the Foundation for Productive Difficult Dialogues
  - Managing Microaggressions in the College Classroom
  - Classroom Tools to Defuse Student Resistance
  - Microaggressions and Microresistance: Supporting and Empowering Students
  - Teaching and Learning 'Respect' and 'Acceptance' in the Classroom
  - Creating an Inclusive and Respectful Classroom Environment
  - Inclusive Assessment: Equal or Equitable?
  - Three Ways to Create a Safe and Supportive Learning Environment
  - 10 Effective Classroom Management Techniques Every Faculty Members Should Know
- Provide technical assistance in the form of classroom observations

I agree that the goals are appropriate but again strongly disagree with the suggestion that I have done these things in the past.

Improvement Area #3: To improve classroom management (reduce back and forth debates with students; de-personalize classroom interactions, eliminate threatening and demeaning messages --verbal and written, etc.)

Faculty members are expected to manage their classrooms without demeaning students or engaging in personal discussions in front of other students and without threatening or demeaning students through verbal or written communications.

During the 30-day period, Ms. Rogers must:

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- Complete a classroom management webinar or other specified training that provides guidance on successful, college-level classroom management approaches such as the online seminar entitled *Seven Ways to Increase Student Learning and Attention.*
- Develop and implement an approach to teaching that excludes personal attacks and threats to students.

I have not made personal attacks or threats to students in the past and will not in the future.

During the 30-day period, Academic Affairs will:

- Provide access to a webinar or other training that will provide guidance on successful, college-level classroom management.
- Provide small group faculty training on classroom management through the Center for Teaching and Learning

As my grievance makes clear, student complaints are not always legitimate. The College has an obligation to do more than accept them at face value.

Observations, student reports, or other evidence that the classroom management approach being used is not in compliance with the above-stated characteristics will result in an immediate review of the situation by the Dean and Vice President for Academic Affairs. Failure to successfully complete each of the three objectives listed above will result in further disciplinary action.

During the 30-day period, Ms. Rogers will be required to meet once per week with her Dean, Dr. Austin, to review her progress and to identify additional resources that may be useful to Ms. Rogers in meeting the expectations for this objective. Additionally, she will be required to meet every two weeks with the VPAA, Dr. Witty.

In addition to the three objectives of the PIP cited above, Ms. Rogers must also develop and demonstrate conflict resolution skills appropriate for higher education settings based on conflict resolution training. The conflict resolution plan will be based on Ms. Rogers' successful completion of a webinar or other training on conflict resolution that Benedict will select.

Abigail B. Rogers
Signature

2/14/2019
Date

Employee Comments: To use a legal objection, this PIP "assumes facts not in evidence." The primary purpose of my comments is to reiterate that the underlying factual premise – that I have engaged in the conduct referenced herein – is false. The purpose of my grievance is to set the factual record straight and defend my honor. The opportunity to learn how to be a better professor – even after twenty years of teaching – is something I welcome. For that reason, I am agreeing to participate in the learning opportunities described herein. That is what my signature indicates, and nothing more.

EXHIBIT N
LETTER TO PLAINTIFF'S COUNSEL
DATED FEBRUARY 12, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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NELSON MULLINS

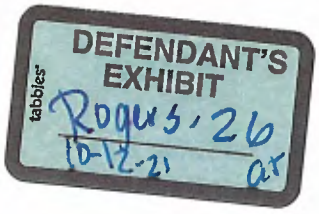
Debbie Whittle Durban
(Admitted in SC & NC)
Certified Specialist
in Employment & Labor Law
by the South Carolina Supreme Court
T 803.255.9465 F 803.255.9069
debbie.durban@nelsonmullins.com

NELSON MULLINS RILEY & SCARBOROUGH LLP
ATTORNEYS AND COUNSELORS AT LAW

1320 Main Street | 17th Floor
Columbia, SC 29201
T 803.799.2000 F 803.256.7500
nelsonmullins.com

February 12, 2019

VIA EMAIL (coskrey@coskeylaw.com)



Blaney A. Coskrey, III
Capitol Center Tower
Suite 1980
Columbia, SC 29201

RE: Abigail R. Rogers v. Benedict College

Dear Blaney:

Benedict is ready to set the appeal hearing for Ms. Rogers' grievance and has agreed to the following procedures to insure the hearing is handled appropriately and with as little disruption to the students as possible. During the appeal hearing, both Benedict and Ms. Rogers may be represented by counsel and each may present evidence and cross examine witnesses. Each party is limited to one hour to present their case. Ms. Rogers may call other faculty or staff to testify but if she intends to call students, she must comply with the following guidelines:

(1) No students currently enrolled in any of Ms. Rogers classes will be permitted to attend or testify at the hearing. The reason for this should be obvious but the welfare of its students is Benedict primary concern and it does not want any current student of Ms. Rogers to feel any pressure to attend.

(2) Benedict will be responsible for notifying any student whom Ms. Rogers wishes to testify. Ms. Rogers should provide a list of these students and Benedict will then notify those students by email, with a copy to Ms. Rogers, that the student has been requested to appear and present testimony at the hearing but that such appearance by the student is totally voluntary and the student will not, under any circumstances, be retaliated against by Benedict or Ms. Rogers for appearing or refusing to appear.

Once Benedict has received Ms. Rogers' list of students, if any, whom she wishes to call, Benedict will schedule a date for the appeal hearing that is mutually acceptable to both parties.

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Furthermore, as you know we have been trying to negotiate the Performance Improvement Plan with Ms. Rogers for weeks but to no avail. Although Benedict had hoped it could be a collaborative effort; unfortunately that does not appear to be possible. Therefore, in order to continue her teaching responsibilities, Ms. Rogers must sign and return the enclosed Performance Improvement Plan by February 15. She is free to make any comments she would like on the plan itself. In the event she refuses to do this, Benedict will place her on an unpaid administrative leave pending the decision of the committee on her appeal.

Please let me know if you have any questions.

Very truly yours,

Debbie Whittle Durban

Debbie Whittle Durban

DWD:dd
Enclosure

EXHIBIT O
MINUTES OF BOARD MEETING
MAY 10, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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MINUTES
ANNUAL MEETING
BENEDICT COLLEGE BOARD OF TRUSTEES

Friday, May 10, 2019
9:00 A. M.

The meeting of the Benedict College Board of Trustees was held on the above date and time in the Administration Building. Dr. Charlie W. Johnson, Chairman, presided.

ALL TO RDER The meeting was called to order by Chairman Johnson.

Invocation was given by Dr. Solomon Jackson, Jr.

The Roll Call was performed by the Secretary.

EMBERS RESENT In addition to Chairman Johnson, present were:

Mrs. Patricia J. Ackason	Rev. Dr. Solomon Jackson, Jr.
Mr. G. Tyrone Bonds	Mr. Boyd B. Jones
Mr. Anthony Burroughs	Mrs. Doris W. Johnson
Dr. Tyrone A. Burroughs	Dr. Haywood L. Strickland
Dr. Samuel Darko	Mr. William L. Thomas
Mrs. Hilda D. Gadsden	Ms. Alexis V. Ward
Dr. Mary Gaffney	Mr. Emory L. Waters
Dr. Elsie King Hamler	Mr. William B. Whitney
Attorney James P. Hudson	Dr. Roslyn Clark Artis, President

Comprising a quorum of the membership.

Members absent:

The Hon. Stephen K. Benjamin
Attorney Valoria Cheek
Attorney Clarence Davis
Dr. Paul W. Drummond
Dr. Willie J. Hill, Jr.
Mr. Richard Panner
Dr. Benjamin D. Snoddy
Dr. Sheryl P. Underwood
Dr. Dorothy B. Wilson
Dr. William P. Diggs, Trustee Emeritus
Dr. Milton Kimpson, Trustee Emeritus
Mr. Donald Rozier, trustee Emeritus



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Executive Session
Benedict College Board of Trustees

Following a meeting of the Committee on Trustees, the Chair, Mr. William L. Thomas, convened an executive session for further discussion on changes to the categories of trustees. This review on trustees' categories was begun at the request of the Benedict College Board of Trustees Chairman, Dr. Charlie W. Johnson. On April 9, 2019, Chairman Johnson appointed an Ad Hoc Committee on Governance to study and make recommendation to the full Board regarding the following:

- The President's standing as a Board Member
- The faculty/staff representative and student representative roles, right, and responsibilities and consider whether the addition of a staff representative is appropriate

After comprehensive and deliberative discussion, Trustee Boyd B. Jones offered a motion that the positions of faculty/staff and student representatives be removed from the Benedict College Board of Trustees, and reference to the same be eliminated from the Bylaws; that the words stating that the President of Benedict College is not a member of the Benedict College Board of trustees be added to the Bylaws. The motion was seconded by Trustee G. Tyrone Bonds and unanimously voted to carry the motion.

Rationale: (1.) For best practices, the college must be in compliance with SACS and AGB, which clearly state that institutions need to have trustees who are independent, meaning: individuals who are not on the payroll or who are the recipients of direct services of the institution. (2.) Benedict College is the only private HBCU among its peers (Claflin, Allen and S. C. State University) that has seated voting representatives from the faculty/staff and the student body. It has been the only institution in its peer group to have the President of the College to be a voting member of the Board of Trustees.

The Committee on trustees will recommend to the full Benedict College Board of Trustees, at its May 10, 2019 meeting, that the positions of faculty/staff and student representatives be deleted from the College Board of Trustees and the Bylaws, and that the President of the College is not a member of the Board, with words of the same to be added to the Bylaws.

Submitted by,

Mrs. Doris W. Johnson
Recorder

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SECTION 4: Governing Board

The institution's governing board holds in trust the fundamental autonomy and ultimate well-being of the institution. As the corporate body, the board ensures both the presence of viable leadership and strong financial resources to fulfill the institutional mission. Integral to strong governance is the absence of undue influence from external sources.

1. The institution has a governing board of at least five members that: (a) is the legal body with specific authority over the institution. (b) exercises fiduciary oversight of the institution. (c) ensures that both the presiding officer of the board and a majority of other voting members of the board are free of any contractual, employment, personal, or familial financial interest in the institution. (d) is not controlled by a minority of board members or by organizations or institutions separate from it. (e) is not presided over by the chief executive officer of the institution. (Governing board characteristics) [CR]

2. The governing board a. ensures the regular review of the institution's mission. (Mission review) b. ensures a clear and appropriate distinction between the policymaking function of the board and the responsibility of the administration and faculty to administer and implement policy. (Board/administrative distinction) c. selects and regularly evaluates the institution's chief executive officer. (CEO evaluation/selection)

EXHIBIT P
LETTER TO PLAINTIFF
DATED APRIL 16, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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BENEDICT COLLEGE
1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

Board of Trustees

April 16, 2019

Ms. Abigail Rogers
Associate Professor
Criminal Justice Administration and Social Sciences
Benedict College
Columbia, SC 29204

Dear Ms. Rogers:

It has come to our attention that you have called certain members of the Benedict College Board of Trustees and members of the public to inform them that you are now a member of the Benedict College Board of Trustees, by virtue of your recent election as the faculty/staff representative. That is incorrect. To clarify, the terms of all new members of the Board commence during the ensuing academic year after their election. In addition, persons accepted to serve on the Board are required to participate in a new member orientation session during the Fall Annual Meeting of the Board before they start their service.

We hope this clarifies any misunderstanding. Congratulations on your election and best wishes.

Sincerely,

Charlie W. Johnson
Chairman of the Board

William L. Thomas
Chair, Committee on Trustees



EXHIBIT Q
REPORT TO THE GOVERNANCE COMMITTEE
MAY 1, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624



From: Roslyn Artis
Sent: Wednesday, May 1, 2019 10:29 AM
To: hhstrickland619@gmail.com; Benjamin, Stephen K (Steve); doris@leevy.com
Cc: Charlie Johnson
Subject:

To: Governance Committee
From: Dr. Artis

As you are aware, I have long had concerns about my status as a member of the Board of Trustees. I have always believed it to be a conflict of interest. My view on this matter is informed by SACS-COC and AGB's (Association of Governing Boards) clear statements regarding the need for Trustees to be independent. Individuals who are "on the payroll" or the recipients of direct services of the institution cannot, by definition, be independent. As you review our governance structure and the board composition, I hope you will take that "bright line rule" into consideration.

In an effort to be helpful, I have surveyed a number of our peer institutions to get a sense of which permit Faculty and Student Representatives to serve on the Board, and, of those who do, whether those members are voting or non-voting. As you can see, only 3 of the institution's surveyed permit voting members. The remainder either do not permit them to serve as full trustees (report and leave) or if they are trustees, do not permit them to vote. I have highlighted the HBCUs surveyed. The 6 private HBCUs surveyed, including 2 in SC, merely permit them to attend, report on behalf of their constituency, and leave. SC State, the public HBCU, permits the student and faculty to serve as non-voting Trustees. I submit this information for the sole purpose of guidance. As always, I and will respect and support whatever recommendation you bring forth.

Institution	Faculty Rep	Vote	Student Rep	Vote
Tougaloo College	no		no	
Millikin University	X		X	
Saint Elizabeth	X		no	
St. Peters Univ	X		X	
Carroll University	no		no	
Allen University	no		no	
St. Leo	no		no	
Rhodes College	X		X	
Maria College	X		no	
Ferrum College	no		no	
Univ. of Province	X	X	X	X
Claflin Univ	no		no	
USC	X		X	
SC State	X		X	
Linfield College	X	X	X	X

Caldwell Univ	no		no	
Otterbein	X	X	X	X
Misericordia	no		no	
Dillard Univ	no		no	
VA Wesleyan	no		no	
Univ of Northwestern	X		no	
Columbia College (MO)	X		no	
College of St. Elizabeth	no		no	
St. Ambrose	X		X	
Berea	X		X	
Notre Dame (MD)	no		no	
Wheaton College	no		no	
Brevard College	X		X	
Medaille College	X		no	
Newman Univ	X		no	
Wheaton College	no		no	
Anderson (SC)	no		no	
William Jewell College	no		no	
Reinhardt Univ	no		no	
Lycoming College	no		no	
Trinity Christian College	no		no	
Moravian	X	X	X	x
Caldwell Univ	no		no	
College of St. Elizabeth	no		no	
St. Peters Univ	no		no	
Union College	X		X	
Rust College	no		no	
Wylie College	no		no	
Columbia Coll	no		no	
Furman	no		no	

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EXHIBIT R
LETTER FROM JOHNSON TO PLAINTIFF
DATED JUNE 7, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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BENEDICT COLLEGE
1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

Board of Trustees

June 7, 2019

Professor Abigail Rogers
Faculty
Benedict College
21 Black Gum Road
Columbia. S. C. 29209

Dear Professor Rogers:

In an ongoing effort to improve its fiduciary governance responsibilities, the Benedict College Board of Trustees has engaged in months of self-study. Concluding extensive research into best practices for board composition and membership, as outlined by SACS and the AGB, the Board, among other items, has adopted the following:

1. The President of the College shall not be a member of the Benedict College Board of Trustees,
2. Faculty/staff and students shall not be members of the Benedict College Board of Trustees,

This policy change will be reflected in the Bylaws, and is effective as of the Annual Board meeting held on May 10, 2019.

Sincerely,

Charlie W. Johnson
Chairman, Benedict College Board of Trustees

PLAINTIFF'S EXHIBIT 5 1/17/22 Johnson
PENGAD 800-631-6989

EXH B

EXHIBIT S
LETTER TO BLANEY COSKREY
JULY 25, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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RICHARDSON PLOWDEN
RICHARDSON PLOWDEN ROBINSON, P.A.
ATTORNEYS AT LAW

COLUMBIA P.O. Drawer 7788 • Columbia, SC 29202
1900 Barnwell Street, Columbia, SC 29201 P 803.771.4400 F 803.779.0016

MYRTLE BEACH P.O. Box 3646 • Myrtle Beach, SC 29578
2103 Farlow Street, Myrtle Beach, SC 29577 P 843.448.1008 F 843.448.1533

CHARLESTON P.O. Box 21203 • Charleston, SC 29413
235 Magrath Darby Boulevard, Suite 100, Mount Pleasant, SC 29464 P 843.805.6550 F 843.805.6599

www.RichardsonPlowden.com

Reply to: Columbia Office
fcrawford@richardsonplowden.com
Direct Dial: 803-576-3711

July 25, 2019

Blaney A. Coskrey, III, Esq.
Law Office of Blaney A. Coskrey, III
Capital Center Tower
1201 Main Street, Suite 1980
Columbia, SC 29201

Re: Abigail Rogers and Benedict College
Our File No. 1067-121

Dear Blaney:

Thank you for speaking with me last week in regards to your letter to Chairman Johnson dated June 20, 2019.

I have since discussed your letter with my client.

In response, please be advised that your client, Abigail Rogers, as the Faculty/Staff Representative, will receive notice of the next Benedict College Board of Trustees meeting.

If there are any other issues to discuss, please give me a call.



With kindest regards, I am

Sincerely,

Frederick A. Crawford

FAC/rmb

BC0644

EXHIBIT T
NOTICE OF THE BOARD OF TRUSTEES SPECIAL MEETING DATED SEPTEMBER 11, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

From: Jenny Screen <Jenny.Screen@benedict.edu>
Sent: Wednesday, September 11, 2019 4:53 PM
To: packjaks.pa@gmail.com <packjaks.pa@gmail.com>; Benjamin, Stephen K (Steve) <Stephen.Benjamin@columbiasc.gov>; G. Tyrone Bonds (tbonds14@comcast.net) <tbonds14@comcast.net>; Anthony.Burroughs@bankofamerica.com <Anthony.Burroughs@bankofamerica.com>; tburroughs@firstchoicesale.com <tburroughs@firstchoicesale.com>; valoria.cheek@myabec.org <valoria.cheek@myabec.org>; Clarence Davis <CDavis@griffindavislaw.com>; Macksr@bellsouth.net <Macksr@bellsouth.net>; mgaffney@comcast.net <mgaffney@comcast.net>; ekhamler@gmail.com <ekhamler@gmail.com>; Willie J. Hill, Jr. (wjhdds2000@yahoo.com) <wjhdds2000@yahoo.com>; jpathudson@bellsouth.net <jpathudson@bellsouth.net>; Boydjones@banknbsc.com <Boydjones@banknbsc.com>; Charlie W. Johnson (cjohnson@immanuelrealty.com) <cjohnson@immanuelrealty.com>; Islj@sc.rr.com <Islj@sc.rr.com>; Gailmooremorrison@gmail.com <Gailmooremorrison@gmail.com>; Rich.panner@pepsico.com <Rich.panner@pepsico.com>; bdsnoddy@mtmoriahbaptist.net <bdsnoddy@mtmoriahbaptist.net>; hstrickland619@gmail.com <hstrickland619@gmail.com>; William L. Thomas (billt829@aol.com) <billt829@aol.com>; Jesse.Tyson@nbmbaa.org <Jesse.Tyson@nbmbaa.org>; Abigail Rogers <Abigail.Rogers@benedict.edu>; Emory L. Waters (elwvaw@aol.com) <elwvaw@aol.com>; William B. Whitney (wbwhitney39@hotmail.com) <wbwhitney39@hotmail.com>; akadot@ymail.com <akadot@ymail.com>
Cc: Roslyn Artis <Roslyn.Artis@benedict.edu>
Subject: Notice of Special Conference Call Meeting of the Board of Trustees - Wednesday, September 18, 2019 @ 5:00 P.M.

Dial in number: 866-732-1477
Passcode: 3575980

Pursuant to Article II, Section 4 of the Benedict College Board of Trustee Bylaws, please accept this correspondence as NOTICE OF A SPECIAL MEETING of the Board of Trustees, to be held one week from today, September 18, 2019 at 5pm via telephone conference. The sole purpose of the voting on the following amendments to the Bylaws:



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Article 1: Section 3. Language to be added: A Trustee elected to complete an unexpired three-year term may be eligible for election to one more term not to exceed the three term maximum of the replaced member, however, the Board reserves the right to review this policy if the replacement occurs in the last two years of the replaced Board Member's term. The Board reserves the right to review this policy.

Article 1: Section 4. New language in red: Included in the total membership of trustees provided in the preceding paragraph, there shall be two from the American Baptist Home Mission Society; one from the National Alumni Association; one from the Baptist Education and Missionary Convention of South Carolina; one from the Women's Baptist Education and Missionary Convention of South Carolina; and one from the Mather Alumni Association. These proposed members are nominated by the Committee on Trustees and elected by the Board at its annual Meeting.

Article 1: Section 6. New language in red: Upon recommendation of the Committee on Trustees, Trustees who served with distinction for at last two terms may be elected by the majority of trustees as Trustee Emeriti.

Article II: Section 2. New language in red: The Annual Meeting of the Board of Trustees shall be held in the City of Columbia, South Carolina, during the spring in each year.

Article II: Section 3. New language in red: Notice of the time and place of such meetings shall be mailed each member of the Board by the Secretary at least one month in advance of the selected date of the meeting. A Trustee participation in such a meeting is considered to be present at the meeting.

Article IV: Section 1. New language in red: The Executive Committee shall consist of Board Officers, Standing Committee Chairs, and two Board members at large appointed by the Chairman of the Board of Trustees at the Board's Annual Meeting. The Chairman of the Board serves as Chairman of the Executive Committee with the Vice Chairman, Secretary and assistant Secretary of the Board, for the Executive Session.

Article IV: Section 3. New language in red: The Executive Committee shall represent the Board in interim between meetings of the Board and shall exercise in general the authority of the Board in matters pertaining to the regular administration of the Board except when referral with power has been given by the Board in respect to certain specific items of business. The Executive Committee shall oversee the work of the Board standing committees, the institution's planning process.

Article V: Section 7. Language to be added: This Committee shall nominate membership on the Executive and Standing Committees.

Article VII: Section 1. Language to be added: The President of the College shall not be a member of the Board of Trustees.

Article VII: Section 5. New language in red: The President shall be a member ex-officio with full voting rights of all standing and special committees of the Board of Trustees.

Article IX: Section 1. New language in red: Upon vote of the Board, sessions of the Board may be held in executive session, where all members shall be eliginble to attend the executive session of the Board except for the following:

- Any Board member with a conflict of interest concerning a matter being discussed in executive session when this issue is discussed.
- Any Trustee Emeritus who may be attending the Board Meeting

The Chairman of the Board may allow the President to attend an executive session where his/her presence will be helpful to the Board members in executive session.

Minutes of any executive session of the Board will be filed in the office of the General Counsel or his/her successor.

Trustees, you may recall that each of these amendments was previously voted on unanimously by the Board during its May, 2019 meeting.
However, in keeping with the notice requirements set forth in Article II: Section 4 of the Bylaws, the vote must be re-taken to afford proper notice of the proposed Bylaw changes.

In effect, these changes eliminate the President, Faculty and Student Trustees from voting membership among other minor revisions designed to clarify and/or amplify Board member rights and responsibilities.

Sincerely,

Charlie W. Johnson
Chairman of the Board

Attachments

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EXHIBIT U
MINUTES OF THE BOARD OF TRUSTEES
SPECIAL MEETING
SEPTEMBER 18, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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BENEDICT COLLEGE
BOARD OF TRUSTEES SPECIAL CONFERENCE CALL MEETING

Thursday, September 18, 2019
5:00 P. M.

The Special Meeting of the Benedict College Board of Trustees was held on the above date and time. Chairman Charlie W. Johnson, presided.

The meeting was called to order.

The Roll Call was performed by the Secretary.

In addition to Chairman Johnson, present was:

The Honorable Stephen K. Benjamin	Mr. Richard Panner (Proxy)
Mr. G. Tyrone Bonds	Dr. Benjamin D. Snoddy
Dr. Elsie King Hamler	Dr. Haywood L. Strickland
Dr. Willie J. Hill, Jr.	Mr. William L. Thomas
Mr. James P. Hudson	Mr. Emory L. Waters
Mr. Boyd B. Jones	Mr. William B. Whitney
Mrs. Doris W. Johnson	Dr. Dorothy B. Wilson

Dr. Roslyn Clark Artis, President

Comprising a quorum of the membership.

Members absent:

Mrs. Patricia J. Ackason	Mrs. Hilda D. Gadsden
Mr. Anthony Burroughs	Dr. Mary Gaffney
Dr. Tyrone A. Burroughs	Dr. Solomon Jackson, Jr.
Attorney Valoria Cheek	Dr. Gail M. Morrison
Mr. Clarence Davis	Ms. Abigail Rogers
Dr. Paul W. Drummond	Mr. Jesse J. Tyson

Trustees Emeritus
William P. Diggs
Milton Kimpson
Donald Rozier

Also attending Attorney I. S. Leevy Johnson, General Counsel and Mrs. Jenny L. Screen, Executive Secretary.

The purpose of the special meeting was to ratify the vote taken by the Board of Trustees on May 10, 2019 and June 24, 2019 where insufficient notification was given to amend the Board Bylaws. The Chairman entertained a motion to ratify and approve the amendments to the Board of Trustees Bylaws distributed to all Board Members on September 11, 2019.



Mrs. Doris Johnson, Chairperson of the Ad Hoc Bylaws Committee, moved that all of the amendments to the Board Bylaws distributed on last Wednesday, September 11, 2019, and previously unanimously approved and adopted at the May and June meetings, be ratified and adopted, I so move. Seconded by Mr. William L. Thomas.

Motion made, seconded and carried that the action of the Board of Trustees taken on September 18, 2019 regarding approving the amendments to the Board of Trustees Bylaws be adopted.

Call for the question. There were no questions. The vote was taken by Roll Call (see attached) and Board Members affirmed by saying "yes." The vote was unanimous and the amendments to the Board Bylaws was adopted.

Chairman Johnson reiterated that all Board Members were notified and thanked those Board Members on the call who participated and thanked Board Members for joining in on this Special Conference Call Meeting of the Board. Dr. Hayward L. Strickland moved to adjourn and seconded by Mr. William L. Thomas.

Motion made, seconded and carried

There being no further business, the meeting adjourned.

Respectfully submitted,

Willie J. Hill, Jr.
Secretary

Jenny L. Screen, Recorder

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BENEDICT COLLEGE BOARD OF TRUSTEES MEETING

Wednesday, September 18, 2019

ROLL CALL

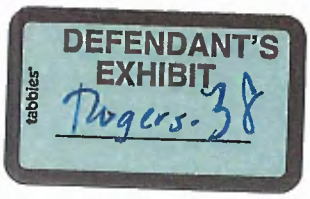
Mrs. Patricia J. Ackason X
The Honorable Stephen K. Benjamin ✓
Mr. G. Tyrone Bonds ✓
Mr. Anthony Burroughs X
Dr. Tyrone A. Burroughs X
Attorney Valoria Cheek X
Mr. Clarence Davis X
Dr. Paul W. Drummond X
Mrs. Hilda D. Gadsden X
Dr. Mary Gaffney X
Dr. Elsie King Hamler ✓
Dr. Willie J. Hill, Jr. ✓
Mr. James P. Hudson ✓
Reverend Dr. Solomon Jackson, Jr. X
Mr. Boyd B. Jones ✓
Dr. Charlie W. Johnson ✓
Mrs. Doris W. Johnson ✓
Dr. Gail M. Morrison X
Mr. Richard Panner ✓
Ms. Abigail Rogers X
Dr. Benjamin D. Snoddy ✓
Dr. Haywood L. Strickland ✓
Mr. William L. Thomas ✓
Mr. Jesse J. Tyson X
Mr. Emory L. Waters ✓
Mr. William B. Whitney ✓
Dr. Dorothy Buckhanan Wilson ✓
Dr. Roslyn Clark Artis ✓

Trustees Emeritus
Dr. William P. Diggs X
Dr. Milton Kimpson X
Mr. Donald Rozier X

EXHIBIT V
"CHRONOLOGY OF CONCERNS" AND STUDENT COMPLAINTS

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CHRONOLOGY OF CONCERNS

Regarding

Ms. Abigail Rogers

Tuesday, August 27, 2019

Six (6) students enrolled in CJ 333 01 came to my office to inform me that they were told by Ms. Abigail Rogers to leave the class because they arrived late and that they did not have their required textbook. These students informed Ms. Rogers that their schedules showed a different classroom location, which was the reason why they arrived late to the new location (The Chapel) once they were told where the class was relocated. According to the students, Ms. Rogers was curt in her response and directed to leave the class. These students were extremely upset at how they were treated. I instructed them to return to their next scheduled class and that I would look into this matter.

Tuesday, August 27, 2019
I sent an email to Ms. Rogers informing her of my meeting with the disgruntled students. I scheduled a meeting for Wednesday, August 28, 2019 with her and Dr. Geter to discuss this matter.

Wednesday, August 28, 2019
Ms. Rogers failed to attend the scheduled meeting. I sent her an email expressing my displeasure over her failure to attend, and that a new date would be set.

Wednesday, September 4, 2019
I met with Ms. Rogers, Dr. Geter, and Ms. Diggs (Staff recorder) to discuss the concerns of the students who met with me on August 27, 2019. A transcript of that meeting is currently being prepared.

Thursday, September 5, 2019
I met with two (2) students in Ms. Rogers' Court Systems class. They expressed their displeasure over the actions of a few disruptive students causing Ms. Rogers to dismiss the class early. They were concerned that these students were having a negative impact on the class environment and effectiveness of Ms. Rogers' teaching. They express support for Ms. Rogers and her classroom management style. They also mentioned an awareness of yesterday's meeting I held with Ms. Rogers. I asked then how they knew of the meeting, and had Ms. Rogers informed them. They told me that Ms. Rogers suggested that they express their concerns to Dr. Geter, and that Dr. Geter directed them to meet with me.

From: Leon Geter
Sent: Friday, August 30, 2019 9:14 AM
To: Janeen Witty
Subject: Fw: Student Concerns

fyi..

With Warm Regards,

Dr. Leon T. Geter, Director
Center for Cybersecurity (CC)
Benedict College
Room 201 FHA
1600 Harden Street
Columbia, SC 29204
803-705-4656
leon.geter@benedict.edu

From: Miller, Richard <Richard.Miller@benedict.edu>
Sent: Tuesday, August 27, 2019 3:27 PM
To: Abigail Rogers <Abigail.Rogers@benedict.edu>; Leon Geter <Leon.Geter@benedict.edu>
Subject: Student Concerns

Abigail,
I had a group of students come to my office this after with serious complaints about your classes that meet in the Chapel. This was NOT a pleasant meeting!!
I need to meet with you and Dr. Geter tomorrow (Wednesday) at 12:00 noon!!

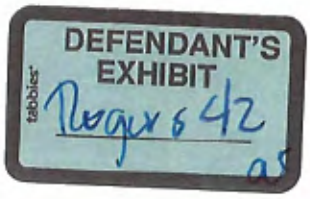
Thank you.
Dr. Miller

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MJ Wilson

From: Janeen Witty <Janeen.Witty@benedict.edu>
Sent: Wednesday, August 28, 2019 3:58 PM
To: Miller, Richard
Subject: Fw: Not being allowed into classes



Dr. Miller,

Please see below for another matter pertaining to Ms. Rogers.
Thanks.

Janeen P. Witty, Ph.D.
Vice President for Academic Affairs

Benedict College
1600 Harden Street
Columbia, SC 29204
(803) 705-4761--voice
Janeen.Witty@Benedict.edu
#TheBESTofBC
www.benedict.edu

From: Emmanuel Lalande <Emmanuel.Lalande@benedict.edu>
Sent: Wednesday, August 28, 2019 12:39 PM
To: Janeen Witty <Janeen.Witty@benedict.edu>
Subject: Not being allowed into classes

Hello,

[redacted] came to the President's office and said that she is not being allowed into classes taught by Mrs. Abigail Ramona Rogers because she was not cleared. Students have until Friday, August 31st, 2019 to clear and should be allowed into classes. Please let the professor know.

The classes are CJ 333A 01 (Constitutional Law), CJ 433A 01 (Courts and Social Policy), and CJ 437 01 (Minorities, Crime).

Dr. Emmanuel Lalande
Vice President for Enrollment Management
Designated School Official (DSO)
Benedict College
1600 Harden Street
Columbia, SC 29204
(803) 705- 4797

#TheBESTofBC

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DEFENDANT'S EXHIBIT
Rogers-43

BENEDICT COLLEGE
DIVISION OF ACADEMIC AFFAIRS

Summary of Written Student Complaint/Issue and Resolution

Date Submitted to Office of Academic Affairs: 4/27/19

Name of Student: [redacted]

Cell Phone Number: [redacted] Email address:

Local Mailing Address: [redacted]
Street Address Apt.# City State Zip Code

Major: Criminal Justice

Nature of Complaint/Issue (check all that apply)

- ☐ Scheduling Problem
- ☑ Conflict with Faculty or Academic Staff Member
- ☐ Disagreement with Assessment by Faculty Member (Grades)
- ☐ Financial Matter that Impacts Academic Standing
- ☐ General Academic Concern (circle all that apply)
  - Lack of Textbooks
  - Work/Class Schedule Conflict
  - Family Issues
  - Medical Issues

Summary of Complaint/Issue (fill in blanks below or attach written complaint):

Came in to class today and one student didnt
move to the front of class she told everybody to
put their name on a piece of paper and gave
everybody a zero for the test and I am a senior
graduating in May. Reminder she was 20 minute

Persons contacted by student prior to submitting this complaint to the Office of Academic Affairs:

-OVER-

Original location - RRC 130
DOR meeting in Chapel -

Steps taken by Office of Academic Affairs	Date
Rogers CJ 333-01 TR 2:30-3:45	8-27-19
Called Dr. Miller - he is working on it	

Resolution of Complaint/Issue	Attach documentation

Persons Notified of Resolution	Attach documentation

Date Case Was Closed by Office of Academic Affairs: _____

Signed: _____

BC1627

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RECEIVED
AUG 27 2019
OFFICE OF
ACADEMIC AFFAIRS

Judge Rogers

We came into class remind you she came in 20 minutes late, she stated "you guys have to wait on me Im not like your other teachers im imprtant" so today we all had class in the chapel and its about 30-40 students in the class she wanted everyone on the 1st two rows and one girl couldnt fit so instead she told everybody to put their name on a piece of paper and took up the sheet gave everybody a zero and called out each person grade and walked out the class and said "see you on thursday" and said "this is my class, people like you guys will graduate and work at mcdonalds and walmart said that "Benedict needs me, said that they tried to fire me and realized they need me so they called me back".

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BENEDICT COLLEGE
DIVISION OF ACADEMIC AFFAIRS

Summary of Written Student Complaint/Issue and Resolution

Date Submitted to Office of Academic Affairs: Aug. 27, 19

Name of Student: [redacted]

Cell Phone Number: [redacted] Email address: [redacted]

Local Mailing Address: [redacted]
Street Address Apt.# City State Zip Code

Major: Criminal Justice

DEFENDANT'S EXHIBIT 44

Nature of Complaint/Issue (check all that apply)

- ☐ Scheduling Problem
- ☑ Conflict with Faculty or Academic Staff Member
- ☐ Disagreement with Assessment by Faculty Member (Grades)
- ☐ Financial Matter that Impacts Academic Standing
- ☐ General Academic Concern (circle all that apply)
  - o Lack of Textbooks
  - o Work/Class Schedule Conflict
  - o Family Issues
  - o Medical Issues

Summary of Complaint/Issue (fill in blanks below or attach written complaint)

Persons contacted by student prior to submitting this complaint to the Office of Academic Affairs:

-OVER-

BC1629

She called out names and grades I were in front of entire class

Steps taken by Office of Academic Affairs	Date
	8-21-19
No syllabus in 360 - left	
called Dr. Miller - he is	
Checking on it	

8/29/19 - [redacted] came back to me - Copy about zero on another assignment

Resolution of Complaint/Issue	Attach documentation

Persons Notified of Resolution	Attach documentation

Date Case Was Closed by Office of Academic Affairs: _____

Signed: _____

DC 16-30

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RECEIVED
AUG 27 2019
OFFICE OF
ACADEMIC AFFAIRS

On last Tuesday Aug. 20, 2019 at 2:30 pm I had a class Court system with Judge Rogers, on my Schedule it Says Jenlun that the confence room in the library on the second floor, myself and 20 other students that was in the class was waiting for Judge Rogers to show but never did. on the following Thursday I was told that the class was in the chapel so I went into class a 2:30 waiting for her, When Judge Rogers walk I had raise my hand and told her that my Schedule had Jenluns for this course, She told me that "She didn't care and that wasn't her problem." She ask the students did we have our books some of us didn't have it because we wasn't in class on Tuesday because of what our Schedule said so told us to get out of her classroom and that we wasn't getting the homework. on Aug. 27, 2014 I went in to Judge Rogers class waiting for her to come. Judge Rogers shows up 20 min late. As she Comes in she gives us a Pop quiz knowing she have not taught us nothing yet. Then she start calling out everybody name and the score we made, Then she goes to tell us that she will gives us zero every day we come and she will walk out because she cannot get fired and that they cannot let her go because Benedict needs her to teach Class here. She Tells us after we leave Benedict we will not be nothing in life just working at mcdonalds and burger king and stuff.

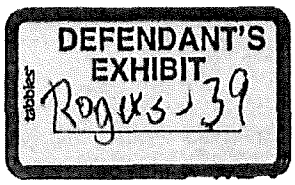
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EXHIBIT W
TRANSCRIPT OF MEETING
SEPTEMBER 4, 2019

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From: Corin Diggs on behalf of Corin Diggs <Corin.Diggs@benedict.edu>
Sent: Wednesday, October 02, 2019 5:14 PM EDT
To: Miller, Richard <Richard.Miller@benedict.edu>
Subject: Revised Minutes from September 4th Meeting
Attachment(s): "Minutes from September 4th Meeting.docx"



Good Evening Dr. Miller,

Please see attached the revised minutes for your review.

Corin Diggs
Administrative Assistant
Dean's Office
School of Arts and Sciences

Benedict College
1600 Harden Street
Columbia, SC 29204
P: (803) 705-4789
corin.diggs@Benedict.edu

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Benedict College
School of Arts and Sciences
Office of the Dean

This meeting was called to order on September 4, 2019 at 10:30 a.m. In attendance for this scheduled meeting was Abigail Rogers, Dr. Leon Geter and Dr. Richard C. Miller presiding. Minutes were recorded by Corin Diggs

Minutes

Dr. Miller began the meeting addressing Ms. Rogers issue with her email. She stated that Mr. Diggs was able to unblock her email on Friday and she stated that she also mentioned to Mrs. Diggs and her colleagues on the hall that she was unable to get in her email at the beginning of the semester. She also mentioned that she refused to read any of her emails prior to this meeting because she did not want anything to taint her feelings about this meeting. She stated that honestly she was taken aback by this meeting. Therefore, she refused to read the back emails because, she did not want to be angry and she just wanted to be forthright and truthful about her feelings of having a meeting with the Dean after one class. She mentioned that she had received a text message from Dr. Geter about the previously scheduled meeting she missed. Ms. Rogers stated her response to Dr. Geter asking why is Dr. Miller wanting to meet with her and what was going on?
Dr. Miller explained the reason behind today's meeting stating that it was because of no response to his emails. Ms. Rogers response was that she would never ignore an email and that she also went over to IT as well. Dr. Miller reiterated the three things that he went over with the faculty in the first Academic School Meeting which was; he won't tolerate faculty being disrespectful to each other; he does not tolerate students being disrespectful to faculty; and he does not tolerate faculty being disrespectful to our students. The other thing he mentioned was that he did not want students marching into his office complaining about faculty. He stated that he had seven students to march in his office on August 27, 2019 complaining about Ms. Rogers. They also went to the Vice President's office as well and a couple of students went to the President's office. Dr. Miller stated to Ms. Rogers that he was aware of what has been said about how she talks to her students and that he has not been here to witness it until he got here. He stated that the students came to him in mass and he had to calm them down to get a firm understanding of what their concerns were.

These students apparently had a mix-up in the classroom location and when they found out that their classroom location had been changed to the Chapel, they went to the Chapel and they were dismissed. Ms. Rogers said that they were not dismissed. She stated to Dr. Miller that she was listening to things that Dr. Miller has already prejudged her on and she is listening to allegations that he is accusing her of that never happened. Then Dr. Miller proceeded in reading some of the comments from the students that came to the office and then he asked Ms. Rogers for a response.

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One student wrote that on last Tuesday, August 20th at 2:30 p.m., they had a class Court Systems that was scheduled to meet in Jenkins, the conference room on the second floor in the library. This student and other students in the class were waiting for Judge Rogers to show and she never did. On the following Thursday, the student was told that the class was in the Chapel. So, the student went to class at 2:30 p.m. and waited on Ms. Rogers. When she walked in the student raised her hand and told Ms. Rogers their schedule had Jenkins. She told the student that she didn't care and that wasn't her problem. She asked the students if they had their books and they said that some of them did not have it because they were not in class on Tuesday because of their schedule mix-up. Ms. Rogers told these students to get out the classroom and they were not getting any homework. On August 22nd the student went to Judge Rogers class waiting on her to come. Ms. Rogers was 20 minutes late and then gives a pop quiz knowing she hasn't taught them anything yet. Ms. Rogers started calling out everyone's name and their score and then said that she will give them a zero every day that they come. Ms. Rogers indicated that she will walk out because she cannot get fired and the College cannot let her go because Benedict needs her to teach the class. She tells the students after we have Benedict we will not be nothing in life just working at McDonalds and Burger King and stuff.
Dr. Miller read from another's students statement: We came to class and after her being 20 minutes late she said that you guys have to wait on her and she's not like your other teachers she is important. They were in the Chapel and it's about 30 to 40 students in class and then she waited and one girl couldn't fit on a row so instead she told everyone to put their names on a piece of paper and she took up the sheet and gave everyone a zero and called out each person's grade and then walked out saying see you on Thursday. She also said this is her class people and like you guys will graduate and work at McDonalds and Walmart. Ms. Rogers stated to the students that Benedict needs her and that they tried to fire her and couldn't because they needed her so they called her back. Dr. Miller said that these were written statements from students. Dr. Miller then allowed Ms. Rogers to respond.

Her response was, before she addresses how ridiculous that is she stated to Dr. Miller that she takes issue with him calling her in and reading student complaints, instead she would have like to read them as well if any student had a problem in that class on that first day. Also, she expressed problems with there being classroom disruptions and she does not have disruptions in her class. When her students came to her and said that they want disruptive students removed she didn't know that students were coming to Dr. Miller because she sent them to Dr. Geter. She didn't realize that we were cutting corners so, had they written that she would have liked to had seen it. On the first day of class when they said I said to get out, that was not a get out, that was a go take this time and get your books and get the first three chapters done. Second, I had two students that I was having problems with and one Dr. Geter was kind enough to remove. One student was short of wanting to fight me in the middle of class and you can easily ask the adult students in the class about that situation. Next, there was a guy named [redacted] who yesterday was so threating because I had already written up one student with Dr. Geter, the threat was so physical in nature that I decided to wait until this meeting to so I can say to you Dr. Miller that the [redacted] student said that he did not do the homework so I just put a dash in the gradebook because they can turn in their homework later. Ms. Rogers stated that on yesterday [redacted] stated that he did not like the way that she teaches in class and she asked him to take off his head rag in the Chapel and he refused to do it. Then she asked him again to take off his head rag in the house of the Lord and [redacted] replied I heard you the first time. When he said that Ms.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Rogers said she stood at the front of the class because she knew she was going to have this meeting and she just made a note to talk to Dr. Miller and went on with her lecture. Ms. Rogers spoke to Dr. Miller in reference to last year and what students said to her in October. The students did not like their grades and along with Dr. Miller saying there have been problems with my classroom management, her kids are very successful and very knowledgeable and that's without any kind of contradictions.

Last year there were two transfer students that were making "C's or "D" s and they concocted a story saying that I had 30 students beat them up. They went to the President's office because the Dean Austin researched it and said it was ridiculous and I got fired. She said that she received a letter saying that based on what students said and that you are suspended. Dr. Miller stated that they could not fire you and there are specific reasons why/how a faculty member can be fired but, tenured faculty members cannot be fired without cause and due process. Ms. Rogers stated that she was removed off campus and was not allowed back because she had to sue. Dr. Miller said that's different from being fired. Ms. Rogers stated that she has never in life been brought to the Vice President's office given a letter that said based on a student complaint that you are hereby suspended pending termination. She then expressed to the Vice President, and she also brought Dr. Devlin in, in the State of South Carolina she cannot tape anyone. She advised the Vice President according to South Carolina Law and the Policies and Procedures of the School you can't suspend her versus termination. You have to do an investigation and first of all and she stated that students had warned her and when the lawyers got involved she was not allowed to return to Benedict College until January. She stated that her students came to her and said that they wanted to give her a heads up about students from last Court Systems class that did not graduate telling students in your class that if you want to get rid of her do the same thing that they did last year. Ms. Rogers told Dr. Miller that he should know her well enough not to say all you're going to get is a job at McDonalds here and Benedict can't do without students, that is not the way she talks and that is not her vernacular and that is not the way she does things. She stated that she is addressing things that she really takes offense with because when you're at the front line, as you know, I am with students that I should be given the benefit of the doubt or either send it through the system because she fully takes offense with meeting with the Dr. Miller for issues in classroom that never happened. She thought that it should have been taken through the Chair instead. She is appalled that she has to say to Dr. Geter that she has been here long enough to know that she does not dismiss anybody because they did not clear registration. She made a statement to Dr. Miller and Dr. Geter, that she can only say because it's sexist, she said that she wished they could be aware how women play games. How ladies, young girls and women will play games on men and go woe is me this is what she said because of these things. She stated that she can see it, she has dealt with it, she is dealing with it whether it be faculty, administration or girls. She has to deal with the female tricks that perhaps you all may not be aware of here and saying that to say that she is well aware of Dr. Geter telling her that you can't dismiss students who haven't registered. She stated that the girls themselves will threaten her directly. She stated that one young lady had to be removed because she just felt that in the middle of class she didn't have her homework, and Ms. Rogers stated that she simply said bring it next week. She stated that the student decided to confront her in class and say so you're going to just give me a zero. Ms. Rogers thanked Dr. Geter for removing the student. Ms. Rogers stated that she is dealing with a female element everywhere in administration, faculty and girls that she wished that you would take into consideration, be that as it may, about the sensitivities and the idiosyncrasies of people having to deal with a female. Ms. Rogers stated that she just would like

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

to point out that because she has dealt with it and she has had specific instances where she had to shut it down and several instances deal with these complaints about and in her class. Yesterday she said that she told Dr. Geter that she has some excellent class since that first day when she said to the students that you are not running my class. The homework and the test that they gave her, you can look at the grades. Ms. Rogers told Dr. Geter it shocked her to the point she thought well, something happened because they came in with grades and work that was outstanding. She stated that she can promise you this, that she does not disrespect anybody but she was disrespected, humiliated, emasculated and degraded last year when she was taken out of her classroom over lies girls said that she encouraged students to beat them up. There was no investigation and she didn't do that and she will never disrespect a student. She doesn't disrespect family and she does not mean to be disrespectful here but she feels disrespected. She stated that she feels disrespected to be called in here and disrupting her schedule based on allegations that she was not able to address properly and have an investigation done by the Chair, that he perhaps could have come to you and said well I investigated and found this not to be true or as a result I took the student out because she was hostile to Judge Rogers or I found out that wasn't true. She said she would have felt better, but she feels under attacked at this time here and she has done nothing but try to do the best that she can for the students here at Benedict.
Dr. Miller stated that he disagreed with her statement of this meeting being disrespectful. Ms. Rogers reiterated how she felt and also stated that she didn't know when Dr. Miller mentioned her management style, if he was talking about last year when the students decided they were going to organize and get rid of her. She said she felt disrespected because she didn't know what was going on. Dr. Miller stated that he will always respond to students concerns and that he will not dismiss them and he will face them directly without making any acquisitions, he's going to listen to students' concerns. He will address them with department heads and faculty members. He also stated that there is a protocol that whenever there are issues that are raised by students he's always going to respond to them. He will not pass them off and he has never done that. Ms. Rogers stated she thought the process was for the students to go to the Chair, then the Chair talk to the faculty and then they can address it. If it was done this way and Dr. Geter would have read the letter from the student she could have told him that she dismissed the students to go get books. Dr. Miller asked Ms. Rogers if she told students that they would be working at McDonalds and Burger King and stuff? Her response was that she doesn't ever say that and it's not in her vernacular. Dr. Miller asked if she penalize students for the indiscretions of a single student? Her response was that she takes issue to answering something that was discussed with him or told to him by those in the past or those in administration. She has been in class with him as Dean for only two days and she doesn't think he has one allegation of a single indiscretion of a student. She stated that she does not like the fact that Dr. Miller asked her that when it was not even an issue raised to him by a student. She stated that her classes are fun as all out and she does not have any allegation of one indiscretion of a student, being the whole students, being punished by her. She stated that she is insulted by being asked that because, that is what was raised last year when she got fired, unfired and brought back. She also stated that under Dr. Miller's leadership and administration and under her three days, she has not had a problem. She stated that she is still very upset, offended and insulted that he asked her that question that was based on something that he heard that we do not need to discuss here and that is nothing that she has to deal with. Dr. Miller stated that in his view it is very serious and that his concern is the welfare of the students. When student bring concerns to him he is not going to turn his back on them. He stated that he is not accusing Ms. Rogers, he is just saying that this is what the students

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

are saying. Her response was that she is discussing things with him that students said from one day of class. She stated that the seriousness of it is that she is being as honest with him as he expects her to be and she is offended. She stated that she does not punish students for the indiscretion of another student, she will not take another threat like the boy did to her on yesterday. This is why faculty do not come and report anything. She also stated that she will not be warned by a student, she will not be physically put up and stand up in her face by a student anymore.

Dr. Miller asked Ms. Rogers why would she tolerate disrespect? Her response was because nobody wants to be called in here over mess like this. Dr. Miller then stated that he wants to be clear about one thing, if you are disrespected by a student, you tell your department head or you tell your Dean and that student will be contacted. Ms. Rogers stated that she talked with her Chair and the students that threatened her came to you Dr. Miller. Dr. Miller stated that the only students who came to him were the students that came to her class late because they were in a different location. Dr. Miller stated to Ms. Rogers that if she was threatened by a student, that student would be in either Dr. Geter's office or his office and without any hesitation. If you feel threatened or disrespected that's the reason why he said that in the beginning, he will not tolerate that. She stated that Dr. Geter has removed [redacted] and [redacted] from the Courts class and has agreed to tutor her or teach her on his own and [redacted] is physically violent. She said that she usually goes to the Chair to say she has a problem and she has been going back and forth with him in what's happening in her class. Dr. Miller stated that he and Dr. Geter has talked about this considerably, but when a student comes by his office he will not sit idly by and not respond and that's the reason why he asked her to come by his office. Ms. Rogers stated that from now on she will come to Dr. Miller. Dr. Miller said that it depends on the issue he may have to send her to the Department Head.

Dr. Miller stated that he wanted to go back when he mentioned management style, according to what you shared earlier you were summarily dismissed, why? Ms. Rogers stated because serval students whose names were [redacted] and [redacted] or [redacted] (last name) reported to the Vice President, no, President first with their father and said she had encouraged 30 or more students to physically assault them. When the Dean had investigated it and said that it was the most radicicolous thing he had ever heard, he called students in to ask where did they get it from and the students said from her understanding the two girls were failing the class. They told their father and their father insisted that Ms. Rogers be removed because their girls were crying and felt threatened for their life. She said that she knew this because the lawyer that she hired had to talk to the lawyer of the school and we are the member of the same bar, to say what the heck happened and the lawyer from the school said Abigail had a bunch kids to beat up two students. As Lawyers we know each and that's ridiculous, so they came back and had to come up with other stuff and there was nothing else except there were two girls who wanted to make a good grade. So if you look at the grades that were in Court Systems after she was summarily dismissed, you will see that they got an "A". Ms. Rogers also stated that she wanted to tell him about the comradery of faculty here, the two students were transfers from Lincoln. So she went to the Band Director because the faculty talk to each other about students that they have problems with, so she went to Wade Johnson and said that the two students he recruited are alleging that she had them beat up. Ms. Rogers stated that his response was that he would talk with them. She stated that he didn't and she wanted him to call them. She stated that in all honesty, they hardly couldn't read. Dr. Miller stated that he would look into it and what he knew was that there was a PIP and when he saw the PIP he asked if everything in the PIP was executed

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

and performed and responded to. When he was told that it wasn't; he then began to state that when a person gets a PIP, it's a Performance Improvement Plan, which has very little to do with getting summarily dismissed because you have an accusation. Ms. Rogers then stated to Dr. Miller that he just told her something that her lawyer and her did not know and thanked him for sharing this. She stated to Dr. Miller that legally he is saying that the PIP was finished and you can call Dean Austin, it was finished in January or February and it's finished and she has the legal documents. Dr. Miller asked Ms. Rogers what happened with the PIP? Ms. Rogers response to Dr. Miller was they finished it and that when he said that he understood it was not, Ms. Rogers stated to Dr. Miller that's a major legal thing. She also stated that it was finished, she had to watch videos and have a discussion and she didn't mind at all. She then shared that the lawyers got involved when she was dismissed and all of a sudden she had a PIP. The lawyers got together and they found no evidence that the girls were harmed. At the end, she stated that she went to the Dean and asked if she did everything in the PIP and he said she did. She went to talk to Dr. Witty and asked if there was anything else that she wanted her to do because she does not mind doing anything that they want her to do. Ms. Rogers stated that the PIP was over and done with and should not be a part of this conversation and the fact that it is alerts her that her hunch was that she is dealing with things that she wished that you as Dean would provide her with some support. The PIP is old news and if it is still news now then perhaps it needs to be addressed. She stated she is going to address it with the lawyers because it should have been gone and done with a long time ago. Dr. Miller stated that the reason he raised the issue was because the Performance Improvement Plan has to do with a faculty member's performance in the classroom and that's what it tells you. It tells you that there are some issues that needs to be addressed and here are some strategies that you need to take into consideration in order to improve in areas that have been identified as in need of improvement. So he asked the simple question, was the PIP satisfactory addressed? Ms. Rogers response was yes Dean Miller it was satisfactory addressed by your predecessor, if it had not been she would have addressed it then by the predecessor, by the Vice President, it was done and over with. She takes issue with it being addressed but, perhaps if she could lend any kind of suggestion it would be to give credence to students to know that they could be an organized group and when they want to hurt or get rid of a professor which is why we have tenure here as a process, students otherwise would run a campus. I just ask that as a Dean you be mindful that there are students who know about last time who would like to get the same results. Ms. Rogers stated that she stated to Dr. Geter that in Court Systems she sees the commonality which is always the class to establish the upper level classes. She stated that she told Dr. Geter to feel free to transfer her class, he can have it, she stated that she has Constitutional Law, Courts and Social Policy and Research. That seems to be the hot bed because that's the same class from last year, she told Dr. Geter" take it" and find somebody else to teach it. Dr. Miller asked Ms. Rogers does she think that there is anything that relates to her classroom management style and her dealings with the students that she could improve. Her response was that the one thing she could and wish would be that the first day of each Court System class that she had a male faculty member that could sit in her class for the first week or two. Dr. Miller asked why would she feel necessary to have a male in her class? Her response was that a male presence could witness how the students react to her teaching. Dr. Miller stated that he just wanted to bring to her attention some of the concerns that were brought to his attention by a group of students whether, it be at the beginning, middle or end of the semester. When students.get upset to the point where they raise the kinds of concerns and in the manner that they raise those concerns it will be addressed. Dr. Miller stated that he prides himself on

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

being unbiased and listening to what students have to say. Now, he's going to take a look at all of this and look at a few other things that he needs to look at and look at some of the options that we have at this point. Dr. Geter stated that as the Department Chair that what he can do and will do is more classroom observations and he can observe the culture and the communication level. It could be a communication issue and he can fill out a peer review observation form and he will do that one-day next week. Ms. Rogers stated to Dr. Miler that she felt that at this point that he was unbiased and she does not know what other options that he is talking about because everything is very well spelled out in that she gets to address what is written to be investigated by Dr. Geter. She feels that this way at this particular time she is dealing with old issues and she takes offense and she will continue to teach in the best interest of the students continue to do what she can to help faculty and do what she can to help staff. She shared that she had the honor of being voted as the faculty rep to the Board by the faculty and she received a letter after she was elected that the board has decided not to have a faculty rep on the Board this year. She stated that the lawyers were brought in again and they had to litigate from April to August to September and that she will be on the board in October. She then stated that while Dr. Miller considers options to realize that Abigail sure has endured a lot here that usually faculty don't have to go through. Ms. Rogers stated to Dr. Miller that she just thought that when you sit there and look at that please be fair to this faculty member in the way you analyze and judge her. She has been here as long as he has and she is one of the more energetic and more well-rounded in her field than others. While you look at options and while you do this that you be very fair to her because at this point she feels that she has not been treated very fairly at all. Dr. Miller stated that one of the things he could say is that he prides himself in being fair to both faculty and students, those are his responsibilities and his primary considerations in this position. Dr. Miller assured Ms. Rogers that he will be fair and he does not think that he has ever been accused of not being fair. Sometimes decisions are not very pleasant after looking at the totality of the issue and information has to be considered. Dr. Geter stated for record saying they are not investigating your class specifically, on his schedule it was to evaluate and visit all faculty classes, so you are on his list and he will do yours sooner than later. Ms. Rogers stated that she wanted to know who told that she was kicking students out of her class that weren't registered. Dr. Miller stated that the instructions that were shared was after a certain date which was the 30th of the month, was the last day that students could register. Faculty members had to admit students up until that date. Ms. Rogers stated that she does not put students out if they are cleared or un-cleared that's above her pay grade. After going through all this after sitting in here for however long she stated that she is just going to teach because she just can't keep going through this kind of review because it is a disruption in her schedule. Dr. Miller stated that faculty are instructed to not let a student in his/her class after the last day of add. If a student comes to your class today or tomorrow, you are not to allow the student in your class. Ms. Rogers stated that she will send them up to the Dean. Dr. Miller said no, send them to get cleared and not to the Dean's office. If you don't send them to get cleared this is what will happen, if you allow them in your class and they don't clear and they have taken test and quizzes they can go back and say the instructor allowed me to stay in class so I deserve the grade that I got. He had to deal with that in the past. To enroll almost a month after classes has started he has a problem with that and that's an institutional problem and a real burden on the faculty member. Ms. Rogers inquired if she was the only faculty member that he is going to be talking to, is she the beginning, middle or the end because there were other faculty that she tried to intervene and see Dr. Geter as the students were complaining about other faculty members. Dr. Miller stated that when students come marching in his office he is not

going to sit idly by and not do anything and he has not had that to happen yet other than the students that came to him.
Ms. Rogers named others that she thought should have been brought up as well because of student complaints on them and let the Dean handle it also to be consistent. Dr. Miller asked Ms. Rogers what is it that she is saying when students say they are told that you will work at McDonalds and Burger King and she said that they won't get a job. Dr. Miller stated that to him that's demeaning and disrespectful to tell a student that's the only job they will get after Benedict. Ms. Rogers stated that the elephant in the room is that the students aren't getting jobs and they aren't going to law school and she is not saying McDonalds and Burger King but, the fact is that they are not going anywhere. We are literally knocking on doors asking, can you take this student and the bigger problems is the students need to be getting jobs and we need to be working on them getting some jobs. Dr. Miller stated that he was just saying what the students said and if that's the case he considers that disrespectful. Ms. Rogers stated that all she asks is that he be fair in his judgement and she is not planning to quit and she is not planning to go anywhere and all she can say is this is a fun job and she enjoyed it but she don't like being falsely accused and she does not like having to deal with cat fights. She has to deal with it and that you men don't have to deal with it. Dr. Miller thanked Ms. Rogers for coming in and he mentioned to her that there is some of her belongings across the hall from her office and that it needs to be moved and she replied yes.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT X
EMAIL CHAIN
SEPTEMBER 6-9, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

From: Janeen Witty on behalf of Janeen Witty <Janeen.Witty@benedict.edu>
Sent: Monday, September 09, 2019 9:52 AM EDT
To: Roslyn Artis <Roslyn.Artis@benedict.edu>
Subject: Re: Recommendation - Ms. Abigail Rogers

Understood. I'll have Dr. Miller to complete his review of her entire file. We pulled everything for him (15+ years), but I pressed him to make a recommendation on Friday (trying to get it done) before he went through each page. He got a clear understanding that this has been a persistent pattern, but he did not feel that he could recommend termination after working with her for just a few weeks. It's all still on the table (behind a locked door), so I'll call him now to come back for a thorough review and consideration of his recommendation.

Janeen P. Witty, Ph.D.
Vice President for Academic Affairs

Benedict College
1600 Harden Street
Columbia, SC 29204
(803) 705-4761--voice
Janeen.Witty@Benedict.edu
#TheBESTofBC
www.benedict.edu



From: Roslyn Artis <Roslyn.Artis@benedict.edu>
Sent: Monday, September 9, 2019 9:41 AM
To: Janeen Witty <Janeen.Witty@benedict.edu>
Subject: Re: Recommendation - Ms. Abigail Rogers

Has he reviewed her entire file. No Dean has the luxury of viewing these matters in a vacuum. I'm not interested in creating a paying job for a faculty member that can't behave.

Roslyn Clark Artis

On Sep 9, 2019, at 9:02 AM, Janeen Witty <Janeen.Witty@benedict.edu> wrote:

> Dr. Artis,
>
> On Friday afternoon, Dr. Miller recommended taking Ms. Rogers out of her classes; he did not recommend termination. In my talk with Dr. Miller, he wants to assign Ms. Rogers some non-teaching duties. I believe that her continued presence on campus will be problematic even if she is not in the classroom. Additionally, it seems that we would be rewarding bad behavior since, under his recommendation, she would continue to get paid her regular salary. On the other hand, there are other factors to consider, especially if I have to make a recommendation not supported by Dr. Miller, so I ask for your perspective on the next steps.
>
> Thank you.
>
> **Janeen P. Witty, Ph.D.**
> Vice President for Academic Affairs
>
> **Benedict College**
> 1600 Harden Street
> Columbia, SC 29204
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>
> ---
>
> **From:** Miller, Richard <Richard.Miller@benedict.edu>
> **Sent:** Friday, September 6, 2019 3:21 PM
> **To:** Janeen Witty <Janeen.Witty@benedict.edu>
> **Cc:** Leon Geter <Leon.Geter@benedict.edu>; Miller, Richard <Richard.Miller@benedict.edu>
> **Subject:** Recommendation - Ms. Abigail Rogers
>
> Dear Dr. Witty,
>
> I conducted a thorough review of recent student complaints critical of Ms. Abigail Rogers' classroom management style and her inflexibility and confrontational approach in dealing with students. In addition, I reviewed her faculty file which depicted numerous complaints regarding her interactions with students

Given the number of student complaints reflected in her faculty file, and the number of concerned students recently meeting with me regarding Ms. Rogers, a disturbing pattern of behavior is evident.

As such, I cannot condone a continuation of these examples of disrespect for our students. Therefore, I recommend that Ms. Rogers be immediately removed from her classroom teaching responsibilities and given non-teaching duties as determined by her department chair, Dr. Leon Geter.

Ms. Rogers' current classes will be assigned to other faculty.

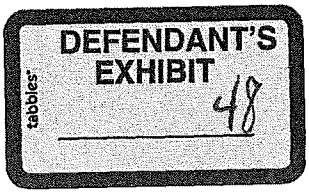
Thank you for your consideration.

Richard C. Miller, Interim Dean
School of Arts and Sciences

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT Y
ADMINISTRATIVE REVIEW OF FACULTY FILE DATED SEPTEMBER 11, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624



Faculty File Review of Ms. Abigail Rogers

Miller, Richard
Mon 9/16/2019 3:57 PM

To: Janeen Witty <Janeen.Witty@benedict.edu>
Cc: Leon Geter <Leon.Geter@benedict.edu>

1 attachments (16 KB)
ADMINISTRATIVE REVIEW OF FACULTY FILE OF MS. ABIGAIL ROGERS.docx;

Dr. Witty,
As requested, please see the attached.
I will be pleased to discuss this Review with you at your convenience.
Thank you,
Dr. Miller

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ADMINISTRATIVE REVIEW OF FACULTY FILE OF

Ms. Abigail Rogers
Conducted by:

Dr. Richard C. Miller, Interim Dean
School of Arts and Sciences

Wednesday, September 11, 2019

Preface:

Having assumed the position of Interim Dean, School of Arts and Sciences on July 8, 2019, I began a review of the organizational structure of the School, an overall study of the faculty, and the resources available to support the many degree offerings. On Tuesday, August 27, 2019 a group of six (6) students came to my office to register their complaints against Ms. Abigail Rogers, associate professor, in the Department of Criminal Justice and Social Sciences. These concerns were such that I decided to meet with Ms. Rogers and her department chair, Dr. Leon Geter on Wednesday, September 4, 2019. Ms. Corin Diggs, my office administrative assistant, recorded that meeting. A transcript of that meeting is currently being finalized. Based on that meeting I submitted a preliminary assessment and recommendation to you in a memorandum dated September 6, 2019. Given the history of faculty complaints against Ms. Rogers, you subsequently asked me to conduct a thorough, more comprehensive review of her faculty file.

From July 2001 to June 2006, I served as Senior Vice President for Academic Affairs at Benedict College. Since my departure, I was not aware of any activities associated with Ms. Rogers or any administrative actions related to Ms. Rogers faculty activities. Therefore, my review of the file began with the 2006-2007 academic year. This review was completed on Tuesday, September 10, 2019.

Overview:

Beginning with the 2006-2007 academic year, My Rogers' file is replete with multiple filings of student complaints along with documentation from academic administrators of inappropriate, unprofessional behavior, and neglect of faculty compliance with expectations. The file also shows a consistent pattern of behavior from student complaints and comments from academic administrators of Ms. Rogers related to:

a. Poor Classroom management skills
b. Lack of sensitivity to students
c. Rude, inappropriate and unprofessional behavior toward students and colleagues
d. Lack of respect and making demeaning comments toward students
e. Intimidating students and chastising them for complaining to the dean
f. Administrators admonishing Ms. Rogers for being disrespectful, insubordinate, and inconsiderate.
g. Feedback to Ms. Rogers as her needing to develop a more cooperative, respectful attitude and demeanor
h. Consistent complaints from students of being punished as a result of the actions of a few

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I. Failure to submit annual reports/performance evaluations, course syllabi, student learning objectives
J. Conflict with supervisors

These are only several of many more complaints against Ms. Rogers. Ms. Rogers' file also revealed a memorandum from me dated August 16, 2005 instructing her to submit her tenure portfolio in Fall 2006. The record shows that she did not submit her tenure file until October 2011. Clearly, a serious administrative oversight occurred.

Summary:

As an outside observer, what is disturbing is that there were many clear signals that Ms. Rogers' behavior was not effectively dealt with by college administrators. Despite recommendations from a dean and department chair for non-reappointment, Ms. Rogers' conduct was excused or explained away to students and parents as, "we will address your concerns with Ms. Rogers." In my opinion, very stringent and decisive action should have been taken.

The file also shows that on occasion Ms. Rogers pitted students against students. I experienced this recently when two students met with me and shared knowledge of a confidential meeting I had with Ms. Rogers. They shared their concerns about one of their classmates who was a disruptive force in their class. I surmised that Ms. Rogers is the only person who could have revealed to these students that a confidential meeting occurred.

It is clear that over a lengthy period of time Ms. Rogers has exhibited a consistent pattern of disrespectful and demeaning behavior toward students, disregard of faculty expectations, poor classroom management skills, and an intimidating classroom culture.

Recommendation:

Given our ultimate responsibility to create a meaningful and comfortable learning environment for students, and one that is conducive to promoting student success, the many complaints against Ms. Rogers from students and administrators has led to a culture of intimidation and disregard for acceptable faculty decorum in and out of the classroom.

Ms. Rogers should be removed from any interaction with students and, as a tenured faculty member, be assigned non-teaching responsibilities. As an interim dean of less than three (3) months, I leave it to the discretion of the Vice President for Academic Affairs, and President to pursue any additional course (s) of action.

EXHIBIT Z
EMAIL CHAIN DATED SEPTEMBER 16, 2019

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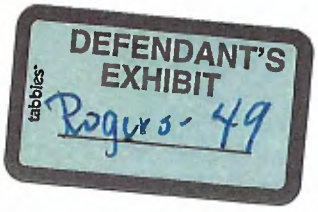
From: Janeen Witty on behalf of Janeen Witty <Janeen.Witty@benedict.edu>
Sent: Monday, September 16, 2019 4:43 PM EDT
To: Roslyn Artis <Roslyn.Artis@benedict.edu>
Subject: Fw: Faculty File Review of Ms. Abigail Rogers
Attachment(s): "ADMINISTRATIVE REVIEW OF FACULTY FILE OF MS. ABIGAIL ROGERS.docx"

Dr. Artis,

Dr. Richard Miller sent this to me this afternoon. He stopped short of recommending termination.

Janeen P. Witty, Ph.D.
Vice President for Academic Affairs

Benedict College
1600 Harden Street
Columbia, SC 29204
(803) 705-4761—voice
Janeen.Witty@Benedict.edu
#TheBESTofBC
www.benedict.edu



From: Miller, Richard <Richard.Miller@benedict.edu>
Sent: Monday, September 16, 2019 3:57 PM
To: Janeen Witty <Janeen.Witty@benedict.edu>
Cc: Leon Geter <Leon.Geter@benedict.edu>
Subject: Faculty File Review of Ms. Abigail Rogers

Dr. Witty,
As requested, please see the attached.
I will be pleased to discuss this Review with you at your convenience.
Thank you,
Dr. Miller

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EXHIBIT AA
TYPED STATEMENT OF
JORDAN RICE-WOODRUFF
DATED SEPTEMBER 16, 2019

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On August 22,2019 concluding my meeting with Dr. Artis, I was approached near the chapel by Judge Rogers whom I've never met before regarding the topic of the faculty/staff representative being removed from the board. Rogers then instructed me to reach out to the student body by social media notifying them about the Board of trustees' decision and she continued to reiterate that we must fight for our students to have a voice. I then mentioned to her that I was the representative for the student body on behalf of reporting to the board, and that I would do my best to represent them...I ended the conversation and headed to class. Days later Judge Rogers pulled the Vice President of SGA Henry Peterson III into a professor's office and asked for my contact information, proceeding to inform Henry about the same topic she told me. I received a call from an unknown number, which happened to be Judge Rogers on this past Thursday. Rogers began telling me that she and I were going to be voted off of the board of trustees once again on Wednesday, September 18, 2019. I specifically told Rogers that I am not the representative for the faculty/staff, I am only the representative for the student body. Rogers then stated that Henry and I need to take immediate actions and post on social media about the board of trustees' issue. I told Rogers that neither I nor Henry would post to social media about the matter, we are going to do the proper thing by speaking with Dr. Artis and the Board Chairman pertaining to the matter on behalf of the student body representative. Rogers told me that it would not be best to talk to Dr. Artis and she then stated "I will be very proud of you both for standing up for the student body, If you guys are successful since I know you two want to be lawyers I will write a recommendation to the USC school of Law once you graduate. "I then ended the call with Rogers. Friday afternoon I attended the pep rally and I spoke with Dr. Artis which she informed me that my name had been submitted on a legal document from Judge Rogers two days after our meeting on August 22nd. I assured to Dr. Artis that I was unaware about Rogers including my name on any document, I never even knew she was taking legal action. It then dawned on me that Rogers had used me as a pawn to be included in her mess and mishap with the administration. After the Friday conversation with Dr. Artis in the gym, I ceased any communication with Rogers, she continued to contact me throughout the weekend providing numbers and email addresses of the board members. On 9/16/19, I received a call from WIS news station stating that Rogers had given them my contact information and they wanted to speak with me about the board of trustees' matter. At the moment I was in Student Affairs and I have witness who were around when the call came in. I immediately reported to the President's office about the news station contacting me through Rogers.

9/16/19

Sworn to before me this
Monday, September 16

Exp: July 22, 2026

EXHIBIT BB
HANDWRITTEN STATEMENT OF RICE-WOODRUFF

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ALL-STATE LEGAL®
DEFENDANT'S EXHIBIT
3

I am Jordan Rice-Woodruff and I am writing this Statement because Judge ~~Rodgers~~ Rogers has involved my name on a case that I have no knowledge about. Judge Rogers stopped and introduced herself to me by the chapel after my meeting with Dr. Artis on August 22, 2019. Judge Rogers asked me if I knew about the board of trustees situation and I told her that I have spoken with Dr. Artis and was clear that I am the representative for the students. Judge Rogers then proceeded to tell me that I must act on the situation and I should tell the student body. At that moment I ignored the topic and headed to class. On Friday Dr. Artis inquired me about the fact that Judge Rogers /

09-16-2019

Jordan Rice-Woodruff

Jordan Rice-Woodruff

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EXHIBIT CC
TEXT MESSAGES FROM PLAINTIFF TO RICE-WOODRUFF

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79% 2:57 PM

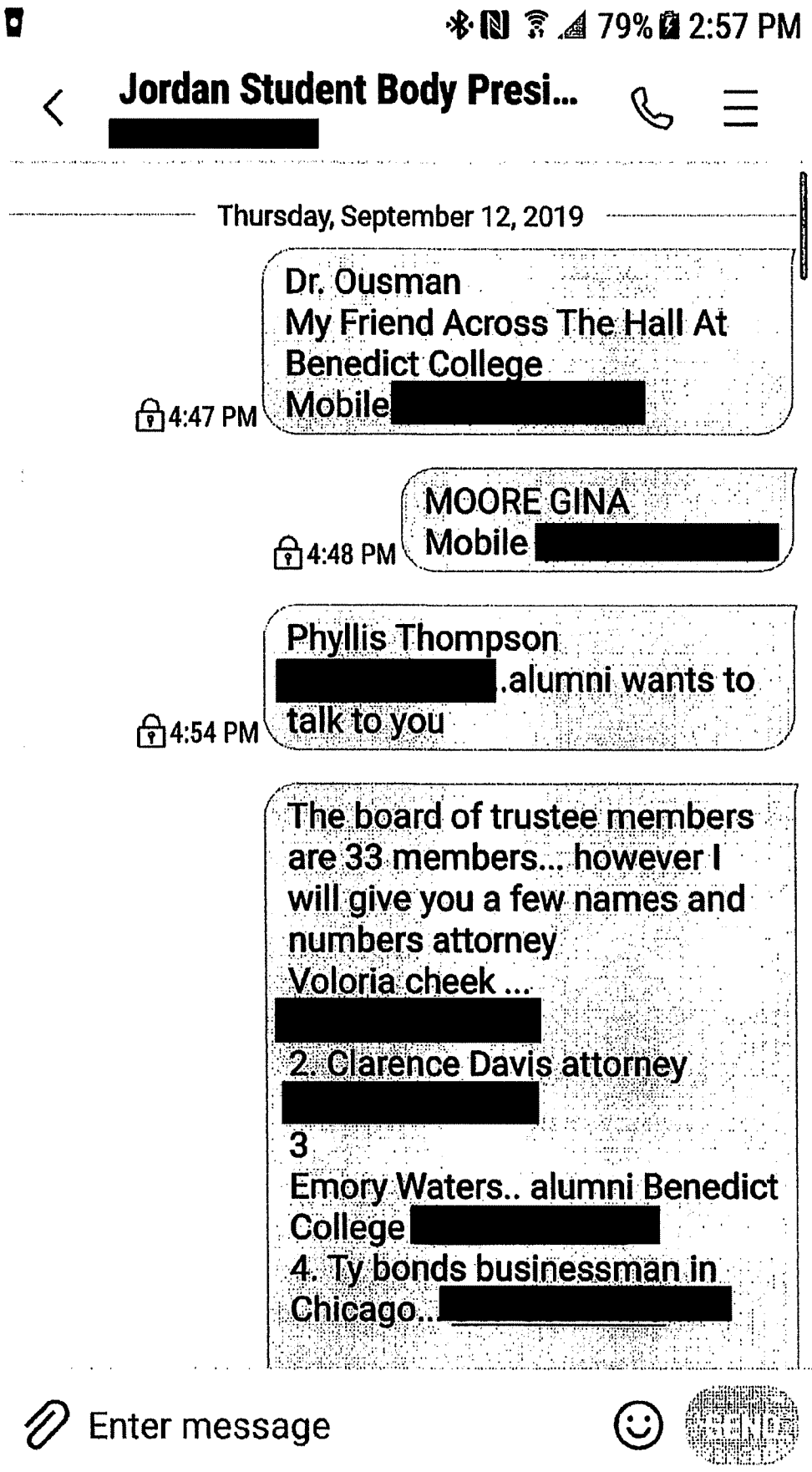
Jordan Student Body Presi... [redacted]



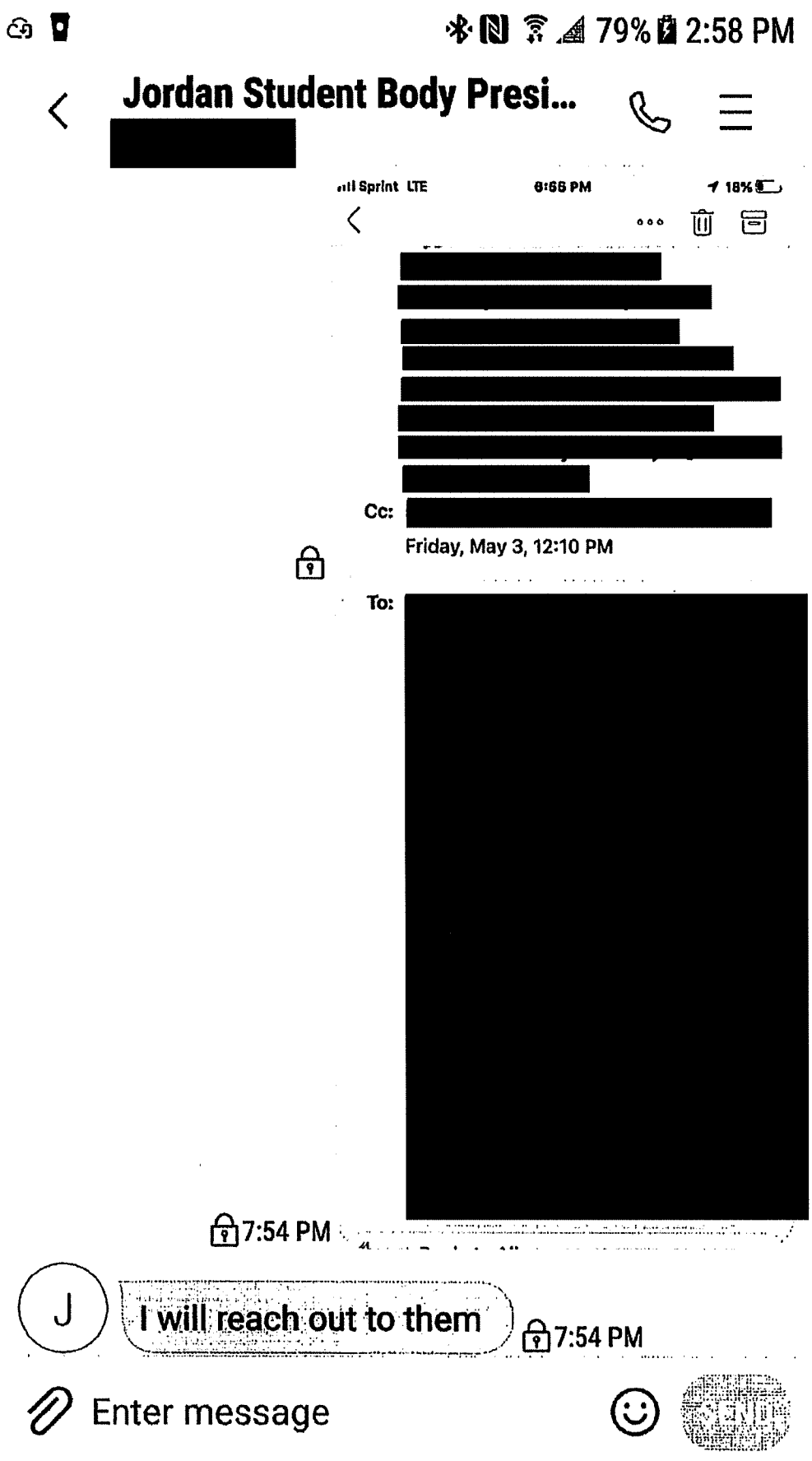
Thu, Sep 12, 2019 7:52 PM

The board of trustee members are 33 members... however I will give you a few names and numbers attorney
Voloria cheek ... [redacted]
2. Clarence Davis attorney [redacted]
3
Emory Waters.. alumni Benedict College [redacted]
4. Ty bonds businessman in Chicago... [redacted]

The president of sacs is Dr Belle Whelan... [redacted].. express your concern that the faculty staff and students seats are taken off the board by the Board of Trustees ... the board membership is being reconfigured... and the Board of Trustees will vote to remove us from the board



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79% 2:58 PM

Jordan Student Body Presi...

[redacted]

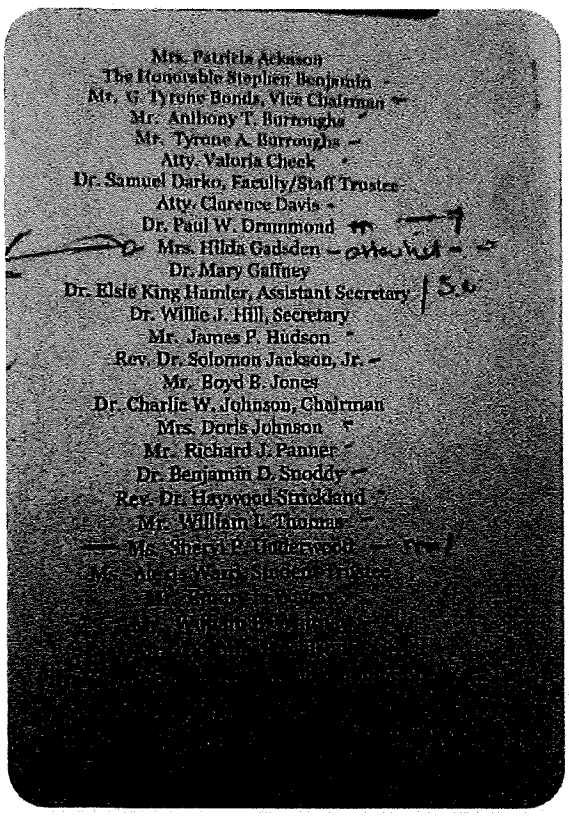
I will send more numbers tomorrow and I am sending you a list of board of trustee members

7:52 PM

J

Thank you 7:53 PM

Alexa Ward and Samuel Darko for the faculty and staff and student reps from before



Enter message

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80% 2:58 PM

Jordan Student Body Presi...

[redacted]

Let's do it I've been fighting since April 11th when I was elected

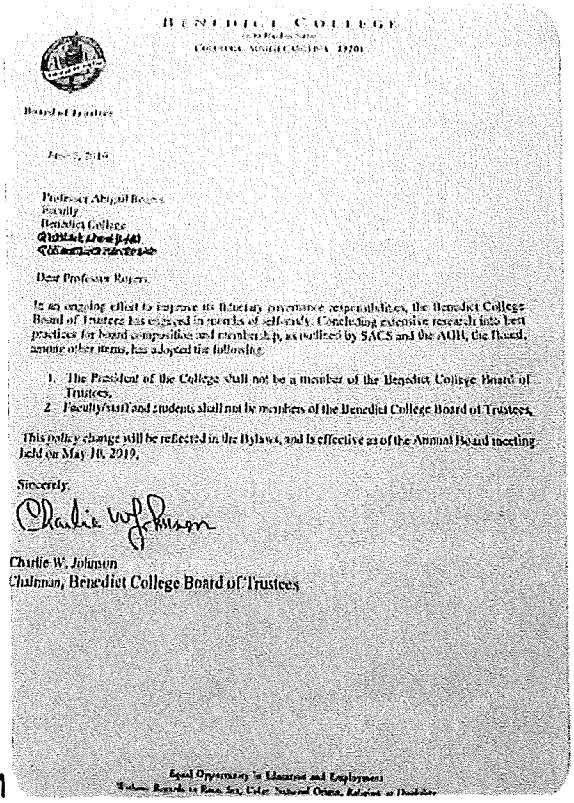
7:54 PM

[redacted]

She's A Benedict Grad in DC
Mobile [redacted]
A good person whose daughter is freshman
Columbia, SC

8:55 PM

[redacted] Friday, September 13, 2019



BENEDICT COLLEGE

Board of Trustees

June 7, 2019

Professor Abigail Rogers
Faculty
Benedict College
[redacted]

Dear Professor Rogers:

In an ongoing effort to improve its fiduciary governance responsibilities, the Benedict College Board of Trustees has engaged in periods of self-study. Conducting extensive research into best practices for board compositions and membership, as outlined by SACS and the AGB, the Board, among other items, has adopted the following:

1. The President of the College shall not be a member of the Benedict College Board of Trustees.
2. Faculty/staff and students shall not be members of the Benedict College Board of Trustees.

This policy change will be reflected in the Bylaws, and is effective as of the Annual Board meeting held on May 10, 2019.

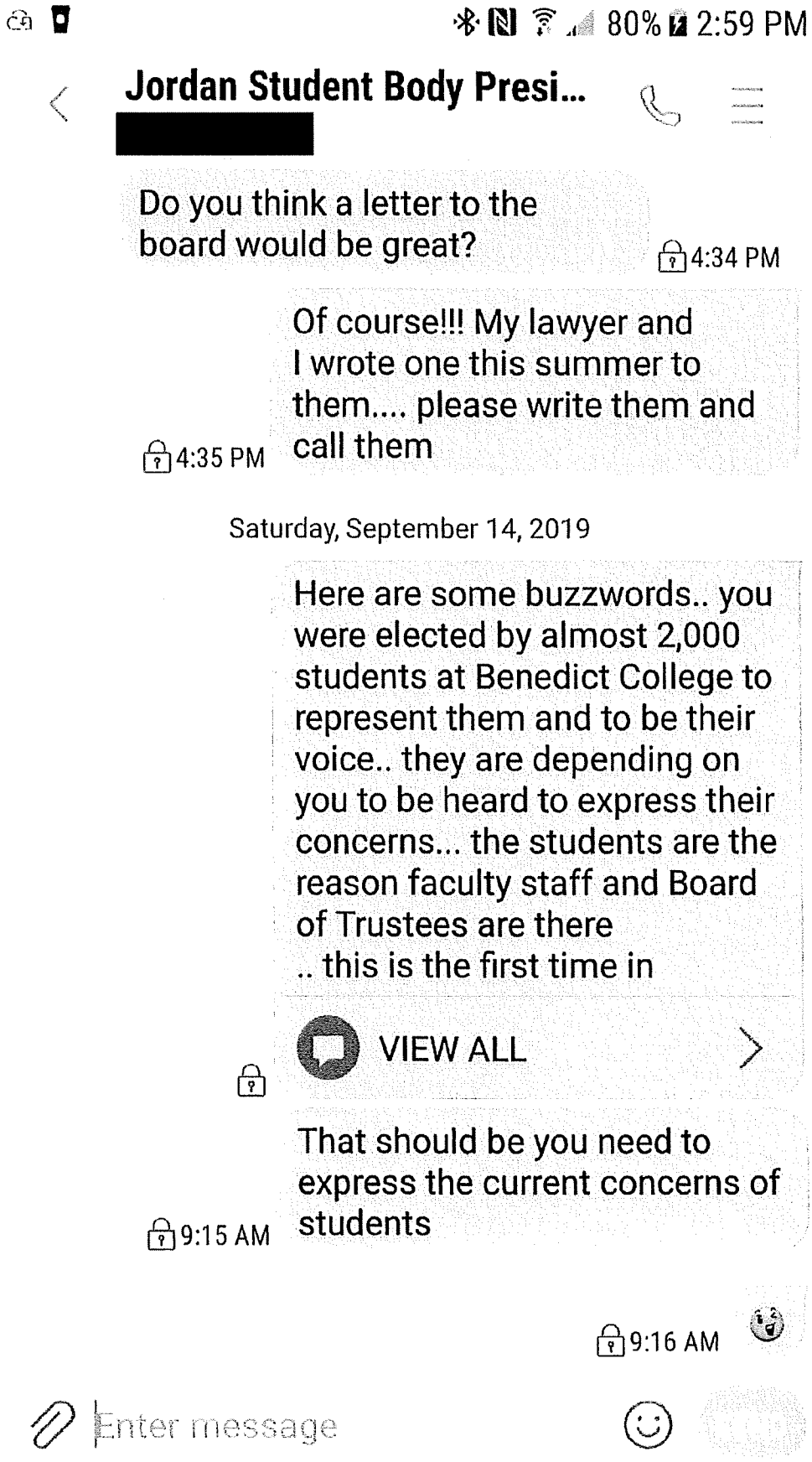
Sincerely,

Charlie W. Johnson
Chairman, Benedict College Board of Trustees

Equal Opportunity in Education and Employment

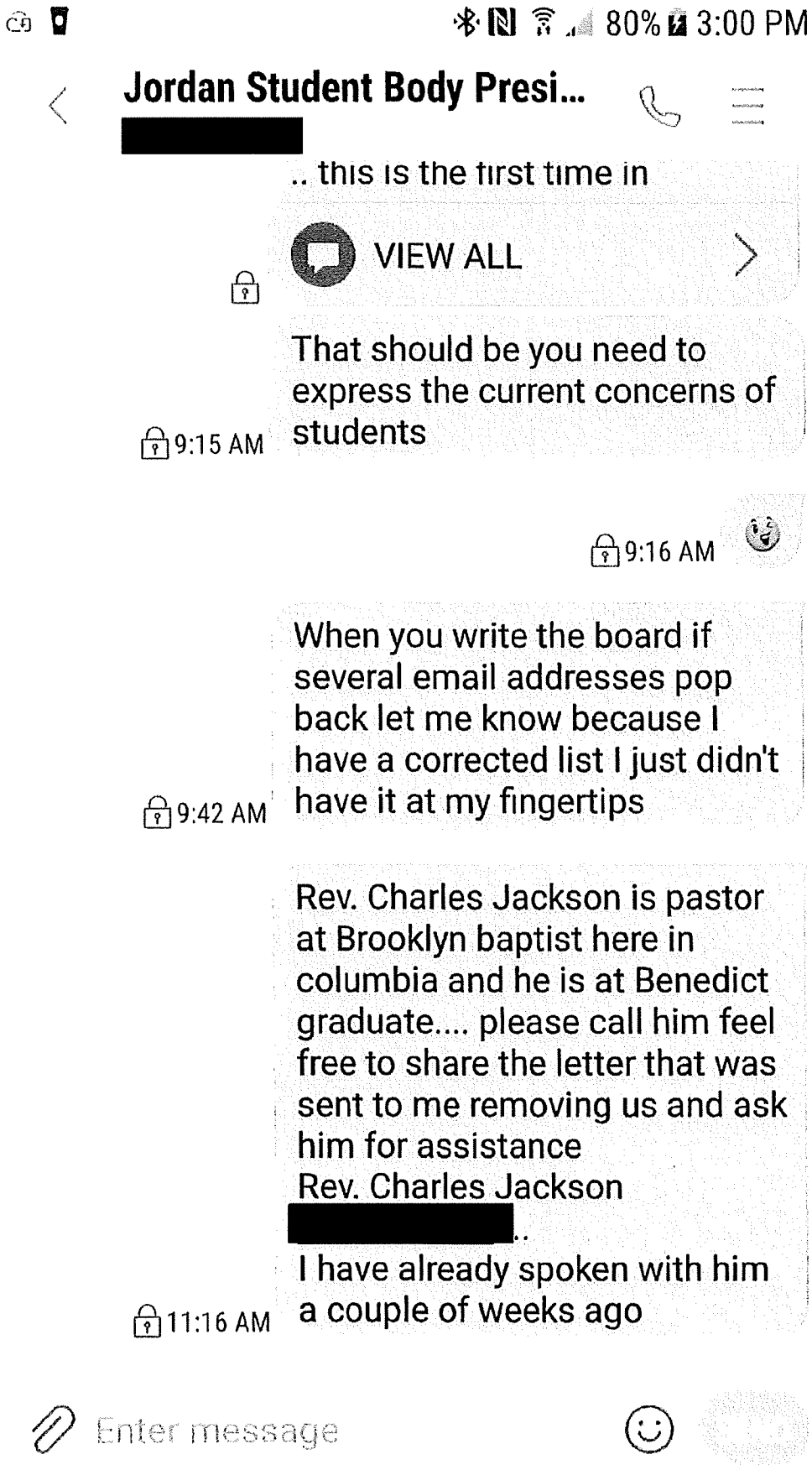
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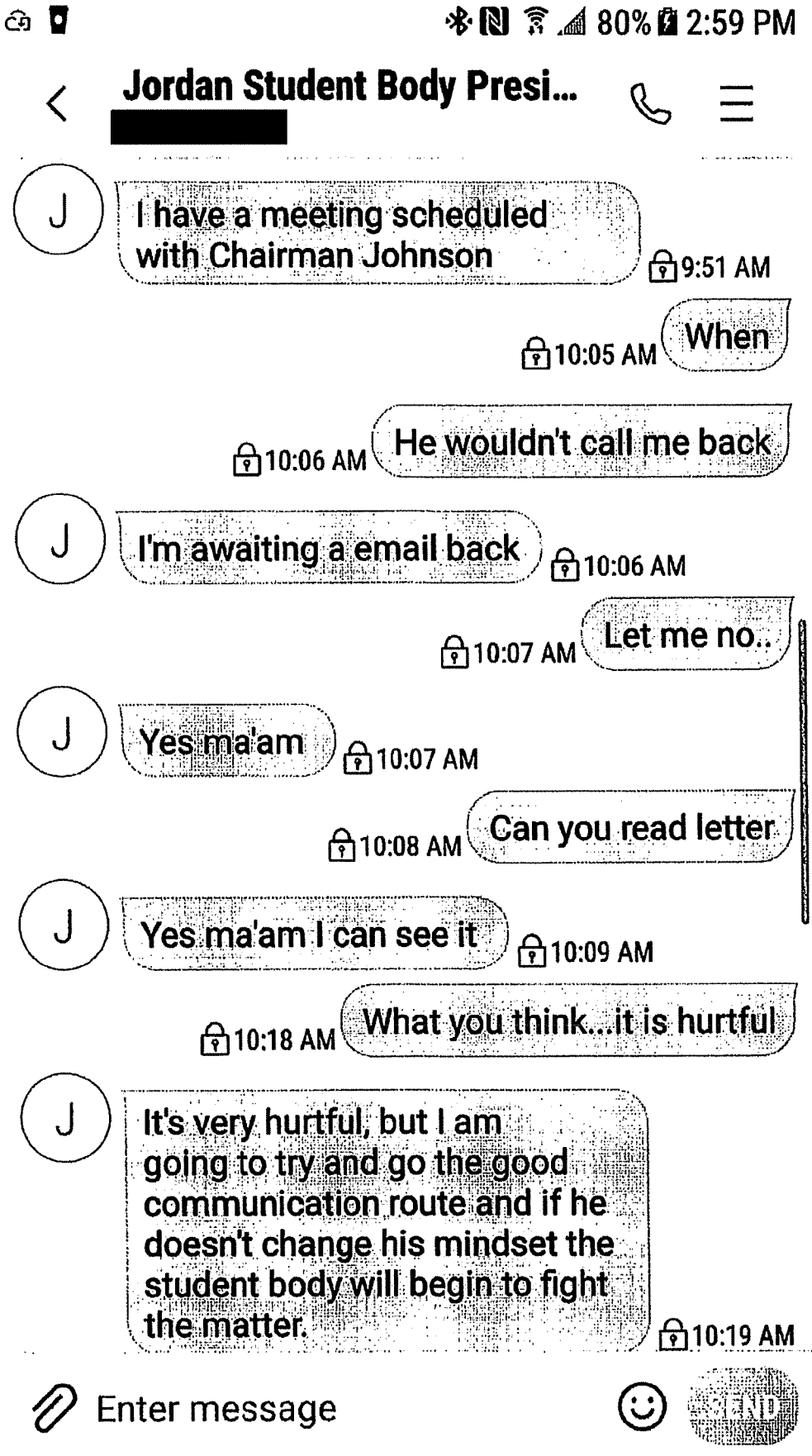
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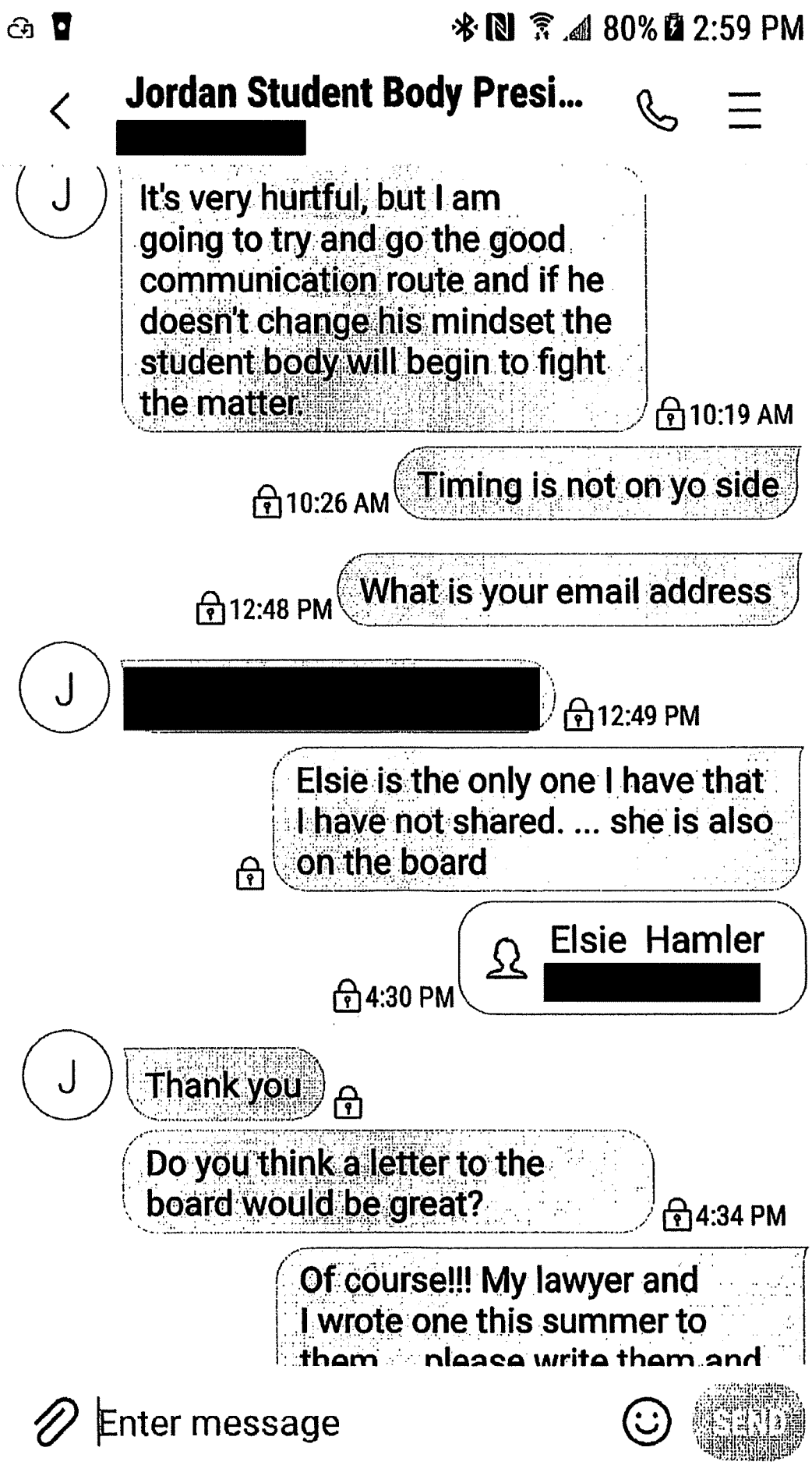
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80% 3:00 PM

Jordan Student Body Presi...

[redacted]

Sat, Sep 14, 2019 9:15 AM

Here are some buzzwords.. you were elected by almost 2,000 students at Benedict College to represent them and to be their voice.. they are depending on you to be heard to express their concerns... the students are the reason faculty staff and Board of Trustees are there .. this is the first time in history the Board of Trustees doesn't have a student representative or a faculty and staff representative.... you need to be able to express the current of the students to the Board of Trustees in person and as a part of the board... the Board of Trustees needs first-hand knowledge of what is going on and not second hand or hearsay Knowledge from others...
You you feel that your fight to be represented on the Board of Trustees is similar to the fight of the students in the Civil Rights era when they fought to get their rights both in their city and at their colleges....
You know that you may have to pay a price for being bold and outspoken... but this is small because you want to be an attorney to represent others who's the life may be in jeopardy....
You are not like dr. artist who is not on the board because she is the president and the

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Sat, Sep 14, 2019 9:15 AM

.. this is the first time in history the Board of Trustees doesn't have a student representative or a faculty and staff representative.... you need to be able to express the current of the students to the Board of Trustees in person and as a part of the board... the Board of Trustees needs first-hand knowledge of what is going on and not second hand or hearsay Knowledge from others...
You you feel that your fight to be represented on the Board of Trustees is similar to the fight of the students in the Civil Rights era when they fought to get their rights both in their city and at their colleges....
You know that you may have to pay a price for being bold and outspoken... but this is small because you want to be an attorney to represent others who's the life may be in jeopardy....
You are not like dr. artist who is not on the board because she is the president and the Board of Trustees are her bosses.... you answer to the student body...
Jordan you must go to social media also and get yourself some support you can't do this alone judge Rogers

EXHIBIT DD
PETERSON STATEMENT

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I am Henry Peterson III. & I am writing this statement because Judge Rogers involved me in a situation that I knew nothing about.

HP III 09/16/19

BC1624

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EXHIBIT EE
POLICY AND PROCEDURE FOR TERMINATION OF TENURED FACULTY

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6.2.2 Reappointment Timetable for Tenured Faculty
Tenured faculty will normally be automatically reappointed except for termination for cause, financial exigency or program discontinuation. Wherever feasible notice of non-reappointment of tenured faculty generally will be provided no later than December 15 of the academic year in which employment will terminate.

6.2.3 Terminal Contracts for Non Tenured Faculty
Any tenure track faculty who is not awarded tenure during the seven-year probationary period will be issued a terminal contract for the seventh year. If tenure is awarded during the seventh year then the contract will be renewed. If tenure is not awarded during the seventh year then the contract will not be renewed and the faculty member's employment at Benedict College will end with the seventh year.

All faculty members who have not received a notice of non-reappointment will be reappointed and will be issued a new contract no later than May 15th of each year if feasible, and to take effect in the new Academic year. If the College is unable to issue the contract by July 1st the terms and conditions of the new contract will be retroactive to July 1st of the contract year. Upon receipt of the contract it must be returned within 15 calendar days to guarantee employment for the following year. Failure to return the contract in a timely manner could result in non-reemployment.

IMPORTANT NOTICE

Benedict College reserves the right to change the timetable for non-reappointment of *tenured, tenure track, and/or non-tenure track* faculty members in cases involving cause, discontinuation of programs, and financial exigency whenever this is judged to be in the best interest of the College.

6.2.4. Termination
The College reserves the right, at any time, to terminate the services of both tenured and non-tenured faculty members under appropriate circumstances which shall include but are not limited to:

1. Adequate cause (which may include, but is not limited to: incompetence; significant neglect of duty; persistent refusal to comply with the College's policies; violations of the College's standards of professional responsibility in teaching and research; violation of the College's non-discrimination, harassment, or equal opportunity policies; dishonesty in teaching or research; falsification of information concerning the qualifications for a position; felony conviction (which means a guilty verdict in a trial, an imposition of a sentence, a plea of no contest, or a plea of guilty), inability to perform essential functions of the job; moral turpitude; and other conduct or behavior prejudicial to the College)
2. Financial exigency (financial exigency shall mean an imminent financial crisis which threatens the survival of the institution as a whole.)
3. Institutional restructuring and/or elimination of academic programs/majors.

At the discretion of the College, a person may be placed on leave with or without pay pending the outcomes of the hearing and appeals process.

6.2.5 Procedures for Terminating Faculty Members for Cause

1. Action to terminate a faculty member for cause may be initiated by any Department Chair, Assistant or Associate Dean of a School, the Academic Vice President, or President upon determination that probable cause may exist to justify termination of the faculty member.

2. The initiating party must submit a written request to the Academic Vice President requesting the convening of a faculty hearing committee to consider the charges or other circumstances motivating the request to terminate the faculty member.
3. With the consent of the President the Vice President for Academic Affairs will convene a standing or Ad Hoc faculty hearing Committee.
4. The hearing committee will conduct a fair and impartial hearing of all the evidence and make a recommendation to the Vice President for Academic Affairs.
5. The Vice President for Academic affairs will review the decision concerning the matter and notify both the initiating party, the faculty member, and the Dean of the decision.

6.2.6 Appeal of Termination

A faculty member terminated for cause or the party initiating the complaint may appeal the decision by requesting a hearing before the Faculty and Staff Appeals Committee within ten (10) days of notification. The request for an appeal must be submitted in writing to the Vice President for Academic Affairs.

(a) The Vice President for Academic Affairs will convene the Faculty and Staff Appeals Committee. The Committee will review the petition for appeal and will hear the appeal within ten (10) days of receipt of the appeal or as soon thereafter as feasible. The Committee will, after due deliberation, with or without the benefit of further hearings, issue its recommendation to the President.

(b) The President will review the recommendation of the Appeals Committee and make the final decision concerning whether to uphold, vacate, or modify the recommendation of the Appeals Committee. The President will then notify all parties of the final decision.

(c) The decision of the President is final and no further appeal is possible.

6.3 POLICY AND PROCEDURE FOR TENURE AND PROMOTION TO HIGHER RANK

A tenure track Faculty member may apply for tenure and/or promotion to higher rank if he/she believes that he/she meets the Eligibility Criteria for tenure or the rank outlined in Section 4.4.1 and Standards and Criteria for that rank outlined in Section 4.4.2. The Department Head may also invite an application for promotion or tenure from a member of the department's faculty. The following steps are used to apply for promotion or tenure:

1. The faculty member who wishes to be considered for promotion or tenure must complete the promotion or tenure application and provide the Department Head with a dossier that contains all of the information, evidence, and documentation required to make the promotion or tenure decision. The promotion or tenure application should be available from the Department Chair. Instructions for assembling the dossier will be incorporated with the instructions for completing the application. The dossier must contain information necessary to evaluate the Eligibility Criteria and Standards for the rank sought or the tenure decision. The faculty member must submit documentation or evidence of qualifications in accordance with the evidence outlined in Section 4.5 for assessing Eligibility and Standards and Criteria. The completed dossier should be submitted to the Department Chair.

2. The Department Chair will review the dossier for completeness and present the dossier to a departmental Promotion or Tenure Committee for review and recommendation.

3. The departmental Tenure Committee shall consist of all tenured members of the department's faculty and the Department Chair and the Promotion committee shall consist of all department members at or above the rank of the professor being considered. If there are fewer than three eligible departmental faculty for either the Promotion or Tenure Committee then the Dean will appoint members from a closely related department to

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2. The initiating party must submit a written request to the Academic Vice President requesting the convening of a faculty hearing committee to consider the charges or other circumstances motivating the request to terminate the faculty member.
3. With the consent of the President the Vice President for Academic Affairs will convene a standing or Ad Hoc faculty hearing Committee.
4. The hearing committee will conduct a fair and impartial hearing of all the evidence and make a recommendation to the Vice President for Academic Affairs.
5. The Vice President for Academic affairs will review the decision concerning the matter and notify both the initiating party, the faculty member, and the Dean of the decision.

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(b) The President will review the recommendation of the Appeals Committee and make the final decision concerning whether to uphold, vacate, or modify the recommendation of the Appeals Committee. The President will then notify all parties of the final decision.

(c) The decision of the President is final and no further appeal is possible.

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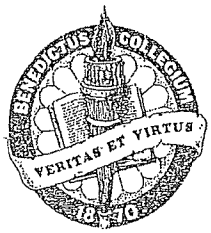
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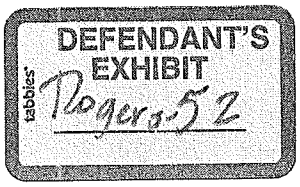
EXHIBIT FF
SUSPENSION LETTER
DATED SEPTEMBER 16, 2019

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BENEDICT COLLEGE
1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204





September 16, 2019

Ms. Abigail Rogers
Benedict College
Columbia, SC 29204

Dear Ms. Rogers:

Effective immediately, you are suspended without pay, pending the outcome of an ongoing investigation regarding allegations of improper conduct.

All college property needs to be returned immediately. You should not return to campus, contact any students or employees until further notice.

Sincerely,

Janeen Witty
Vice President for Academic Affairs

EXHIBIT GG
REQUEST TO CONVENE THE "AD HOC COMMITTEE," DATED SEPTEMBER 17, 2019

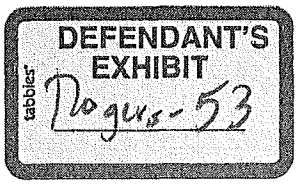
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BENEDICT COLLEGE

1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

September 17, 2019



Dr. Roslyn Clark Artis
President and CEO
Benedict College
1600 Harden Street
Columbia, SC 29204

Dear Dr. Artis:

Ms. Abigail Rogers has violated multiple elements of the employee conduct code as outlined in the Faculty Manual and in the Human Resources Policies and Procedures Manual. Specifically, she has been insubordinate, abused her position, and has used rude and unprofessional speech or behavior as evidenced by student complaints. During the 2018-2019 academic year, she was placed on a Performance Improvement Plan (PIP) regarding her behavior toward students in her courses. She completed the terms of that plan with the expectation that she would no longer engage in those types of classroom management and interactions with students. However, in the four weeks since classes began for the 2019-2020 academic year, multiple students in her courses have filed verbal and written complaints against her and some students have requested to be dropped from her courses or assigned different faculty advisors. Because the actions that placed her on a PIP emerged yet again, Interim Dean Dr. Richard Miller recommended that Ms. Rogers be removed from all duties that require student interaction.

However, before action could be taken on his recommendation, on Monday, September 16th, a student leader with expansive influence over the student body who is not enrolled in any of Ms. Rogers' courses filed a complaint against her. This most recent complaint concerns an allegation of Ms. Roger's abusive and inappropriate behavior that extends ***outside*** of her teaching and advising duties, including providing third parties with students' personal telephone numbers. Therefore, the recommendation of termination for cause is the next step of progressive disciplinary actions for this employee and is in the best interest of our students and the College.

I ask for your approval to convene an ad hoc faculty hearing committee regarding this matter.

Sincerely,

Janeen P. Witty, Ph.D.
Vice President for Academic Affairs

Approved:_____ Date:_____
Dr. Roslyn Clark Artis, President & CEO

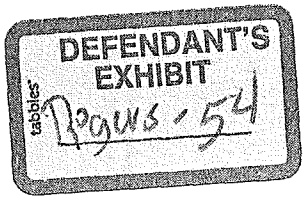
EXHIBIT HH
RECOMMENDATION OF THE AD HOC COMMITTEE DATED SEPTEMBER 18, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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BENEDICT COLLEGE

1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204



MEMORANDUM

TO: Dr. Janeen P. Witty
Vice President for Academic Affairs

FROM: Ad Hoc Faculty Hearing Committee

DATE: September 18, 2019

RE: Recommendation Regarding Abigail Rogers

After reviewing the evidence related to student complaints against Ms. Abigail Rogers, members of this ad hoc faculty hearing committee recommend:

Name	Recommendation for Termination for Cause	Recommendation against Termination for Cause
Shaneen Corujo		
Henry Counts		
Jessica Furrer		
Darryl Smalls		
Rosalyn Tucker		

EXHIBIT II
LETTER OF DEBORAH DURBAN
DATED SEPTEMBER 30, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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NELSON MULLINS

Debbie Whittle Durban
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Certified Specialist
in Employment & Labor Law
by the South Carolina Supreme Court
T 803.255.9465 F 803.255.9069
debbie.durban@nelsonmullins.com

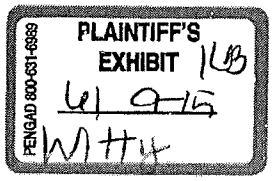
NELSON MULLINS RILEY & SCARBOROUGH LLP
ATTORNEYS AND COUNSELORS AT LAW

1320 Main Street | 17th Floor
Columbia, SC 29201
T 803.799.2000 F 803.256.7500
nelsonmullins.com

September 30, 2019

VIA EMAIL (coskrey@coskreylaw.com)

Blaney A. Coskey, III
Coskrey Law Office
1201 Main Street, Suite 1980
Columbia, SC 29201



RE: Abigail Rogers

Dear Blaney:

In response to your September 26 letter, Benedict is setting the meeting of the Faculty and Staff Appeals Committee for Friday, October 4, at 3:00 p.m. Benedict has set it for this time to comply with the 10-day requirement in the Faculty Manual; however, if Ms. Rogers needs additional time, Benedict is willing to move it to Tuesday, October 15, at 11:00 a.m. If neither of those times work, please let me know and Benedict will try to reschedule.

Each party will have thirty minutes to present their information. Dr. Witty will present her recommendation and Ms. Rogers can then present any information she wishes pertaining to this matter and within the specified timeframe. Ms. Rogers can be represented by an attorney but attorneys are not permitted to speak during the hearing. Neither side will have witnesses but Ms. Rogers is welcome to provide any supporting information as she wishes. The Committee members will be free to ask any questions.

I will provide you tomorrow the documents that will be provided to the Appeals Committee, which is the same information that was given to the Ad Hoc Committee. Please note that student names will be redacted to protect their privacy. Also, although I understand from the letters you attached to the email to me that Ms. Rogers may have some ongoing issues with the Board of Trustees, this hearing will be strictly limited to only issues regarding the termination of her employment.

I am sure that you will have some comments to the above and I am glad to discuss these with you.

Very truly yours,

Debbie Whittle Durban

DWD:dd

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EXHIBIT JJ
EMAIL FROM DURBAN TO COSKREY
DATED OCTOBER 9, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Subject: Abigail Rogers v. Benedict
From: Debbie Durban <debbie.durban@nelsonmullins.com>
Date: 10/9/2019 3:51 PM
To: Blaney Coskrey <coskrey@coskreylaw.com>

Blaney,

I am attaching two set of documents in preparation for the upcoming Appeals Hearing on October 15. The first set are documents relating to the complaints of this year which were provided to the Ad Hoc Committee and will be provided to the Appeals Committee at the Hearing. The second set of documents, which pertains to the student complaints from last year, were available to the Ad Hoc Committee to review if they wished to do so. Because management was not in the Ad Hoc Committee for the entire time, we do not know whether or not anyone reviewed these documents but in an abundance of caution, I am producing them to you.

Let me know if you have any questions.

Debbie
Debbie Whittle Durban
Nelson Mullins Riley & Scarborough LLP
(803) 255-9465
debbie.durban@nelsonmullins.com
licensed in S.C. and N.C.

Confidentiality Notice

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately either by phone (800-237-2000) or reply to this e-mail and delete all copies of this message.

—Attachments:

Bededict Production (Benedict_Rogers_000001 - 000048) - 4836-7559-1080 v 1.pdf	5.0 MB
2019.10.08 Benedict Production- Benedict_Rogers_000049- 00152 - 4819-9581-1753 v 1.pdf	5.0 MB

EXHIBIT KK
RECOMMENDATION OF THE FACULTY AND STAFF GRIEVANCE AND APPEAL COMMITTEE DATED OCTOBER 23, 2019

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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BENEDICT COLLEGE

1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

DEFENDANT'S EXHIBIT Rogers 55

MEMORANDUM

TO: Dr. Roslyn Clark Artis
President and CEO

FROM: Faculty and Staff Grievance and Appeals Committee

RE: Recommendation on Abigail Rogers

DATE: October 23, 2019

After reviewing the evidence related to student complaints against Ms. Abigail Rogers, members of the Faculty and Staff Grievance and Appeals Committee recommends to uphold termination/ recommends against termination (circle correct recommendation), as follows:

Name (Please print and then sign)	YES: Recommend to Uphold Termination	NO: Recommend against Termination
Dr. Rob Koon		
Sybil Rosado SYBIL ZORDO		SR
Raymond Lee RAYMOND LEE	RL	
Gwenda Greene		
	RHD	
TRACY H DUNN		
Katrina L Pitts	KLP	
Taranne Roberts		

AR0771

EXHIBIT LL
GREEN EMAIL CHAIN
DATED OCTOBER 24-25, 2019

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ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

From: Debbie Durban
Sent: Friday, October 25, 2019 9:46 AM
To: 'Blaney Coskrey'
Subject: Rogers v. Benedict

Hi Blaney,

I've debated whether to share the following email exchange with you but in in an effort of full disclosure, I decided that I should. Take it for whatever it is worth. It does not change the outcome of the appeal hearing and I'm certainly not trying to add more insult to your client but did not feel I should withhold it because you would certainly get it in discovery.

Best,

Debbie

From: Janeen Witty <Janeen.Witty@benedict.edu>
Sent: Thursday, October 24, 2019 4:45 PM
To: Gwenda Greene <Gwenda.Greene@benedict.edu>
Subject: Re: Important Notice of Information

◄**External Email**► - From: Janeen.Witty@benedict.edu

Dr. Greene,

Thank you for this information and for your service yesterday. I will add your email to the file.

Janeen P. Witty, Ph.D.
Vice President for Academic Affairs

Benedict College
1600 Harden Street
Columbia, SC 29204
(803) 705-4761--voice
Janeen.Witty@Benedict.edu
#TheBESTofBC
www.benedict.edu

From: Gwenda Greene <Gwenda.Greene@benedict.edu>
Sent: Thursday, October 24, 2019 12:30 PM
To: Janeen Witty <Janeen.Witty@benedict.edu>
Subject: Important Notice of Information

Dr. Witty,
I am writing for my own therapeutic good. On yesterday I voted NO to the Faculty Grievance presented. I must clarify my vote because I have tossed and turned all night. I now clear that my NO meant — no I'm not ready to vote. I am NOW clear that I was OVERWHELMED. When I learned of all the infractions since 2006, I was limp. Additionally, I was clouded by the thought of why was this unaddressed so loongg? Was she reprimanded over those years? I was honestly just limp. It took a midnight hour for me to resolve that it was not my duty to deal with that but to make a decision on the continued berating of students. While late, I say Yes that I UNEQUIVOCALLY uphold that the berating needed to end and it would be YES if I could retract. Thanks for indulging my concern.

Gwenda Richburg Greene, PhD
Associate Professor of English
Communication and Arts Department

Benedict College
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gwenda.greene@benedict.edu
#TheBESTofBC
www.benedict.edu

Facebook: https://www.facebook.com/OfficialBenedictPage/
Twitter: https://twitter.com/BenedictEDU
LinkedIn: https://www.linkedin.com/school/721647/

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EXHIBIT MM
DURBAN LETTER DATED
NOVEMBER 6, 2019

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1320 Main Street | 17th Floor
Columbia, SC 29201
T 803.799.2000 F 803.256.7500
nelsonmullins.com

November 6, 2019



VIA EMAIL (coskrey@coskreylaw.com)

Blaney A. Coskey, III
Coskrey Law Office
1201 Main Street, Suite 1980
Columbia, SC 29201

RE: Abigail Rogers—Cease and Desist

Dear Blaney:

I am following up on our telephone conversation late last week. As you know, Benedict provided you with the documents that were to be given to the Appeals Committee with the understanding that these documents were to be treated as confidential. Not only were these documents marked confidential, but Dr. Witty also stressed at the start of the appeal meeting that everything said during the meeting and all documents provided were confidential and not to be discussed or shared outside of the meeting. The committee members were required to leave all of their documents at the meeting. You and Ms. Rogers were in the meeting at that time, and there is no reason whatsoever that she would not have understood the confidentiality of the proceedings and the documents.

Nevertheless, Benedict has now learned that Ms. Rogers has distributed the documents to multiple third parties in blatant disregard of the confidentiality requirement. By doing this, she has shared information about Benedict students and employees to third parties who do not need to know any of this information. Moreover, even though the names of students were redacted, it is probable that these students can be identified by the context of the documents. Ms. Rogers' disclosure of this information was an intentional violation of Benedict's confidentiality requirements and was done solely to harm Benedict,its employees, and its students.

Also, Benedict understands that Ms. Rogers is also sharing the contents of an email I forwarded to you the day following the appeal hearing. To be fully transparent, I shared, regretfully now following what has happened, an email from one committee member who wanted to change her vote. Since this email changed the vote tally, I believed it was fair to share it with you. However, I drastically underestimated the actions Ms. Rogers would

go to harm this individual. Not only does Benedict understand that she has disclosed the contents of the individual's email, it has also learned that Ms. Rogers is making threatening and defamatory statements about the individual. These statements include such things as falsely accusing the individual of having a physical dispute with a student as well as vowing that she would ensure that this employee's child would not get into law school. Not only is she attacking this individual but also the individual's family. This behavior is abhorrent. This individual was merely doing her duty as Benedict's employee and now is being unconscionably subjected to defamatory statements and threats.

Please take this letter as a fair warning to Ms. Rogers that if she does not immediately **cease and desist** sharing Benedict's confidential information and threatening and slandering its employees, Benedict will take immediate legal action against her, including seeking a restraining order and all other available relief. Benedict hopes Ms. Rogers will heed this warning, and no further action will be necessary.

Very truly yours,

Debbie Whittle Durban

Debbie Whittle Durban

DWD: dd

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EXHIBIT NN
FACULTY CONTRACT

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BENEDICT COLLEGE FACULTY CONTRACT

1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

PLAINTIFF'S EXHIBIT 13
4-29-21
AMS

NAME
Abigail Ramona Rogers

DIVISION
Arts and Sciences

DEPARTMENT
Criminal Justice Administration and Social Sciences

RANK/TITLE
Associate Professor

SALARY: $52,500.00

PAY PERIOD
[x] Semi-monthly
[ ] Other: Without Compensation

APPOINTMENT STATUS:
[x] Full-time
[ ] Temporary

APPOINTMENT PERIOD:
[x] Academic Year [ ]One Semester
[ ] Twelve Months [ ]Other: 10 Months

BEGINNING
August 13, 2019

ENDING
May 15, 2020

TENURE STATUS
[x] Tenure Achieved
[ ] Years achieved toward tenure at expiration of contract: Achieved
[ ] Tenure not applicable

TEACHING REQUIREMENT
Full-time teaching and other related duties.

APPOINTMENT
The appointee will fulfill responsibilities pertaining to the specifications above or in other capacities compatible with his/her qualifications.

DATE
6/7/2019

SIGNATURE OF VICE PRESIDENT FOR ACADEMIC AFFAIRS
Jamean P. Whitley

August 2, 2019

Please indicate your acceptance of this appointment and conditions pertaining thereto by signing all copies of this document and returning the original to the Office of Human Resources within 10 days. Should you decide not to accept the contract, please return all copies unsigned to the Office of Human Resources within 10 days.

DATE
6/7/2019

SIGNATURE OF APPOINTEE

I Certify that I have not been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of Federal, State, or local government funds, or has been administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds.

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EXHIBIT OO
FACULTY MANUAL

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

preparations. The Dean and the Academic Vice President must give explicit approval for these limits to be exceeded.

4.3.2 Instructional Quality Expectations

Providing quality instruction and advising are the most important responsibilities of a Benedict College faculty member. Every faculty member whether full-time or part-time should thoroughly plan their course and each lesson, they should thoroughly prepare for each class and advising session, and use their best efforts in and out of the classroom to ensure maximum student learning. All Benedict College faculty members should be prepared to teach and advise students from a wide diversity of backgrounds. They should be committed to providing extra help where required to improve student outcomes. They are also responsible for motivating students to attend and participate in class activities so that they may achieve their maximum potential. Benedict College faculty is expected to be imaginative and innovative as they strive to prepare our students to be the best in a highly competitive, global, high-technology world. Some of the expectations for each faculty member include:

Syllabi

Each faculty member shall prepare or adopt for distribution by the first class a syllabus, which contains at minimum the following

- A Concise Course Description Outlining the Content and Value of the Course
- An Outline and Schedule for Presentation of the Course Content
- All Course Requirements and Teacher Policies
- A Statement of the College's Attendance Policy
- A List of All Reading Material and Other Resources to Be Used in the Class
- A Clear Statement of Grading Policies and Procedures

Meeting Expectations

Each faculty member shall be expected to meet every class promptly and on time, to conduct class for the entire class period and to dismiss class on time. Classes are never to be dismissed before the official end of the class period. Teaching or other classroom activities should occur for the entire scheduled class period. Faculty members are also expected to keep all scheduled office hours and be prepared to meet with advisees during scheduled office hours. All advisee appointments should be kept except for unavoidable occurrences. If a scheduled appointment can not be kept the Student and the Department Chair should be notified as soon as possible before the scheduled appointment.

Responsibility for Absences

No faculty member shall miss a class except in case of emergency or absence due to required College Business. If an emergency arises which causes the faculty member to be absent, the faculty member is responsible for notifying the Department Chair. If the Department Chair is unavailable the faculty member should notify the Dean. If the absence is planned then the faculty member must make satisfactory alternative arrangements to cover the class. A faculty member may miss a class to attend a mandatory meeting called by the President, Academic Vice President, or the Dean.

Quality Instruction Expected

- Each Faculty Member Must Be Well Prepared for Each Class Meeting.
- Each Faculty Member Must Conduct Each Class in Clear Easily Understood Fashion.
- Faculty Members Must Use Up-To-Date Information, Materials, and Techniques.
- Faculty Members Must Incorporate Computer Technology and Writing
- Assignments Wherever Possible in Class Assignments.
- Faculty Members Must Incorporate a Global Perspective into Their Classes Whenever Feasible.

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- Faculty Members Must Maintain a Classroom Atmosphere Conducive to And Fosters a Stimulating and Productive Learning Environment in Which The Intellectual Freedom of Students and the Pros and Cons of Debatable Issues Are Fairly Acknowledged.

Respect and Empathy for all Students Expected

- It is expected that faculty will conduct themselves professionally at all times and display attitudes of respect, civility, and empathy when interacting with students.
- Faculty members are expected to assume that all students are capable of learning and to employ their best efforts to empower each student to learn.
- Faculty members must always address students with courtesy and respect.

Fair and Impartial Evaluation

- All faculty members must use fair and impartial methods to evaluate students based solely on course content and requirements.
- These fair and impartial methods must be clearly stated on the syllabi.
- All faculty members must provide any student who makes such a request a clear explanation of how the grade was derived or a review of the grade for any assignment, and the midterm or final grade.

Maintenance of Accurate Records

Faculty members are expected to maintain accurate records of grades, attendance, assignments, tests, quizzes, and other relevant records required by the College.

Prompt Reports

Faculty members are expected to turn in all grades, attendance records and other required reports on time.

4.3.3 Faculty Responsibility for Scholarly Activities (Research and Professional Service)

Faculty are responsible for engaging in scholarly activities to carry out the Research and Service Missions of the College, to contribute to the advancement or application of knowledge in their field of expertise, and to keep themselves current in their fields. Faculty are expected to conduct relevant studies in their area of expertise. They are expected to disseminate the results of these studies through publications and/or presentations before Peers. They are also expected to provide their expertise to help society find solutions to pressing societal problems through reports, newspaper articles, lectures, testimony, media appearances, consulting, and /or other methods of dissemination. Each faculty member is expected to achieve some scholarly activity each year that they hold a faculty appointment.

4.3.4 Faculty Responsibilities for Service To The College

College service consists of documented participation on departmental, school, or College committees or special task forces. This may consist of faculty recruitment, program development, sponsoring or other involvement with student organizations or other documented contributions to College life. Every faculty member is expected to contribute to the College through service.

Faculty members are also required to attend selected College Events. Unless officially excused in advance, faculty members are expected to attend each of the following:

- All Regular and Called College, Division of Academic Affairs, School, and Department Meetings
- Opening Fall Convocations
- Founders Day

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EXHIBIT PP
"PRE-AMENDMENT" BYLAWS, ARTICLE I, SECTION 4

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2-13-04

BYLAWS

BENEDICT COLLEGE

ARTICLE I.

Board of Trustees

Section I:

The Governing Board of this institution shall be known as the Board of Trustees of Benedict College. It shall be self-perpetuating and independent of any control other than this Board in both memberships for the Board and policy of this institution.

The Board of Trustees shall have and exercise those corporate powers prescribed by law. Its ultimate authority is affirmed through its general, academic, responsibility for the financial health and welfare of the corporation. The Board of Trustees shall exercise ultimate institutional authority as set forth in these bylaws and in such other policy documents it deems to be appropriate.

Section 2.

The Board of Trustees shall have the authority to carry out all lawful functions that are permitted by these bylaws or by the articles of incorporation. This authority, in consultation with the president, shall include but shall not be limited to these illustrative functions.

1. Determine and periodically review the mission and purpose of Benedict College.

2. Appoint the president, who shall be chief executive officer of Benedict College, and set appropriate conditions of employment, including compensation.

3. Consult with and advise the president on establishing the conditions of employment of other key institutional officers who serve at the pleasure of the president.

4. Support the president and assess his or her performance.

5. Review and approved propose changes in the academic programs and other major enterprises of Benedict College consistent with the mission, plans, and financial resources of Benedict College.



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6. Approve institutional policies that bear on faculty appointment, promotion, tenure, and dismissal as well as personnel or anti-discrimination policies for other categories of employees.

7. Approve the annual budget and annual tuition and fees, regularly monitor the financial condition of Benedict College, and establish policy guidelines that affect all institutional assets including investments and the physical plant.

8. Contribute financially to the fund-raising goals of Benedict College, participate actively in strategies to secure sources of support, and authorize Benedict College officers to accept gifts or bequests to the College subject to Board policy guidelines.

9. Authorize any need for debt financing and approve the securing of loans.

10. Authorize the construction of new buildings, capitalization of deferred maintenance backlogs, and major renovations of existing buildings.

11. Authorize the purchase, sale, and management of all land, buildings, or major equipment and approve purchasing policies.

12. Approve policies that contribute to the best possible environment for students to learn and develop their abilities and that contribute to the best possible environment for the faculty to teach, pursue their scholarship, and perform public service. These policies include the protection of academic freedom.

13. Approve all earned and honorary degrees.

14. Serve actively as advocates for Benedict College in appropriate matters of public policy in consultation with the president and other responsible parties as the Board shall determine.

15. Periodically undertake or authorize assessments of the performance of the Board.

Section 3:

The Board of Trustees shall consist of not more than thirty-six (36) persons elected at Annual Meetings of the Board. One-third of the Board shall be elected each year, and the group elected each year shall be elected for a term of three years, with the exception that faculty and student trustees shall be elected from April to April, unless the official connection as faculty or student is served prior to the expiration of the term. Vacancies on the Board of Trustees may be filled at any Annual Meeting, and persons elected to fill vacancies on the Board of Trustees shall be elected for the unexpired term for which elected. The Board of Trustees, upon recommendation of the Committee on Trustees, in consultation with the President, and on approval of two-thirds of its members present and

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voting, may declare a vacancy to exist if a member has been absent for three consecutive meetings of the Board without good cause and the Board shall then proceed to fill such vacancy for the unexpired term of the individual who has been removed from membership.

Section 4.

Include in the total membership of trustees provided in the preceding paragraph, there shall be two chosen from the nominees proposed by the American Baptist Home Mission Society; one elected annually by the faculty; one elected annually by the student body; the President of the Baptist Education and Missionary Convention of South Carolina; the President of the Women's Baptist Education and Missionary Convention of South Carolina; and one appointed by the Mather School Alumni.

Section 5:

Each member of the Board of Trustees shall be entitled to one vote either in person or by proxy to the extent legal in the State of South Carolina.

Section 6:

Upon recommendation of the committee on trusteeship, trustees who served with distinction for at least two terms may be elected by the majority of trustees as trustee emeriti. Terms shall be three years and shall be renewable provided the total number of trustees emeriti does not exceed one-third of the total number of regular voting trustees. Trustee Emeriti shall be eligible to serve on board committees, except for the executive committee and the committee on trusteeship, with vote and shall speak freely at all board and committee meetings. They shall not have voting privileges at board meetings and shall not be counted as part of quorum determinations. Trustee emeriti shall be sent notices and minutes of all board meetings and are encouraged to attend board meetings or otherwise accept special assignments that are helpful to the Board of Trustees and Benedict College.

ARTICLE II

Meetings

Section 1.

There shall be four (4) regular meetings of the Board of Trustees each year, one in October, one in February, one in April, and the fourth to be a Retreat in July.

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Section 2.

The Annual Meeting of the Board of Trustees shall be held in the City of Columbia, South Carolina, during the month of April in each year. The exact date of the meeting shall be determined by the Chairman of the Board in consultation with the President of the College. The exact dates and places of the other meetings shall be determined by the Chairman of the Board in consultation with the President of the College.

Section 3.

Notice of the time and place of such meetings shall be mailed to each member of the Board by the Secretary at least one month in advance of the selected date of the meeting.

Section 4.

Special meetings shall be called by the Secretary upon request of the Chairman of the Board, or three members of the Board, or the President of the College. Notice of special meetings of the Board shall state the nature of the business to be considered, the time and place of the meeting, and shall be provided to the members of the Board at least one week in advance of the proposed date of the meetings. At special meetings of the Board no matters of business shall be considered other than those stated in the call of the meeting.

Section 5.

One-third of the members of the Board shall constitute a quorum for the transaction of business, except that for the election of officers and the amendment of bylaws a quorum shall consist of a majority of the Board.

Section 6.

Board members may be reimbursed by the College for their reasonable travel expenses to all regular and special meetings of the Board.

ARTICLE III

Officers of the Board

Section 1.

The Officers of the Board shall be a Chairman, a Vice Chairman, a Secretary and an Assistant Secretary. These Officers shall be elected at the Annual Board meeting for a term of one year. If a vacancy occurs in an office, the unexpired term may be filled by the Executive Committee of the Board.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Section 2.

The Chairman of the Board shall preside at the meetings of the Board and fulfill the responsibilities which ordinarily pertain to that office. He shall execute such contract and other documents as may be authorized by the Board. He shall advise and consult with the President of the College and seek to reflect the judgment of the Board in policy matters affecting the general administration of the College.

Section 3.

In the absence or disability of the Chairman, the Vic Chairman shall preside at meetings of the Board and perform the duties of the Chairman of the Board.

Section 4.

The Secretary shall fulfill the responsibilities usually pertaining to this office. He shall keep a full and true record of the minutes of all meetings of the Board and committees of the Board. He shall assure that a true copy of the full record of the minutes of each Board Meeting shall be provided to each trustee within sixty days after each meeting of the Board.

Section 5.

The Assistant Secretary shall carry out the duties of the Secretary in his absence.

ARTICLE IV

Executive Committee

Section 1.

The Executive Committee shall consist of Board Officers, Standing Committee Chairs, and two Board members at large nominated by the Committee on Trustees at the Board's Annual Meeting. The Board shall name a Chairman, a Secretary, and an Assistant Secretary of the Executive Committee. In the absence of the Chairman at a duly called meeting, the members present shall elect a Chairman pro tem.

All members of the Board shall be privileged to attend meetings of the Executive Committee, and participate in the deliberations, without vote.

Section 2.

One-half of the members elected to the Executive Committee shall constitute a quorum for the transaction of business.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Section 3.

The Executive Committee shall represent the Board in interim between meetings of the Board and shall exercise in general the authority of the Board in matters pertaining to the regular administration of the Board except when referral with power has been given by the Board in respect to certain specific items of business. The Executive Committee shall oversee the work of the Board standing committees, the institution's planning process, the Board's support of the President and Chief Executive Officer, and matters relating to the President and the Chief Executive Officer, including his/her compensation and performance evaluation. The committee will deal also with personnel matters that do not fall under the jurisdiction of the Academic/Student Affairs Committee.

Section 4.

The Executive Committee shall meet at the call of the Chairman between regular meetings.

Section 5.

If the Secretary of the Executive Committee, as named by the Board, is not the Secretary of the Board of Trustees, then the Secretary of the Executive Committee shall provide a full report of the actions of the Executive Committee of the Secretary of the Board for inclusion in the full minutes of the Board.

Section 6.

A full report of the actions of the Executive Committee shall be transmitted to the entire Board within one month after each meeting of the Executive Committee.

ARTICLE V.

Standing Committees

Section 1.

There shall be five (5) Standing Committees to the Board of Trustees which shall meet periodically to transact business pertaining to their particular areas and shall make a report of their activities and recommendations in writing to the full meeting of the Board after consultation with the president. These committees shall be advisory bodies to the Board. The membership of each committee shall consist of not less than five (5) members of the Board. They are Academic/Student Affairs Committee, Development Committee, Finance/Audit/Investment Committee, Building and Grounds Committee, and Committee on Trustees. The Chairman of each Standing Committee shall be responsible for assuring the maintenance of records of all meetings with staff secretarial assistance when requested.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Section 2.

Academic/Student Affairs Committee: This committee is responsible for observing, studying and evaluating the educational operation and student personnel services of the College with a view to bringing the full attention of the Board to methods of aiding the continuance and further development of the strongest possible service in these areas. The committee should ensure that the educational program is consistent with the institutional mission and strategy and it appropriate for the institution's students; that the quality of academic activities is evaluated; that adequate resources are provided to support the academic and student affairs program consistent with program priorities; that faculty personnel policies and procedures are equitable and supportive of academic priorities; that the interests and needs of a diverse student population are represented in all Board policies and policy decisions; and that the committee is visible to students and faculty as stewards of the health and welfare of the academic community. The committee will work closely with the President and the chief academic/student affairs officer.

Section 3.

Finance/Audit/Investment Committee: This committee shall be responsible for studying and evaluating the fiscal and business operations of the College. It will give special attention to the annual budget in terms of its effectiveness as a fiscal statement of the institution's educational programs. It shall ensure that a viable long-range financial plan is in place or being developed. The committee shall review annually the audits of the College as well as any management letters submitted by the auditors, and make recommendations to the full Board. The committee will also review on a periodic basis the investment policies of the College as well as the performance of the investment assets of the College and mangers of the College's investment, and make recommendations to the full Board. The committee is responsible for communicating with and educating the Board on finance/audit/investment matters. The committee works closely with the President and the chief business and finance officer of the College.

Section 4.

Building and Grounds Committee: This committee has broad oversight for the College's land, buildings, and equipment. It shall be the responsibility of this committee to study and make recommendations regarding the maintenance of the buildings, utilities, grounds, and vehicles owned and/or operated by the College. This committee's responsibilities include ensuring the adequacy and condition of capital assets; developing and keeping current physical planning policies for land, buildings and equipment; recommending new structures and rehabilitating or removing older structures as dictated by general board policies; and controlling plant debt and assuring adequate levels of funding for plant maintenance. The committee works closely with the President, the chief business and finance officer and the chief maintenance officer.

ELECTRONICALLY FILED 2023 Mar 17 9:11 AM RICHLAND COMMON PLEAS CASE #2016CP4006624

Section 5.

Development Committee: This committee is responsible for making recommendations regarding find-raising policy and ensuring that fund-raising efforts are consistent with the College's mission statement. The committee must understand the need for fund-raising and be able to educate other board members to this need and encourage them to participate in raising funds. The committee helps set goals and develops strategies for soliciting gifts. It helps monitor the operation of the development program, including budget, staff, and use of fund-raising counsel. The committee works closely with the President and the chief development officer of the College.

Section 6.

Committee on Trustees: This committee is charged with the responsibility of cultivating prospects for Board membership; recruiting potential Board members; recommending candidates to fill Board vacancies; orienting and training for Board members; and developing procedures for evaluating Board members. The committee is responsible for evaluating on a continuing basis the structure and composition of the Board and thereby ensuring that continuity and effectiveness and enhanced. This committee shall nominate officers of the Board, as well as membership on the Executive and Standing Committees.

ARTICLE VI

Special Committees

Section 1.

From time to time, the Board may appoint other committees on an ad hoc basis to deal with special concerns of the college.

ARTICLE VII

President of the College

Section 1.

The President of the College shall be the chief executive officer of the College. He shall serve as the official channel of communication between the Board of Trustees and the administrative officers, the faculty, and the student body. The President shall have the responsibility of executing all Board policies and directives and keeping the Board and/or Executive Committee informed of matters which may lead to Board consideration.

The President serves at the pleasure of the Board of Trustees for such term, compensation, and conditions of employment as the Board shall determine.

Section 2.

The President shall be the chief executive officer of the College and the chief advisor to and executive agent of the Board of Trustees. His or her authority is vested through the Board of Trustees and includes responsibilities for all College educational and managerial affairs. The President is responsible for leading Benedict College, hiring all vice presidents, implementing all board policies, keeping the Board informed on appropriate matters, consulting with the Board in a timely fashion on matters appropriate to its policy-making and fiduciary functions, and serving as the key spokesperson for Benedict College. He or she has the authority to execute all documents on behalf of Benedict College and Board of Trustees consistent with board policies and the best interests of Benedict College.

The President shall appoint after consultation with the Board, those personnel who shall have the status of administrative officers.

Section 3.

The President shall delegate to the administrative officers the responsibility for carrying out the key administrative functions of the College.

Section 4.

The President shall make, or cause to be made by an administrative officer, such reports as the Board of Trustees may request of him from time to time. The Annual Report of the President shall provide for the Board of Trustees a comprehensive review of the work and the condition of the College and a full report pf all funds of the College. The President shall coordinate the preparation and presentation of the budget of the College to the Board of Trustees and shall assure that a proper audit of all funds of the College shall be presented to the Board annually.

Section 5.

The President shall be a member ex-officio with full voting rights of all standing and special committees of the Board of Trustees.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ARTICLE VIII

Amendments

Section 1.

These Bylaws may be amended or repealed at any regular meeting of the Board by a vote of two-thirds of the members present, providing that a majority of the Trustees shall be present and participating in the meeting, previous notice of the nature of the amendment having been given at least one regular meeting before action thereon shall be taken.

Section 2.

Bylaws may be amended or repealed at a special meeting of the Board by vote of two-thirds of the member present, provided that an exact statement of the proposed amendment or intention to repeal has been provided to the Board of Trustees with the call of the meeting.

ARTICLE IX

Conflict of Interest

Section 1.

A trustee shall be considered to have a conflict of interest if:

1. Such trustee has existing or potential financial or other interests that impair or might reasonably appear to impair such member's independent, unbiased judgment in the discharge of his or her responsibilities to Benedict College, or
2. Such trustee is aware that a member of his or her family, or any organization in which such trustee (or member of his or her family) is an officer, director, employee, member trustee or controlling stockholder, has such existing or potential financial or other interests. For the purpose of this provision, a family member is defined as a spouse, parents, siblings, children and any other relative if the latter resides in the same household as the trustee.

All trustees shall disclose to the board any possible conflict of interest at the earliest practical time. Furthermore, the trustees shall abstain himself or herself from discussions of, and abstain from voting on, such matters under consideration by the Board of Trustees or its committees. The minutes of such meeting shall reflect that a disclosure was made and conflict abstained from voting. Any trustee who is uncertain whether a conflict of interest may exist in any matter may request that the board or committee resolve the questions in his or her absence by majority vote. Each trustee shall complete and sign a disclosure form provided annually by the secretary of the Board of Trustees.

(Rev. 2/13/04)

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

CHARLIE JOHNSON
DEPOSITION EXCERPTS

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. Uh-huh. Charlie Wilbur Johnson.
Q. And it's in the complaint, it says, "Charles." But your -- your proper name is Charlie?
A. I came out of Georgia so we didn't have no Charles down there.
Q. Got it. Are you sober, mentally competent and able to truthfully answer my questions today?
A. Yes.
Q. And have you ever given a deposition before?
A. Once.
Q. Even though you've done this one time before, I'm going to run through the state court, South Carolina's, ground rules.
A. Okay.
Q. When I'm the one deposing you, you need to ask me questions if you have any questions about my questions. If you answer a question, I'm going to assume you understood it. Gene Matthews is allowed to object to my excellently-worded questions. Even when he does object, you still have to answer unless he starts hooting and hollering "Don't answer." And you will know when that happens. We will probably take two or three breaks before we close today. During those breaks, you and Gene aren't allowed to talk about

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

nothing but answer questions. You know, board members need to know how to raise money.

Q. Do you remember who suggested removing the faculty position on the board?

A. I can't -- it all came up during revising the bylaws. I couldn't say whether they brought it back to the board and the board was discussing it and somebody came up with it, I don't know. But you can look at the -- you could look at the board meeting minutes and, you know, it should tell you.

Q. Is it fair to say that the removal of the faculty seat, or the faculty and student seats, weren't the only reason y'all were looking at revising the bylaws in 2019?

A. Well, when -- since I was on the board, okay, we get into financial trouble, the president comes in and says, "Well, you know, we're going to -- we can't give no raises, we want all the faculty to take a five percent cut." So that's -- so now you've got a person sitting here that's representing people that's going to get a five percent cut and it's an antagonistic situation. So that was one of the, you know, one of the things. And then the last -- the young lady, she

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

was a brilliant girl, majored in math, had four actuary jobs. Insurance people, they wanted her because she was so brilliant. Well, we cut math out of there because you only had two or three people in the program so they cut it out. She raised hell about that. So you can't represent and then also be trying to -- it just don't work.

Q. I understand that. The question I want to keep us focused on though just for now is --

A. Well, I'm just saying, that's --

Q. -- I understand.

A. -- that's how it came up. That's how it came up. Darko, you know, he was -- he was always -- well, he represented -- he represented the faculty so whatever -- and he had a vote.

Q. The -- let's move on to the meeting section.

A. Okay.

Q. This talks about four meetings per year, one of which being the board retreat in July; is that correct?

A. Yep.

Q. So it's your testimony that typically you have to do the board training before you can attend a meeting; is that right?

A. Yeah, they -- usually, when the -- when members

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

signature that would be put on this document at Benedict?

A. Yeah, Jenny has an electronic signature for me.

Q. Who's Jenny?

A. She's the administrative to the president.

Q. Would this have been an e-sig or your personal signature?

A. It's my personal signature but it was -- it was done within the -- in the computer.

Q. Did you sign this particular letter or was the signature from the computer put on to it?

A. For me, the signature --

MR. MATTHEWS: Object to the form.

A. -- yeah, that's my signature but it's -- it was put on by Jenny Screen.

Q. Okay. Perfect. That's what I'm asking for. How did this letter come about?

A. Well, in reading it, there was some confusion about when the board member would start. And, you know, we never put people on the board without going through the orientation. You're not a member unless you go through the trustee orientation. So I was just writing the letter to clarify.

Q. Who brought this to your attention? In the first

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

line you say, "It has come" -- in the first line, the letter says, "It has come to our attention that you have called certain members of the board and members of the public to tell them that you are now a member of the board by virtue of your recent election as the faculty/staff representative." Who brought that to your attention?

A. I can't say. It might have been Bill. I don't know.

Q. Bill? Bill Thomas?

A. Yeah.

Q. All right.

A. I really can't say.

Q. Do you remember when this was brought to your attention?

A. When the letter was written.

Q. Okay.

A. Yeah.

Q. Who wrote the letter?

A. Well, I dictated the letter.

Q. You dictated this letter?

A. Yeah.

Q. Okay. When you dictated the letter, how did -- who typed it?

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. Yeah.
Q. And you're carbon copied not because you're a member of the committee but because you're the chairman of the board?
A. I was the chairman, yes.
Q. Was Roslyn Artis involved in the meetings or the discussions of the governance committee?
A. No.
Q. Do you know what caused her to send this particular email to the governance committee?
A. We asked her. I mean she has resources. The board don't have any resources. So we asked her to check with other schools and see how many people have a faculty rep on their board and that's what this was all about. It's just information on the schools in the area around the size of Benedict.
Q. How quickly after this was brought up was she able to turn around and get you this information?
A. I can't --
Q. Do you remember if she raised the concern first to faculty and student representatives or if board members raised the concern first? Do you remember who raised that concern first?
A. Oh, that came out of us looking at how many board

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. Okay. And which board meeting was that approved in?

A. I think when the board made the -- when we made the motion.

Q. Okay.

A. It says Trustee Boyd offered a motion that the position of faculty/staff and student representatives be removed from the Benedict College Board of Trustees, and reference to the same be eliminated from the bylaws; that the words stating that the president of Benedict College is not a member of the board of trustees be added to the bylaws. So they did that and changed the bylaws which resulted in me sending this letter.

Q. And it looks like, if we look at the bottom paragraph, it's at the 5/10/19 meeting is where that was raised to the entire board?

A. Yes, that's -- yeah.

Q. Okay. And we can see that on the bottom paragraph, too, of the June 7 letter. Do you know if notice had gone out to board members, as required by the bylaws, of that change in the bylaws prior to that May 10 meeting? Do you remember if proper notice had been made?

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. No, I couldn't -- I mean we did it in the board meeting, Boyd did.
Q. Who was responsible for giving notice of meetings?
A. The president and, you know, through her office.
Q. In the first -- let me ask you; did you draft this letter?
A. Yes.
Q. Do you remember drafting this letter?
A. Everything that has my signature on it, I -- I did it.
Q. Who did you -- tell me how your draft of this letter came about. Was it via phone dictation, did you write it and email it, how did -- how did the drafting come about?
A. Usually, I tell Jenny what I want and then she'll put it in form and then let me see it and if it's okay, you know -- I mean I did go to college, so.
Q. I understand.
A. Yeah, if -- if it's okay, punctuation and all that, then I say go ahead and sign my name to it.
Q. Okay. And that's consistent with what you told me before. Is it normally emailed to you for review before -- before you say, "Hey, put my signature on it"?

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

in Zoom?

MR. MATTHEWS: I have no idea.

BY MR. PORTER:

Q. Do you know?

A. No, I wouldn't know.

Q. And it looks like the person who published the letter, published the meeting notice here, was Jenny Screen and you said that was the president's administrative assistant?

A. Yeah.

Q. Did you attend this particular meeting, I imagine? Well, we'll look at the minutes in a sec. It looks like on the second page these are the changes to the minutes that are -- or to the bylaws that are being proposed; is that correct?

A. Yes, that's what it looks like.

Q. In the second to last paragraph of this email, it says, "Trustees, you may recall that each of these amendments was previously voted on unanimously by the board at its May -- during its May 2019 meeting. However, in keeping with the notice requirements set forth in Article II, Section 4 of the bylaws, the vote must be retaken to afford proper notice of the proposed bylaw changes." Do you remember what caused you to put

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

that paragraph in this -- what caused that paragraph to be put in this email?

A. No, I just took it at face value. We obviously maybe I mean didn't get the changes out in time and the bylaws said that -- I know the bylaws say we have 30 days.

Q. Do you remember how that issue was first raised to you, that there was a problem with notice?

MR. MATTHEWS: Object to the form. Please answer.

A. No.

Q. Do you remember who discussed it with you?

A. No, I can't. I really can't say. If it's not in the minutes, I -- I'm -- and I don't see nothing in here.

Q. Now, this email has your signature on it but it's sent by Jenny. Did you write this email or dictate it? Or do you -- do you remember the process for drafting this email?

A. Well, this -- this is just -- she records everything we say and do, so this is just a regurgitation of what happened at the board, at that meeting.

(Plaintiff's Exhibit Number 9 was marked for identification purposes.)

Q. All right. I hand you Exhibit 9. And Exhibit 9

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ABIGAIL ROGERS
VOLUME 1
DEPOSITION EXCERPTS

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

that Benedict College breached the faculty manual? And if you need to take a moment to review it, please do.

A. I just want to make sure the record reflects that this says inter alia, which means among other things --

Q. Right.

A. -- and not limited -- not limited to this.

Q. Well, and that was how you began the case, and I want to know is up to -- up to today, do you know of any other reason? And if you need a moment, please take it.

A. Can you ask your question again, please?

MR. MATTHEWS: Madam Court Reporter.

(The question was read back.)

Q. You have items A through F, which appears to be why you believe Benedict College breached the contractual and binding faculty manual as you allege. And my question to you is are there any other reasons you believe that Benedict College breached the faculty manual? And if you need to take a moment to review it.

A. I don't recollect because that's why we put inter alia because we filed this in whenever --

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. November 2019.
A. November 2019. So at this particular time, I'm going to say there are others, but I cannot recollect -- recollect -- remember at this time.
Q. Do you have any idea what they might be?
A. Not at this time.
Q. Okay. Have you ever known what they might be and forgot them, or you simply don't know?
A. At this time here --
Q. As we sit here today.
A. -- as we sit here today, I am not sure.
Q. All right. Paragraph 91 you state that as a result of the breach of the faculty manual, you seek and are entitled to compensatory damages in the amount to be determined by the trier of fact, reinstatement to your position, and other equitable relief. This may seem like an obvious question, but do you seek reinstatement to your position?
A. Yes.
Q. Okay. What other equitable relief are you referencing here?
A. Pain and suffering and other -- you asked for an example? Is that what you're asking, for an example?

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. And if you need a moment to review it, please take it.
A. Yeah. Knowing -- you're asking if Blaney responded to this letter?
Q. If anyone responded to the letter?
A. Blaney responded to the letter.
Q. You remember him responding to this letter?
A. I don't remember his specific response.
Q. Okay. Do you recall reviewing this letter on or about February 12, 2019?
A. I probably reviewed it, but I just don't recall. That's 2019.
Q. Uh-huh.
A. So no, I don't recall.
Q. All right.

(Defendant's Exhibit Number 27 was introduced.)

Q. Not to hide the ball from you, I'm taking this from Exhibit 27, you apparently signed your performance improvement plan on February 14, 2019.
A. Yes, that's the date on it.
Q. Right. The -- did you still want to pursue a grievance hearing after you had signed your performance improvement plan?
A. It was my right.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. Right. Did you still want to proceed the -- or pursue the grievance hearing?

A. I don't -- I don't recall. Let me think for a minute.

Q. Okay. Take your time.

A. You're asking -- repeat your question.

Q. Certainly. And I'll rephrase it. We know that through your counsel you received an offer to have a grievance hearing on February 12, 2019. We also know that you signed your performance improvement plan on February 14, 2019. After February 14, 2019, did you still wish to pursue a hearing before the grievance and appeal committee based on your suspension in 2018?

A. As I can recall, I wanted to have a hearing with -- to explain to my colleagues what was going on. I'm trying to get back to there because, you know, I've been fired several times from Benedict. And I wanted --

Q. You say you've been fired several times from Benedict?

A. That's a -- twice, you know, once but suspension and then the firing, so I sort of bunched them all together --

Q. I understand.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. Oh, I'm looking at the --
Q. Look at Exhibit 26.
A. I thought you said 27. Okay. Okay. Sorry.
Q. Last -- first page, last sentence. Do you know if you or your counsel ever submitted a list of students who you wish to serve as witnesses at the hearing?
A. I don't recall.
Q. Okay. Do you know --
A. I don't recall.
Q. Do you know if your counsel ever contacted Benedict to schedule the date for the appeal hearing?
MR. COSKREY: Form objection.
Q. Please answer.
A. Can you ask it again, ask it another way?
Q. Well, it's simple as I've got, so.
(The question was read back.)
Q. Do you know if your counsel ever contacted Benedict to schedule the date for the appeal hearing?
Q. And I understand I'm asking -- it's within the scope of your knowledge. If you don't know, that's fine.
A. The -- Debbie was -- they changed attorneys.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Debbie was the lawyer then.

Q. Right.

A. And we were trying our best to get a hearing and we received no notice, no hearing. And --

MR. MATTHEWS: Please repeat the question again to the witness.

(The question was read back.)

Q. Do you know if your counsel ever contacted Benedict to schedule the date for the appeal hearing?

MR. MATTHEWS: And there's a form objection. Please answer.

A. Yes. As I was saying from my recollection, Blaney contacted Debbie several times trying to get a date and time for the hearing, and we couldn't get one.

Q. Okay. So he did so after February 12, 2019?

A. That, I don't remember.

Q. All right. Okay. Now, in paragraph 99 in Exhibit 1, this is again part of your second cause of action you say, "As a result of the breach by defendants, plaintiff is entitled to and seeks compensatory damages." What compensatory damages are you seeking related to your second cause of action for breach of

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

contract?

A. I don't remember. I can't recall at this particular time.

Q. Well, as we sit here today, what damages are you seeking pursuant to your second cause of action?

A. As it says, "Plaintiff is entitled to and seeks compensatory damages," that is what I'm seeking for the second cause of action.

Q. And my question to you is, okay, we're interested, what compensatory damages are you seeking related to your second cause of action?

A. I'm not at -- I can't answer that at this time.

Q. Well, when you read it when it was written and believed it to be true, what were you thinking at that time?

A. Now, that I cannot remember at that time.

Q. Okay. Well, again, ma'am, you're a -- you've taught law for, you know, over two decades and you're a practicing lawyer for nearly four decades and you've been a sitting judge, you really don't know what your -- the compensatory damages you're seeking here?

A. At this particular time, I cannot recall and can't answer that. I cannot recall at this particular time.

Q. Well, let me get at it like this. It's true that you were suspended with pay in 2018, correct?
A. 2018?
Q. Yes. You didn't miss a paycheck as a result of your suspension; is that --
A. Yes.
Q. -- is that true?
A. That's true.
Q. Okay. So we know that's not a type of damage that you can seek?
A. No, I'm not going to say that now.
Q. Well --
A. But we just -- we can just be --
Q. -- what else would you be entitled to?
A. We can just be clear that I got suspended.
Q. Right.
A. Humiliated and all of that.
Q. So you're seeking non-economic losses?
A. No, I didn't say that either. I said I cannot recall, but I did receive a paycheck, we're going to clear that, meaning that I still got paid. But as for damages, I can't say at this particular time, Gene, I don't know what else to tell you. I can't say at this particular time that I can answer that question at this

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. Well, let me get at it like this. It's true that you were suspended with pay in 2018, correct?
A. 2018?
Q. Yes. You didn't miss a paycheck as a result of your suspension; is that --
A. Yes.
Q. -- is that true?
A. That's true.
Q. Okay. So we know that's not a type of damage that you can seek?
A. No, I'm not going to say that now.
Q. Well --
A. But we just -- we can just be --
Q. -- what else would you be entitled to?
A. We can just be clear that I got suspended.
Q. Right.
A. Humiliated and all of that.
Q. So you're seeking non-economic losses?
A. No, I didn't say that either. I said I cannot recall, but I did receive a paycheck, we're going to clear that, meaning that I still got paid. But as for damages, I can't say at this particular time, Gene, I don't know what else to tell you. I can't say at this particular time that I can answer that question at this

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

paragraph you're stating that Benedict College fired you and lacked proper grounds to do so. I understand that's your allegation in 90(f). My question to you is -- and that it had to do with the faculty manual. My question to you is in terms of your allegation that Benedict College violated the faculty contract, is your allegation that the faculty contract itself is violated because it does not state that you can be fired for cause?

MR. COSKREY: Form objection.

A. I can't answer that.

Q. Okay. Well, ma'am, when you read the complaint and thought it was true before it was filed, what did you consider the third cause of action to be attempting to address?

MR. COSKREY: Form objection.

A. That there were no grounds for termination. To the extent that the law implies and allows grounds for termination, in the absence of express grounds, those grounds were not present here. And there were no grounds to fire me.

Q. Okay.

A. Therefore, I should not have been fired. And this is what it says.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

know?

A. Repeat the question.

(The question was read back.)

Q. So it's not that there's a lacking of a specific provision that would permit this contract to be terminated that's on the face of the contract? That's not your -- that's not your complaint in your third cause of action? Is that correct?

A. I can't answer that --

Q. Why not?

A. -- you know, right now.

Q. Why not?

A. Okay. In the third cause of action, it says the grounds for termination were not met. And I agree, the grounds for termination were not met and there --

Q. I'm sorry, where does it say that in the third cause of action?

A. 105, "To the extent the law implies there were grounds for termination were not present," and that is true.

Q. Okay.

A. And plaintiff's termination was in breach of faculty contract and there was no grounds for

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. Please repeat the question. Actually, you know, that was a long question. Let me do it again. Could the contract that you signed that's Exhibit 42 to the Artis deposition, in your mind, could it be ended prior to the end of the academic year for any reason?

A. I can't answer that.

Q. Okay. Why can't you?

A. I can't answer that.

Q. Why can't you?

MR. COSKREY: Let's do this, step out. You don't have -- you don't have control over whether I make a record here of something. I need to make a record. I understand you don't want a coaching objection. I am happy for the witness to step out and let me put on the record --

THE WITNESS: Okay.

MR. COSKREY: -- something and we can resume this back and forth.

MR. MATTHEWS: Actually, you don't have a right to put something on the record in my deposition.

MR. COSKREY: I absolutely do. Step out, Abigail.

THE WITNESS: Okay.

MR. MATTHEWS: Okay. You're doing it over my objection, but knock yourself out.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

restored to the board?
A. That's a good question. I do not know.
Q. Okay. Your fifth cause of action --
A. What page?
Q. I believe it's the bottom of 19, but really it begins on page 20 of Exhibit 1 -- is for a breach of contract accompanied by a fraudulent act. Are you bringing that claim against all defendants or against Benedict College?
A. The claim is against Benedict College, Roslyn Artis, Janeen Witty, and Charlie Johnson.
Q. Okay. So it's against all -- this is a claim against all defendants?
A. Yes.
Q. Okay. In paragraph 123 and paragraphs 124, you discuss the alleged fraudulent intent relating to the breach of the contract, you see where you made those allegations?
A. Yes.
Q. Okay. We'll get to the allegation about secretly participating in the composition, choice of words, writing, and content of student statements later. Do you claim that Charlie Johnson did that in any way?
A. Not in the student statement.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

this cause of action levied against?

A. I'm sorry, I'm not even seeing where you're reading. Where is it exactly?

Q. Okay. This is the amended summons and complaint.

A. Right. But --

Q. If you turn to --

A. What page?

Q. -- page 20 --

A. Page 20, okay.

Q. At the very bottom --

A. Okay, right.

Q. -- it says for a sixth cause of action tortious interference with contract. Then on the next page, page 21, you describe your cause of action. And my first question to you is against which defendants is this cause of action against?

A. It says here against defendants Artis, against defendants Witty, and with personal motivation and interfered with the contracts by Benedict. So to answer your question, it appears that it's Benedict, Artis, and Witty from the pleadings.

Q. Well, ma'am, this was your cause of action, so when you read it before it was filed, did you believe it was against -- this cause of action was against Benedict College and defendants Artis

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

and Witty? Is that your testimony?
A. Yes.
Q. Okay. Are you familiar with the cause of action tortious interference with contract?
A. Am I familiar with this particular pleading?
Q. Yeah, the elements of that cause of action.
MR. COSKREY: Form objection.
Q. Please answer.
A. What was the question?
Q. Are you familiar with the elements of the cause of action of tortious interference with contract?
A. My attorney and I --
Q. I don't want to know what you discussed with your attorney.
A. Then I'm at --
Q. Are you personally familiar with those elements?
A. I cannot separate it from the attorney so at this time I --
Q. Of course you can. Are you personally familiar with the elements of that cause of action? Yes or no? And if the answer's no, that's fine.
A. No.
Q. I just want to know.
A. Mr. Matthews, I'm at this time saying that my attorney and I discussed in detail --

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

worked together to get rid of me, and that is the conspiracy. Their goal -- their goals obviously were to get rid of me.

Q. Okay.

A. Witty, Artis, and Johnson. We have already gone over in detail Johnson and the board and his conduct or lack thereof. We've already gone over the conduct of Dr. Artis, and we've gone over the conduct of Dr. Witty. Now, if I understand your question, you're asking is this included in 131?

MR. MATTHEWS: Just play my question back for the witness.

(The following was played back.)

Q. Okay. My question was so the personal motivations -- well, you mentioned two things in your civil conspiracy claim. One is that if you look at paragraph 135, defendants Witty, Artis, and Johnson have their own independent personal stakes in achieving the unlawful objectives of violating plaintiff's rights. Now, in 131 you talk about personal motivations. Are the personal motivations referenced in paragraph 131 the same as the personal -- independent personal stakes referenced in

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

stated that I put Jordan's safety at issue.

Q. Okay.

A. That was not true. That was false. But that also is an indication of her personal motives to get rid of me, in addition to she is vice president of academic affairs. She should be the one that makes sure that everything is followed through the faculty and manual.

Q. Okay. With that being explained then, is there any --

A. In addition to other --

Q. I understand. Is there any personal motivation that you've already described, and frankly, you've described this before when you were talking about personal motivations with regard to paragraph 131, without asking you to belabor the point, is there any personal motivation that is different from an independent personal stake that you reference in both 131 and again in 135? Is there any difference?

A. And as I said, I can't answer that.

Q. You're the only person who could answer that. It's your complaint.

MR. COSKREY: I object to the form.

A. I don't have an answer. I cannot answer that at

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

this particular time.

Q. Who is the civil conspiracy claim against, which defendants?

A. Dr. Witty.

Q. Okay.

A. Dr. Artis, Dr. -- I mean, Johnson, and --

Q. And Benedict?

A. Benedict.

Q. So the defendants in the seventh cause of action are Benedict, Witty, Artis, and Johnson, correct?

A. Yes.

MR. COSKREY: Form objection.

Q. And it's your allegation that these four defendants conspired with each other to hurt you?

MR. COSKREY: Form objection.

Q. Is that correct?

A. If I may answer it, them in conjunction with Ceeon Smith, who was in that office writing the statement.

Q. Okay.

A. And in addition to others, Martha Scott Smith was in there. So they worked in unison in combination to create a statement that was there.

Q. All right. Well, ma'am, my question was -- let's go back to the sixth cause of action. If I

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

understood you correctly, there were three defendants: Benedict, Artis, and Witty, correct? Those were the three defendants --

A. Uh-huh.

Q. -- that you're alleging against --

A. Yes.

Q. -- the defendants who you're alleging the sixth cause of action against, correct?

A. Yes.

Q. If I understand your testimony correctly, Benedict, Witty, Artis, and Johnson are the defendants in the seventh cause of action; is that correct?

MR. COSKREY: Form objection.

A. In the conspiracy.

Q. Right. Is that correct, those were the four defendants that you're accusing of conspiring with each other to hurt you?

MR. COSKREY: Same objection.

A. Them along with others.

Q. Okay. But at least those four?

A. But at least.

MR. COSKREY: Same objection.

Q. And you've not sued anyone else?

A. Not --

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. No. My understanding is your last cause of action is the eighth cause of action; is that correct?

THE WITNESS: That's eight --

MR. COSKREY: You don't need to look to me. Answer the question.

A. Oh, eight. Yes.

Q. Okay. So eighth cause of action is under the South Carolina Nonprofit Corporation Act, correct?

A. It says defendant Benedict is incorporated by the South Carolina non -- that's what it states.

Q. Well, which defendants are you suing under your eighth cause of action; do you know?

A. It speaks for itself that it is --

Q. Actually, it doesn't list out who the defendants are.

MR. COSKREY: Let her finish her answer, please.

Q. My question was which of the defendants are being sued under the eighth cause of action; do you know?

A. Yes.

Q. Okay. Which ones?

A. The pleadings speak for themself -- for itself. It says defendant Johnson and the Benedict board.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

And as a result in 153, paragraph 153, "As a result, Defendant Johnson and Benedict are liable to the plaintiff for compensatory damages in the amount to be determined by the trier of fact."

Q. Okay.

A. So it would be Johnson and Benedict.

Q. So Artis and Witty are not being sued under the eighth cause of action, correct?

A. For the board actions, there are -- this is the action regarding the board of directors and Witty and Artis and Johnson and others are with the conspiracy to do -- to keep me off the board and to fire me and to keep me fired.

Q. Okay. So what compensatory damages are available to you under the -- under the South Carolina Nonprofit Corporation Act? Is there a private right of action under that act?

A. I can't answer that at this particular time.

Q. Okay.

MR. COSKREY: Yeah, object to the form.

A. Now, I'm tired. Can we take a break?

Q. We most certainly can. In fact, as you take a break, let's go off the record and I'll discuss a matter with Mr. Coskrey.

(Off the Record)

ABIGAIL ROGERS
VOLUME 2
DEPOSITION EXCERPTS

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

proceeding yourself?

A. No.

Q. You began teaching at Benedict College in 1995; is that correct, or '96?

A. As best as I can recall, right about that time.

Q. All right.

A. But I wasn't put on tenure track until years later. This was just a -- Dr. Swinton said just a respite to see if I would like working there. So I didn't go on tenure track until years afterwards.

Q. Help me understand that. As I understand it, the report from the Senate committee that voted not to approve you for reappointment as a judge was in May 1995?

A. As best as I recall. I don't remember.

Q. All right. Well, take a look at Exhibit 4.

(Defendant's Exhibit Number 4 introduced.)

A. Okay.

Q. And go to the Bates stamp BC0893 at the bottom. I believe it's page 5 of 7 in this exhibit. If I'm reading or understanding this correctly, you were screened on May 11, 12, and 16 of 1995 following what it describes as a thorough investigation. And the majority's report is

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

females from the United States Supreme Court down to me, I was the first. So that means before Michelle Childs and anybody. So the politics of whether or not in the South with the Confederacy was whether or not you wanted an African American female was always at the forefront of legislators, just as it is in United States Supreme Court with those three African American females.

Q. Okay.

A. Or, excuse me, more than three, but I just haven't been keeping up with it.

Q. Okay. Have you ever reviewed the findings of the majority?

A. No.

Q. Okay. It states at the bottom of 893 that, "The majority is particularly concerned by evidence of a situation in which Judge Rogers attempted to use her judicial office to intimidate her former secretary. The majority believes that Judge Rogers threatened to use a bench warrant for the arrest of her former secretary after the secretary took another job." Was there evidence in the record that indicated the same?

A. I do not know. I don't remember. But that is

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

not correct. But I don't know anything else.

Q. Later it says, "The secretary and her employer were subpoenaed late at night to immediately appear before the Joint Committee, had not previously contacted the Joint Committee, and reluctantly testified. Their testimony was corroborated by a family court judge and several other witnesses who appeared only after being subpoenaed." Do you know who that family court judge was?

A. First of all, when it said in the middle of the night, it was 3:00 a.m.

Q. So they did not want to appear?

A. No, I just needed -- when you said in the middle of the night, it was more like in the middle of the morning, or 3:00 a.m.

Q. Well, it says -- actually, the language in here, "were subpoenaed late at night."

A. 3:00 a.m.

Q. Okay. And their testimony was corroborated --

A. I don't remember.

Q. -- according to the majority?

A. Now that I don't remember.

Q. Okay. It later states, "For these and other reasons, the majority believes that Judge Rogers

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

threatened to issue a bench warrant for the secretary's arrest and was not truthful about this issue in her testimony under oath before the Joint Committee." Do you remember that being an issue?

A. I remember that being an issue, and that is also not correct.

Q. Okay.

A. And just want to make sure you understand, I.S. Leevy Johnson was my attorney throughout and my adviser throughout, along with other attorneys. But I.S. --

Q. Right.

A. -- was the main one. I.S. Leevy Johnson was the main one.

Q. It then states, "The majority is also very troubled by testimony that Judge Rogers issued an invalid subpoena to Southern Bell and then attempted to intimidate a Southern Bell employee into complying with the subpoena." Do you remember that evidence in the record?

A. I.S. Leevy Johnson represented me on that, and that is not correct.

Q. Okay. Do you remember that evidence being in the record?

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

the bench. So what appeared to be may have been punctuality was really not an issue. It's just that you do not tell people out front I was meeting with lawyers in the back.

Q. All right.

A. But I do not remember any of that. I was just giving you background on what judges -- what goes on in judge's chambers.

Q. All right. Do you recall testifying before the committee?

A. Barely. Barely.

Q. There in their last paragraph they make the statement, "The majority feels that Judge Rogers is not the first judge to be tardy, late with matters under advisement, or to have lost her temper and acted imprudently. However, in its collective memory, the majority has no recollection of any candidate who, when confronted with a substantial body of evidence in contradiction, including testimony from a number of disinterested witnesses, either always shifted the blame, or failed to account for her own behavior." Do you recall opposing that judgment?

A. I don't know anything about it. But I question,

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

I was the first they ever did this to. So I was thinking as you were talking and thinking, when did they ever create any kind of screening like this? I was the first. So when they said do not recall, the -- I was just thinking to myself, remember, there was no previous type of qualification of this type where any judge had to go through this. So that's what I was thinking about.

Q. Okay.

A. But I don't recall. I just recall saying I was the first having to go through this.

Q. Okay.

A. And I.S. was very specific in this is something that you're going through that others have not had to go through.

Q. They reached this conclusion, "The majority believes that they cannot in view of the evidence find a judge who abused her power and did not tell the truth under oath to the General Assembly screening committee qualified for the bench." Is that a judgment that you contested?

A. That is not true. That is --

Q. Well, is that a judgment that you contested?

MR. PORTER: Object to the form.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

I remember. Everything else is sort of a blur.
Q. Now, you mentioned that the -- your initial appointment to Benedict College was a respite?
A. Yes.
Q. Tell me about that.
A. Dr. Swinton called when I was in the judicial chambers and said, you know, let's -- you're all over the press. And I just had a baby. And he said, let's see if we can give you some rest with your -- we know you just had a baby and your parents were big, you know, big contributors to Benedict and are the -- graduates of Benedict and you're -- your entire family, except for me, is -- are big alumni of Benedict. Let us see if we can give you a rest to come here. And Dr. Swinton said, I'd like for the kids to be taught by a real judge and not somebody who just reads about the judiciary in a book.
Q. Okay.
A. So I went there, and he said stay as long as you want, but I'll check back with you in about three years to see if you can decide whether or not you want to stay. And his effort was to get the kids to be in touch with a real judge and

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

for me to get in touch with students who were happy to be in the presence of a real judge.

Q. Okay. Turn to paragraph -- not paragraph. Turn to Exhibit 5.

(Defendant's Exhibit Number 5 introduced.)

Q. This is a memorandum from a Dr. Concetta Culliver to you dated February 16, 2000 -- I'm sorry. 1998. So that would have been within that three-year period.

A. Yes.

Q. Do you remember who Dr. Culliver was? It says here that she is the chairperson from Criminal Justice Department.

A. I think she stayed for about a year. We had many, many chairs until we got to Chief Austin. But I think she was there about a year.

Q. All right. This talks about you receiving numerous complaints from students in your classroom concerning your classroom demeanor that she termed classroom student victimization, whereby your students are intimidated, ridiculed, humiliated, made to feel inferior and berated in the presence of other students. And in the last paragraph, the last sentence states -- well, the last two sentences say, "Thus

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

-- whose response was, well, if you don't -- if you keep going in front of him, because your butt is big, then he won't kiss you. So then I went to HR, and nothing was done.

Q. Okay. To Betty Jenkins?

A. Yes.

Q. Okay. Did you ever turn anything in writing to anybody?

A. Yes, I wrote it. I wrote it in HR.

Q. Okay.

A. When I saw that Dr. Quillian thought it was funny, then I wrote it to HR.

Q. Okay. Now, the next document is Exhibit 8.

(Defendant's Exhibit Number 8 introduced.)

Q. And this is also dated June 25, 2008. It's from Dr. Witty, who identifies herself as the Incoming Vice President for Academic Affairs. States as follows, "Based on my review of a substantial amount of documentation, I support the recommendations of Doctors Joiner, Quillian, and Osazuwa to remove Abigail Rogers from the faculty in the School of Humanities, Arts and Social Sciences. I share my recommendation with you now in the interest of time so that if you approve, the next steps can be taken -- the next

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

steps to be taken can get started without delay." Was Dr. Swinton responsible at that point for initiating your removal?

A. I don't know. This is the first time I've seen this. I don't know.

Q. Is this also the time where you were applying for tenure?

A. I don't know. I didn't complete Carolina because I was -- I had to go get a -- I got a master's of criminal justice and a master's of criminology. So I didn't qualify for tenure until after I graduated from Carolina. So I don't remember. It depends on when I graduated.

Q. All right. Who was Dr. Quillian?

A. That was -- she was the dean over Dr. Osazuwa. And she was fired by Dr. Witty.

Q. Do you know why?

A. No. I wish I did. No. Dr. Austin knows why, but I don't know why.

Q. All right. Has Dr. Austin shared that with you?

A. No.

Q. Okay. How about Dr. Joiner, was he also fired?

A. Him, I don't know.

Q. Whatever the case is, there was no -- you were not notified of a recommendation to fire you in

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

the gun. He was going to let them know.

Q. Okay.

A. But let them --

Q. Did you actually meet with him on October 19th? Because he mentions your meeting today.

A. That I don't recall.

Q. Okay. Now, did you tell other students in the class anything about your situation with Ms. Mallory and Ms. Towns?

A. No.

(Defendant's Exhibit Number 18 introduced.)

Q. Exhibit 18 is a long set of back and forth apparently among students. The first says, "I'm letting the class know that once again we will have to suffer because our classmates decided after our conversation last class to go back to the dean. We will no longer have the opportunity to retake our midterm. Thank you whoever you are." What about your -- you know, I understand you're laughing.

A. I'm laughing because I look at how students talk to each other. That's what I was laughing at.

Q. All right. And did you earlier offer to allow them to retake a midterm?

A. I don't recall.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. Okay.
A. And it was oftentimes I went over and aboard -- over and above trying to help them to understand the work and also to pass the class. So I don't remember what happened in 2018.
Q. Okay.
A. But it would be not out of the ordinary for me to give them second, third, fourth chances to try and pass.
Q. Well, can we agree at very least that this student is stating as of October 18th at 11:20 a.m that we will no longer have the opportunity to retake our midterm?
A. That's what the student says.
Q. All right. And then the next page mid -- middle down the way, another student states, "I didn't even get to finish my midterm. Clearly nothing about her class or nothing about her or her class is going to change so deal with it. Whoever you are, just drop the class because everyone suffering from y'all being ignorant brats really isn't fair."
A. Where is that? Where is that?
Q. Second page.
A. Okay.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. Exhibit 25 is a communication from Brenda Clark as chair of the faculty and staff grievance and appeals committee to Dr. Witty regarding you, and the date is November 20, 2018. Have you seen this document before today?

A. No.

Q. It states that, "The committee recommends that Ms. Rogers be reinstated effective December 15, 2018." On the academic calendar, is that after classes and exams have been completed?

A. I don't remember.

Q. Okay. Well, ordinarily, in your years of teaching, by December 15, would classes be over?

A. I don't remember.

Q. Okay. And did your -- did you have anything to do with any of your classes for the remainder of the fall semester 2018 after you were administratively suspended?

A. No.

(Defendant's Exhibit Number 26 introduced.)

Q. Now, Exhibit 26 is a letter from Debbie Durban to your former counsel Blaney Coskrey dated February 12, 2019. And it states, "Benedict is ready to set the appeal hearing for Ms. Rogers' grievance and has agreed to follow the

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

procedures to ensure -- and has agreed to the following procedures to ensure the hearing is handled appropriately and with as little disruption to students as possible. During the appeal hearing, both Benedict and Ms. Rogers may be represented by counsel and each may present evidence and cross examine witnesses. Each party is limited to one hour to present their case. Ms. Rogers may call other faculty or staff to testify, but if she intends to call students, she must comply with the following guidelines," and it states what they are. Then states, "Once Benedict has received Ms. Rogers' list of students, if any, whom she wishes to call, Benedict will schedule a date for the appeal hearing that is mutually acceptable to both parties." Do you know as we sit here today if either you or Mr. Coskrey ever submitted that list of students to Benedict?

A. I do not know. But I do know this is not the procedure that -- that is listed in the handbook. This is a procedure that I guess they came up with. I'm just reviewing it with you.

Q. Okay.

A. This is not the proper procedure.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

retreat that Benedict College Board of Trustees be composed of independent members only." Do you believe that Ms. Johnson's participation in this was in any way out of bounds or untoward? Or improper in any way?

A. What is Doris Johnson's position at this time?

Q. All I know is that she was on the committee.

A. And this was May 1, 2019.

Q. Yes.

A. I was elected April 11, 2019.

Q. Right.

A. Doris Johnson should have included me as a board member.

Q. On the Governance Committee?

A. On any correspondence if she's board secretary.

Q. Okay. I don't know if she was acting as board secretary here. This is a report from an ad hoc governance committee.

A. Well, I wasn't a part of anything. So I don't know anything. I'm in the dark about everything here because I was not allowed to be seated, so.

Q. Okay. Well, you've had this document. This document has been produced to you or your lawyers now for several -- for many months now. This is the first time you're reviewing this

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

minutes for you now.

THE WITNESS: No minutes. That is absolutely fine. Because I just have a question. That's all.

MR. MATTHEWS: When the deposition is complete, you can confer with your counsel.

THE WITNESS: Okay. No problem.

MR. PORTER: That'll be minutes for you at that time.

THE WITNESS: Expensive minutes.

MR. PORTER: No.

THE WITNESS: Have that on the record.

(Defendant's Exhibit Number 37 introduced.)

BY MR. MATTHEWS:

Q. All right. Exhibit 37 appears to be the notice of the special conference call meeting of the Board of Trustees scheduled for September 18. 2019.

A. Uh-huh.

Q. And in the middle of the first page it appears that you are on the recipient page of that at Abigail Rogers@Benedictcollege.edu.

A. Uh-huh.

Q. It then at the very top, there's a -- it appears that on Friday, two days later, you forwarded this information to Willie Black?

A. Uh-huh.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. Charles Austin?
A. Uh-huh.
Q. Jordan Rice?
A. Uh-huh.
Q. And it says Queen Elsa?
A. Frances Close.
Q. Okay. Who is Willie Black?
A. He's one of the faculty members that had concerns.
Q. Okay. So you received notice of the meeting for Wednesday, September 18, 2019?
A. Yes. Right.
Q. Did you take part in the conference call?
A. No, I was fired.
(Defendant's Exhibit Number 38 introduced.)
Q. Exhibit 38 is entitled "Chronology of Concerns." And it talks about student complaints about you that occurred in the fall of 2019, not the fall of 2018.
A. Uh-huh.
Q. And do you recall meeting with Dr. Miller about these complaints?
A. Yes. First of all, August 27 should have been the first week of school, perhaps. Should have been right about the first week. And my concern

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

indicating that you are suspended without pay pending the outcome of an ongoing investigation regarding allegations of improper conduct. Was this delivered to you in your office?

A. The -- Dr. Miller had called and said he needed to see me and -- on the 16th. And I went on the day before or a couple of days before to ask him, specifically, if it was just the two of us meeting and or did I need to bring anything. He said, nope, it's just you and I talking. And when I arrived, there was the police and Jan Witty handing me a letter. And I looked at Dr. Miller and he said to me, innocently, that this caught him by surprise, he was not a part of this.

Q. Do you remember what time of day that was?

A. It was early because we were supposed to meet like at maybe 9:00 or 10:00. And I remember stopping to get coffee on the way in because it was a morning meeting.

Q. So it was between 9:00 and 10:00 in the morning?

A. Perhaps, if I remember. It was in the morning.

Q. All right. And you said that -- was it Chief Portee was there as well?

A. Yes.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

were a part of the appellate hearing, or those who were present at the appellate hearing, did you discuss what went on at the appellate hearing with anyone else?

A. I did.

Q. Who were they?

A. I don't remember all but probably, I would say, Chief Austin, of course; Rosado, of course; and -- and I didn't discuss the hearing. But when I received the letter that simultaneously Gwenda Greene had changed her vote and gotten a promotion, I think I called the faculty, one of the members of the faculty.

Q. Which faculty member is that?

A. I think it's Dr. Ousman, if I remember. I think.

Q. Okay. Dr. Ousman?

A. Might have been. Might have been. Because I don't remember. It was three, four years ago. But Gwenda Greene was across the hall from me. and we were all a very close -- very close group. And so --

Q. So what would you have told Dr. Ousman about the appeal hearing?

A. That Gwenda Greene changed her vote and then get

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

a promotion to honors department. But that was not -- that did not bother me. What bothered me was, as you know, Dr. Greene, I represented Dr. Greene not -- not within ethics. When Dr. Greene was -- had slapped a student and they wrote her up. And she came to me to help her.

Q. You were her lawyer?

A. Not her lawyer officially. But she asked for legal advice.

MR. PORTER: Well, don't talk about any advice you gave.

THE WITNESS: Okay. I won't talk about the advice. But she discussed the incident with me that she had hit a student. And I had kept it, you know, had been --

Q. You had kept it what?

A. -- secret. I'd been a dutiful -- I mean, those of us who were there knew all about it. But then --

Q. Well, if she sought legal advice from you, you would have to keep that advice confidential, correct?

A. I did -- I didn't tell you what the advice was.

Q. Right.

A. Right.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

JANEEN WITTY
DEPOSITION EXCERPTS

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

letter that you were copied on back on April 20, 2012?
A. Yes.
Q. All right. And does that reflect that the Board of Trustees of Benedict College granted Professor Rogers tenure on April 20, 2012?
A. Yes.
Q. And was that grant of tenure after a review of a full application and portfolio submitted by Professor Rogers?
A. Yes.

(PLAINTIFF'S EXHIBIT 11 MARKED FOR IDENTIFICATION PURPOSES (2 pages) - 14-15 Faculty Performance Evaluation)

Q. What is exhibit 11?
A. I beg your pardon.
Q. What is exhibit 11? What is that document?
A. It says it's the faculty performance evaluation for Ms. Rogers for the 2014-2015 academic year.
Q. All right. And who -- who did that evaluation of her?
A. It looked -- it looks like it's -- I can't read the first signature. The second signature looks like Dean Austin. It's not typed on there. It says it's the department chair. I'd have to go back in the record to see who was the chair at that time. I don't recall.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Rogers says you can't come in you're late, she dismisses the class. Does that raise concerns?

A. In and of -- so dismissing class was not at the top of the concern of the issues that were raised in the fall of 2018.

Q. All right. And I asked, you know, before we started getting into the documents what they were. What were the concerns? What were the complaints as a factual matter that fed into the suspension. And that's really all I'm trying to get at here. What -- what were the key facts alleged by the students that you felt rose to sufficient seriousness as to warrant suspending a tenured faculty member?

A. And my answer was that students complained that actions on the part of the faculty member counted students to feel as though they need to warn or threaten, in particular, the two female students that are on this sheet, not to do what they were doing anymore because it was jeopardizing the entire class. That was the root of what kept moving along. So although -- so that's the answer to the question. It was about --

Q. But what in these -- I'm sorry. I'm sorry, I didn't realize you were still going. Please keep going.

A. It was about students' concerns that they were being

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

your decision to suspend Professor Rogers in October of 2018?

A. This group chat was provided by one of the students who felt threatened by other students, or at least one other student, based on the policy of the class on -- on the hand of one. And -- I'm still going through. Give me just a moment. Yes, so one of the statements in this thread is where a student threatened bodily harm to the students who were still complaining about the instructor.

Q. And what bates number are you looking at? What page?

A. Four.

Q. Okay. So the bates number would be 1656?

A. Oh, I didn't see that. Yes, sir.

Q. Okay. And where's the -- the threat?

A. The second one from the top.

Q. Will you read it to me?

A. And at this point, y'all finna catch my hands cause y'all over here playing with other people grades. Shit ain't cool, man. Y'all got people that got to graduate this semester or May.

Q. The phrase catch my hands is that -- I'm not good with the lingo, I guess. Is that the threat?

A. It is.

Q. I don't know what that means. So explain to me,

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

IDENTIFICATION PURPOSES (1 pages) - letter)

A. Is exhibit 36 the letter that you wrote suspending Professor Rogers in October of 2018?

A. Yes.

Q. All right, and the complaints that you're referencing here are the ones that we put a good bit of time going through one by one earlier in this deposition, right?

A. Correct.

Q. Am I right that Doctor -- that Professor Rogers grieved the suspension?

A. Yes.

(PLAINTIFF'S EXHIBIT 37 MARKED FOR IDENTIFICATION PURPOSES (8 pages) - Letter to Ms. Durban)

Q. All right. And take a look at exhibit 37. Do you know, Dr. Witty, whether exhibit 37 was provided to the grievance committee that considered that Doctor -- Professor Rogers's grievance?

A. I don't know right off hand.

Q. Do you know why the members of the grievance committee would say that they never saw this document?

A. I don't.

Q. Do you know whether the grievance committee that met expected Professor Rogers to be present for the

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. Yeah. I'm just asking whether her letter is consistent or inconsistent with --

A. I think it's consistent for -- for the college to specify the details that are not laid out in the manual.

Q. Including a limitation of an hour? It says in here cross -- present evidence and cross-examine all witnesses. That's in the faculty manual in sub-part six. Is the limitation that Professor Rogers can't call any current students consistent with that provision?

A. I think it is.

(PLAINTIFF'S EXHIBIT 44 MARKED FOR IDENTIFICATION PURPOSES (3 pages) - Performance Improvement Plan)

Q. All right. Exhibit 44 have you seen that document before, Dr. Witty?

A. Yes.

Q. All right. What is that?

A. The performance improvement plan for Abigail Rogers.

Q. And did she satisfactorily -- let me try that word again -- did she satisfactorily complete the performance improvement plan?

A. She did.

Q. All right. So the tasks required of her as described

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

in exhibit 44 were completed?

A. So I do not -- I have a different document that has some more information on exactly what she did do from -- let me see. I received written confirmation from Dean Austin that she satisfied the PIP.

Q. All right. Is that the document you were referring to just a second ago?

A. Yes.

Q. All right. And as far as I know, and Lord knows there's a lot of stuff here, I have not seen such a document. Do you -- do you know where you would look in order to find it and produce it to me?

A. So let me say it a different way --

MR. MATTHEWS: Just if that document does exist, it would be discoverable.

WITNESS: Right.

MR. MATTHEWS: So we would need to produce it.

WITNESS: Agreed.

A. I'm saying I think either from a meeting with Dean Austin or from something in writing from Dean Austin, my understanding was that Ms. Rogers met the requirements for this PIP.

MR. MATTHEWS: Dr. Witty, that's -- I appreciate that but Mr. Coskrey has mentioned a couple of times today if, you know, there's a document that may

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. Yes.
Q. All right. And so starting at the bottom is it -- is it correct that on September 6th, Dr. Miller wrote you an email in which he concludes therefore, I recommend that Ms. Rogers be immediately removed from the classroom teaching responsibilities and be given non-teaching duties as determined by her department chair, Dr. Leon Geter?
A. Yes.
Q. All right. And your -- you then forward that email from Dr. Miller to Dr. Artis, right?
A. Yes.
Q. And in that email to Dr. Artis on September 9th, you say it seems that we would be rewarding bad behavior since under his recommendation, she would continue to get paid her regular salary. On the other hand there are other factors to consider, especially if I have to make a recommendation not supported by Dr. Miller so I ask for your perspective on the next steps. Are those your words?
A. I wrote that.
Q. What are the other factors to consider that you're referring to there?
A. So that's referencing going over the recommendation of the dean, which --

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

p.m. on the 16th?

A. No. I knew it was my turn. I was going to need to make a recommendation.

Q. Okay. And did you make a recommendation?

A. I did.

Q. And what was that?

A. I ultimately made the recommendation for termination.

Q. Do you know when you made that recommendation relative to this email on the 16th?

A. I'd have to look at the date. I did a letter. I'd have to pull it, or you may have it, to see the date. I don't know the date.

(PLAINTIFF'S EXHIBIT 53 MARKED FOR IDENTIFICATION PURPOSES (1 pages) - 9/16/19 letter)

Q. Well, let me show you exhibit 53 and tell me if that's a letter you authored.

A. It is.

Q. All right. And is -- is what you are effecting here a suspension without pay of Professor Rogers?

A. Yes.

Q. Okay. And you're asking her -- really demanding that she return college property, not return to campus, not contact students or employees until further notice?

A. Correct.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

September 18, 2019. It's the recommendation regarding the faculty member.

Q. So at this point you have, as described in the faculty manual, convened the ad hoc committee, right?

A. Correct.

Q. As of some time on September 18th?

A. Correct.

Q. And these names -- these five names are the members of that committee?

A. Correct.

Q. All right. And was Professor Rogers given any notice of that ad hoc committee meeting?

A. I don't recall.

Q. Was she allowed to participate in that hearing?

A. I don't recall.

Q. All right. Your pulling -- looking for the faculty manual to see what the procedure should be, is that right?

A. Actually -- well, it was --

Q. I'm just asking --

A. The answer is I don't know.

Q. All right. And my question is what happened. We can talk about what -- what the procedure says as well and I'd like to do that.

A. Yeah, exactly.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

board?
A. Not that I can recall.
Q. Have you had a discussion with Dr. Artis about the advisability of eliminating that position?
A. No.
(PLAINTIFF'S EXHIBIT 61 MARKED FOR IDENTIFICATION PURPOSES (2 pages) - letter 9/30/19)
Q. Let's look at exhibit 61 please, ma'am. We talked earlier about limitation that Ms. Durban placed on the grievance hearing the previous year. This is my similar set of questions on the appeal hearing related to her termination. And you see in the second paragraph, Ms. Durban says each party will have 30 minutes to present their information. Dr. Witty will present her recommendation. Ms. Rogers can then present any information she wishes pertaining to this matter within the specified timeframe. Ms. Rogers can be represented by an attorney but attorneys are not permitted to speak during the hearing. Neither side will have witnesses but Ms. Rogers is welcome to provide any supporting information as she wishes. Do you believe that the limitations place on Ms. Rogers's defense at the appeal hearing are consistent with the provisions of the faculty manual, specifically section

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

6.2.6?
A. Yes.
Q. Where did this belief come from that the faculty member can't have but 30 minutes to present their case when what is hanging in the balance is a tenured professor's livelihood? Why the 30 minute limitation?
A. I don't know the answer to that.
Q. All right. Is there anything -- and you're welcome -- I really invite you to look at exhibit one, the faculty manual. Is there anything in that faculty manual suggesting such a limitation?
A. No.
Q. Is there anything in the faculty manual suggesting that her attorney cannot speak?
A. I can check and see.
Q. So just to speed things along, I'm on page 1479.
A. There are no details pertaining to that.
Q. All right. So there are no limitations in the manual itself related to the amount of time that a professor should be given to defend herself?
A. Correct.
(PLAINTIFF'S EXHIBIT 62 MARKED FOR IDENTIFICATION PURPOSES (1 pages) - email)
Q. Sixty-two is an email exchange between counsel. You

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Recommendation memo)

Q. Look at exhibit 63, please, ma'am. Is this, essentially, the verdict form of the appeals committee?

MR. MATTHEWS: Did you say this was 64?

MR. COSKREY: I think 63, isn't it? Yep.

Q. My question is is this the verdict form returned by the appeals committee?

A. Yes.

Q. And does it reflect six members voted to uphold the termination and two members voted against the termination?

A. Yes.

Q. What communications did you have with these committee members prior to the start of this meeting?

A. They were informed to come whatever day and whatever time it was, the 23rd of October it looks like, to a grievance and appeals committee meeting.

Q. What communications did you have with these committee members about the underlying charges against Professor Rogers?

A. At the appeals committee hearing I presented the information that was in whichever notebook it was regarding the recommendation for termination.

Q. I'm asking about before that hearing began, what

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. I don't know about that.
Q. Okay. Did you have --
A. I didn't ask.
Q. Did you do any follow-up is all I'm asking to figure out what that was talking about?
A. I did not do any follow-up to figure out what that was.
Q. All right. You based your termination largely on this document, you've said, and so I'm wanting to know how much of that you understood. And you're saying you don't know what he's talking about there.
A. In that sentence, no. My action was not based on that sentence. My action was based on his express concern that his personal information was given to the media.
Q. All right. And tell me why that became predominant issue of concern for you, the revealing information to the media. Why did -- why was that such a big deal in your -- in your view?
A. Because my understanding was that he felt uncomfortable with his personal information being used that way and that was not what he thought he was getting himself into. And so that was another example, from my perspective, of a student being placed in a circumstance as a result of the faculty member where they felt unsafe.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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Q. Okay. Did you have --
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ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. Looking into -- looking behind the issue of the disclosure of his personal information to the media knowing whether that was authorized or not is an important fact, right?

A. My recollection is that his belief was that he had not given permission which was at the root of his coming forward with the complaint. That was the -- that was the main issue that I understood at the time.

Q. All right. And my question is is it an important part of the analysis as to whether or not that disclosure was authorized? Is that significant in your analysis of the alleged wrongdoing by Professor Rogers?

A. That was a factor. That was a key factor.

Q. I mean, it should have been a factor to know whether that was authorized, right?

A. He said it wasn't authorized and that was the basis of him coming forward.

Q. All right. And prior to your first suspending and then a day or two later terminating Professor Rogers, did you seek her perspective on the issue of whether she was authorized to do that?

A. I don't recall the contact with Ms. Rogers after the 16th of -- of September.

Q. The 16th is the -- is the date on your suspension letter.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

CHARLES AUSTIN
DEPOSITION EXCERPTS

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

that what you're saying?

A. It may have been the same day that the complaint was filed. As I recall, I received a phone call and I'm not sure if was Dr. Devlin or Dr. Witty but it was concerning this complaint. And I requested that the students be sent to my office because this was the first I'd heard of the complaint.

Q. All right. And did that occur?

A. I'm not sure if they came the dame day or a day later. I do believe they came -- two of them came, as I recall. Ms. Mallory and Ms. Townes. I don't remember Mr. McKinnon coming.

Q. All right. And tell me about that meeting with Ms. Mallory and Ms. Townes.

A. They basically repeated the same concerns that they expressed here. I asked them to go back and meet with Judge Rogers to see if they could reconcile the issues and I actually thought that things had been resolved.

Q. All right. And you thought they had been resolved --

A. Satisfactorily.

Q. Yes, sir. And is -- is that the procedure you were describing earlier that is supposed to be followed in these circumstances?

A. Generally, if we give the student and the faculty member the opportunity to sit and discuss the

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

concerns, it has been my general observation that the matters can be resolved at that level.

Q. All right. As a result of your conversation with Ms. Mallory and Ms. Townes, did you believe it appropriate to discipline Professor Rogers in any way?

A. No, I didn't.

Q. And why is that?

A. Well, as a part of her classroom management style as well as any other faculty member, there are rules that are permissible. A faculty member can determine at what point he or she will or will not allow students to come into their class. And depending on the nature of an issue, the faculty member may have to take a disciplinary action against the whole of the class. Now, Judge Rogers and I have discussed before, there may be some parts of her teaching methodology that may not fit my personality or my teaching style but it doesn't make her teaching style a wrong teaching style. That's just one faculty member's preference to another's.

Q. Other than telling those two students that they need to return to Professor Rogers for the -- to work it out, did you give them any other feedback about their complaints?

A. No. My most immediate directive was to go back to

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

talk to Judge Rogers and, of course, I asked Judge Rogers to meet with them individually to see if the issues could be resolved.

Q. All right. So you also spoke to Professor Rogers?

A. I did.

Q. All right. As a result of these complaints?

A. Once I got it, yeah. Yes, sir.

Q. All right. And following your discussion with Professor Rogers, did you, at that point, believe that she had done anything worthy of discipline?

A. No.

Q. Had she handled herself appropriately in your view?

A. In my view, yes.

Q. All right. If you want to, Dr. Austin, read exhibit nine and let me know when you're ready.

(EXHIBIT 9 MARKED FOR IDENTIFICATION PURPOSES (1 pages) - typed complaint)

A. Okay.

Q. All right, prior to September 28, 2018, which is the date handwritten on exhibit nine, did you believe the issues related to the complaint of Ms. Mallory had been resolved?

A. I did.

Q. All right. How would you characterize the issues that

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

that go together but if -- these were just documents produced to me in this case so I don't --

A. Okay.

Q. -- have 100 percent confidence of that. So I want you to help, first of all, confirm whether these three pages go together.

A. Okay.

Q. You believe they go together?

A. I believe they do.

Q. All right. And so what is exhibit 11?

A. This is a student concern filed with the office of the dean by Ms. Sinterial Moye and it was regarding concerns in the court system regarding her grades and attendance. I referred Ms. Moye back to Professor Rogers to discuss her concerns. Ms. Moye came back to me said she had talked to Professor Rogers and the matter was resolved.

Q. Okay. And so was that the end of Ms. Moye's complaint as far as you were concerned?

A. As far as I know. And if I'm not mistake, I believe, this complaint actually generated from Ms. Moye's mother. The student herself only came to me after her mother called, I believe, Academic Affairs.

Q. And did you speak to the student or her mother?

A. I spoke to both. The student didn't want to file a

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. All right. And what's the -- what's going on there? What is -- what is your recommendation to Dr. Witty?

A. This relationship had deteriorated to what I considered to be a very toxic level. I believed, as the dean, that it would be disruptive to keep these two students in Professor Rogers' class so I made a recommendation to Dr. Witty that I would supervise the remainder of their time in the class for the semester. I received a copy of the syllabus from Professor Rogers and I, you know, gave the students assignments premised on her syllabus so we could get through the rest of the semester.

Q. Taking that action, was it based on a determination by you that Professor Rogers had done anything wrong?

A. What prompted my action was that there were 36 students in that class and with the toxicity that developed with 2 students, I feared it would have a negative effect on the other 34 students, and I believed it was best to remove those 2 students from the class. I would supervise the remainder of their time in that particular course so the other 34 students could receive their instruction and move on.

Q. And I guess I'm asking about fault as much as anything. I mean, circumstances could arise as a result of placing blame on various persons in this

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. Right.
Q. All right. And is this documentation issue what led to your reprimand?
A. Number two -- number two is.
Q. Okay.
A. Because I provided documentation as it relates to Ms. Moye's incident.
Q. All right. And so number two being you did not deem it appropriate to write up Ms. Rogers related to these issues.
A. I did not.
Q. Okay. And Dr. Witty is, again, on October 19th suggesting that you have done so.
A. She's suggesting, essentially, that I am being insubordinate or that I've been insubordinate because I haven't done it.
Q. And the reason you haven't done it is because you didn't think it was merited?
A. I didn't believe it was merited. Now, there is a communication missing because there was a -- I don't know how to say it. But there was a communication that I sent to Dr. Witty where I recommended that Professor Rogers be taken out of the classroom and that we needed someone to do research grants and to write grants, and recognizing her skill set as a

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

grants writer that maybe that would be an appropriate resolve to the -- what was perceived as an issue with student complaints.

Q. All right. You think you would have sent that in this same time period of October 2018?

A. I'm pretty sure I would have.

Q. And that was in your capacity --

A. As dean.

Q. -- of a guy looking for a resolution and a mediated solution?

A. Right.

Q. I will tell you, Dr. Austin, that I've got concerns about whether we have the documents in this case and so let me ask you this. Do you know what your supervisors Dr. Witty, Dr. Artis, the IT guy though I know he's not your supervisor, but anyone has done at Benedict with respect to finding the documents like the one you just described?

A. I don't know.

Q. All right. Have you had -- has anybody asked you to check any emails or anything like that?

A. No.

Q. After Professor Rogers was suspended in the Fall of 2018, October of 2018, was there backlash from the students in her classes to her suspension?

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. Yes.
Q. Okay. And then down to the dean?
A. Right.
Q. Are you aware of instances of Dr. Artis assuming board functions or supervising board communications?
A. No.
MR. MATTHEWS: Object to the form. Please answer. That answer can stand but please let my objection stand as well.
Q. Are you aware that Profess Rogers was placed under a performance improvement plan in early 2019?
A. Yes.
Q. All right. And what involvement did you have in that part of the process?
A. I reviewed it with the Vice President of Academic Affairs.
Q. Did you disagree with any of it's content?
A. No. In fact, I discussed it with Professor Rogers and we agreed -- there were just a couple of minor things that she wanted to be sure were addressed but, overall, we agreed to do it, and she successfully -- in my estimation, she successfully completed it. And that was it.
Q. Who -- who, to your knowledge, drafted that plan?
A. I received it from the vice president.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

class saying how she hates seeing black men with white women. When you reviewed exhibit nine, did you take note of that statement?

A. I did not.

Q. Okay. Sitting here today, do you believe that statement to be a racist statement?

MR. COSKREY: Form objection.

A. It could be -- it could be perceived.

Q. Well, if one of your officers at the Orangeburg Police Department made this statement to the public, would you fire that officer?

MR. COSKREY: Form objection.

A. Not without further -- seeking further context.

Q. Well, at what context could this possibly be appropriate?

MR. COSKREY: Form objection.

A. I'm saying it's -- I'm not saying it's appropriate but I don't know that it would be to the level of firing the individual.

Q. Okay. If a -- if a faculty member at Benedict makes this statement to a student, in your mind, is that a terminable offense?

MR. COSKREY: Form objection.

A. No.

Q. Okay. Is it true that Benedict also serves white

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

students?
A. Yes.
Q. So would you find it surprising that any white student who heard this would find it offensive?
A. No, I wouldn't.
Q. Would you be surprised that black persons would find this statement offensive?
A. No, I wouldn't.
Q. Okay. Do you find it offensive?
A. I find it disturbing.
Q. All right. Sir, if I understand you correctly, when you were reviewing exhibit nine, you simply overlooked that statement, is that correct?
A. I did. I did.
Q. Had you not overlooked it, would you have addressed it with Ms. Rogers?
A. I would have.
Q. All right. Did anything else in this note to Dr. Devlin from Ms. Mallory raise your concerns that she was continuing to behave inappropriately? She meaning Ms. Rogers.
A. The last paragraph concerned me about the level at which the relationship had deteriorated.
Q. Okay. As dean for -- is it fair to say you were dean for, approximately, ten years?

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

understand that correctly?

A. To my recollection, I sent one but I don't see it and without going back into my records --

Q. Be not dismayed, I don't see it either.

A. Yeah.

Q. If I understand your testimony correctly, you actually recommended to Dr. Witty that Ms. Rogers be taken out of the classroom, is that correct?

A. If I recall accurately, and again, I don't have the documentation but if I recall accurately, I did make that recommendation.

Q. Sir, we're going to look for that document.

A. Okay.

Q. Don't worry about that.

A. Okay.

Q. But all I'm asking right now is your recollection. You recollect that occurred, correct?

A. I do recollect that --

Q. Okay.

A. -- I made that recommendation, yes.

Q. I'm going to -- I'm not going to -- these are exhibits from Dr. Witty's deposition. I'm not going to use them here but exhibit 36 --

MR. COSKREY: Can you do bates number references too?

MR. MATTHEWS: Of course, I can or show you what I'm

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. Okay.
Q. It states as follows: I believe it exacerbated an environment of tension between students in your class who feel their grades hinge on the conduct of other students, specifically Ms. Mallory and Ms. Townes. So did you believe there was an environment of tension between some students in the class and Ms. Townes and Ms. Mallory because those other students believed their grades were at risk because of the conduct of Ms. Mallory and Ms. Townes?
MR. COSKREY: Form objection.
A. I do believe that there were students who were concerned that if Ms. Mallory and Ms. Townes had continued in the class that they could have been affected -- adversely affected.
Q. Is that in any way appropriate for a modern American college or university?
A. No.
Q. Is it surprising that some would regard that behavior as abusive?
MR. COSKREY: Form objection.
Q. Is it surprising to you that some would regard that some would regard that behavior as horribly abusive?
MR. COSKREY: Form objection.
A. I could see where some could view it as being abusive.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ROSLYN CLARK ARTIS
DEPOSITION EXCERPTS

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

permissible category?

A. So I think the easiest way to explain it, and it's purely my own perspective, is that when a board member votes or makes decisions rather for a particular constituency, whether it's him or herself or for a particular constituency, rather than for the institution as a whole -- so board members have an obligation to make decisions that are in the best interest of the institution. Not the best interest of a particular faculty member or a particular faction or a particular group, but rather board members are tasked with the fiduciary obligation to make decisions that are in the best interest of the entire institution. So it is very difficult often for members of a constituent group to separate their own interests from those of the greater institution and I think that's the danger with conflicts of interest. For myself, as well as for any other constituents than might be represented on the board of trustees.

Q. Well, what's the constituency that the president represents?

A. Purely self-interest. The board votes on the president's contract. I should not be privy to or participating in those. The board is my boss. You can't be your own boss. You have to be governed by

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

something. And so I was always uncomfortable about being -- I wasn't a board member at Florida Memorial. It was just foreign to me when I came to Benedict College and learned that I was, myself, as a president, a board member.

Q. All right. And that was true when you arrived, correct?

A. Absolutely.

Q. And you were a voting board member?

A. I was.

Q. All right. And the faculty staff had a position that was a voting board member, right?

A. The faculty had a position, the staff did not.

Q. It was not a faculty, slash, staff position?

A. I don't believe. It was elected by the faculty. I don't think the staff -- I'm gonna say, I don't know. I could be wrong.

Q. And what about the students, was there a student representative when you arrived?

A. There was. There was.

Q. And did that student have a vote when you arrived?

A. I believe so, yes. I believe so.

Q. When, if at all, did you express the view to anyone that either the president or the faculty -- I'll call it the faculty rep, given your answers on that, or the

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

does that mean me? Do I stay? I mean, it just was so foreign to me.

Q. But my question is --

A. I don't recall a particular date that you would -- that I would have said, excuse me, on the rec -- I want to go on the record and say I'm not comfortable here. I don't recall that.

Q. Well, more than you're uncomfortable, that you're suggesting that those positions not exist is what I'm asking. When did you express that at a board meeting?

A. I did not suggest it. I didn't think those positions shouldn't exist. I said, I am uncomfortable. It is foreign to me for a president to be a voting board member.

Q. What about the faculty rep, when did you first express your view that the faculty should not have a representative --

A. I don't think I ever expressed that view. I think I expressed a comment in a particular instance, and I will give you a perfect example when there would be minutes of this. We were voting on the budget and the then faculty member, who at that time was Dr. Darko, said, on behalf of the faculty, I cannot vote for a budget that does not include a salary increase for faculty. And I -- I said, you're voting on a budget

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

that the institution can afford. The institution was incredibly financially constrained, as you know, based on the fact that we were sitting on financial monitoring. So when you articulate out loud, on behalf of my constituency, I can't support a vote that does not -- a budget that does not provide an increase, despite -- I understand why you're doing it, but I won't vote for it as a faculty member. That is a conflict of interest. That is a problem. A board member has to be globally concerned with the health and well-being of the financial stability of the entire institution. The moment at which he went on the record and said, as a faculty member, on behalf -- you are not voting on behalf of the faculty, you are voting as a board member, a fiduciary of the institution. And I had several discussions after that. That is a problem.

Q. And my question was when did you express that?

A. I would have expressed it close in time to that meeting and there would be minutes of that meeting. I mean, that would be a May meeting.

Q. May of which year?

A. I'm thinking Dr. Darko was serving, let's see, Harry Singleton, I think was the faculty representative when I arrived in '17. I can't remember the time of the

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

2018, had Professor Rogers ever received any evaluation less than excellent or very good?

A. Not to my knowledge.

Q. What led to her suspension in the fall of 2018?

A. I received a complaint from a parent, a father of a young lady who was assigned to Ms. Rogers' course. The young lady reported that whatever her infraction -- I can't recall if she was tardy or if she failed to turn in an assignment, I do not recall the nature of the infraction at this moment. As a result of whatever that infraction was, Ms. Rogers opted to impose the penalty on the entire class, as opposed to just the young lady who committed the infraction. And as a result of that, her classmates were pretty angry, to the point of her feeling physically threatened by her classmates, because they had absorbed a punishment they had not earned.

Q. I'm sorry, who was feeling threatened?

A. The young lady, the student. The student. Her classmates, apparently, were very angry with her. The father contacted my office and wanted to know, one, what was being done to protect his daughter and two, how on earth we could have a faculty member who was so harsh as to punish an entire class for the infractions of one, thereby creating, obviously, some hostility

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

member?

A. I do not know. However, based on a plain reading of this, I might assume not, simply because the 6.2.52 says convene a faculty hearing committee hearing to consider charges or other circumstances that motivated the request to terminate. So what -- on what basis was there a request to terminate made? It sounds like a probable-cause hearing for the most part for me -- to me.

Q. All right. So you don't interpret all the evidence to include evidence presented by whomever may have relevant evidence?

A. I don't interpret that from the plain language of this, although it may have occurred in this case. I don't know.

Q. All right. On Number 5, it says, the vice-president for academic affairs will review the decision concerning the matter and notify both the initiating party, the faculty member and the dean of the decision; do you believe that happened?

A. I do.

Q. All right. On the appeal; do you understand that Professor Rogers appealed the decision of the ad hoc committee?

A. I do.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Rogers. And I believe Charlie is responding to that.

Q. All right. And was Ms. Rogers entitled to notice of meetings that occurred after her election in April of 2019?

A. No.

Q. Why is that?

A. Because typically we have a process of transition, so Dr. Darko would have served through the end of the academic year, so that May meeting would have been -- Dr. Darko would still be there, that's when we typically punctuate, we give them a little award, we take pictures. That's been our practice with outgoing members. And so we would not have ordinarily extended an invitation to an incoming board member, just as we do with alumni, until they actually transition.

Q. When was Dr. -- I'm sorry, when was Professor Rogers a fully functioning board member, if she was elected on April the 11th of 2019, what's the date she was eligible to notice and participation in board activities?

A. So she would have been notified of an orientation session. So we orient new board members. We don't just seat board members and let them start voting on things without an orientation to the organizational structure and those kinds of things and I believe that

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. 1175.
A. Thank you. I do.
Q. All right. And it's your testimony that despite that language, somehow that doesn't mean that Professor Rogers' term ran from April to April?
MR. MATTHEWS: Object to the form.
BY THE WITNESS: (Resuming)
A. I do -- our practice has been, at least in my time, that I'm aware of, that we do not seat board members -- voting board members until such time as they've been oriented.
Q. We talked earlier about your participation in the decision to eliminate those three positions. Did you actually undertake some research or study of those issues?
A. I did.
Q. And tell me about that.
A. Again, I expressed my concerns about my own service as a board member. And expressed that many peer institutions do not allow the president to serve, in fact, other peer institutions don't have faculty, staff and student representatives as voting members, particularly, small, private religiously-affiliate institutions. And so I conducted a survey of CIC member institutions, i.e., small private, largely

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

religiously-affiliated institutions and simply provided the results of that. As you can see, to the board of trust -- or to the committee, I believe. I don't know if I sent it to the whole board or to that committee.

Q. All right. And you -- you sped up again after lunch, so let me get you to -- if I can get you to slow down a little bit for both of us.

A. Sure. Sure.

Q. I think you used the letters CSE?

A. CIC, Council on Independent Colleges. So that's sort of an umbrella organization for small, private institutions.

Q. Okay. And so we're about to look at the results, but you did a survey of other institutions, correct?

A. Yes.

Q. Did you do anything else in terms of, sort of, the background on the advisability of eliminating the positions?

A. No. Obviously, I obviously captured the entirety of my feelings in that.

(EXHIBIT 18 MARKED FOR IDENTIFICATION PURPOSES (2 pages) - Email memo)

Q. All right. So tell me what Exhibit 18 is, please,

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

elimination occurred effective May 10th?

A. Right. And that can well be true. But the -- then the bylaws have to be modified in accordance with that. And so then the bylaws committee brought forth the actual verbiage changes. I mean, there might have been a dispute or disagreement among board members about the verbiage. Because that wasn't the only change made in this set of minutes.

Q. All right. In exhibit -- the meeting reflected in Exhibit 26 on June 24th; were you present for that?

A. I was present. It was in our regular meeting, yes, I was. Yes, I was.

Q. Was Professor Rogers discussed in the board meeting -- in any of the board meetings that occurred on this retreat?

A. She was not.

Q. Do you know why the board subsequently felt the need to re-vote on the elimination of the positions?

A. I do.

Q. What is that?

A. It is my understanding that a violation of the bylaws occurred as it related to the number of days' notice given for a meeting or something of that sort. There was a procedural error and so the board needed to revisit the vote.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. All right. Was it that Professor Rogers, who was a board member effective April of 2019, did not receive notice?

A. That may have been arguably the procedure. There was some sort of procedural issue and so the board took it back to revote.

Q. All right. And so am I -- am I right that as a technical, legal matter, Professor Rogers was on the board at least through the revote in September of 2019?

MR. MATTHEWS: Object to the form.

BY THE WITNESS: (Resuming)

A. If one presumes that your version of the reading is accurate, then yes. I believe if my memory serves me, that while we all disagreed, I disagree today with that assessment, as I have shared with you my interpretation of that. I think while there was considerable disagreement out of an abundance of caution and in order to ensure that we did things appropriately for purposes of minutes and those kinds of things, there was a revote taken to cure any potential deficiency in that vote.

Q. Did you communicate -- you, Dr. Artis -- communicate to anyone prior to the revote in September of 2019, that Professor Rogers was not on the board?

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. -- to flesh out those matters.
Q. Okay. Excuse me. Prior to the appeal hearing, up to that moment, after Dr. Witty had made her referral, after the ad hoc committee had met, up until the point of the appeal, had anyone asked Professor Rogers for her version of events. I don't know. I did not.
(EXHIBIT 33 MARKED FOR IDENTIFICATION PURPOSES (1 pages) - complaint letter)
BY MR. COSKREY: (Resuming)
Q. Take a minute to read Exhibit 32, please, ma'am.
A. 33?
Q. 33, I'm sorry. Thank you.
A. Okay.
Q. Which of the facts contained in Exhibit 33, the alleged facts, in your mind reflect behavior by Professor Rogers warranting termination?
A. She continued to contact me throughout the weekend, providing numbers and email addresses. I received a call from WIS News Station stating Rogers had given them my contact information and they wanted to speak to me about the board of trustees matter. You gave a reporter a student's personal contact information. That is grossly inappropriate.
Q. All right. So giving the number was inappropriate.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Was having --

A. Absolutely. Without his permission?

Q. Well, we'll come back to that. Was having the discussion with him about board composition inappropriate, in your opinion?

A. Yes. I think it was.

Q. Why is that? I mean, why was that crossing the line?

A. Because this conversation is couched as though it were expressed -- an expression of concern for the students when, in fact, obviously, this has a lot more to do with her in her role than it does with these students. And so to pull these students in as your personal army to try to effectively create a smokescreen and negative PR, encouraging them to go to social media and all those sorts of things, I think it's really beneath an adult.

Q. In what way? I mean, why, if the board composition issue affected both the students and their representative as well as the faculty and their representative, why is it inappropriate to discuss that common concern?

A. I don't have a challenge with discussing a common concern, but everything in here relates directly to the students. If Ms. Rogers had an issue then Ms. Rogers can pursue that issue, as she has chosen to do.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Why is it necessary to engage the students and encourage them to place confidential board matters by the way, in social media. It's just grossly inappropriate. It's my opinion and I stand by it. I think this is grossly inappropriate and beneath an adult.

Q. And I'm trying to understand which part of that? And I understand the giving the number out. We'll talk about that more in a minute, but I'm trying to be precise about why, in your view, if the student rep and the faculty rep shared the same interest of board representation, why that conversation would be inappropriate in your view?

A. Because the student clearly has demonstrated more emotional intelligence in saying, no, we are not going to post to social media, we're going to do the proper thing and speak to Dr. Artis and the board chairman concerning this matter on the representative. No, no, no, it would not be best to talk to Dr. Artis. Why? You are encouraging a student to go around -- it doesn't matter how many times you ask me, my opinion is that this is grossly inappropriate.

Q. You said earlier that she gave his number without his permission.

A. Yes.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. I was unhappy with the assessment that she engaged in a pattern and practice of poor behavior and yet was suggesting I keep paying her and just find something else for her to do. We're a teaching institution.

Q. All right. So as a result, going to the top part of Exhibit 37. Dr. Witty says, I'll tell him to try again, essentially; is that a fair paraphrase?

A. I don't know.

MR. MATTHEWS: Object to the form.

BY THE WITNESS: (Resuming)

A. Where is that?

Q. The very first email on Exhibit 37. We'll just read it.

A. I have him complete his review of her entire file?

Q. Yes. Are we looking at the same page, 1612?

A. Yeah. It says, understood, I'll have Dr. Miller to complete his review of her entire file. We've pulled everything for him, but I pressed him to make a recommendation on Friday before he went through each page. He has a clear understanding there's been a persistent pattern but did not feel he could recommend termination after working with her for just a few weeks. So his assessment was based on he didn't have all the facts.

Q. All right. And so he got sent back to look at the

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

MR. MATTHEWS: Object to the form.
BY THE WITNESS: (Resuming)
A. I do not know that.
Q. Did you read her multi-page explanation of her vote after the appeal committee?
A. Not in its entirety, no.
Q. How long after the appeal committee decision -- I'm gonna call it a verdict, because there was a vote that resulted in what I'm calling a verdict form. How long after that did you decide whether to accept or reject the committee's recommendation?
MR. MATTHEWS: Object to the form. Please answer.
BY THE WITNESS: (Resuming)
A. I think it would have been relatively quick.
Q. And you would have written a letter within a few days of that, you believe?
A. Definitely, yes.
Q. All right. Did you, prior to writing that letter, consider Professor Rosado's concerns as expressed in her post-verdict document?
A. I did not. As I indicated, I didn't read it thoroughly. The moment she started the correspondence with, I just want you to know I was on the committee. I responded to her and said, didn't know it. Don't care about -- I mean, I can't get involved with the

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

deliberation process.

Q. Well, but you're deciding whether to accept their recommendation, correct?

A. But the vote was -- so she was in the minority. I mean, the vote was to affirm the decision.

Q. Which you had the power to reject under the faculty member manual procedures?

A. Correct. And clearly, whatever her reservations or concerns were not compelling to the majority of the committee.

Q. And so you, as the decision-maker, didn't feel that it was important to first understand her concerns prior to finalizing the decision?

A. Definitely not. It is inappropriate. I do not have any engagement in the delivery process. I do not have the engagement in the initial hearing process, no do I have engagement in the subsequent hearing process. There is a recommendation. I think it's inappropriate for me to know that for the very reason you're intimating that I might have an opinion or not about -- it's not appropriate for me to know who serves on these committees and how they vote?

Q. But that committee doesn't have the power to terminate, right? Under the procedures?

A. That is correct.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

JORDAN RICE-WOODRUFF
DEPOSITION EXCERPTS

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. Yes, sir, it is. I was in a meeting with Dr. Artis pertaining homecoming events. When I came out, that's when I met Ms. -- Judge Rogers by the chapel just walking. And she spoke to me as I was passing by, and she awared me of what was taking place.

Q. Okay. Did she approach you or did you approach her?

A. She approached me.

Q. Okay. And did she -- she introduced herself as Judge Rogers?

A. Yes, sir, she did. I, quite frankly, did not know her name at the time, and she told me that her name was Judge Rogers. Yes, sir. And she went ahead and told me the individuals who could possibly help us get this overturned into our favor. And I awared her that I was representing the student body, and I could not represent the faculty and staff.

Q. Okay. Did she say then what she wanted you to do?

A. Yes, sir. She said that we needed to go to the meeting with the board of trustees and fight for the positions of student representative and faculty and staff representative. She also

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

said that I needed to go to social media to call out and have an action for the students to know about what is taking place and having their positions or, slash, voices taking away from that meeting or position.

Q. All right. Now, the action that she requested that you take, or that you advocate for, what type of action would that be?

A. That would be to put the matter out on social media; to spread the word to people on campuses; and also the exhibit contacts or text messages that you guys received, I was sent those to call those individuals, at which I did not.

Q. Now, did Ms. Rogers send you a list of people that she wanted you to contact to oppose the proposed action of the board?

A. Those were contacts to get additional information, as she stated, on how to move and yes, to oppose.

Q. Okay. Now, were these board members themselves whose votes she wanted to --

A. If you could scroll to the -- to that piece of evidence, please.

MR. MATTHEWS: Andie, go down to Exhibit 5.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. Yes, sir. I do recall that day. I was actually in my office with my vice president just completing some work. And I received those text messages, yes, sir.

Q. The vice president is Henry Peterson?

A. Yes, sir, at that time.

Q. Now, does this text follow a phone call that you received from her on that date or a meeting that you had with her on that date?

A. Yes, sir, if I recall correctly, there was a phone call.

Q. What was the -- can you tell me more about the phone call. And I'll be more specific.

A. Yes, the phone call --

Q. Did Ms. Rogers ask you to say anything or do anything?

A. Yes. The phone call to me seemed very urgent as to calling these individuals and getting a solution to the problem. She told me that, hey, I'm going to be up at 5:00 a.m. in the morning. I usually am up getting prepared for work, getting other things done, so if you need anything else, please call me. And these were the contacts I was left with to call.

Q. And she wanted you to call these numbers to

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

advocate against the proposed removal of the three positions?

A. Yes, sir. Yes, sir. And some of these were actually to give advice and some were to oppose.

Q. Okay. Did you actually make any of these phone calls?

A. No, sir, I did not.

Q. All right.

MR. MATTHEWS: Let's go -- actually, let's go down, Andie, for a little bit. Now, Andie, I'm sorry, go back up. Just want to see that last paragraph. Thank you. That's fine.

Q. This part of the text says, "The president of SACS is Dr. Belle Whelan," and it gives a number. Then it says, "Express your concern that the faculty, staff and student seats are taken off the board by the Board of Trustees. The board membership is being reconfigured. And the board of trustees will vote to remove us from the board." Did she explain to you why she was giving you this direction?

A. Yes, sir. She was stating that this direction was given due to the school or board of trustees eliminating the student position and

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

the faculty and staff position.

Q. Right. Is there a reason that she explained to you why she thought it was important for you to contact the president of SACS. SACS is S-A-C-S.

A. She did not express the reasoning of why I should have called SACS. She just said, Hey, express your concern about the faculty and staff seat and just go from there. Yeah, that was it.

Q. All right. Did you do so?

A. No, sir, I did not do so.

MR. MATTHEWS: Okay. Andie, let's go down to the second page of Exhibit 6.

Q. Mr. Rice-Woodruff, there are apparently a series of other persons, a Dr. Ousman, Gina Moore, Phyllis Thompson.

A. Yes, those three names right there, those are Benedict College professors or administrators or admins who deal with recruitment.

Q. Right.

A. Yes, sir. And the -- Dr. Ousman and Gina Moore were my professors. Phyllis Thompson was an alumni, but she also previously worked at the institution. Yes, sir.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

was saying it was unfolding really crazy how we were not aware of the situation and that we did not know what to do as those two scholars at that point.

Q. Okay. And did any other faculty members approach you about this?

A. No, sir. It was kind of like a blind eye thing. Yes, sir. I did not know about it.

Q. Well, my question was other than -- other than Ms. Rogers, did any other faculty member approach you about this issue?

A. No, sir, they did not.

Q. All right. Now, she says in response, "Of course. My lawyer and I wrote one this summer to them. Please write them and call them." And by them, I think you meant the -- she means the board. Is that what you took it to mean?

A. Yes, sir, she was meaning the board. She was saying, hey, write them and call them.

Q. All right. Now, the next thing she sends is dated September 14th and it talks about, "Here are some buzzwords."

A. Yes, sir. She was prompting me to send that letter to the board of trustees. At which I sent an email or I -- yeah, I believe I called

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Dr. Artis and told her I wanted to get a meeting with her and the board of trustees. And that's when the meeting was scheduled. But unfortunately, I caught the flu.

Q. So you didn't send a letter as I --

A. No, sir.

Q. I'm sorry, we talked over each other. Let me finish the question. Did you send a letter as Ms. Rogers requested?

A. No, sir. I did not send a letter as Ms. Rogers requested.

Q. All right. And did you -- other than calling Dr. Artis herself to request a meeting with Mr. Johnson; is that right?

A. That is correct, with Charlie W. Johnson.

Q. Okay. And they scheduled a meeting, which you had to cancel because you were sick?

A. Yes, sir.

Q. Did you ever attempt to reschedule the meeting?

A. No, sir, I did not. Because that's when I was -- that's when I learned about this matter here.

Q. You learned about the lawsuit?

A. Yes, that I was included in a lawsuit. Yeah.

Q. When you say you were included in the lawsuit,

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

students.

Q. Okay. And --

A. And that wasn't in text or writing. That was verbally stated.

Q. Understand. Now, in fact, you indicate, you then mention to her that "I was the representative for the student body on behalf of reporting to the board, and that I would do my best to represent them," meaning the student body?

A. Yes, just the student body.

Q. Okay. "I ended the conversation and headed to class." You then write this, "Days later, Judge Rogers pulled the vice president of SGA Henry Peterson III into a professor's office and asked for my contact information, proceeding to inform Henry about the same topic she told me." So that still would have been in August?

A. Yes, sir, if I recall correctly.

Q. All right. And did Henry Peterson tell you that this is what Judge Rogers did?

A. Yes, sir, he did. He was quite amazed that he was pulled aside and told this. Yes, sir.

Q. Did he give the contact information to Judge

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Rogers?

A. Yes, sir, he did.

Q. Did that include your cell phone or --

A. Yes, sir. It was just my cell phone number.

Q. Okay. Cell phone number. So when you write here "contact information," you're referencing your cell phone number?

A. Yes, referencing cell phone number.

Q. Right. You then write, "I received a call from an unknown number, which happened to be Judge Rogers this past Thursday." And that would have been Thursday, September 12th; does that sound right to you?

A. Could you repeat that for me one more time, sir?

Q. Certainly. You said you received a call from an unknown number which happened to be Judge Rogers on this past Thursday. And looking back at Exhibit 6, it appears that Thursday is September 12, 2019; does that sound right to you?

A. Yes, sir, that does.

Q. All right. And is the phone call you're referencing, was that -- was that an actual -- was that a text or an actual phone call where

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

you speak verbally with somebody?

A. It was an actual phone call when I spoke verbally with someone.

Q. You say, "Rogers began telling me that she and I were going to be voted off of the board of trustees once again on September," strike that, "again on Wednesday, September 18, 2019." You recall her saying that?

A. Yes, sir.

Q. Okay. "I specifically told" this is you writing again. "I specifically told Rogers that I am not the representative for the faculty/staff and I am only representative for the student body." Did you tell her that?

A. Yes, sir, that is when I told her that by the chapel.

Q. Well, you told it to her by the chapel. Did you also repeat it when she called you in September, September 12th?

A. Yes, sir. Yes, sir.

Q. Okay. "Rogers then stated that Henry and I need to take immediate actions and post on social media about the board of trustees issue." Was she repeating her earlier admonitions to you about what you should do?

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. Yes, sir. Because I was kind of like not responding to it. I was still kind of confused at what was going on.

Q. All right. Did she indicate that she expected you to follow her directions?

A. I wouldn't say indicate it, but she kind of encouraged to, hey, do this, follow -- follow it through.

Q. Okay. Well, I think you speak more directly to that later, but I want to kind of get through this in order. This is you writing again, "I told Rogers that neither I nor Henry would post on social media about the matter. We are going to do the proper thing by speaking with Dr. Artis and the board chairman pertaining to the matter on behalf the student body representative." Did you tell her that verbally?

A. Yes, sir.

Q. And then later, is that when you exchanged texts about a letter?

A. Yes, sir.

Q. Okay. The next sentence you write as follows, "Rogers told me that it would not be best to talk to Dr. Artis. And then stated, 'I will be

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

very proud of you both for standing up for the student body if you guys are successful since I know you two want to be lawyers. I will write a recommendation to the USC School of Law once you graduate." Is that what Ms. Rogers told you?

A. Yes, sir. That was in verbal standing there. Yes, sir.

Q. Okay. Had you ever indicated to anyone that you wanted to be a lawyer?

A. Yes, sir, I did. The only persons or people who have known would be my professors, which would be Dr. Ousman, which was her good friend across the hall.

Q. All right. How about Dr. Rosado?

A. Yes. I believe I remember speaking about that when I took Dr. Rosado's class also.

Q. You were one of Dr. Rosado's students?

A. Yes, sir, I was.

Q. And you told Dr. Rosado that you wanted to be a lawyer?

A. Not specifically told her directly, but in conversations with the class, we have conversations about our careers and what we wanted to do after college.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. All right. Did Ms. Rogers indicate that she would -- let me rephrase that question. It appears that she is offering to write you a recommendation for law school if you do as she asks. Is that how you took it?

A. Yes, sir, that is how I took it, which is that was another standoff for me. Like I was like, no, I didn't want to get involved with it.

Q. Okay. Understood. Then you state as follows, "I ended the call with Rogers. Friday afternoon, I attended the pep rally and I spoke with Dr. Artis which she informed me that my name had been submitted on a legal document from Judge Rogers two days after our meeting on August 22nd." Did she explain what that legal document may have been?

A. No, she did not explain what the legal document was stating or what it had been, but she was saying you -- she basically, you're effing suing me. And that was her words, yes, sir.

Q. Okay. And that would have occurred in -- the pep rally was in August?

A. Yes, sir.

Q. Okay. Then you say, "I assured to Dr. Artis that I was unaware about Rogers including my

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

A. Yes, sir. Yes, sir.
Q. August 2019. "I ceased any communications with Rogers and she continued to contact me throughout the weekend." Well, actually, help me understand that because if we see from these texts, you did or -- or certainly Ms. Rogers contacts you and you responded in September?
A. In saying I ceased communications in August, it's saying, hey, when she stopped me at the chapel that time, I did not speak again with her in verbal. Yeah, I did not, or on the phone. She did not have my number.
Q. All right. But she got your number somehow, right, because she emailed you?
A. Yes, sir.
Q. Not email, she texted you?
A. Yes, sir.
Q. Right. And you think she got your number from Henry?
A. Yes, sir.
Q. All right. Then it states as follows, "On September 16, 2019, I received a call from WIS news station stating that Rogers had given them my contact information and they wanted to speak with me about the board of trustees matter."

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Do you recall receiving that conversation?

A. Yes, sir, I do remember receiving that call. I received three back to back calls from different stations as I was sitting there just speaking with a official in student affairs. Yes, sir.

Q. Do you remember who you were speaking with in student affairs?

A. Yes, sir. I was just sitting and talking with Mr. Gary Knight, who was like a mentor and other additional grandfather to me. And we were just sitting and generally talking about life in general and what I was going to do after college. And then I got a phone call and I answered the call, and that is when I was asked, hey, is this Jordan Rice-Woodruff? This is WIS news station.

Q. All right. Did other news stations contact you as well?

A. Yes, sir, they did.

Q. Okay.

A. I did not stay on the call to get those news stations number. I hung up the phone and after the next two calls, that's when he advised me to go ahead and go to the HR.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. Now, you state here, you say you have witnesses who were around when the call came. Was that Mr. Knight?

A. Yes, sir. That was Mr. Knight. And at the time, Saxton Keitt, who was the Mr. Benedict, was in the office when I received that call also.

Q. What about Henry Peterson?

A. Henry was not there, if I'm recalling correctly.

Q. Did Henry also, did he join you in HR?

A. Yes, sir, he did join me in HR.

Q. You state here, "I immediately reported to the president's office about the news station contacting me through Rogers." Did you first go to the president's office, or did you go directly to the HR office?

A. I went directly to the HR's office, and then that is when the HR sent me upstairs to the president's office. But it's not the president's office. It's actually the side of Dr. Witty's side of that building.

Q. I understand. Dr. Witty I think is on the second floor; is that right?

A. Yes, sir. Uh-huh.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Q. And the president --
A. The president is on the third floor. Uh-huh. Yes, sir. So it wasn't -- it was that office there. But us students that go there, we call that the president's office at --
Q. You generally refer to that building as the president's office?
A. Yes, sir.
Q. But it includes HR and Dr. Witty's office?
A. Yes, sir.
Q. Okay. Now, in your recollection, we've just been through Defendant's Exhibit 2. Is this the -- and I believe you said this is the second document that you wrote on that day, on the 16th?
A. Yes, sir, if I recall correctly. Yes, sir.
Q. And I think you've testified to this before but, in your mind, is everything in this true?
A. Yes, sir.
Q. All right. Did anyone recommend any words, that you use some more than others?
A. No, sir. The only thing that was -- there were individuals who I was -- in the room with me at the time while I was writing that. Yes, sir.
Q. Who were the individuals with you at the time

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

on the safe side, because Paul, you might want a break as well, let's just say we'll reconvene at ten past the hour.

(Break from 4:02 p.m. until 4:07 p.m.)

BY MR. MATTHEWS:

Q. Mr. Rice-Woodruff, I want to direct your attention to Exhibit 3, which is on the screen. Is this your writing?

A. Yes, sir, it is.

Q. All right. Did anyone recommend or suggest that you use specific words?

A. No, sir.

Q. Okay. So this is -- this is, as they say, your document? This is not someone else's document? You wrote this? This is your document. Is that right?

A. Yes, sir, that's my handwriting and -- yes, sir.

Q. Did anyone force you to write this document?

A. No, sir.

Q. Okay. The first sentence says, "I am Jordan Rice-Woodruff and I am writing this statement because Judge Rodgers has involved my name on a case that I have no knowledge about." Now, this had to do with -- do you know, remember

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

number. That's the only thing that I knew about.

Q. So Ms. Rogers, from your understanding, Ms. Rogers got your contact information from Henry Peterson, which she then relayed to outside media outlets?

A. Yes, sir.

Q. All right. And I just want this to be clear. Did you ever give Ms. Rogers your permission to share your contact information with outside media outlets?

A. Not that I recall, no, sir.

Q. Okay. Were you alarmed that she had done so?

A. Yes, sir, I was. That was my reasoning for going ahead and following Mr. Gary Knight's advice to go to HR.

Q. You mentioned, is it Gary Knight?

A. Yes, sir.

Q. Okay. Do you remember what position he held in the administration?

A. Mr. Gary Knight was the student affairs -- they call it dean, I believe dean.

Q. And was his office also in the president's building?

A. Yes, sir, it was.

ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Abigail Rogers, Plaintiff, v. Benedict College, Roslyn Clark Artis, Janeen Whitty, and Charles Johnson, Defendants.	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT C/A No.: 2019-CP-40-06624 **Memorandum in Opposition to Motion for Summary Judgment**

This case is about a tenured professor, Abigail Rogers, who was fired in violation of the Defendant's Faculty Manual after she opposed an attempt to eliminate the faculty-staff representative position on Defendant's Board of Trustees to which she was elected.

The factual timeline indicates that Plaintiff's election to the Board of Trustees triggered a process where leadership sought a pretext to justify her termination so she could not contest her removal from Benidict College's Board of Trustees before the Board.

Defendants have filed a 47-page motion for summary judgment in this case with 42 exhibits (a-pp) arguing they should be granted summary judgment prior to trial based on an alleged absence of disputed issues of material fact. **Their motion should be <u>denied</u> on counts 1 and 3-7.**

Summary Judgment is not appropriate in this case where material issues of witness credibility, motive, and intent are all questions for a jury.[1]

[1] See*, Jacobs v. N.C. Administrative Office of the Courts*, 780 F.3d 562, 569 (4th Cir. 2015) ("The court therefore cannot weigh the evidence or make credibility determinations."); *Ballinger v. N.C. Agr. Extension Serv.*, 815 F.2d 1001, 1005 (4th Cir. 1987) ("[S]ince 'summary judgment is seldom appropriate in cases wherein particular states of mind are decisive as elements of [a] claim or defense,' courts must take special care in cases such as the instant one because motive often is the critical issue in employment discrimination cases.") (*quoting Charbonnages de France v. Smith,* 597 F.2d 406, 414 (4th Cir. 1979)). *Mercantile Peninsula Bank v. French (In re French),* 499 F.3d 345, 352 (4th Cir.2007) ("Where an issue as to a material fact cannot be resolved without observation of the demeanor of witnesses in order to evaluate their credibility, summary judgment is not appropriate.").*Oakman Serv. Station v. People's Oil Co.*, 174 S.C. 517, 178 S.E. 129, 130 (1935) ("The

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

1. Summary of the Case

Plaintiff Abigail Rogers served as a professor at Benidict College from 1995 to 2019. She was tenured in 2012. Defendant Roselyn Clark Artis is the President of Benidict College. Defendant Janeen Witty is the Vice President for Academic Affairs at Benidict College. Defendant Charlie Johnson is the Chairman of the Benidict College Board of Trustees.

The claims in this case are: **(1)** (**counts 1-3**) breach of contract against Benidict College; **(2)** (**count 4**) a declaratory judgment that Plaintiff was unlawfully removed from the College's board; **(3)** (**count 5**) breach of contract with fraudulent act against the college; **(4)** (**count 6**) tortious interference with contract against Artis and Witty, **(5)** (**count 7**) civil conspiracy against Artis, Witty, and Johnson, and **(6)** (**count 8**) a violation of the SC Nonprofit Corporation Act against the College and Johnson.

This case was filed on November 25, 2019. This case has been delayed because three judges in this circuit voluntarily recused themselves from the case because of relationships with parties on either side. (9/11/20 Order recusing Judge DeAndrea Benjamin and Judge Allison Lee); (11/21/21 Order recusing Judge Joselyn Newman). Defendants' motion for summary judgment was filed on March 17, 2023. This hearing is set before Judge Ferrell Cothran via WebEx on September 20, 2023, at 9:30 AM.

2. Facts

Plaintiff began working for Benidict College as a visiting professor in 1995. (Ex. 1: Personnel Documents p. 2). Plaintiff was promoted to Assistant Professor the next year. (*Id.* at p. 3). Plaintiff was conferred tenure on April 20, 2012, by a vote of the College's Board of Trustees. (Ex. 2: Tenure Letter). Plaintiff was simultaneously promoted to Associate Professor on April 20, 2012. (Ex. 1: Personnel Documents p. 4).

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credibility of witnesses is entirely for the jury.").

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Defendants' brief says Plaintiff was often the subject of complaints from students that she was harsh, intimidating, and that she berated students. These complaints began in 1998. (Def. MSJ p. 3); (Def Ex.s B-G).

Plaintiff's evaluations for the 2016-2017 and 2017-2018 school years reflected that she exceeded performance evaluations. (Ex. 3: 2016-2017 Evaluation); (Ex. 4 2017-2018 Evaluation). Indeed, these evaluations documented a marked improvement over time in Plaintiff's evaluation scores. (Ex. 5: 2015-2016 to 2007-2008 Evaluations).

2018-2019 School Year

Defendant Artis was appointed to serve as President of the College in 2017. (Def. MSJ p. 3).

Defendant Witty placed Plaintiff on administrative leave on October 23, 2018, allegedly based on student complaints. (Ex. 6: 10/23/18 Witty Letter). Witty previously tried to have Plaintiff terminated over student complaints in 2008. (Def. MSJ, Ex. D.).

Plaintiff, in response, filed a timely grievance, through counsel, via a letter that illustrated Defendant's failure to follow its internal policies and the faculty manual with respect to how student complaints are supposed to be handled. (Ex. 7: 10/31/18 Coskrey Letter).

The College's "Faculty & Staff Grievance and Appeals Committee" met on November 20, 2018 where it recommended that Ms. Rogers be reinstated, but placed on a professional improvement plan. (Ex. 8: 11/20/18 Clark Memo). That meeting occurred *ex parte*. (Ex. 9: 2/8/19 Coskrey Letter) ("Equally concerning, the Committee apparently expected Ms. Rogers to appear, with counsel, to defend herself and were reportedly [] taken aback by her lack of attendance. Obviously, we did not even know such a meeting was taking place, much less receive an opportunity to participate in it."). Plaintiff, objected to the performance improvement plan as written, but, according to Defendants: she "completed it successfully by the end of [the] semester in Spring 2019." (Def MSJ p. 7).

Board Election

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Plaintiff was elected to serve in the faculty and staff seat on the College's Board of Trustees on April 11, 2019. (Def. MSJ p. 9).

On April 16, 2019, Defendant Johsnon wrote Plaintiff a letter congratulating her on her election to Benidict College's Board of Trustees but telling her that she would not be able to commence Board Service until the next academic year. (Ex. 10: 4/16/19 Johnson Letter). Next, on June 7, 2019, Johnson wrote Plaintiff a letter telling her that her position on the Board of Trustees was eliminated on May 10, 2019, at the Board's Annual Board Meeting. (Ex. 11: 6/7/19 Johnson Letter)[2].

Plaintiff challenged her removal from the Board, through counsel, via letter dated June 20, 2019. (Ex. 12: 6/20/19 Coskrey Letter). Plaintiff's counsel listed several violations of the Board's Bylaws and the Nonprofit Corporation Act, including:

1) The Bylaws state that faculty and student trustees shall be elected from April to April (Art. I, § 3).
2) Plaintiff, a duly elected board member, was not given notice of the May 10, 2019, Board Meeting. (Art II, § 4).
3) Plaintiff was not removed from the Board by the class that elected her as required by S.C. Code Ann. § 33-31-808(b).

The College, through Counsel, then sent Plaintiff a letter saying she would be given notice of the next Board Meeting as a Board Member; implicitly conceding that Plaintiff's removal and the failure to timely seat her was improper. (Ex. 13: 7/25/19 Crawford Letter).

On September 10, 2019, Plaintiff's lawyer wrote the College's lawyer a letter saying that Defendant Artis had told the Student Body President (Jordan Rice-Woodruff) that Plaintiff was not on the Board and that Plaintiff had not been invited to be seated along with other board members at convocation. (Ex. 14: 9/10/19 Coskrey Letter). The College's lawyer replied by email, not addressing

[2] Defendants claim, based on an undated letter affixed to its May 10, 2019, meeting minutes, that the decision to remove the faculty/staff representative position was the result of a determination by an Ad Hoc Committee formed on April 9, 2019. (Def MSJ. p. 9)(*citing*, Def. Ex. M).

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

the comments by Artis, but saying that convocation had been postponed. (Ex. 15: 9/12/19 Crawford Email).

On September 11, 2021, Plaintiff was given email notice of a "Special Meeting" set for **September 18, 2019**, with the sole purpose being to vote on amendments to the Board's bylaws. (Ex. 15: 9/11/19 Email Notice). The letter said:

> In effect, these changes eliminate the President, Faculty and Student Trustees from voting membership among other minor revisions designed to clarify and/or amplify Board member rights and Responsibilities.

(Id.)

Plaintiff's Termination

Plaintiff was employed for the 2019-2020 school year pursuant to a 1 page definite-term contract. (Ex. 17: 2019-2020 Contract). That contract reflected her status as a tenured professor. (*Id*). That contract was signed by Defendant Witty on August 7, 2019. (*Id*).

A new dean named Richard Miller was appointed over the School of Arts and Sciences (overseeing Plaintiff's Department Criminal Justice) in June 2019. In response to student complaints, Dean Miller recommended on September 6, 2019, that Plaintiff be assigned non-teaching duties. (Ex. 18, 9/6/19 Miller Email)

Defendant Witty then asked him to conduct "a comprehensive review of [Plaintiff's] faculty file." (Ex. 19: 9/11/21 Miller Memo, at p. 1). She told Dean Miller to consider conduct occurring prior to the formation of Plaintiff's 2019-2020 school year contract. As a result of that review, Dean Miller still said Plaintiff should be reassigned to non-teaching duties with her tenure intact. (*Id.* at p. 2). Defendant Witty wrote an email to Defendant Artis on September 16, 2019, saying that Dean Miller "stopped short of recommending termination." (Ex. 20: 9/16/19 Witty Email).

Defendant Artis was "unhappy with the assessment" by Dean Miller and testified "I'm not interested in creating a paying job for a faculty member that can't behave." (Ex. 21: Artis Dep.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Excerpts pp. 233:17-234:4).

On September 16, 2019, Plaintiff was suspended without pay and escorted off campus. (Ex. 22: 9/16/19 Suspension Notice).

On September 17, 2019, Defendant Witty sent a letter to Defendant Artis requesting that proceedings be initiated to terminate Plaintiff for cause based on a complaint said to be filed against her by student body president Jordan Rice-Woodruff. (Ex. 23: 9/17/19 Witty Letter).

The Defendant College characterized Plaintiff as having placed severe and unwelcome pressure on Rice-Woodruff (who was also having his seat removed from the College's Board of Trustees) to protest the attempt to change the Board's bylaws. (Def MSJ pp. 13-14). The Defendant College says that Rice-Woodruff (impliedly on his own initiative) went to file a human resources complaint about Plaintiff after she shared his cell phone number with a media outlet that was looking into a story on the proposed change in bylaws. (Def MSJ pp. 14-15).

At Human Resources, Rice-Woodruff was asked to execute two different statements about what happened. (Ex. 24: Handwritten Statement); (Ex. 25: Typed Statement). In his contemporaneous statements given to Benidict College, Rice-Woodruff recounts that Plaintiff told him the Board of Trustees was attempting to remove his and her seats, encouraged him to tell the student body about it, and said he should oppose the proposed action. (*Id.*). The typed statement also says that Plaintiff offered to write Rice-Woodruff a recommendation letter for law school if he did so. (Ex. 25: Typed Statement).

Rice-Woodruff has since provided a full account of the context that brought about his two statements. (Ex. 26: Rice-Woodruff Declaration). Rice-Woodruff states that after learning from Plaintiff that his student representative seat was set to be removed from the Board of Trustees he asked Defendant Artis about it who: **"told [him] not to speak about it because, according to her, she knew [he] was involved in fighting the change and she stated that [he] was 'trying to**

fucking sue her.'" (Ex. 26: Rice-Woodruff Declaration ¶ 5). Rice-Woodruff says that when he was called by the media, he was already meeting with the Dean of Student Affairs and "[h]e recommended that [Rice-Woodruff] go talk to Human resources about the calls." (*Id.* at ¶ 6). Rice-Woodruff wrote the statements at the request of the College. (*Id.* at ¶¶ 7-8).

Then Defendant Artis walked in with the campus police chief. (*Id.* at ¶ 9). Artis told Rice-Woodruff that Plaintiff **"was using [him] as a pawn to get her seat back on the board."** (*Id.* at ¶ 10). "She then stated to the [campus police] officers, with [Rice-Woodruff] present, that [Plaintiff] was terminated and that the officers were to remove [Plaintiff] from 'her' campus immediately." (*Id.* at ¶ 10). Defendant Artis used the phrase "my campus" and said Plaintiff "would not be able to collect her personal items and effects before leaving."

Post-Termiantion Proceedings

The recommendation to terminate from Witty and Artis was then sent to the College's Ad Hoc Committee who reviewed information pertaining to student complaints (aside from the Jordan Rice Woodruff complaint) from both the 2019-2020 school year and the 2018-2019 school year. (Ex. 27: 10/9/19 Durban Email). This hearing occurred *ex parte*. (*See, Id.*).

Plaintiff was permitted a "hearing" before the Faculty and Staff Appeals Committee on October 23, 2019. Plaintiff was limited to a thirty-minute presentation, she was not allowed to have counsel present on her behalf, she was not allowed to call witnesses, and she was not allowed to cross-examine witnesses relied on by the College in reaching the decision to terminate. (Ex. 28: 9/30/19 Durban Letter). At the hearing, the Committee was presented with alleged infractions dating all the way back to 2006 in support of the College's argument that Plaintiff should be terminated. (Ex. 29, 10/24/19 Green Email).

The original vote was (6-2) in favor of termination. After the identities of the "no" votes became public knowledge, one voter flipped their vote. (Ex. 29, 10/24/19 Greene Email); (Ex. 30,

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

10/23/19 Vote Record) (Ex. 31: Rosado Dep. Excerpts p. 17:15-18:20) ("She [Gwenda Green] changed her vote after we closed the votes [] because she had been told she would never get promoted if she voted against the college."). The other "no" vote, a lawyer named Sybil Rosado, submitted a letter to Defendant Witty on October 28, 2019, explaining her vote and detailing procedural flaws with the process according to the Faculty Manual. (Ex. 32: 10/28/19 Rosado Letter). Ms. Rosado was then removed from the grievance committee by the College. (Ex. 31: Rosado Dep Excerpts p. 21:18-23).

As a result of her termination, Plaintiff was removed from the Defendant's Board of Trustees as a member and/or as a faculty representative. (Ex. 33: 10/3/19 Witty Letter).

Faculty Manual & Board Bylaws

The Faculty Manual says, regarding tenure:

> A tenured faculty member is a faculty member who holds a tenure track appointment, has successfully completed the probationary period, and has been awarded tenure by the College. **Tenure means that a faculty member will have continuous employment at Benedict College except for termination for cause, or financial exigency, or restructuring in accordance with Section 6.2.4.**

(Ex. 34: Faculty Manual § 4.1.2). The Faculty Manual, at § 6.2.4 (1) defines cause as:

> [I]ncompetence; significant neglect of duty; persistent refusal to comply with the College's policies; violations of the College's standards of professional responsibility in teaching and research; violation of the College's nondiscrimination, harassment, or equal opportunity policies; dishonesty in teaching or research; falsification of information concerning the qualifications for a position; felony conviction (which means a guilty verdict in a trial, an imposition of a sentence, a plea of no contest, or a plea of guilty), inability to perform essential functions of the job; moral turpitude; and other conduct or behavior prejudicial to the College[.]

The Faculty Manual also confers "full" academic "freedom" with respect to classroom instruction. (§ 4.2.1)

Procedurally, the Faculty Manual says that the Ad Hoc faculty hearing Committee, charged with approving a recommendation for termination of a tenured faculty member with cause, "will

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

conduct a fair and impartial hearing of all the evidence." (§ 6.2.5 (4)). The Faculty Member is then afforded the right to appeal her termination before the Faculty and Staff Appeals Committee. (§ 6.2.6) That provision states that the Committee "will hear the appeal" and will "after due deliberation, with or without the benefit of further hearings, issue its recommendation to the President. (§ 6.2.6(a)). The President, according to the Faculty Manual, must then "review the recommendation" and give the tenured faculty member notice of her "final decision." (§ 6.2.6(b)).

Section 6.2.6 does not define the hearing's procedure, but § 7.2 defines hearing procedures for lesser faculty grievances which include the right of the Faculty Committee to "hear the charge, receive facts and evidence, and entertain arguments from the parties or representatives." (§ 7.2(5)). Those hearing procedures permit a faculty member to "present evidence and cross-examine all witnesses." (§7.2(6)).

The Pre-Amendment Bylaws for the Benidict College Board of Trustees say that Board Members are elected from "April to April, unless the official connection as faculty or student is [severed] prior to the expiration of the term."(Ex. 35: Pre-Amendment Bylaws, Art I, § 3); (*compare* Ex. 36: Current Bylaws). The bylaws give each Board Member an equal vote in person or by proxy. (Art I, § 5). The bylaws provide that "[n]otice of the time and place of [] meetings shall be mailed to each member of the Board by the Secretary at least one month in advance of the selected date of the meeting." (Art II, § 3). The Pre-Amendment Bylaws provide for "one [board member] elected annually by the faculty." (Art I, § 4).

3. Standard of Review

"Summary judgment is a drastic remedy[.]" *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003). "[U]nder Rule 56(c), SCRCP: 'summary judgment is proper when 'there is no genuine issue as to any material fact and ... the moving party is entitled to judgment as a matter of law.'" *Dawkins*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003); *Baughman v. American Tel. and Tel. Co.,* 306 S.C.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

101, 114–15–410 S.E.2d 537, 545 (1991); Rule 56(c), SCRCP. "In determining whether summary judgment is appropriate, the evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party." *Dawkins*, 580 S.E.2d at 439.

4. Discussion

Plaintiff **stipulates to the dismissal of count 2**, the breach of contract claim over her suspension, **and count 8**, the claim pled under the non-profit corporation act.[3] Plaintiff, otherwise, asks this Court to **deny** Defendants' motion for summary judgment on her breach of contract, declaratory judgment, breach of contract with a fraudulent act, tortious interference with contract, and civil conspiracy claims.

4.1. Breach of Contract (counts 1 and 3)

This claim is pled against the Defendant College. The College's argument on Count 1 of this claim is based on a self-serving rendering of the Faculty Manual to *incorrectly* argue that "Plaintiff cannot point to a single procedure in [] the Faculty Manual that the College breached." (Def MSJ p. 21). The College also argues on both Count 1 and Count 3 of this claim is that it had cause, as a matter of law, to terminate the Plaintiff. (Def. MSJ pp. 25, 28-29).

There are provisions in the Faculty Manual that a reasonable jury may find were breached and the existence of cause in this case is a fact issue.

"The 'extensive body of recorded thought' on tenure referred to above leaves no doubt that institutions of higher learning purposefully induce professors to rely on the promises of tenure, that professors do in fact rely on the promises, and tenured professors continue to teach at the institution on the condition of the fulfilment of such promises, all of which is 'indispensable to the success of an

[3] The suspension claim, regarding Plaintiff's 2018 suspension, did not result in damages because Plaintiff's placement on administrative leave was with pay. The non-profit corporation act, though violated as set forth in the declaratory judgment claim, does not include a private right-of-action in the sense alleged.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

institution in fulfilling its obligations to its students and to society.'" *Crenshaw v. Erskine Coll.*, 432 S.C. 1, 20, 850 S.E.2d 1, 11 (2020); *citing, Statement of Principles on Academic Freedom and Tenure,* American Association of University Professors (1940). "The role of the granting of tenure in our analysis of whether the Faculty Manual is a contract with tenured faculty probably renders this analysis inapplicable in any other context. In the context of this case—analyzing the enforceable rights of tenured professors at private institutions—the promise of tenure leaves us with no doubt that the Faculty Manual is a contract." *Crenshaw* 850 S.E.2d at 11. "[T]his is an ordinary breach of contract case in which the terms of the contract are set forth in The College Faculty Manual." *Id.* at 10.

The Plaintiff's contractual rights under the faculty manual and the way they were breached is shown by comparing the description of the "Post-Termination Proceedings" for the Plaintiff at pp. 7-8, above to the description of the Faculty Manual at page 8-9, above. In summary, the Faculty Manual was breached in the following ways:

1) Plaintiff was terminated without cause as defined by § 4.2.1 and as required by § 4.1.2.

2) Plaintiff was terminated at least in part based on her for her determinations about how to deliver classroom instruction in violation of § 4.2.1's provision of "full" academic "freedom" with respect to classroom instruction.

3) Plaintiff (and any other witness for that matter) did not appear before the Ad Hoc Committee meaning it did not "conduct a fair impartial hearing **of all the evidence,"** as required by § 6.2.5(4).

4) The Faculty and Staff Appeals Committee did not "hear the appeal" in order to perform "due deliberation" within a reasonable rendering of § 6.2.6 wherein a tenured faculty member up for termination would presumably be afforded at least the same level of hearing rights as a Faculty Member asserting a run-of-the-mill grievance under § 7.2 to include: right to counsel, right to present evidence, and the right to cross examine witnesses.

5) The College President did not render a final decision as required by § 6.2.6(b).

Plaintiff's annual employment contract for 2019-2020 did not contain a right to terminate within its four corners. That means it, a definite term contract, could only be terminated for "just cause." *Shivers v. John H. Harland Co.,* 310 S.C. 217, 220, 423 S.E.2d 105, 107 (1992) ("A person hired

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

under an employment contract for a definite term may not be discharged before the completion of the term without just cause."). The cause relied on to terminate Plaintiff's annual contract of employment boils down to her interactions with Jordan Rice-Woodruff. As detailed at pp. 6-7 above, Defendant's account of these interactions differs with Mr. Rice-Woodruff's account; such that, there is a fact question in this case over the existence of just cause. *See*, *Jones v. Ridgely Commc'ns, Inc.*, 304 S.C. 452, 454, 405 S.E.2d 402, 403 (1991) ("A jury issue exists where the evidence is susceptible of more than one reasonable inference . . . We find in the record before us evidence sufficient to create a jury issue as to whether Jones breached his contractual duty to Ridgely.").

Two contracts are before the Court: (1) the Faculty Manual (Ex. 34) and (2) Plaintiff's annual contract for 2019-2020. The contracts were fully and unilaterally drafted by the Defendant College; such that any ambiguities must be read against the college. *S. Atl. Fin. Servs., Inc. v. Middleton*, 349 S.C. 77, 84, 562 S.E.2d 482, 486 (Ct. App. 2002), *aff'd as modified*, 356 S.C. 444, 590 S.E.2d 27 (2003). ("It is well settled that ambiguities arising within a contract must be construed against the drafter."). The primary ambiguity at issue is the nature of hearing rights Plaintiff should have been afforded under § 6.2.6. "Construction of an ambiguous contract is a question of fact to be decided by the trier of fact." *Pee Dee Stores, Inc. v. Doyle*, 381 S.C. 234, 241, 672 S.E.2d 799, 802 (Ct. App. 2009) "Summary judgment is improper when there is an issue as to the construction of a written contract and . . . the intent of the parties cannot be gathered from the four corners of the instrument." *Pee Dee Stores,* 381 S.C. 234, 241. In addition to the questions of fact described above, it will also be up to the jury to construct the ambiguity existing within § 6.2.6's failure to describe what hearing rights a tenured professor opposing their termination is supposed to receive.

There are provisions in the Faculty Manual that a reasonable jury may find were breached and the existence of cause in this case is a fact issue. Therefore, summary judgment on **counts 1 and 3** of Plaintiff's breach of contract claim should be **denied.**

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

4.2. Declaratory Judgment

The Defendants argue that the Declaratory Judgment Action is moot and that the Defendant properly applied and amended its Bylaws. (See, Def MSJ p. 29). These arguments fail.

Plaintiff seeks a declaratory judgment that she was not timely seated on the College's Board and that she was unlawfully removed both under the bylaws and S.C. Code Ann. § 33-31-808(b).

Plaintiff was elected to the Board in April 2019. Defendant Johnson then wrote to Plaintiff telling her she would not be seated until the Fall. (Ex. 10: 4/16/19 Johnson Letter). Then, on June 7, 2019, Johnson wrote Plaintiff a letter telling her that her position on the Board of Trustees was eliminated on May 10, 2019, at the Board's Annual Board Meeting. (Ex. 11: 6/7/19 Johnson Letter). The bylaws, in existence at the time, said that Members were elected from "April to April."(Ex. 35: Pre-Amendment Bylaws, Art I, § 3); (*compare* Ex. 36: Current Bylaws). The bylaws said that "[n]otice of the time and place of [] meetings shall be mailed to each member of the Board by the Secretary at least one month in advance of the selected date of the meeting." (Art II, § 3). The above demonstrates that Plaintiff was (1) not timely seated on the Defendant's Board of Trustees and (2) the attempt to eliminate her seat on May 10, 2019, was improper under those same bylaws.

The Pre-Amendment Bylaws also provided for "one [board member] elected annually by the faculty." (Art I, § 4). S.C Code Ann. § 33-31-808(b) says: "If a director is elected by a class, chapter, or other organizational unit or by region or other geographic grouping, the director may be removed only by the members of that class, chapter, unit, or grouping." This statute is unambiguous. It means that Plaintiff, absent being terminated, could not be removed from the Board by anyone but the College's faculty, who elected her, for the pendency of her term April 2019-April 2020. Meaning the Board could amend Plaintiff's Board seat out of existence prospectively from April 2020 onward, but not before.

This controversy is justiciable and has not been rendered moot by Plaintiff's termination or the passage of time. Tthe impropriety and illegality of the failure to timely seat Plaintiff and her removal

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

from the Board of Trustees is critical to the legal element of fraud underlying Plaintiff's breach of contract with a fraudulent act claim and the issue of illegality underlying Plaintiff's civil conspiracy claim. *See, Sloan v. Friends of the Hunley, Inc.*, 369 S.C. 20, 25, 630 S.E.2d 474, 477 (2006) ("A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract.").

This controversy remains justiciable and the Court need not consider the exceptions to the mootness doctrine. *Sloan v. Greenville County*, 380 S.C. 528, 535, 670 S.E.2d 663, 667 (Ct. App. 2009) (holding there are three exceptions to the mootness doctrine: (1) "if the issue raised is capable of repetition but generally will evade review, the appellate court can take jurisdiction"; (2) "an appellate court *may* decide questions of imperative and manifest urgency to establish a rule for future conduct in matters of important public interest"; and (3) "if a decision by the trial court may affect future events, or have collateral consequences for the parties, an appeal from that decision is not moot, even though the appellate court cannot give effective relief in the present case" (quoting *Curtis v. State*, 345 S.C. 557, 568, 549 S.E.2d 591, 596 (2001)). **That said, exceptions (1) and (3) would apply here too.** *Id.* ("The utilization of an exception under the mootness doctrine is flexible and discretionary pursuant to South Carolina jurisprudence, not a mechanical rule that is automatically invoked.").

The controversies over (1) the failure to timely seat Plaintiff to the College's Board of Trustees and (2) her removal are justiciable and the evidence in the record demonstrates Plaintiff is entitled to a declaratory judgment on these issues.

4.3. Breach of Contract with a Fraudulent Act

This claim is pled against the college. Aside from a challenge based on a reiteration of the College's breach of contract argument (see § 4.1 above), Defendant argues that Plaintiff has not produced enough evidence of a fraudulent intent and a fraudulent act with respect to the breach of contract. (Def MSJ p. 36). Plaintiff disagrees with Defendant's evidentiary sufficiency argument.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

"The jury [can] reasonably infer a fraudulent intent from several circumstances relating to the breach." *Floyd v. Country Squire Mobile Homes, Inc.,* 287 S.C. 51, 54, 336 S.E.2d 502, 504 (Ct. App. 1985). The following circumstances may indicate fraudulent intent to a reasonable jury:

1) The College's efforts to come up with a pretext to terminate Plaintiff including its substantial mischaracterization of Plaintiff's interactions with Jordan Rice-Woodruff.[4]

2) The College's attempts to come up with different excuses to terminate the Plaintiff immediately beforehand.

3) The College's repeated disregard for the Plaintiff's substantive and procedural rights under the Faculty Manual.

4) The College's improper and unlawful acts to remove Plaintiff from its Board of Trustees.

See also, *Ball v. Canadian Am. Exp. Co.*, 314 S.C. 272, 276, 442 S.E.2d 620, 623 (Ct. App. 1994) ("Such proof may or may not involve false representations.").

A reasonable jury may find that Plaintiff has proved any or all of the above as a "fraudulent act" by clear and convincing proof. *Harper v. Ethridge*, 290 S.C. 112, 119, 348 S.E.2d 374, 378 (Ct. App. 1986) ("The fraudulent act is any act characterized by dishonesty in fact, unfair dealing, or the unlawful appropriation of another's property by design."). "As the Court observed in *Sullivan v. Calhoun,* 'fraud,' in this sense,

> assumes so many hues and forms, that courts are compelled to content themselves with comparatively few general rules for its discovery and defeat, and allow the facts and circumstances peculiar to each case to bear heavily upon the conscience and judgment of the court or jury in determining its presence or absence.

Harper v. Ethridge, 290 S.C. 112, 119, 348 S.E.2d 374, 378 (Ct. App. 1986); *quoting*, *Sullivan v. Calhoun,* 117 S.C. 137, 108 S.E. 189 (1921).

[4] See also, Ex. 31 Rosado Dep. p. 17:1-5: ("However, during that same hearing, his English professor indicated that this was not his writing, and that she knows him intimately and that this was not his writing in any way, shape, or form.").

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

There is sufficient record evidence from which a jury can infer fraudulent intent and find a fraudulent act on these facts and Defendant's Motion for Summary Judgment on this claim should be **denied**.

4.4. Tortious Interference with Contract

This claim is pled against Defendants Artis and Witty. They, aside from a challenge based on a reiteration of the College's breach of contract argument (see § 4.1 above), argue that there is not evidence in the record that they exceeded the scope of their employment at Benidict College thereby subjecting them to outsider liability for theory of tortious interference with contract. (Def MSJ pp. 38-39).

"It is generally recognized that when a contract is breached by a corporation as the result of the inducement of an officer or agent of the corporation acting on behalf of the corporation and within the scope of his employment, the inducement is privileged and is not actionable." *Bradburn v. Colonial Stores, Inc.*, 273 S.C. 186, 188, 255 S.E.2d 453, 455 (1979) (emphasis added). **However,** where an officer or agent of an entity is acting outside of the scope of his employment or official status, they may can tortiously interfere with their employer's contracts. *See*, *Walker v. Progressive Cas. Ins. Co.*, No. CV 3:17-1935-MBS-SVH, 2017 WL 4676602, at *3 (D.S.C. Sept. 15, 2017), *report and recommendation adopted*, No. CV 3:17-1935-MBS-SVH, 2017 WL 4617031 (D.S.C. Oct. 16, 2017) (granting plaintiff to amend claim to show that a tortfeasor/coworker's conduct, for the purpose of an interference claim, was outside of the course and scope of her employment); *Bloch v. The Paul Revere Life Ins. Co.*, 143 N.C. App. 228, 241, 547 S.E.2d 51, 60 (2001) ("We again held that "non-outsider" status does not insulate a defendant from liability where the defendant acts without a reasonable, good-faith motive."); *Gruhlke v. Sioux Empire Fed. Credit Union, Inc.*, 2008 S.D. 89, ¶ 10, 756 N.W.2d 399, 405 ("In the employment context, we think a claim of tortious interference with contractual relations may be made against a corporate officer, director, supervisor, or co-worker, who acts wholly outside the scope of

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

employment, and who acts through improper means or for an improper purpose."); *Boers v. Payline Sys., Inc.*, 141 Or. App. 238, 243, 918 P.2d 432, 435 (1996) ("However, if the agent's sole purpose is one that is not for the benefit of the corporation, the agent is not acting within the scope of employment and may be liable.").

The South Carolina Supreme Court has specifically approved the concept of outsider liability. *Dutch Fork Dev. Grp. II, LLC v. SEL Properties, LLC*, 406 S.C. 596, 606, 753 S.E.2d 840, 845 (2012). ("Therefore, as a matter of law, a manager of a limited liability company can wrongfully interfere with his company's contracts and be held individually liable for his acts."). In reaching its conclusion on outsider liability the court recognized that a principal's agent is generally protected from liability as if the agent were a party to the contract; but that the agent is only protected by "a qualified privilege from liability for tortious interference with the principal's contract." *Id.* at 753 S.E.2d at 844. The court reasoned that: "the agent's privilege is qualified [] because it applies only when the agent is acting within the scope of its authority." *Id.*; *quoting*, *CGB Occupational Therapy, Inc. v. RHA Health Servs., Inc.*, 357 F.3d 375, 385 (3d Cir.2004). The court concluded that: "an agent may be liable for tortious interference, just as if the agent were an outside third party, if the allegedly interfering acts were conducted outside the scope of the agent's authority." *Id.*; *citing*, *CGB Occupational Therapy, Inc.*[5]

The jury may conclude that Defendant's Artis and Witty acted outside the course and scope of their employment based on evidence that (1) the College's rules on handling student complaints were not followed with respect to Plaintiff's administrative leave in the 2018-2019 school year; (2) they suggested actions by the Defendant College's Board Chair that violated the College's bylaws in order to keep Plaintiff off of the Board of Trustees; (3) the pretextual nature of Plaintiff's termination; (4)

[5] Notably, The Supreme Court, answering a certified question from this Court, recently endorsed "the validity of a claim for third-party tortious interference with a terminatable-at-will employment contract" against a third-party co-worker who "intentionally and unjustifiably procures the termination of an at-will employee." *Hall v. UBS Fin. Servs. Inc.*, 435 S.C. 75, 92, 866 S.E.2d 337, 345 (2021).

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

preceding efforts to terminate Plaintiff for other reasons; and (5) the timing of Plaintiff's termination in comparison to the Board meeting set to occur two days later. These acts and omissions by the Defendants, if proven to the jury, would not reasonably be construed to be conduct within the course and scope of their employment.

4.5. Civil Conspiracy

This claim is pled against all individual defendants. They argue that they are entitled to "intracorporate immunity", that the claim is pled too similarly to the other causes of action, and that Plaintiff cannot establish the unlawful act or unlawful process elements. Plaintiff disagrees as set forth below.

Intracorporate Immunity

The Individual Defendants' intracorporate immunity argument turns on an issue of fact for the jury as to course and scope of employment. *Froneberger v. Smith*, 406 S.C. 37, 49, 748 S.E.2d 625, 631 (Ct. App. 2013) "Generally, '[a]gency is a question of fact.'" *Quoting*, *Gathers v. Harris Teeter Supermarket, Inc.,* 282 S.C. 220, 226, 317 S.E.2d 748, 752 (Ct.App.1984). ("[Q]uestions of agency ordinarily should not be resolved by summary judgment where there are *any* facts giving rise to an inference of an agency relationship.").

Civil conspiracies between the employees of a principal and an agent are recognized in South Carolina where the employees and agents act outside of the scope of their employment. *See*, *Anthony*, 336 Fed. Appx 311. (unpublished); *citing*, *McMillan v. Oconee Memorial Hospital, inc.*, 367 S.C. 559, 565, 626 S.E.2d 884, 886 (2006). Although, the acts of an entity's employees and agents are usually considered the acts of an entity; where those acts fall outside of the scope of employment or agency, the employees and agents may be liable for civil conspiracy. *Anthony,* 336 Fed. Appx 311; *See also*, *Pridgen v. Ward*, 391 S.C. 238, 246, 705 S.E.2d 58, 63 (Ct. App. 2010); *see also*, *Crittenden v. Thompson-Walker Co., Inc.*, 288 S.C. 112, 116, 341 S.E.2d 385, 387 (Ct. App. 1986); (*holding*, "On the other hand,

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

if the servant acts for some independent purpose of his own, wholly disconnected with the furtherance of his master's business, his conduct falls outside the scope of his employment").

The Court of Appeals, in *Pridgen* – regarding intracorporate immunity and employee scope, found that "the evidence in the record creat[ed] more than one reasonable inference as to whether the [individual defendants] acted outside the scope of their employment" and "the jury could infer from the evidence presented that the [individual defendants'] actions were personally, not professionally, motivated, and were wholly disconnected from the business of their employer. *Pridgen*, 391 S.C. at 245, 705 S.E.2d at 62-63. The same is so in this case, particularly with respect to the list of occurrences at pp. 17-18, above.

The *Todd* Rule on Pleading Acts in Furtherance

Defendant next relies on a pleading rule arising from the case *Todd v. SC Farm Bureau Mut. Ins. Co.* to state a defense about duplicativeness with other claims. *Todd v. S.C. Farm Bureau Mut. Ins. Co.*, 276 S.C. 284, 293, 278 S.E.2d 607, 611 (1981), *overruled by Paradis v. Charleston Cnty. Sch. Dist.,* 433 S.C. 562, 861 S.E.2d 774 (2021).

The *Todd* rule, as it applied to special damages, was overruled by the Supreme Court in *Paradis v. Charleston Cnty. Sch. Dist.,* 433 S.C. 562, 861 S.E.2d 774 (2021). The question of the *Todd* rule as it applied to pleading separate acts in furtherance of a conspiracy was not before the Court in *Paradis*. Yet, the logic for the *Todd* rule on special damages is intertwined with the logic for the *Todd* rule on acts in furtherance and both rely on an over-application of a secondary authority that intended to prohibit a double recovery. *Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 573, 861 S.E.2d 774, 779 (2021), *reh'g denied* (Aug. 18, 2021) ("We find this section of *Corpus Juris Secundum* simply addressed a prohibition on duplicative recoveries; it did not establish a requirement of pleading special damages for civil conspiracy claims.").

No South Carolina Appellate Court, since *Paradis*, as applied the *Todd* rule in any form. Indeed,

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Paradis established new elements/re-established older *pre-Todd* elements to civil conspiracy claims in South Carolina:

> In light of our decision today, we are returning to our long-standing precedent pre-*Todd* and for clarification specifically state a plaintiff asserting a civil conspiracy claim must establish (1) the combination or agreement of two or more persons, (2) to commit an unlawful act or a lawful act by unlawful means, (3) together with the commission of an overt act in furtherance of the agreement, and (4) damages proximately resulting to the plaintiff.

Paradis, 861 S.E.2d at 780. Defendant's reliance on *Todd* given the above is not proper.

In any event, Plaintiff's conspiracy claim as alleged against Defendant Johsnon cannot be considered duplicative because it is the only claim alleged against him. *Allegro, Inc. v. Scully*, 418 S.C. 24, 37, 791 S.E.2d 140, 147 (2016), *abrogated by Hall v. UBS Fin. Servs. Inc.,* 435 S.C. 75, 866 S.E.2d 337 (2021) (Pleicones *dissenting*) ("Even if the Court were to preserve the *Todd* rule, the sole claim asserted against petitioner Corbin was civil conspiracy, and thus as to him the "special damages" rule created by *Todd* does not apply.").

Unlawful Process/Lawful Process by Unlawful Means

Defendants' final argument on this claim is that Plaintiff cannot establish the unlawful process or lawful process by unlawful means post-*Todd* element of civil conspiracy.

"Unlawful" as used in the context of a civil conspiracy claim includes tortious conduct and does not require proof that an action or process is criminally illegal. *See, Lee v. Chesterfield Gen. Hosp., Inc.*, 289 S.C. 6, 11, 344 S.E.2d 379, 382 (Ct. App. 1986), *overruled by Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 861 S.E.2d 774 (2021). This record allows for a reasonable jury to find the existence of unlawful action (e.g., removal from the board, tortious interference with Plaintiff's substantive contractual rights under the Faculty Manual) and unlawful process (e.g., interference with the procedural rights and safeguards in the Faculty Manual). Thus, Plaintiff can establish this element of her conspiracy claim and her claim is not otherwise deficient as a matter of law.

5. Conclusion

Plaintiff, based on the existence of material, genuine jury issues respectfully asks the Court to **deny** the Defendant's Motion for Summary Judgment **as to counts 1 and 3-7** and permit this case to proceed to a jury trial.

BY: s/J. Paul Porter
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September 13, 2023

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT 1

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

BENEDICT COLLEGE FACULTY CONTRACT
Columbia, South Carolina

NTE

NAME: Abigail Ramona Rogers

DIVISION: Professional Programs

DEPARTMENT: Criminal Justice

RANK/TITLE: Visiting Professor

SALARY: $36,000.00

PAY PERIOD:
[x] Semi-monthly
[ ] Other: Without Compensation

APPOINTMENT STATUS:
[x] Full-time
[ ] Part-time

APPOINTMENT PERIOD:
[x] Nine months [ ] One semester
[ ] Twelve months [ ] Other:

BEGINNING
August 16, 1995

ENDING
May 15, 1996

TENURE STATUS:

[ ] Tenure Achieved
[ ] Years achieved toward tenure at expiration of contract: _____
[ ] Tenure not applicable

TEACHING REQUIREMENT:
Full-time teaching and other related duties.

APPOINTMENT:

This Contract is subject to contractual provisions of the current Benedict College Faculty Manual, as it may be amended from time to time, which Manual is incorporated in this contract as if fully set forth. The appointee will fulfill responsibilities pertaining to the specifications above or in other capacities compatible with his/her qualifications.

DATE
August 25, 1995

SIGNATURE OF THE PRESIDENT

Please indicate your acceptance of this appointment and conditions pertaining thereto by signing all copies of this document and returning the original and one (1) copy to the Office of the President within thirty(30) days of the date of issuance of the contract. Should you decide not to accept the contract, please return all copies unsigned to the Office of the President within thirty(30) days.

DATE

SIGNATURE OF APPOINTEE

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

BENEDICT COLLEGE FACULTY CONTRACT
Columbia, South Carolina

NAME: Abigail Ramona Rogers

DIVISION: Professional Programs

DEPARTMENT: Criminal Justice

RANK/TITLE: ~~Visiting Professor~~ Assistant (AJ)

SALARY: $38,700.00

PAY PERIOD:
[x] Semi-monthly
[ ] Other: Without Compensation

APPOINTMENT STATUS:
[x] Full-time
[ ] Part-time

APPOINTMENT PERIOD:
[x] Nine months [ ] One semester
[ ] Twelve months [ ] Other:

BEGINNING
August 15, 1996

ENDING
May 15, 1997

TENURE STATUS:

[ ] Tenure Achieved
[ ] Years achieved toward tenure at expiration of contract: _____
[x] Tenure not applicable

TEACHING REQUIREMENT:
Full-time teaching and other related duties.

APPOINTMENT:

This Contract is subject to contractual provisions of the current Benedict College Faculty Manual, as it may be amended from time to time, which Manual is incorporated in this contract as if fully set forth. The appointee will fulfill responsibilities pertaining to the specifications above or in other capacities compatible with his/her qualifications.

DATE
June 17, 1996

SIGNATURE OF THE PRESIDENT
Dr. David H. Swinton

Please indicate your acceptance of this appointment and conditions pertaining thereto by signing all copies of this document and returning the original and one (1) copy to the Office of the President within thirty(30) days of the date of issuance of the contract. Should you decide not to accept the contract, please return all copies unsigned to the Office of the President within thirty(30) days.

DATE
August 4, 1996

SIGNATURE OF APPOINTEE

BENEDICT COLLEGE

1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

OFFICE OF THE PRESIDENT

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

April 20, 2012

Ms. Abigail Rogers
Benedict College
CAMPUS

Dear Ms. Rogers:

I am pleased to inform you that at their Annual Meeting, April 20, 2012, the Board of Trustees approved the recommendation for your promotion from Assistant Professor to Associate Professor, Social Sciences and Criminal Justice Department, School of Humanities, Arts, and Social Sciences. This promotion is effective with the 2012-2013 contract years. With this promotion your salary will be adjusted by $2,500 effective for the 2012-2013 academic years.

You may retrieve your application portfolio from the Office of Dr. Janeen P. Witty, Vice President for Academic Affairs.

Congratulations on achieving this milestone in your professional career. We look forward to your continued dedicated service to Benedict College.

Sincerely,

David H. Swinton
President

DHS: jls

Copy to: Dr. Janeen P. Witty
Dr. Charles P. Austin
Mrs. Betty A. Jenkins

(803) 705-4681 Business
(803) 705-6937 Fax

Equal Opportunity in Education and Employment
Without Regards to Race, Sex, Color, National Origin, Religion or Disability

EXHIBIT 2

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BENEDICT COLLEGE
1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

OFFICE OF THE PRESIDENT

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

April 20, 2012

Ms. Abigail Rogers
Benedict College
CAMPUS

Dear Ms. Rogers:

I am pleased to inform you that at their Annual Meeting, April 20, 2012, the Board of Trustees approved your application for tenure, effective with the 2012-2013 contract year. With your attainment of tenure, your salary will be adjusted by $2,500 effective with the 2012-213 academic years.

You may retrieve your application portfolio from the Office of Dr. Janeen P. Witty, Vice President for Academic Affairs.

Congratulations on achieving this milestone in your professional career. We look forward to your continued dedicated service to Benedict College.

Sincerely,

David H. Swinton
President and CEO

DHS: jls

Copy to: Dr. Janeen P. Witty
Dr. Charles Austin, Sr.
Mrs. Betty Jenkins

(803) 705-4681 Business
(803) 705-6937 Fax
Equal Opportunity in Education and Employment
Without Regards to Race, Sex, Color, National Origin, Religion or Disability

EXHIBIT 3

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Benedict College
Division of Academic Affairs
Faculty Performance Evaluation
2016-2017

Faculty Name Abagail Rogers
Position Instructor of Criminal Justice

STANDARD	Cat WT	Subcat WT	Score	Quality Points	Additional Comments/Observations
I. Teaching Quality and Experience	.50				
A. Lecturing and Instructing		.45	90	.41	
B. Class Management		.10	90	.09	
C. Advising		.20	80	.16	
D. Ability to Relate to All Students		.10	80	.08	
E. Academic Service		.15	90	.14	
		1.00		.87	
Weighted Subtotal (Category)		.50		.44	
II. Quality and Experience of Scholarship	.25				
A. Research and Dissemination		.60	80	.48	
B. Professional Service					
1. To Gov't or Comm		.28	85	.24	
2. To Profession		.12	85	.10	
		1.00		.82	
Weighted Subtotal (Category)		.25		.21	
III. Commitment to College's Vision and Mission	.15	1.00	90	.90	
Weighted Subtotal (Category)		.15		.14	
IV. Collegiality	.10				
A. Interaction with Supvrs&Officials		.50	90	.45	
B. Interaction with Peers		.50	85	.43	
		1.00		.88	
Weighted Subtotal (Category)		.10		.09	
TOTALS		1.00		.86	

Evaluation 4

R. J. T. 5-31-17
Dept Chair/Unit Director Signature *Date*

6/1/2017
Dean's Signature *Date*

6/1/2017
Faculty Signature *Date*

BC0102

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Comments

Faculty

Dept Chair/Unit Director

During the 2016 - 2017 academic year, Prof. Rogers continued to exhibited the desired expectations for student learning and increased student performance in classes via a syllabus, course outlines, and course related materials for her students. Through-out the year, Prof. Rogers continued to encouraged students to excel in relation to student learning outcomes and selected academic goals. Prof. Rogers often provided students with timely feedback in an effort to increase student learning and student engagement during the term. Prof. Rogers, also, continued to encourage students to raise questions during classes in an effort to stimulate critical thought and discussion. She at-times leveraged online assignments to further engagement and learning. Prof. Rogers readily used technology effectively to advance learning. Prof. Rogers used a variety of educational aids, material, and activities that helped clarify the course content, lectures, and related materials, which were value-added for students. Prof. Rogers was highly productive this academic year and her efforts were positive for students, SSCJ, and Benedict College.

In the upcoming 2017 -2018 academic year, Prof. Rogers should ensure that her student advising is more consistent and she should make better effort in keeping students informed in relation to their respective degree course of action. Prof. Rogers should continue to look to improve the overall learning and engagement for students within her classes by introducing new materials and assessment approaches, since classroom culture is critical toward learning and retention. Finally, although, Prof. Rogers primary role is teaching, she should nevertheless seek more academic research opportunities in the coming year, which would subsequently enhance student learning and strengthen the SSCJ Department degree programs.

EXHIBIT 4

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Benedict College
Division of Academic Affairs
Faculty Performance Evaluation
2017-18

Faculty Name Ms Abigail Rogers
Position Associate Professor of Criminal Justice

STANDARD	Cat WT	Subcat WT	Score	Quality Points	Additional Comments/Observations
I. Teaching Quality and Experience	.50				
A. Lecturing and Instructing		.45	85	.38	
B. Class Management		.10	80	.08	Employs interactive techniques to support student learning
C. Advising		.20	80	.16	Actively advises students and supports registration processes and efforts.
D. Ability to Relate to All Students		.10	80	.08	
E. Academic Service		.15	90	.14	
		1.00			
Weighted Subtotal (Category)		.50		.00	
II. Quality and Experience of Scholarship	.25				
A. Research and Dissemination		.60	80	.48	
B. Professional Service					
1. To Gov't or Comm		.28	90	.25	
2. To Profession		.12	95	.11	
		1.00			
Weighted Subtotal (Category)		.25		.00	
III. Commitment to College's Vision and Mission	.15	1.00	90	.90	Serves as tenure and promotion committee member
Weighted Subtotal (Category)		.15		.14	
IV. Collegiality	.10				
A. Interaction with Supvrs&Officials		.50	90	.45	Is collegial with faculty and administration offering support, advice, and a team-oriented approach to effectively supporting students
B. Interaction with Peers		.50	80	.40	
		1.00			

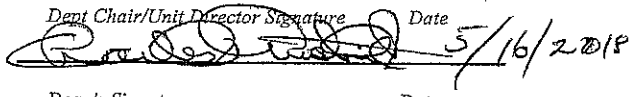
BC0100

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Weighted Subtotal (Category)	.10	.00
TOTALS	1.00	.14



Dept Chair/Unit Director Signature *Date* 5/16/2018



Evaluation 4

Dean's Signature *Date* 5/16/2018

Faculty Signature *Date*

Comments

Faculty

Dept Chair/Unit Director

BC0101

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EXHIBIT 5

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Benedict College
Division of Academic Affairs
Faculty Performance Evaluation
2015-2016

Faculty Name Abagail Rogers
Position Instructor of Criminal Justice

STANDARD	Cat WT	Subcat WT	Score	Quality Points	Additional Comments/Observations
I. Teaching Quality and Experience	.50				
A. Lecturing and Instructing		.45	90	.41	
B. Class Management		.10	90	.09	
C. Advising		.20	80	.16	
D. Ability to Relate to All Students		.10	80	.08	
E. Academic Service		.15	90	.14	
		1.00		.87	
Weighted Subtotal (Category)		.50		.44	
II. Quality and Experience of Scholarship	.25				
A. Research and Dissemination		.60	70	.42	
B. Professional Service					
1. To Gov't or Comm		.28	80	.22	
2. To Profession		.12	80	.10	
		1.00		.74	
Weighted Subtotal (Category)		.25		.19	
III. Commitment to College's Vision and Mission	.15	1.00	90	.90	
Weighted Subtotal (Category)		.15		.14	
IV. Collegiality	.10				
A. Interaction with Supvrs&Officials		.50	90	.45	
B. Interaction with Peers		.50	85	.43	
		1.00		.88	
Weighted Subtotal (Category)		.10		.09	
TOTALS		1.00		.84	

Evaluation 4

D. [illegible] 5-7-16
Dept Chair/Unit Director Signature *Date*

5/17/2016
Dean's Signature *Date*

5/17/2016
Faculty Signature *Date*

524

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Comments

Faculty

Dept Chair/Unit Director

Professor Rogers's contribution is critical to the achievement of the College's and Department's mission of teaching, service, and research. Based on the previous year's activities, faculty goals, and achievements are in context with the overall mission of the department and college. The college is committed to individual and collective responsibility of the success of the institution by articulating goals, fostering open dialogue and constructive feedback, emphasizing quality performance, and supporting professional development.

Professor Rogers was rather productive this academic year and her efforts were value-added for students, SSCJ, and Benedict College. Length of service is commendable. Classroom teaching appears to be effective and of a sound pedagogy. Professor Rogers was active in selected committee work. Professor Rogers should seek to ensure that student advising and audits are consistent with department expectations. Professor Rogers presented no active research or academic publication within her portfolio for review. Professor Rogers was active within the community at-large and in professional association. Although, Professor Rogers primary role is teaching, she should nevertheless seek more academic research opportunities and campus-based presentations in the coming year within her area, which would subsequently enhance student learning and strengthen the SSCJ Department.

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Benedict College
Division of Academic Affairs
Faculty Performance Evaluation
2014-2015

Faculty Name Abagail Rogers
Position Instructor of Criminal Justice

STANDARD	Cat WT	Subcat WT	Score	Quality Points	Additional Comments/Observations
I. Teaching Quality and Experience	.50				
A. Lecturing and Instructing		.45	90	.41	
B. Class Management		.10	90	.09	
C. Advising		.20	80	.16	
D. Ability to Relate to All Students		.10	80	.08	
E. Academic Service		.15	90	.14	
		1.00		.87	
Weighted Subtotal (Category)		.50		.44	
II. Quality and Experience of Scholarship	.25				
A. Research and Dissemination		.60	70	.42	
B. Professional Service					
1. To Gov't or Comm		.28	80	.22	
2. To Profession		.12	80	.10	
		1.00		.74	
Weighted Subtotal (Category)		.25		.19	
III. Commitment to College's Vision and Mission	.15	1.00	90	.90	
Weighted Subtotal (Category)		.15		.14	
IV. Collegiality	.10				
A. Interaction with Supvrs&Officials		.50	90	.45	
B. Interaction with Peers		.50	85	.43	
		1.00		.88	
Weighted Subtotal (Category)		.10		.09	
TOTALS		1.00		.84	

Evaluation 4

Dept. Chair/Unit Director Signature — Date 4-10-15

Dean's Signature — Date 5/13/15

Faculty Signature — Date 5/13/2015

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Comments

Faculty

I disagree with the majority of the statements made. I co wrote the cyberspace grant & I continue to get a BCBS grant # to develop a research design for a multi-level research study the schools in the triangle. The Chairperson is unaware of all the faculty responsibilities I have; I teach, I practice Law in order to continue to stay abreast of legal issues I attend conferences & pay for them out of my pocket, I attend USC graduate school, and am ABD. I assist the staff & faculty with legal problems and I serve on School committees. I attend as many meetings as I can. Thank you for your consideration.

Dept Chair/Unit Director

During the 2014 - 2015 academic year, Ms. Rogers expressed expectations for learning and performance in classes via a syllabus, course, and course related materials. Ms. Rogers encouraged students to excel and provided feedback toward student learning. Ms. Rogers encouraged students to raise questions and or make comments during class and or during online assignments. Ms. Rogers used technology effectively to advance learning. In additional, Ms. Rogers used a variety of educational aids, material and activities that helped clarify the course content and lectures. Ms. Rogers was productive this academic year and her efforts were value-added for students and Benedict College.

In the upcoming academic year, Ms. Rogers should be more available on an individual basis outside of class for student engagement and advising. Ms. Rogers should look to improve learning and engagement for all students within her classes. Classroom culture is critical toward learning and retention. Ms. Rogers's attendance of faculty/Department meetings as requested could be stronger, as well as participation in Faculty/Department activities. Ms. Rogers should seek to ensure fulfillment of Faculty/departmental duties on-time and in a consistent manner. Ms. Rogers should continue to treat her students with due professionalism during all engagements and or opportunities.

Although, Ms. Rogers primary role is teaching, she should nevertheless seek more academic research opportunities in the coming year, which would subsequently enhance student and strengthen the SSCJ Department. Over the next year, I hope to see Ms. Rogers complete her terminal degree, which would strengthen the SSCJ Department in relation to the number of faculty with terminal degrees. Ms. Rogers should look to take a leadership role in the facilitation of a criminal justice event, as well as look for opportunities to better collaborate with the local community.

Benedict College
Division of Academic Affairs
Faculty Performance Evaluation
2013-2014

Faculty Name Ms. Abagail Rogers
Position Instructor of Criminal Justice

STANDARD	Cat WT	Subcat WT	Score	Quality Points	Additional Comments/Observations
I. Teaching Quality and Experience	.50				
A. Lecturing and Instructing		.45	85	.38	
B. Class Management		.10	85	.09	
C. Advising		.20	75	.15	
D. Ability to Relate to All Students		.10	75	.08	
E. Academic Service		.15	80	.12	
		1.00		.81	
Weighted Subtotal (Category)		.50		.41	
II. Quality and Experience of Scholarship	.25				
A. Research and Dissemination		.60		.00	
B. Professional Service					
1. To Gov't or Comm		.28	80	.22	
2. To Profession		.12	80	.10	
		1.00		.32	
Weighted Subtotal (Category)		.25		.08	
III. Commitment to College's Vision and Mission	.15	1.00	90	.90	
Weighted Subtotal (Category)		.15		.14	
IV. Collegiality	.10				
A. Interaction with Supvrs&Officials		.50	75	.38	
B. Interaction with Peers		.50	80	.40	
		1.00		.78	
Weighted Subtotal (Category)		.10		.08	
TOTALS		1.00		.70	

Evaluation 3.00

Dept Chair/Unit Director Signature — Date 6/5/2014

Dean's Signature — Date 6/5/2014

Faculty Signature — Date

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Comments

Faculty

I'll do better next year. I'll TRY to do better next year

Dept Chair/Unit Director

Dean

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Office of Academic Affairs
Faculty Performance Evaluation
2012-2013

Faculty Name
Position Rogers, Abigail, Associate Professor

STANDARD	Cat WT	Subcat WT	Score	Quality Points	Additional Comments/Observations
I. Teaching Quality and Experience	.50				
A. Lecturing and Instructing		.45	70	.32	No evidence of teaching philosophy, no syllabi, etc
B. Class Management		.10	60	.06	Some student complaints; did not follow protocol in ha
C. Advising		.20	60	.12	Not available to advise students on occasion
D. Ability to Relate to All Students		.10	60	.06	
E. Academic Service		.15	70	.11	
		1.00		.66	
Weighted Subtotal (Category)		.50	45	.33	
II. Quality and Experience of Scholarship	.25				
A. Research and Dissemination		.60	70	.42	Arranged for Japanese Fulbright Professor to speak in
B. Professional Service					
1. To Gov't or Comm		.28	70	.20	
2. To Profession		.12	70	.08	
		1.00		.70	
Weighted Subtotal (Category)		.25	22	.18	
III. Commitment to College's Vision and Mission	.15	1.00	70	.70	Numerous absences from meetings
Weighted Subtotal (Category)		.15	14	.11	
IV. Collegiality	.10				
A. Interaction with Supvrs&Officials		.50	80	.40	Did take over some classes for Paul White during his i
B. Interaction with Peers		.50	80	.40	
		1.00		.80	
Weighted Subtotal (Category)		.10	10	.08	
TOTALS		1.00		.69	

Evaluation 2

Faculty Signature *Date* 6-19-13

Dept Chair/Unit Director Signature *Date* 6-19-13

Dean's Signature *Date*

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Comments

Faculty

My point of contention is that the one student complaint resulted in his sister causing a disruption in my class which resulted in a complaint against me.
I look forward to contributing more to this Department.

Dept Chair/Unit Director

s has the potential to contribute more to teaching, service, and scholarship and now that COMPS have been passed, we will see those contributions duri

Dean

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Office of Academic Affairs
Faculty Performance Evaluation
2011-2012

Faculty Name Ms. Rogers, Abigail
Position Assistant Professor

STANDARD	Cat WT	Subcat WT	Score	Quality Points
I. Teaching Quality and Experience	.50			
A. Lecturing and Instructing		.45	75	.34
B. Class Management		.10	80	.08
C. Advising		.20	60	.12
D. Ability to Relate to All Students		.10	60	.06
E. Academic Service		.15	70	.11
		1.00		.70
Weighted Subtotal (Category)		.50		.35
II. Quality and Experience of Scholarship	.25			
A. Research and Dissemination		.60	60	.36
B. Professional Service				
1. To Gov't or Comm		.28	60	.17
2. To Profession		.12	60	.07
		1.00		.60
Weighted Subtotal (Category)		.25		.15

Additional Comments/Observations

Classroom Observation: Just beginning to discuss topics which were soon due in the form of student papers; mixed up African American History and US History in referencing Vietnam War to student; two students came 20 minutes late; did not caution students about using Wikipedia in their paper (allowable); students has some incorrect information which she did not correct; did not take roll; little tangible knowledge given during class

Portfolio: working on E. D. in Education; student evaluations showed significant standard deviation from Benedict College average (1.46); also had lower deviation from HASS average (.90); funding request is not a grant; thank you letter from SC Mock Trial; contribution to SC Bar Association; nothing on advising; no assignment and no papers from students; research--none

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III. Commitment to College's Vision and Mission	.15	1.00	70	.70
Weighted Subtotal (Category)		.15		.11
IV. Collegiality	.10			
A. Interaction with Supvrs&Officials		.50	50	.25
B. Interaction with Peers		.50	60	.30
		1.00		.55
Weighted Subtotal (Category)		.10		.06
TOTALS		1.00		.66
		Evaluation		**2**

Faculty Signature *Date* 5-18-12

Dept Chair/Unit Director Signature *Date*

Dean's Signature *Date* 5/18/2012

Comments

Faculty

Dept Chair/Unit Director

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Office of Academic Affairs
Faculty Performance Evaluation
2010-2011

Faculty Name Abigail R. Rogers
Position Assistant Professor of Criminal Justice

STANDARD	Cat WT	Subcat WT	Score	Quality Points	Additional Comments/Observations
I. Teaching Quality and Experience	.50				
A. Lecturing and Instructing		.45	85	.38	
B. Class Management		.10	75	.08	Classroom management with students need
C. Advising		.20	85	.17	improvement.
D. Ability to Relate to All Students		.10	75	.08	
E. Academic Service		.15	75	.11	
		1.00		.82	
Weighted Subtotal (Category)		.50		.41	
II. Quality and Experience of Scholarship	.25				
A. Research and Dissemination		.60	75	.45	Some of the documentation on portfolio are not
B. Professional Service					relevant to the evaluation period. (Items were
1. To Gov't or Comm		.28	75	.21	included at the direction of the Dean)
2. To Profession		.12	85	.10	
		1.00		.76	
Weighted Subtotal (Category)		.25		.19	
III. Commitment to College's Vision and Mission	.15	1.00	85	.85	
Weighted Subtotal (Category)		.15		.13	
IV. Collegiality	.10				
A. Interaction with Supvrs&Officials		.50	75	.38	
B. Interaction with Peers		.50	85	.43	
		1.00		.80	
Weighted Subtotal (Category)		.10		.08	
TOTALS		1.00		.81	

Evaluation 3.00

Faculty Signature — Date 5/23/2011

Dept Chair/Unit Director Signature — Date 5/18/11

Dean's Signature — Date 5/19/2011

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Comments

Faculty

I take issue with the comment that Classroom management needs improvement. This is not true. I demand that my students show respect to each other, and to me, and the Chair of the Department who is not from this country may interpret my strong leadership style and the fact that I am a female as "my management style as needing improvement."

Dept Chair/Unit Director

Dean

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ELECTRONICALLY FILED - 2023-Sep-13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Office of Academic Affairs
Faculty Performance Evaluation
2009-2010

Faculty Name Abigail Rogers
Position Instructor of Criminal Justice

STANDARD	Cat WT	Subcat WT	Score	Quality Points
I. Teaching Quality and Experience	.50			
A. Lecturing and Instructing		.45	80	.36
B. Class Management		.10	80	.08
C. Advising		.20	0	.00
D. Ability to Relate to All Students		.10	80	.08
E. Academic Service		.15	70	.11
		1.00		.63
Weighted Subtotal (Category)		.50		.31
II. Quality and Experience of Scholarship	.25			
A. Research and Dissemination		.60	80	.48
B. Professional Service				
1. To Gov't or Comm		.28	80	.22
2. To Profession		.12	80	.10
		1.00		.80
Weighted Subtotal (Category)		.25		.20
III. Commitment to College's Vision and Mission	.15	1.00	90	.90
Weighted Subtotal (Category)		.15		.14
IV. Collegiality	.10			
A. Interaction with Supvrs&Officials		.50	80	.40
B. Interaction with Peers		.50	90	.45
		1.00		.85
Weighted Subtotal (Category)		.10		.09
TOTALS		1.00		.73

Evaluation 3

Additional Comments/Observations

No course Materials in Portfolio
Developed Course Syllabi for:
Constitutional Law
Contemporary issues
Courts and Social Policy
Submitted Faculty Performance Plan
No Evidence of Advising
Presenter: S. C. Criminal Justice Training Conference, 7/09
Assessment Team Member: Youth and Gang Violence
Presented Paper: "Domestic Violence: What We Can Learn from the Relationships of Celebrity Couples" at the 10th Summer Institute of the S. C. Campaign to Prevent Teen Pregnancy, June 16-19, 2009, Charleston, SC
Supervision of Student Intern at the SC General Assembly
Member, Commission on Youth at Risk of the American Bar Association
Attended the American Bar Association Meeting, Washington, DC April 20-21, 2009
Appeared on "Speaking of Schools" Radio Broadcast Sponsored by ETV, April 28, 2009
Grant: Gang Prevention Youth Mentoring Program Submitted to the Dept. of Justice, June 2009
Strategic Planning Conference, October 20, 2009, U.S.C.-Columbia, SC
Attended Departmental and School Meetings
Attended Faculty Forums

Dept Chair/Unit Director Signature *Date* 5/21/2010

Dean's Signature *Date* 5/21/10

Faculty Signature *Date*

Office of Academic Affairs
Faculty Performance Evaluation
2008-2009

Faculty Name Rogers, Abigail
Position Assistant Professor of Criminal Justice

STANDARD	Cat WT	Subcat WT	Score	Quality Points
I. Teaching Quality and Experience	.50			
A. Lecturing and Instructing		.45	0	.00
B. Class Management		.10	0	.00
C. Advising		.20	0	.00
D. Ability to Relate to All Students		.10	0	.00
E. Academic Service		.15	0	.00
Weighted Subtotal (Category)		1.00		.00
		.50		.00
II. Quality and Experience of Scholarship	.25			
A. Research and Dissemination		.60	0	.00
B. Professional Service				
1. To Gov't or Comm		.28	0	.00
2. To Profession		.12	0	.00
Weighted Subtotal (Category)		1.00		.00
		.25		.00
III. Commitment to College's Vision and Mission	.15	1.00	0	.00
Weighted Subtotal (Category)		.15		.00
IV. Collegiality	.10			
A. Interaction with Supvrs&Officials		.50	0	.00
B. Interaction with Peers		.50	0	.00
Weighted Subtotal (Category)		1.00		.00
		.10		.00
TOTALS		1.00		.00

Evaluation 00

Additional Comments/Observations

Failed to submit "faculty evaluation portfolio" for the current evaluation period, 2008/2009.

Has failed to submit any evaluation portfolio for the past four academic years.

Relates poorly with students.

Relates poorly, and shows disrespect towards supervisor, especially during departmental meetings.

Faculty Declined to Sign

Faculty Signature *Date* 5/1/09

Dept Chair/Unit Director Signature *Date*

Dean's Signature *Date* 5-1-09

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Comments

Faculty

Faculty member shared that she does not trust portfolio will not be tampered with. D.S. Rogers feels that Benedict needs Criminal Justice faculty with connections to the community and a field to support research e.g. youth violence. Benedict needs people who can assist research about the community and who have awareness of talk in the field.

Dept Chair/Unit Director

Dean

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Office of Academic Affairs
Faculty Performance Evaluation
2007-2008

Faculty Name Rogers, Abigail
Position Assistant Professor of C. J.

STANDARD	Cat WT	Subcat WT	Score	Quality Points	Additional Comments/Observations
I. Teaching Quality and Experience	.50				
A. Lecturing and Instructing		.45	50	.23	Failed to submit faculty evaluation portfolio
B. Class Management		.10	20	.02	as required by college policy.
C. Advising		.20	25	.05	This is the third consecutive academic year
D. Ability to Relate to All Students		.10	10	.01	she has failed to submit evaluation portfolio.
E. Academic Service		.15	15	.02	
		1.00		.33	Relates very poorly with students.
Weighted Subtotal (Category)		.50		.16	
II. Quality and Experience of Scholarship	.25				
A. Research and Dissemination		.60	20	.12	
B. Professional Service					
1. To Gov't or Comm		.28	10	.03	
2. To Profession		.12	15	.02	
		1.00		.17	
Weighted Subtotal (Category)		.25		.04	
III. Commitment to College's Vision and Mission	.15	1.00	30	.30	
Weighted Subtotal (Category)		.15		.05	
IV. Collegiality	.10				
A. Interaction with Supvrs&Officials		.50	10	.05	Relates very poorly with supervisors.
B. Interaction with Peers		.50	15	.08	
		1.00		.13	
Weighted Subtotal (Category)		.10		.01	
TOTALS		1.00		.26	
			Evaluation	**1.00**	

Faculty Signature *Date* 4/21/08

Dept Chair/Unit Director Signature *Date*

Dean's Signature *Date* 4/30/08

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EXHIBIT 6

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

BENEDICT COLLEGE
1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

OFFICE OF THE VICE PRESIDENT
FOR ACADEMIC AFFAIRS

October 23, 2018

Ms. Abigail Rogers
Department of Criminal Justice Administration & Social Sciences
School of Arts & Sciences
Benedict College

Ms. Rogers:

This communication is to notify you that multiple complaints have been alleged against you by students in your courses. Due to the serious nature of this matter, effective immediately, you are being placed on paid administrative leave while an investigation takes place.

Going forth, you are not to communicate with students in your courses. During this time, you will not be permitted on campus.

Thank you in advance for your cooperation. I will contact you directly upon the conclusion of the investigation.

Sincerely,

Janeen P. Witty, Ph.D.
Vice President for Academic Affairs

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT 7

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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LAW OFFICE OF
Blaney A. Coskrey, III

Capitol Center Tower
1201 Main Street, Suite 1980
Columbia, South Carolina 29201

Telephone: (803) 748-1202

Facsimile: (803) 748-1302

e-mail: coskrey@coskreylaw.com

October 31, 2018

Via Email (Roslyn.artis@benedict.edu)
and U.S. Certified Mail

Dr. Roslyn Artis
President
Benedict College
1600 Harden Street
Columbia, SC 29204

Re: *Abigail R. Rogers v. Benedict College, et al*
C.A. No.
Our file no. 18-773

Dear Dr. Artis:

My law office represents Abigail R. Rogers, Esquire in connection with issues arising out of her employment with Benedict College. If Benedict is represented by counsel in this matter, please forward this letter to the attorney and ask him or her to contact me.

You should also treat this letter as the initiation of a grievance by Ms. Rogers under the Faculty Grievance and Appeals Procedures set forth in Operational Policies and Procedures Manual for the Division of Academic Affairs ("Operational Manual"), pp. 73-75 and Section VII of the Faculty Manual. Pursuant to Section 7.2(1) of the Faculty Manual, I am copying Dr. Witty on this letter as the initiation of the grievance.

The recent actions of Benedict College with respect to Ms. Rogers, a long-term and greatly admired member of the Benedict faculty, are in violation of her contractual and other legal rights. Benedict should immediately reinstate Ms. Rogers to her teaching, and put her back in the classroom. Failure to do so immediately will leave her no choice but to seek the involvement of the courts for vindication of her rights.

Moreover, Benedict thus far has denied Ms. Rogers the due process rights included within the Operational and Faculty Manuals. Ms. Rogers was informed on October 23, 2018 that "multiple complaints have been alleged against you by students in your courses." Dr. Witty's letter gave no additional details, and indicated Ms. Rogers was being placed on paid administrative leave. Ms.

Rogers subsequently sought the details, and asked to be involved in order to defend herself from the charges as provided in Benedict's established procedures. She has not been afforded that opportunity. Moreover, given what we know about Dean Austin's lack of involvement (who should have been involved in multiple steps of the process), it would seem that Benedict is simply disregarding its procedures wholesale.

The South Carolina appellate courts have made clear that colleges must follow their own procedures, and failure to do so constitutes a breach of faculty members' contractual rights by the college. For example, in *Taylor v. Converse College*, No. 212-UP-601 (S.C. Ct. App. 2012), the South Carolina Court of Appeals agreed with the lower court that the Converse faculty manual created binding and enforceable rights on the part of the faculty member, who could rightly expect and legally insist upon those procedures being followed. The *Taylor* decision should serve as a warning to colleges. You cannot treat your procedures, including those in an Operational Manual and in a Faculty Manual, as optional. They are, in fact, mandatory, including the rights afforded the faculty member to know the subject of the complaint(s) and to be involved in defending herself.

It would appear from Benedict's actions that it is either unaware of its own procedures or unwilling to follow them. Those procedures can be found in several difference sources, each giving rise to contractual rights on the part of Ms. Rogers.

First, the Operational Manual has multiple relevant sections, which have previously been brought to your attention by Ms. Rogers. In the section titled "Procedures for Handling Written Student Complaints," the Operational Manual lays out very clearly the process for student complaints. Please review that section starting at page 33 of the Operational Manual. It requires a specific set of steps to be followed, which appear to have been utterly disregarded. Rather than quote the lengthy procedures, I am enclosing copies of those pages.

Apparently seeking to avoid following the procedures laid out in that policy, your email to Ms. Rogers states that "the vast majority of the complaints . . . are verbal." First, the fact that they are verbal does not allow the College to disregard Ms. Rogers' due process right to respond. Moreover, we are aware that there are, indeed, written complaints, to which the language on the Operational Manual directly applies. Again, by law, those procedures are not optional. Your view that the policy is "woefully outdated" does not make it any less legally binding.

Let me also remind you that Ms. Rogers has all the rights provided to her as a tenured faculty member. Benedict should tread very cautiously with respect to those rights as well.

It is unfortunate that a college such as Benedict has insufficient safeguards in place to prevent students from improperly seeking retribution against their professors. While, hypothetically, certain types of faculty behaviors should give rise to a complaint procedure available to a student, Benedict has shifted that power to a degree that is unwise and has resulted in a serious wrong. An in-depth discussion of a procedure that more fairly balances the respective interests is one for another day,

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after Benedict has informed Ms. Rogers of the subject matter of the complaints. The present moment, however, clearly calls for a recognition of the established rights of the faculty member who is the subject of undisclosed complaints.

For all of us, but particularly for a professional such as Ms. Rogers, reputation is everything. Ms. Rogers' entire career is built on that reputation, and Benedict's reckless disregard for Ms. Rogers' reputation has had and will undoubtedly have additional serious ramifications. We are aware of information related to communications made to other faculty, staff, and students about Ms. Rogers that are false and will have a serious effect on her reputation. *See Erickson v. Jones St. Publishers, LLC*, 368 S.C. 444, 465, 629 S.E.2d 653, 664 (2006) ("Slander is actionable **per se** when the defendant's alleged defamatory statements charge the plaintiff with . . . unfitness in one's business or profession."). Again, Ms. Rogers is prepared to take all necessary legal steps to remedy any wrong committed by Benedict and the individuals involved. Benedict should take the immediate step of ceasing the ongoing harm to her reputation.

Benedict should take steps, if it has not already done so, to preserve all documents, including but not limited to any student complaints, other related communications with students, documents related to any investigation, recorded phone calls, electronic documents, emails, and text messages, related to this matter. All involved employees and students should be instructed to take steps to preserve relevant emails whether they are on Benedict or personal email accounts.

Beginning immediately, please route all communications related to Ms. Rogers' employment through me. Have your attorney contact me no later than November 2, 2018. If I have not heard from you or your attorney by that date, I will advise Ms. Rogers on her next step, which may include seeking injunctive relief from a court.

Sincerely yours,

Blaney A. Coskrey, III

Enclosure

cc: Dr. Janeen Witty (via email and US Certified Mail, with enclosure)

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

7. If the student is dissatisfied with the determination issued by the Vice President for Academic Affairs, the student may appeal to the President.

8. The President reviews all material involved in the dispute and renders a decision. The decision of the President is final.

Procedures for Handling Written Student Complaints

The College's policy and procedures for handling written student complaints are found in the. Benedict College Student Handbook under the heading "Student Grievance Committee", pages 63-68. The Division of Academic Affairs implements the policy and procedures as follows:

If a student brings a written complaint against personnel in a department in the Division of Academic Affairs, the Department Chair will:

- Interview the student to determine if he/she has followed the procedure in the Student Handbook, and confer with the faculty or staff member involved to determine if all steps to resolve the problem informally have been taken. If it appears that the complaint can be resolved at the faculty or staff member level, the student will be referred back to the faculty or staff member.
- The faculty or staff member will hold a conference with the student, during which the specifics of the complaint will be addressed and efforts made to reach a resolution.
- The faculty or staff member will prepare a written statement of the resolution reached, and both the faculty or staff and the student will sign the statement.
- The faculty or staff member will issue to the student a copy of the signed statement, and file a copy in his/her office.
- The faculty or staff member will forward a report of the resolution to his/her Department Chair.
- If the complaint cannot be resolved by the faculty or staff and the student, the faculty or staff will forward a written report of the outcome to his/her Department Chair.
- The Department Chair will review all materials and attempt to reach a resolution with the student and the faculty or staff member. If a resolution is reached, the Department Chair will prepare a written statement of the resolution reached, which will be signed by the faculty or staff member, the student, and the Department Chair. The student and faculty or staff member will be given a copy of the signed statement, and a copy will be filed in the Department Chair's Office.
- If the complaint cannot be resolved at the Department level, the Department Chair will forward a report of the matter to the School Dean.
- The School Dean will review all materials and attempt to reach a resolution with the

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

student. If a resolution is reached, the School Dean will prepare a written statement of the resolution reached, which will be signed by the Dean and the student. The student will be given a copy of the signed statement, copies will be sent to the faculty or staff member and the Department Chair, and a copy will be filed in the Dean's Office.

- If the complaint cannot be resolved at the school level, the School Dean will forward a report of the matter to the Vice President.
- The Vice President will review all documents related to the complaint, and attempt to reach a resolution with the student.
- If the Vice President and the student do not reach a resolution, the Vice President will advise the student to complete the procedure in the Student Handbook, sections cited above, including completion of the forms on pages 66-68.

If a student brings to the Vice President for Academic Affairs a written complaint against personnel in a department in the Division of Academic Affairs:

- The Vice President or his designee will interview the student to determine if he/she has followed the procedure in the Student Handbook, confer with the Dean of the School to which the complaint relates to determine if all steps to resolve the problem have been taken, and review all written materials related to the complaint. If all required steps have not been taken, or if it appears that the complaint can be resolved at the school level, the student will be referred to the School Dean.
- If the School Dean reaches a resolution with the student, the Dean will prepare a written statement of the resolution reached, which will be signed by both the Dean and the student. The student will be given a copy of the signed statement, and a copy will be filed in the Dean's Office. The Dean will forward a copy of the resolution to the Vice President.
- If the complaint cannot be resolved at the school level, the School Dean will forward a report of the matter to the Vice President.
- The Vice President will review all documents related to the complaint, and attempt to reach a resolution with the student.
- If the Vice President reaches a resolution with the student, the Vice President will prepare a written statement of the resolution reached, which will be signed by both the Vice President and the student. The student will be given a copy of the signed statement, and a copy will be filed in the Vice President's Office. The Vice President will forward a copy of the resolution to the School Dean, Department Chair, and faculty or staff member involved.
- If the Vice President and the student do not reach a resolution, the Vice President will advise the student to complete the procedure in the Student Handbook, sections cited above, including completion of the forms on pages 66-68.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

If a student brings a written complaint against the Office of Academic Affairs, the Vice President for Academic Affairs or his designee will:

- Hold a conference with the student, during which the specifics of the complaint will be addressed and efforts made to reach a resolution.
- Prepare a written statement of the resolution reached, and both the Vice President and student will sign the statement.
- Issue to the student a copy of the signed statement, and file a copy in the Office of Academic Affairs.
- If a resolution is not reached, advise the student to follow the procedure described in the Student Handbook, p. 63, section A: "Where informal recourse fails, the student may file a petition in writing to the Student Grievance Committee, accompanied by available documentary evidence."

Code of Academic Responsibility

The **Code** Of **Academic** Responsibility covers academic dishonesty on the part of all students, both full-time and part-time, enrolled in courses at Benedict College. For the purpose of this code, "academic dishonesty" is defined as any conduct designed to gain unfair advantage in obtaining a grade through representing one's academic performance as something other than what it is, and includes bribery, cheating, lying, fraud, forgery, and plagiarism. Definitions and other details regarding these infractions are given in the "Code of Academic Responsibility" included in the Student Handbook and is available to each student and copies are also in the Office of Student Affairs and Office of Academic Affairs.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT 8

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

BENEDICT COLLEGE

To: Dr. Janeen Witty
Vice President of Academic Affairs

From: Ms. Brenda A. Clark
Chair, Faculty and Staff Grievance and Appeals Committee

Subject: Ms. Abagail Rogers

Date: November 20, 2018

The committee recommends that Ms. Rogers be re-instated effective December 15, 2018.

In addition, establishment of a Professional Improvement Plan and a Conflict Resolution Plan be developed in collaboration with Ms. Rogers and the Academic Administration (Chair, Dean, and Vice-President).

The vote was unanimous with seven (7) of the nine (9) committee members present.

Members Present:
Ms. Brenda Clark, Chair
Ms. Loraine Dunbar
Dr. Tracy Dunn
Dr. Raymond Lee
Dr. Rush Oliver
Mr. Jesse Outen
Dr. Sue Sadik

Members Absent:
Ms. Taranne Roberts
Dr. Richard Williams

Dorothy L. Richardson
Ms. Dorothy L. Richardson
Recorder

EXHIBIT 9

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

LAW OFFICE OF
Blaney A. Coskrey, III

Capitol Center Tower
1201 Main Street, Suite 1980
Columbia, South Carolina 29201

Telephone: (803) 748-1202

Facsimile: (803) 748-1302 e-mail: coskrey@coskreylaw.com

February 8, 2019

Via Email (debbie.durban@nelsonmullins.com)

Debbie Whittle Durban, Esquire
Nelson Mullins
17th Floor
1320 Main Street
Columbia, SC 29201

Re: *Abigail R. Rogers v. Benedict College, et al*
C.A. No.
Our file no. 18-773

Dear Debbie:

I am writing to confirm our telephone conversation yesterday and make sure there can be no confusion about what was said. Before I do that, though, we need to walk back through the history of this grievance.

As I told you in our telephone conversations, Ms. Rogers is very concerned upon learning that her defense, embodied in my November 15, 2018 submission, was apparently never even shown to the Committee. Upon my telling you that, you seemed remarkably unconcerned about Ms. Rogers' total lack of defense before the Committee in her own grievance.

Equally concerning, the Committee apparently expected Ms. Rogers to appear, with counsel, to defend herself and were reportedly were taken aback by her lack of attendance. Obviously, we did not even know such a meeting was taking place, much less receive an opportunity to participate in it. While the procedure does not provide for a full hearing at that level of the grievance, the problem is that the Committee apparently had a different understanding. They reportedly wondered why she was not there to defend herself. To be clear, it is entirely possible that had the Committee heard her version of events, it would not have imposed any PIP at all.

Backing up, this grievance began on October 31, 2018 with my letter to Dr. Artis. In that letter and subsequently, I repeatedly sought details of the complaints underlying Ms. Rogers' suspension. As I explained, it would be hard to pursue a grievance without being told what the

suspension was based on. Surprisingly, you initially resisted relaying the factual basis for the suspension, requiring me to repeatedly explain that without knowing what the issues were, my client could not defend herself. (*See, e.g.*, my letter of November 7, 2018.) After these multiple requests, on November 13 you finally emailed me some redacted documents. Two days later I submitted a lengthy rebuttal to the underlying factual allegations that could be gleaned from those documents. That rebuttal consisted of a nine page letter and twenty-two pages of attachments. The letter specifically stated that the submission was to be made a part of the record of her grievance.

The Committee met, resulting in the November 20, 2018 recommendation that Ms. Rogers be reinstated effective December 15, 2018. It also recommended "establishment of a Personal Improvement Plan and a Conflict Resolution Plan to be developed in collaboration with Ms. Rogers and the Academic Administration (Chair, Dean, and Vice-President.)" It made no factual findings at all. We later found out that the Committee apparently was not presented with Ms. Rogers' defense.

Because that recommendation did not indicate what underlying facts, if any, were found by the Committee to be supported and because it contained a significant new unknown (i.e. the contents of the PIP), I then wrote a letter to you dated November 29, 2018 in which I explained: "If we do not receive the specific terms of the Plans, Ms. Rogers will have no choice but to appeal and seek a hearing with all of the rights the grievance procedure provides. If we are to avoid a full hearing, it will require prompt communication and further discussion of the terms of the Plans." Your response was that the Plans' contents would be communicated sometime after the first of the year (i.e., more than a month later). (*See* your email 11/30/18). As a result of not being allowed to know the terms of the PIP, Ms. Rogers appealed the Committee's decision (my email 11/30/18). On December 4, 2018 after another telephone conversation, you sent an email stating "Benedict is not able to provide you with the completed PIP at this time." You listed a few general "goals" that the PIP may contain.

Ms. Rogers returned to work on December 15 and awaited the opportunity to collaborate on the PIP and/or the scheduling of the hearing on her grievance appeal. She met with Dean Austin on December 17, 2018 and January 7, 2019. In those meetings she and Dean Austin discussed expectations going forward, upcoming teaching assignments, and related issues.

Finally on January 14, 2019 Ms. Rogers met with Dean Austin and Dr. Witty. Ms. Rogers reports that this was not a "collaborative" meeting, but that the PIP was basically presented to her as something she was expected to follow. (*See* my letter to you 1/14/19). Your response to my letter described Ms. Rogers as having refused to participate in the process, which is not consistent with my client's account of what happened. You suggested that Benedict would simply impose a PIP on her without her collaboration as required by the Committee. You also promised a date for the appeal hearing.

When we spoke on January 16, I again relayed Ms. Rogers' account of the meeting and told

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

you that Ms. Rogers and I remained focused on solutions. I suggested that the attorneys should attempt to work out the issues surrounding the PIP. One possible solution was that we work together toward a revised document that might be acceptable to our respective clients. Your email of the draft PIP on January 18, 2019 stated: "Benedict has not given up on this being a collaborative effort with Ms. Rogers."

The draft of the PIP, sought by us since late November and finally received on January 18, raised immediate concerns. Specifically, it suggested that factual findings had been made by the Committee when none had.

In your email to me dated January 18, 2019, you stated: "Benedict has not given up on this being a collaborative effort with Ms. Rogers." When we spoke on January 24, I explained that Ms. Rogers was, through me, still seeking a resolution of the grievance that would allow everyone to get on with the important work of serving Benedict's students. As I explained, the sticking point was the suggestion embodied in the PIP that Ms. Rogers did things that she strongly contends she did not do, and that the Committee did not find that she did. If that suggestion remained, Ms. Rogers would have no choice but to present her side to the Committee.

I suggested a way out of the battle by everyone agreeing that Ms. Rogers' verbal counseling by Dean Austin would suffice and take the place of the PIP, thereby removing the problem of the PIP's suggestion that there were underlying factual findings of improper behavior. Again, those "facts" were strongly contested, and findings were never actually made by the Committee. Otherwise, as I explained, Ms. Rogers would have no choice but to defend her honor on those allegations and proceed to the hearing.

Almost two weeks went by, and then on February 6, I heard back from you. You proposed that Ms. Rogers meet with Dean Austin, Dr. Witty, and an H.R. representative during which the PIP would essentially be read to Ms. Rogers. As I explained, this was not what had been suggested in the January 24 conversation, and it clearly would not solve the problem. Once again, I sought a solution, either the one we had discussed previously (Dean Austin verbal counseling in lieu of a PIP) or a revised PIP that recognized that there were no factual findings. The conversation ended with your rejecting my overture that we find an agreed-upon resolution. You said that you thought we needed to go to a hearing and you would get back to me with proposed dates.

As I have explained, the factual rebuttal can obviously come only from students who were in her classes and can testify as to what was said. You have said that Benedict would not allow live student testimony despite the policy indicating that a grieving faculty member may "present evidence and cross examine all witnesses." We now have yet another example of Benedict not following its own procedures. The fact witnesses are students and Ms. Rogers has a right to call them.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Also, I understand that there is a transcript that was prepared of the Committee meeting. That will answer a lot of questions about how this was handled, what the Committee understood about Mrs. Rogers' absence, and similar issues. I would appreciate your forwarding that transcript to me as soon as possible.

Thank you.

Sincerely yours,

Blaney A. Coskrey, III

cc: Ms. Abigail Rogers

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT 10

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

BENEDICT COLLEGE
1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

Board of Trustees

April 16, 2019

Ms. Abigail Rogers
Associate Professor
Criminal Justice Administration and Social Sciences
Benedict College
Columbia, SC 29204

Dear Ms. Rogers:

It has come to our attention that you have called certain members of the Benedict College Board of Trustees and members of the public to inform them that you are now a member of the Benedict College Board of Trustees, by virtue of your recent election as the faculty/staff representative. That is incorrect. To clarify, the terms of all new members of the Board commence during the ensuing academic year after their election. In addition, persons accepted to serve on the Board are required to participate in a new member orientation session during the Fall Annual Meeting of the Board before they start their service.

We hope this clarifies any misunderstanding. Congratulations on your election and best wishes.

Sincerely,

Charlie W. Johnson
Chairman of the Board

William L. Thomas
Chair, Committee on Trustees

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT 11

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

BENEDICT COLLEGE
1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

Board of Trustees

June 7, 2019

Professor Abigail Rogers
Faculty
Benedict College
21 Black Gum Road
Columbia. S. C. 29209

Dear Professor Rogers:

In an ongoing effort to improve its fiduciary governance responsibilities, the Benedict College Board of Trustees has engaged in months of self-study. Concluding extensive research into best practices for board composition and membership, as outlined by SACS and the AGB, the Board, among other items, has adopted the following:

1. The President of the College shall not be a member of the Benedict College Board of Trustees,
2. Faculty/staff and students shall not be members of the Benedict College Board of Trustees,

This policy change will be reflected in the Bylaws, and is effective as of the Annual Board meeting held on May 10, 2019.

Sincerely,

Charlie W. Johnson
Chairman, Benedict College Board of Trustees

EXH B

EXHIBIT 12

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

LAW OFFICE OF
Blaney A. Coskrey, III

Capitol Center Tower
1201 Main Street, Suite 1980
Columbia, South Carolina 29201

Telephone: (803) 748-1202

Facsimile: (803) 748-1302 e-mail: coskrey@coskreylaw.com

February 20, 2019

Via US Mail and Email

Mr. Charlie W. Johnson
Chief Executive Officer
Immanuel Realty, L.L.C.
1615 Maple Street
Louisville, KY 40210
cjohnson@immanuelrealty.com

Mr. G. Tyrone Bonds
1076 Portsmouth Circle
Gurnee, IL 60031
tbonds14@comcast.net

Dr. Willie J. Hill, Jr.
204 Oakfern Drive
Simpsonville, SC 29681
wjhdds2000@yahoo.com

Dr. Elsie King Hamler, President
Benedict College National Alumni Association
14651 South West 99th Court
Miami, FL 33176
ekhamler@gmail.com

Mr. Anthony T. Burroughs
Senior Vice President, Business
Continuity Mgr.
Bank of America
201 N. Tryon Street
Charlotte, NC 28255
anthony.burroughs@bankofamerica.com

Mr. Boyd B. Jones
Executive Vice President
Synovous
1221 Main Street
Columbia, SC 29201
boydjones@synovous.com

Dr. Benjamin D. Snoddy
445 South Church Street
Spartanburg, SC 29306
bdsnoddy@mtmoriahbaptist.net

Mr. William L. Thomas
10324 Pacific Somerset Lane
Law Vegas, NV 89144
billt829@aol.com

Mr. Emory L. Waters
10618 Vista Linda Drive
Mitchellville, MD 20721-4047
elwvaw@aol.com

Dr. Roslyn Clark Artis
President, Benedict College
1600 Harden Street.
Columbia, SC 29204
Roslyn.Artis@benedict.edu

Re: *Abigail R. Rogers v. Benedict College, et al*
C.A. No.
Our file no. 18-773

Dear Benedict College Board of Trustees Chairman Johnson and Executive Committee Members:

I represent Professor Abigail Rogers regarding your refusal to allow her to be seated and to serve as a lawful member of the Benedict College Board of Trustees ("the Board"). If Benedict College, the Board as a whole, or individual Board members are represented by counsel in connection with these issues, please have those attorney(s) contact me immediately.

The Board's recent actions are unlawful. I am writing to request that you immediately seat Professor Rogers as required by the South Carolina Nonprofit Corporation Act, S.C. Code Ann. § 33-31-101, et seq. ("the Act") and Benedict's Bylaws. Unless and until that happens, all votes and actions by the Board, including the amendment of the Bylaws, are challengeable in a court of law. For that reason, corrective action should be taken immediately. Otherwise Professor Rogers will have no choice but to seek judicial relief for the unlawful actions of the Board.

The Delay in Seating Professor Rogers Was a Violation of the Benedict College Bylaws.

Professor Rogers was elected by her faculty colleagues and the staff employees as their Representative to the Benedict College Board of Trustees on April 11, 2019. After the election Professor Rogers immediately began seeking to assume her duties as the newly elected representative to the Board in accordance with the Benedict College Bylaws. However, her duty to serve was thwarted by a letter dated April 16, 2019, purportedly written and signed by Mr. Charles Johnson (Chairman of the Benedict College Board of Trustees) and Mr. William Thomas (Chairman of the Committee on Trustees). The letter stated that Professor Rogers would not be able to take her seat as a member of the Board until the "ensuing academic school year" and only after she "completed the Board orientation". [See Exhibit A]

These statements are without legal basis and violate the Board's Bylaws. Those Bylaws of Benedict College provide that "faculty and student trustees shall be elected from April to April." (Bylaws Article I, Section 3.) Professor Rogers' term therefore began immediately upon her election on April 11, 2019 and, according to the Bylaws, ran for one year. In addition, this Board's actions of placing additional demands on Professor Rogers, in order to become a member, are outside the confines of Benedict's Bylaws and are also unlawful. The suggestion that "the Board" could delay and then deny Professor Rogers her lawful right to represent the faculty and staff is without legal merit and is in violation of the law.

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The Elimination of the Seat as Described in the Second Letter from Chairman Johnson Was Unlawful.

According to a second letter written and signed by Chairman Johnson dated June 7, 2019, the Board held its Annual Meeting on May 10, 2019 and decided that the "Faculty/Staff Representatives shall not be members of the Board of Trustees." [See Exhibit B.] Because Professor Rogers was a duly elected board member and was not given notice or allowed to vote, the Board action taken on that date was not that of a properly constituted and lawful Board. Until the ultra vires issue is remedied by seating Professor Rogers, all actions, including those taken on May 10, are null and void, including the purported amendment on May 10, 2017.

Additional Violations of the South Carolina Nonprofit Corporation Act, S.C. Code § 33-31-101, et seq.

There are additional reasons the actions of the Board on May 10 were unlawful, including notice deficiencies and the fact that a trustee elected by a vote of the faculty and staff may only be removed by a vote of that same group: "If a director is elected by a class, group, chapter, or other organization unit . . . . . the director may be removed only by the members of that class, chapter, unit, or grouping." S.C Code § 33-31-808(b). The Board did not have the authority to remove Professor Rogers, who was elected by the faculty and staff.

Lastly, the actions of the Board in disregarding its own Bylaws and refusing to seat a lawfully elected Board Member would certainly draw the attention of the Southern Association of Colleges and Schools Commission on Colleges ("SACS"). SACS, as you are aware, closely scrutinizes colleges and administrations. It seems unwise for the Board to invite additional scrutiny from SACS by disregarding its own Bylaws.

In summary, for the reasons stated herein, as well as others, the Board has taken actions that a Court would clearly overturn. Benedict College and its Board of Trustees cannot simply ignore the law and procedures required by statute and the Bylaws. By doing so, it puts Board members and the college at legal risk which could result in significant court costs. Rather than proceeding straight to Court to seek injunctive relief, Professor Rogers is asking that the Board simply do what the law requires: seat her immediately, recognize that her term runs from April to April, and acknowledge that any actions taken since her election, including the purported amendment of the Bylaws, are of no effect.

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If you are represented in this matter, please have your attorney(s) contact me no later than the close of business on July 8, 2019. I look forward to hearing from you or your legal representative.

Sincerely yours,

Blaney A. Coskrey, III

Enclosures

cc: Mr. William B. Whitney (wbwhitney39@hotmail.com)
Clarence Davis, Esquire (cdavis@griffindavislaw.com)
James P. Hudson, Esquire (phudson@willoughbyhoefer.com)
Mr. Richard J. Panner (rich.panner@pepsico.com)
Ms. Patricia Ackeson (packjaks.pa@gmail.com)
The Hon. Steve Benjamin (skbenjamin@columbiasc.net)
Mr. Tyrone A. Burroughs (tburroughs@firstchoicesale.com)
Valoria Cheek, Esquire (valoria.cheek@abc-usa.org)
Dr. Mary Gaffney (mgaffney@comcast.net)
Ms. Doris Johnson (islj@sc.rr.com)
Rev. Dr. Haywood Strickland (hstrickland619@gmail.com)
Emory Waters (elwvaw@aol.com)
William B. Whitney (wbwhitney39@hotmail.com)
Ms. Dorothy B. Wilson (akadot@ymail.com)
Ms. Sheryl Underwood (c/o Attorney F.S. Goldberg: fsgoldberg@turner-law.com)
Ms. Hilda Gadsden
(all via email only)
Mr. Solomon Jackson, Jr. (via US Mail Only)

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT 13

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

RICHARDSON PLOWDEN
RICHARDSON PLOWDEN ROBINSON, P.A.
ATTORNEYS AT LAW

COLUMBIA P.O. Drawer 7788 • Columbia, SC 29202
1900 Barnwell Street, Columbia, SC 29201 P 803.771.4400 F 803.779.0016

MYRTLE BEACH P.O. Box 3646 • Myrtle Beach, SC 29578
2103 Farlow Street, Myrtle Beach, SC 29577 P 843.448.1008 F 843.448.1533

CHARLESTON P.O. Box 21203 • Charleston, SC 29413
235 Magrath Darby Boulevard, Suite 100, Mount Pleasant, SC 29464 P 843.805.6550 F 843.805.6599

www.RichardsonPlowden.com

Reply to: Columbia Office
fcrawford@richardsonplowden.com
Direct Dial: 803-576-3711

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July 25, 2019

Blaney A. Coskrey, III, Esq.
Law Office of Blaney A. Coskrey, III
Capital Center Tower
1201 Main Street, Suite 1980
Columbia, SC 29201

Re: Abigail Rogers and Benedict College
Our File No. 1067-121

Dear Blaney:

Thank you for speaking with me last week in regards to your letter to Chairman Johnson dated June 20, 2019.

I have since discussed your letter with my client.

In response, please be advised that your client, Abigail Rogers, as the Faculty/Staff Representative, will receive notice of the next Benedict College Board of Trustees meeting.

If there are any other issues to discuss, please give me a call.

With kindest regards, I am

Sincerely,

Frederick A. Crawford

FAC/rmb

EXHIBIT 14

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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LAW OFFICE OF
Blaney A. Coskrey, III

Capitol Center Tower
1201 Main Street, Suite 1980
Columbia, South Carolina 29201

Telephone: (803) 748-1202

Facsimile: (803) 748-1302 e-mail: coskrey@coskreylaw.com

September 10, 2019

Via Email (fcrawford@richardsonplowden.com)

Frederick Crawford , Esquire
Richardson Plowden & Robinson, P.A.
1900 Barnwell St.
Columbia, SC 29201

Re: *Abigail R. Rogers v. Benedict College, et al*
C.A. No.
Our file no. 18-773

Dear Fred:

I am writing to follow up on the issues we discussed several weeks ago related to Professor Abigail Rogers' position on the Benedict College Board of Trustees. Despite the exchange that you and I had on July 25, the details of which were confirmed in my July 26 letter, Benedict is continuing to violate its bylaws and the law in refusing to recognize Professor Rogers as a board member.

Although her term began in April, Professor Rogers has thus far received no communications as a Board member. Moreover, the Benedict Student Body President, Jordan Rice-Woodruff, recently told Professor Rogers that Dr. Artis had told him that Professor Rogers was not on the Board. In addition, it appears Professor Rogers will not be recognized or allowed to sit with the other board members on the platform at the upcoming convocation next Thursday.

The disconnect between the representations of you, Benedict's attorney, and those of the administration are troubling and need immediate clarification. In light of the facts in the preceding paragraph, I need you to provide a very clear statement on behalf of Benedict as to its intentions with regard to Professor Rogers' position on the Board, including that it recognizes her as a full voting member since her April election, with the right to participate fully in its business as would any other Board member. In the absence of that statement, we will have no choice but to pursue legal relief. We will treat next Thursday's convocation as the deadline for a clear and unambiguous answer from you, after which we will seek all available relief from all liable parties in court.

Sincerely yours,

Blaney A. Coskrey, III

cc: Professor Abigail Rogers

EXHIBIT 15

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

From: Fred Crawford
Sent: Thursday, September 12, 2019 8:50 AM
To: 'coskrey@coskreylaw.com'
Subject: Abigail Rogers and Benedict College

Blaney...good morning and thank you for your letter dated September 10, 2019. Unfortunately, the allegations in your letter are based on misinformation. As I stated in my letter to you on July 25, "Abigail Rogers, as the Faculty/Staff Representative, will receive notice of the next Benedict College Board of Trustees meeting."

The College has not failed to send her any notice she is entitled to receive....as a Board member. The Convocation, which you mentioned in your letter, is not being held next Thursday....it has been postponed to a date (TBD) in October. Therefore, Professor Rogers did not receive notice of the Convocation and neither did the other Board members. However, I am advised that all Board members will receive notice of the re-scheduled Convocation.... when the date has been determined.

I hope my letter addresses each of your concerns; however, if not, please give me a call.

Fred

HOME VCARD BIO LOCATION

RICHARDSON PLOWDEN ATTORNEYS AT LAW

Frederick A. Crawford
Attorney at Law
fcrawford@richardsonplowden.com.com

Richardson, Plowden & Robinson, P.A.
1900 Barnwell Street
Columbia, SC 29201
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www.RichardsonPlowden.com

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EXHIBIT 16

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

From: Jenny Screen <Jenny.Screen@benedict.edu>
Sent: Wednesday, September 11, 2019 4:53 PM
To: packjaks.pa@gmail.com <packjaks.pa@gmail.com>; Benjamin, Stephen K (Steve) <Stephen.Benjamin@columbiasc.gov>; G. Tyrone Bonds (tbonds14@comcast.net) <tbonds14@comcast.net>; Anthony.Burroughs@bankofamerica.com <Anthony.Burroughs@bankofamerica.com>; tburroughs@firstchoicesale.com <tburroughs@firstchoicesale.com>; valoria.cheek@myabec.org <valoria.cheek@myabec.org>; Clarence Davis <CDavis@griffindavislaw.com>; Macksr@bellsouth.net <Macksr@bellsouth.net>; mgaffney@comcast.net <mgaffney@comcast.net>; ekhamler@gmail.com <ekhamler@gmail.com>; Willie J. Hill, Jr. (wjhdds2000@yahoo.com) <wjhdds2000@yahoo.com>; jpathudson@bellsouth.net <jpathudson@bellsouth.net>; Boydjones@banknbsc.com <Boydjones@banknbsc.com>; Charlie W. Johnson (cjohnson@immanuelrealty.com) <cjohnson@immanuelrealty.com>; Islj@sc.rr.com <Islj@sc.rr.com>; Gailmooremorrison@gmail.com <Gailmooremorrison@gmail.com>; Rich.panner@pepsico.com <Rich.panner@pepsico.com>; bdsnoddy@mtmoriahbaptist.net <bdsnoddy@mtmoriahbaptist.net>; hstrickland619@gmail.com <hstrickland619@gmail.com>; William L. Thomas (billt829@aol.com) <billt829@aol.com>; Jesse.Tyson@nbmbaa.org <Jesse.Tyson@nbmbaa.org>; Abigail Rogers <Abigail.Rogers@benedict.edu>; Emory L. Waters (elwvaw@aol.com) <elwvaw@aol.com>; William B. Whitney (wbwhitney39@hotmail.com) <wbwhitney39@hotmail.com>; akadot@ymail.com <akadot@ymail.com>
Cc: Roslyn Artis <Roslyn.Artis@benedict.edu>
Subject: Notice of Special Conference Call Meeting of the Board of Trustees - Wednesday, September 18, 2019 @ 5:00 P.M.

Dial in number: 866-732-1477
Passcode: 3575980

Pursuant to Article II, Section 4 of the Benedict College Board of Trustee Bylaws, please accept this correspondence as NOTICE OF A SPECIAL MEETING of the Board of Trustees, to be held one week from today, September 18, 2019 at 5pm via telephone conference. The sole purpose of the voting on the following amendments to the Bylaws:

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Article 1: Section 3. Language to be added: A Trustee elected to complete an unexpired three-year term may be eligible for election to one more term not to exceed the three term maximum of the replaced member, however, the Board reserves the right to review this policy if the replacement occurs in the last two years of the replaced Board Member's term. The Board reserves the right to review this policy.

Article 1: Section 4. New language in red: Included in the total membership of trustees provided in the preceding paragraph, there shall be two from the American Baptist Home Mission Society; one from the National Alumni Association; one from the Baptist Education and Missionary Convention of South Carolina; one from the Women's Baptist Education and Missionary Convention of South Carolina; and one from the Mather Alumni Association. These proposed members are nominated by the Committee on Trustees and elected by the Board at its annual Meeting.

Article 1: Section 6. New language in red: Upon recommendation of the Committee on Trustees, Trustees who served with distinction for at last two terms may be elected by the majority of trustees as Trustee Emeriti.

Article II: Section 2. New language in red: The Annual Meeting of the Board of Trustees shall be held in the City of Columbia, South Carolina, during the spring in each year.

Article II: Section 3. New language in red: Notice of the time and place of such meetings shall be mailed each member of the Board by the Secretary at least one month in advance of the selected date of the meeting. A Trustee participation in such a meeting is considered to be present at the meeting.

Article IV: Section 1. New language in red: The Executive Committee shall consist of Board Officers, Standing Committee Chairs, and two Board members at large appointed by the Chairman of the Board of Trustees at the Board's Annual Meeting. The Chairman of the Board serves as Chairman of the Executive Committee with the Vice Chairman, Secretary and assistant Secretary of the Board, for the Executive Session.

Article IV: Section 3. New language in red: The Executive Committee shall represent the Board in interim between meetings of the Board and shall exercise in general the authority of the Board in matters pertaining to the regular administration of the Board except when referral with power has been given by the Board in respect to certain specific items of business. The Executive Committee shall oversee the work of the Board standing committees, the institution's planning process.

Article V: Section 7. Language to be added: This Committee shall nominate membership on the Executive and Standing Committees.

Article VII: Section 1. Language to be added: The President of the College shall not be a member of the Board of Trustees.

Article VII: Section 5. New language in red: The President shall be a member ex-officio with full voting rights of all standing and special committees of the Board of Trustees.

Article IX: Section 1. New language in red: Upon vote of the Board, sessions of the Board may be held in executive session, where all members shall be eliginble to attend the executive session of the Board except for the following:

- Any Board member with a conflict of interest concerning a matter being discussed in executive session when this issue is discussed.
- Any Trustee Emeritus who may be attending the Board Meeting

The Chairman of the Board may allow the President to attend an executive session where his/her presence will be helpful to the Board members in executive session.

Minutes of any executive session of the Board will be filed in the office of the General Counsel or his/her successor.

Trustees, you may recall that each of these amendments was previously voted on unanimously by the Board during its May, 2019 meeting.
However, in keeping with the notice requirements set forth in Article II: Section 4 of the Bylaws, the vote must be re-taken to afford proper notice of the proposed Bylaw changes.

In effect, these changes eliminate the President, Faculty and Student Trustees from voting membership among other minor revisions designed to clarify and/or amplify Board member rights and responsibilities.

Sincerely,

Charlie W. Johnson
Chairman of the Board

Attachments

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EXHIBIT 17

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

BENEDICT COLLEGE FACULTY CONTRACT

1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

PLAINTIFF'S EXHIBIT 13
4-29-21
AMS
PENGAD 800-631-6989

NAME
Abigail Ramona Rogers

DIVISION
Arts and Sciences

DEPARTMENT
Criminal Justice Administration and Social Sciences

RANK/TITLE
Associate Professor

SALARY: $52,500.00 PAY PERIOD
[x] Semi-monthly
[ ] Other: Without Compensation

APPOINTMENT STATUS:
[x] Full-time
[ ] Temporary

APPOINTMENT PERIOD:
[x] Academic Year [ ]One Semester
[ ] Twelve Months [ ]Other: 10 Months

BEGINNING
August 13, 2019

ENDING
May 15, 2020

TENURE STATUS
[x] Tenure Achieved
[ ] Years achieved toward tenure at expiration of contract: Achieved
[ ] Tenure not applicable

TEACHING REQUIREMENT
Full-time teaching and other related duties.

APPOINTMENT
The appointee will fulfill responsibilities pertaining to the specifications above or in other capacities compatible with his/her qualifications.

DATE
6/7/2019

SIGNATURE OF VICE PRESIDENT FOR ACADEMIC AFFAIRS
Jameen R. Willis

August 2, 2019

Please indicate your acceptance of this appointment and conditions pertaining thereto by signing all copies of this document and returning the original to the Office of Human Resources within 10 days. Should you decide not to accept the contract, please return all copies unsigned to the Office of Human Resources within 10 days.

DATE
6/7/2019

SIGNATURE OF APPOINTEE
ARM

I Certify that I have not been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of Federal, State, or local government funds, or has been administratively or judicially determined to have committed fraud or any other material violation of law involving Federal, State, or local government funds.

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ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT 18

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Recommendation - Ms. Abigail Rogers

Miller, Richard
Fri 9/6/2019 3:21 PM

To: Janeen Witty <Janeen.Witty@benedict.edu>
Cc: Leon Geter <Leon.Geter@benedict.edu>; Miller, Richard <Richard.Miller@benedict.edu>

Dear Dr. Witty,

I conducted a thorough review of recent student complaints critical of Ms. Abigail Rogers' classroom management style and her inflexibility and confrontational approach in dealing with students. In addition, I reviewed her faculty file which depicted numerous complaints regarding her interactions with students

Given the number of student complaints reflected in her faculty file, and the number of concerned students recently meeting with me regarding Ms. Rogers, a disturbing pattern of behavior is evident.

As such, I cannot condone a continuation of these examples of disrespect for our students. Therefore, I recommend that Ms. Rogers be immediately removed from her classroom teaching responsibilities and given non-teaching duties as determined by her department chair, Dr. Leon Geter.

Ms. Rogers' current classes will be assigned to other faculty.

Thank you for your consideration.

Richard C. Miller, Interim Dean
School of Arts and Sciences

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EXHIBIT 19

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ADMINISTRATIVE REVIEW OF FACULTY FILE OF

Ms. Abigail Rogers
Conducted by:

Dr. Richard C. Miller, Interim Dean
School of Arts and Sciences

Wednesday, September 11, 2019

Preface:

Having assumed the position of Interim Dean, School of Arts and Sciences on July 8, 2019, I began a review of the organizational structure of the School, an overall study of the faculty, and the resources available to support the many degree offerings. On Tuesday, August 27, 2019 a group of six (6) students came to my office to register their complaints against Ms. Abigail Rogers, associate professor, in the Department of Criminal Justice and Social Sciences. These concerns were such that I decided to meet with Ms. Rogers and her department chair, Dr. Leon Geter on Wednesday, September 4, 2019. Ms. Corin Diggs, my office administrative assistant, recorded that meeting. A transcript of that meeting is currently being finalized. Based on that meeting I submitted a preliminary assessment and recommendation to you in a memorandum dated September 6, 2019. Given the history of faculty complaints against Ms. Rogers, you subsequently asked me to conduct a thorough, more comprehensive review of her faculty file.

From July 2001 to June 2006, I served as Senior Vice President for Academic Affairs at Benedict College. Since my departure, I was not aware of any activities associated with Ms. Rogers or any administrative actions related to Ms. Rogers faculty activities. Therefore, my review of the file began with the 2006-2007 academic year. This review was completed on Tuesday, September 10, 2019.

Overview:

Beginning with the 2006-2007 academic year, My Rogers' file is replete with multiple filings of student complaints along with documentation from academic administrators of inappropriate, unprofessional behavior, and neglect of faculty compliance with expectations. The file also shows a consistent pattern of behavior from student complaints and comments from academic administrators of Ms. Rogers related to:

a. Poor Classroom management skills
b. Lack of sensitivity to students
c. Rude, Inappropriate and unprofessional behavior toward students and colleagues
d. Lack of respect and making demeaning comments toward students
e. Intimidating students and chastising them for complaining to the dean
f. Administrators admonishing Ms. Rogers for being disrespectful, insubordinate, and inconsiderate.
g. Feedback to Ms. Rogers as her needing to develop a more cooperative, respectful attitude and demeanor
h. Consistent complaints from students of being punished as a result of the actions of a few

i. Failure to submit annual reports/performance evaluations, course syllabi, student learning objectives
j. Conflict with supervisors

These are only several of many more complaints against Ms. Rogers. Ms. Rogers' file also revealed a memorandum from me dated August 16, 2005 instructing her to submit her tenure portfolio in Fall 2006. The record shows that she did not submit her tenure file until October 2011. Clearly, a serious administrative oversight occurred.

Summary:

As an outside observer, what is disturbing is that there were many clear signals that Ms. Rogers' behavior was not effectively dealt with by college administrators. Despite recommendations from a dean and department chair for non-reappointment, Ms. Rogers' conduct was excused or explained away to students and parents as, "we will address your concerns with Ms. Rogers." In my opinion, very stringent and decisive action should have been taken.

The file also shows that on occasion Ms. Rogers pitted students against students. I experienced this recently when two students met with me and shared knowledge of a confidential meeting I had with Ms. Rogers. They shared their concerns about one of their classmates who was a disruptive force in their class. I surmised that Ms. Rogers is the only person who could have revealed to these students that a confidential meeting occurred.

It is clear that over a lengthy period of time Ms. Rogers has exhibited a consistent pattern of disrespectful and demeaning behavior toward students, disregard of faculty expectations, poor classroom management skills, and an intimidating classroom culture.

Recommendation:

Given our ultimate responsibility to create a meaningful and comfortable learning environment for students, and one that is conducive to promoting student success, the many complaints against Ms. Rogers from students and administrators has led to a culture of intimidation and disregard for acceptable faculty decorum in and out of the classroom.

Ms. Rogers should be removed from any interaction with students and, as a tenured faculty member, be assigned non-teaching responsibilities. As an interim dean of less than three (3) months, I leave it to the discretion of the Vice President for Academic Affairs, and President to pursue any additional course (s) of action.

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EXHIBIT 20

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

From: Janeen Witty on behalf of Janeen Witty <Janeen.Witty@benedict.edu>
Sent: Monday, September 16, 2019 4:43 PM EDT
To: Roslyn Artis <Roslyn.Artis@benedict.edu>
Subject: Fw: Faculty File Review of Ms. Abigail Rogers
Attachment(s): "ADMINISTRATIVE REVIEW OF FACULTY FILE OF MS. ABIGAIL ROGERS.docx"

Dr. Artis,

Dr. Richard Miller sent this to me this afternoon. He stopped short of recommending termination.

Janeen P. Witty, Ph.D.
Vice President for Academic Affairs

Benedict College
1600 Harden Street
Columbia, SC 29204
(803) 705-4761--voice
Janeen.Witty@Benedict.edu
#TheBESTofBC
www.benedict.edu

From: Miller, Richard <Richard.Miller@benedict.edu>
Sent: Monday, September 16, 2019 3:57 PM
To: Janeen Witty <Janeen.Witty@benedict.edu>
Cc: Leon Geter <Leon.Geter@benedict.edu>
Subject: Faculty File Review of Ms. Abigail Rogers

Dr. Witty,
As requested, please see the attached.
I will be pleased to discuss this Review with you at your convenience.
Thank you,
Dr. Miller

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT 21

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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1226 Pickens Street
Columbia, South Carolina 29201
info@garberreporting.com
Telephone: (803) 256-4500 | Fax (803) 256-1999

ROSLYN CLARK ARTIS

September 29, 2021

Abigail Rogers

vs

Benedict College, et. al.

2019-CP-40-6624

REPORTER: Kathryn Bostrom

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BY MR. COSKREY: (Resuming)

Q. All right take a minute to read Exhibit 37. And again, as you probably know better than I, you can read emails from the bottom up best.

A. Okay.

Q. All right. So does that refresh your recollection as reflected in Dr. Witty's September 9th email that Dr. Miller did not recommend termination?

A. Yes, yes.

Q. Dr. Witty says, toward the end of that email; on the other hand, there are other factors to consider, especially if I have to make a recommendation not supported by Dr. Miller, so I ask for your perspective on the next steps. What are the other factors and you understood Dr. Witty to be referring to?

A. I'm not sure.

Q. All right. And do you see a reply on September 9th where you say; has he reviewed her entire file, no, Dean has the luxury of viewing these matters in a vacuum, I'm not interested in creating a paying job for a faculty member that can't behave.

A. Correct.

Q. All right. So you were, as of September 9th, not happy with the lack of a dean whose recommendation did not include termination; is that fair?

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A. I was unhappy with the assessment that she engaged in a pattern and practice of poor behavior and yet was suggesting I keep paying her and just find something else for her to do. We're a teaching institution.

Q. All right. So as a result, going to the top part of Exhibit 37. Dr. Witty says, I'll tell him to try again, essentially; is that a fair paraphrase?

A. I don't know.

MR. MATTHEWS: Object to the form.

BY THE WITNESS: (Resuming)

A. Where is that?

Q. The very first email on Exhibit 37. We'll just read it.

A. I have him complete his review of her entire file?

Q. Yes. Are we looking at the same page, 1612?

A. Yeah. It says, understood, I'll have Dr. Miller to complete his review of her entire file. We've pulled everything for him, but I pressed him to make a recommendation on Friday before he went through each page. He has a clear understanding there's been a persistent pattern but did not feel he could recommend termination after working with her for just a few weeks. So his assessment was based on he didn't have all the facts.

Q. All right. And so he got sent back to look at the

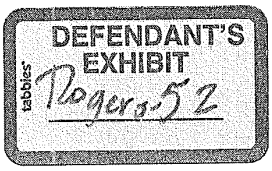
EXHIBIT 22

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624
ELECTRONICALLY FILED - 2023 Mar 17 9:11 AM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

BENEDICT COLLEGE

1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204



September 16, 2019

Ms. Abigail Rogers
Benedict College
Columbia, SC 29204

Dear Ms. Rogers:

Effective immediately, you are suspended without pay, pending the outcome of an ongoing investigation regarding allegations of improper conduct.

All college property needs to be returned immediately. You should not return to campus, contact any students or employees until further notice.

Sincerely,

Janeen Witty
Vice President for Academic Affairs

EXHIBIT 23

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BENEDICT COLLEGE

1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

September 17, 2019

Dr. Roslyn Clark Artis
President and CEO
Benedict College
1600 Harden Street
Columbia, SC 29204

Dear Dr. Artis:

Ms. Abigail Rogers has violated multiple elements of the employee conduct code as outlined in the Faculty Manual and in the Human Resources Policies and Procedures Manual. Specifically, she has been insubordinate, abused her position, and has used rude and unprofessional speech or behavior as evidenced by student complaints. During the 2018-2019 academic year, she was placed on a Performance Improvement Plan (PIP) regarding her behavior toward students in her courses. She completed the terms of that plan with the expectation that she would no longer engage in those types of classroom management and interactions with students. However, in the four weeks since classes began for the 2019-2020 academic year, multiple students in her courses have filed verbal and written complaints against her and some students have requested to be dropped from her courses or assigned different faculty advisors. Because the actions that placed her on a PIP emerged yet again, Interim Dean Dr. Richard Miller recommended that Ms. Rogers be removed from all duties that require student interaction.

However, before action could be taken on his recommendation, on Monday, September 16th, a student leader with expansive influence over the student body who is not enrolled in any of Ms. Rogers' courses filed a complaint against her. This most recent complaint concerns an allegation of Ms. Roger's abusive and inappropriate behavior that extends ***outside*** of her teaching and advising duties, including providing third parties with students' personal telephone numbers. Therefore, the recommendation of termination for cause is the next step of progressive disciplinary actions for this employee and is in the best interest of our students and the College.

I ask for your approval to convene an ad hoc faculty hearing committee regarding this matter.

Sincerely,

Janeen P. Witty, Ph.D.
Vice President for Academic Affairs

Approved:_____ Date:_____
Dr. Roslyn Clark Artis, President & CEO

EXHIBIT 24

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

I am Jordan Rice-Woodruff and I am writing this Statement because Judge ~~Rodgers~~ Rogers has involved my name on a case that I have no knowledge about. Judge Rogers stopped and introduced herself to me by the chapel after my meeting with Dr. Artis on August 22, 2019. Judge Rogers asked me if I knew about the board of trustees situation and I told her that I have spoken with Dr. Artis and was clear that I am the representative for the students. Judge Rogers then proceeded to tell me that I must act on the situation and I should tell the student body. At that moment I ignored the topic and headed to class. On Friday Dr. Artis cleared me about the fact that Judge Rogers

09-16-2019

Jordan Rice-Woodruff

Jordan Rice-Woodruff

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EXHIBIT 25

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

On August 22,2019 concluding my meeting with Dr. Artis, I was approached near the chapel by Judge Rogers whom I've never met before regarding the topic of the faculty/staff representative being removed from the board. Rogers then instructed me to reach out to the student body by social media notifying them about the Board of trustees' decision and she continued to reiterate that we must fight for our students to have a voice. I then mentioned to her that I was the representative for the student body on behalf of reporting to the board, and that I would do my best to represent them...I ended the conversation and headed to class. Days later Judge Rogers pulled the Vice President of SGA Henry Peterson III into a professor's office and asked for my contact information, proceeding to inform Henry about the same topic she told me. I received a call from an unknown number, which happened to be Judge Rogers on this past Thursday. Rogers began telling me that she and I were going to be voted off of the board of trustees once again on Wednesday, September 18, 2019. I specifically told Rogers that I am not the representative for the faculty/staff, I am only the representative for the student body. Rogers then stated that Henry and I need to take immediate actions and post on social media about the board of trustees' issue. I told Rogers that neither I nor Henry would post to social media about the matter, we are going to do the proper thing by speaking with Dr. Artis and the Board Chairman pertaining to the matter on behalf of the student body representative. Rogers told me that it would not be best to talk to Dr. Artis and she then stated "I will be very proud of you both for standing up for the student body, if you guys are successful since I know you two want to be lawyers I will write a recommendation to the USC school of Law once you graduate. "I then ended the call with Rogers. Friday afternoon I attended the pep rally and I spoke with Dr. Artis which she informed me that my name had been submitted on a legal document from judge Rogers two days after our meeting on August 22nd. I assured to Dr. Artis that I was unaware about Rogers including my name on any document, I never even knew she was taking legal action. It then dawned on me that Rogers had used me as a pawn to be included in her mess and mishap with the administration. After the Friday conversation with Dr. Artis in the gym, I ceased any communication with Rogers, she continued to contact me throughout the weekend providing numbers and email addresses of the board members. On 9/16/19, I received a call from WIS news station stating that Rogers had given them my contact information and they wanted to speak with me about the board of trustees' matter. At the moment I was in Student Affairs and I have witness who were around when the call came in. I immediately reported to the President's office about the news station contacting me through Rogers.

Shaw Nique Shemen
Monday, September 16
Exp: July 22, 2026

9/16/19

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EXHIBIT 26

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Abigail Rogers, Plaintiff, -vs- Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson, Defendants.	FIFTH JUDICIAL CIRCUIT COURT OF COMMON PLEAS CIVIL ACTION NO.: 2019-CP-40-06624 **DECLARATION OF JORDAN RICE WOODRUFF**

1. I am over the age of 18 and hereby testify truthfully, voluntarily, and based on my own personal knowledge.

2. I was student at Benedict College from 2017 to 2021. I graduated with a B.A. in English and served as Student Body President in School Year 2019-2020.

3. I learned in Fall 2019 from Abigail Rogers that the student seat was set to be removed from the Board of Trustees. She told me the Faculty/Staff seat was being removed as well, that she was protesting the move, and she encouraged me to do the same if I saw fit.

4. I had not received prior notice that the student seat was set to be removed.

5. I spoke to Ms. Artis about this at a pep rally and she told me not to speak to her about it because, according to her, she knew I was involved in fighting the change and she stated that I was "trying to fucking sue [her]."

6. I received calls from the media about my seat being removed on or about September 24, 2019. When I received the calls, I was meeting with the Dean of Student Affairs. He recommended that I go talk to Human Resources about the calls from the media.

7. I did so. At Human Resources they asked me to write a statement. I began with a typed statement. Halfway through my statement, a Benedict College official asked me to start over in writing. I then executed a written statement.

8. They also recorded the entire process in an audio recording. The official showed me the recording device and they told me she was recording our interview.

9. After I wrote the statements, Roselyn Clark Artis, a campus police officer (who notarized my statement), and the campus police chief entered the office.

10. Roselyn Clark Artis then said that Abigail Rogers was using me as a pawn to get hear seat back on the board. She then stated to the officers, with me present, that Ms. Rogers was terminated and that the officers were to remove Rogers from "her" campus immediately.

11. President Artis used the phrase "my campus," and stated that Ms. Rogers would not be able to collect her personal items and effects before leaving.

12. I was not asked by Benedict College to speak at Ms. Rogers grievance or tenure hearing(s).

Jordan Rice Woodruff

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EXHIBIT 27

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

From: Debbie Durban
Sent: Wednesday, October 9, 2019 3:51 PM
To: 'Blaney Coskrey'
Subject: Abigail Rogers v. Benedict
Attachments: Bededict Production (Benedict_Rogers_000001 - 000048) - 4836-7559-1080 v 1.pdf; 2019.10.08 Benedict Production- Benedict_Rogers_000049- 00152 - 4819-9581-1753 v 1.pdf

Blaney,

I am attaching two set of documents in preparation for the upcoming Appeals Hearing on October 15. The first set are documents relating to the complaints of this year which were provided to the Ad Hoc Committee and will be provided to the Appeals Committee at the Hearing. The second set of documents, which pertains to the student complaints from last year, were available to the Ad Hoc Committee to review if they wished to do so. Because management was not in the Ad Hoc Committee for the entire time, we do not know whether or not anyone reviewed these documents but in an abundance of caution, I am producing them to you.

Let me know if you have any questions.

Debbie
Debbie Whittle Durban
Nelson Mullins Riley & Scarborough LLP
(803) 255-9465
debbie.durban@nelsonmullins.com
licensed in S.C. and N.C.

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EXHIBIT 28

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NELSON MULLINS

Debbie Whittle Durban
(Admitted in SC & NC)
Certified Specialist
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by the South Carolina Supreme Court
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NELSON MULLINS RILEY & SCARBOROUGH LLP
ATTORNEYS AND COUNSELORS AT LAW

1320 Main Street | 17th Floor
Columbia, SC 29201
T 803.799.2000 F 803.256.7500
nelsonmullins.com

September 30, 2019

VIA EMAIL (coskrey@coskreylaw.com)

Blaney A. Coskey, III
Coskrey Law Office
1201 Main Street, Suite 1980
Columbia, SC 29201

RE: Abigail Rogers

Dear Blaney:

In response to your September 26 letter, Benedict is setting the meeting of the Faculty and Staff Appeals Committee for Friday, October 4, at 3:00 p.m. Benedict has set it for this time to comply with the 10-day requirement in the Faculty Manual; however, if Ms. Rogers needs additional time, Benedict is willing to move it to Tuesday, October 15, at 11:00 a.m. If neither of those times work, please let me know and Benedict will try to reschedule.

Each party will have thirty minutes to present their information. Dr. Witty will present her recommendation and Ms. Rogers can then present any information she wishes pertaining to this matter and within the specified timeframe. Ms. Rogers can be represented by an attorney but attorneys are not permitted to speak during the hearing. Neither side will have witnesses but Ms. Rogers is welcome to provide any supporting information as she wishes. The Committee members will be free to ask any questions.

I will provide you tomorrow the documents that will be provided to the Appeals Committee, which is the same information that was given to the Ad Hoc Committee. Please note that student names will be redacted to protect their privacy. Also, although I understand from the letters you attached to the email to me that Ms. Rogers may have some ongoing issues with the Board of Trustees, this hearing will be strictly limited to only issues regarding the termination of her employment.

I am sure that you will have some comments to the above and I am glad to discuss these with you.

Very truly yours,

Debbie Whittle Durban

Debbie Whittle Durban

DWD:dd

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EXHIBIT 29

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From: Debbie Durban
Sent: Friday, October 25, 2019 9:46 AM
To: 'Blaney Coskrey'
Subject: Rogers v. Benedict

Hi Blaney,

I've debated whether to share the following email exchange with you but in in an effort of full disclosure, I decided that I should. Take it for whatever it is worth. It does not change the outcome of the appeal hearing and I'm certainly not trying to add more insult to your client but did not feel I should withhold it because you would certainly get it in discovery.

Best,

Debbie

From: Janeen Witty <Janeen.Witty@benedict.edu>
Sent: Thursday, October 24, 2019 4:45 PM
To: Gwenda Greene <Gwenda.Greene@benedict.edu>
Subject: Re: Important Notice of Information

◀**External Email**▶ - From: Janeen.Witty@benedict.edu

Dr. Greene,

Thank you for this information and for your service yesterday. I will add your email to the file.

Janeen P. Witty, Ph.D.
Vice President for Academic Affairs

Benedict College
1600 Harden Street
Columbia, SC 29204
(803) 705-4761--voice
Janeen.Witty@Benedict.edu
#TheBESTofBC
www.benedict.edu

From: Gwenda Greene <Gwenda.Greene@benedict.edu>
Sent: Thursday, October 24, 2019 12:30 PM
To: Janeen Witty <Janeen.Witty@benedict.edu>
Subject: Important Notice of Information

Dr. Witty,
I am writing for my own therapeutic good. On yesterday I voted NO to the Faculty Grievance presented. I must clarify my vote because I have tossed and turned all night. I now clear that my NO meant —- no I'm not ready to vote. I am NOW clear that I was OVERWHELMED. When I learned of all the infractions since 2006, I was limp. Additionally, I was clouded by the thought of why was this unaddressed so loongg? Was she reprimanded over those years? I was honestly just limp. It took a midnight hour for me to resolve that it was not my duty to deal with that but to make a decision on the continued berating of students. While late, I say Yes that I UNEQUIVOCALLY uphold that the berating needed to end and it would be YES if I could retract. Thanks for indulging my concern.

Gwenda Richburg Greene, PhD
Associate Professor of English
Communication and Arts Department

Benedict College
1600 Harden Street
Columbia, SC 29204
P: (803) 705-4574
gwenda.greene@benedict.edu
#TheBESTofBC
www.benedict.edu

Facebook: https://www.facebook.com/OfficialBenedictPage/
Twitter: https://twitter.com/BenedictEDU
LinkedIn: https://www.linkedin.com/school/721647/

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EXHIBIT 30

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BENEDICT COLLEGE

1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

MEMORANDUM

TO: Dr. Roslyn Clark Artis
President and CEO

FROM: Faculty and Staff Grievance and Appeals Committee

RE: Recommendation on Abigail Rogers

DATE: October 23, 2019

After reviewing the evidence related to student complaints against Ms. Abigail Rogers, members of the Faculty and Staff Grievance and Appeals Committee recommends to uphold termination/ recommends against termination (circle correct recommendation), as follows:

Name (Please print and then sign)	YES: Recommend to Uphold Termination	NO: Recommend against Termination
Jacob Koon		
Sybil Rosado SYBIL ROSADO		
Raymond Lee RAYMOND LEE	RL	
Gwenda Greene		
	RHD	
TRACY H DUNN		
Katrina L Pitts	KLP	
Taranne Roberts		

Equal Opportunity in Education and Employment
Without Regards to Race, Sex, Color, National Origin, Religion or Disability

EXHIBIT 31

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	C/A NO.: 2019-CP-40-06624
Abigail Rogers,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson,	)	
	)	
Defendants.	)	
	)	

DEPOSITION OF

DR. SYBIL ROSADO

****

Wednesday, February 16, 2022

2:18 p.m. - 2:52 p.m.

The deposition of DR. SYBIL ROSADO was taken before Andrea R. Taylor, a notary public in and for the State of South Carolina, commencing on Wednesday, February 16, 2022, at the offices of Cromer Babb Porter & Hicks, LLC, 1418 Laurel Street, Columbia, South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.

Abigail Rogers. However, during that same hearing, his English professor indicated that this was not his writing, and that she knows him intimately and that this was not his writing in any way, shape, or form. And that was one of the reasons I disregarded that piece of evidence during the hearing, because she said, he did not write this; there is no way he wrote this at all.

Q. What was the professor's name?

A. Dr. Gwenda Greene.

Q. Dr. Greene, did she -- was she also Jordan's advisor?

A. She may have been. I think he was in her department.

Q. Did Dr. Greene initially vote against the revocation of tenure?

A. Yes.

Q. Do you know if Dr. Greene changed her vote?

A. Yes, that's what my letter was about.

(Plaintiff's Exhibit Number 1 was marked for identification purposes.)

Q. All right. So let's look at your letter. Have I handed that to you?

A. Yes, you have.

Q. At this time, I've handed you what's been marked

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as Exhibit 1 to your deposition. It's got a Bates label BC1599 through --

A. Yes.

Q. -- BC1603. Can you identify this document?

A. After Dr. Greene changed her vote after we had closed the votes, she went back and told Dr. Witty she had changed her vote because she had been told she would never get promoted if she voted against the college. And the hallway where we all work at, Dr. Greene's office is two doors down from mine, and I could hear this discussion about how she was not going to get promoted if she voted against the college, hah, hah, hah, and Rosado will never get promoted because she voted against the college. So I went ahead and wrote why I voted against the college and documented that moment because I overheard them laughing about how I was never going to get promoted because I had voted against the college and they were going to punish me for that.

Q. Who were they that you overheard?

A. Gwenda Greene and -- oh, what's her name? She's short and --

Q. Another professor?

A. Yes. She teaches English. And the other guy's

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

that because I hadn't finished my PhD yet, I couldn't be the dean of honors back in 2005 or '04. And so when Dr. Hopkins left, they made a person who had a PhD, they -- he got that position. But Dean Austin had been using me as an assistant and attempting to groom me to be dean for the past two years before that. And so I had been issued, for example, keys to the dean's office and was helping do deanly activities, evaluating people, working with him when he had student complaints. He would have to come in and I would sit like the law clerks are doing now to see how he dealt with those complaints. And I did apply after this. And they hired Richard Miller, who had been terminated from the university previously for dereliction of duty, instead of me.

Q. What caused you to leave the P&T and grievance committees? Was it just regular rotation or something else?

A. No, they took me off.

Q. When did they take you off of those committees?

A. After this.

Q. How long had you been on?

A. Well, I did one more stint of P&T. But I've not

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT 32

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

From: Sybil Rosado <Sybil.Rosado@benedict.edu>
Sent: Monday, October 28, 2019 1:20 PM EDT
To: Janeen Witty <Janeen.Witty@benedict.edu>
CC: Ceeon Smith <Ceeon.Smith@benedict.edu>; Miller, Richard <Richard.Miller@benedict.edu>
Subject: Abigail Rogers Grievance Clarification
Attachment(s): "Abigail Rogers Grievance.pdf"

Please find attached a very important memo of clarification.

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BENEDICT COLLEGE
HARDEN AND BLANDING STREETS
COLUMBIA, SOUTH CAROLINA 29204

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

MEMORANDUM OF CLARIFICATION

TO: Dr. J. Witty
FROM: Dr. Sybil Rosado
DATE: October 28, 2019
RE: Abigail Roger's Grievance Vote Clarification

Dear Dr. Witty,

It has come to my attention that despite the fact that our meeting was confidential, it is well known that I now stand as the sole member of the Faculty and Staff Grievance Committee who declined to affirm the administration's decision to terminate Abigail Rogers from Benedict College and thus my commitment and loyalty to the college has been put into question.

I would like to formally explain my decision and assure the college administration that I made my decision based on the faculty manual and the facts as I understood them to be and not my personal feelings or associations. I am new to the Faculty and Staff Grievance committee, but it was my understanding that we were charged with determining if Professor Roger's actions in August-September 2019 provided the administration with just cause to terminate her position as a tenured professor at Benedict College.

I did not understand that we were to make our determination about this administrative action based on her ***entire history of employment*** at Benedict College. I intentionally made it clear that I was ***not*** going to make my decision based on her entire past history of student complaints, because there was no evidence that she had been reprimanded by the college for these past actions, nor was there evidence that she had even been made aware of these complaints each time they were submitted by the students over the years. I believed that I was there to judge whether the actions she took in August-September of 2019 were sufficiently egregious to merit the termination of a tenured faculty member.

Specifically, I understood my role on the committee to be to:

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

> ***Hear the charges, receive facts and evidence, and entertain arguments from the parties or representatives*** **(Faculty Manual, pg. 38).**

So, my job was to fairly evaluate the facts and evidence and listen to the arguments from both sides of this issue. Moreover, the manual specifically states:

> ***The faculty member will receive notifications to be present at the hearing, and, along with the College, is invited to present evidence and cross-examine all witnesses*** **(Faculty Manual, pg. 38).**

However, in this instance these procedures did not occur. Although each side was allowed to speak, there was no cross-examination of any witnesses and the evidence presented was contradictory.

From the presentations I understood the charges against Professor Rogers were as follows:

1. August 27th she was accused of sharing student's grades openly in class and she is alleged to have forced them to move forward in the Chapel. Two students wrote complaints about these actions.
2. The complaint also said that her syllabus was not on E360 as of August 31st.
3. Dr. Miller cited her 2018-2019 performance plan and suggested that she be placed on duties outside of the classroom. (PIP) Her completion of the performance improvement plan is cited as one of the issues we were to use in determining this violation. The VP said that once a performance plan is completed it is expected that the Faculty member will not make the same mistake again.
4. On September 16th she was accused of giving the press a student's personal cell phone number which made the student upset and afraid. This student leader was not in her course.

The school indicated that Professor Rogers was terminated primarily based on these allegations and the concern that she had shared the student's personal information.

Professor Rogers responded to these charges with the following information:

1. She stated that she shared the student's information in a cursory manner that did not identify them individually. She said that she gave a pop quiz and this is where the issue began and she asked the students to move forward because of the acoustics in the chapel. So, for me this complaint was nullified.
2. She said that she had not posted her syllabus because her computer was not working and the syllabus was on the computer that did not work in her office. So, for me this complaint was nullified.

3. She completed the 2018-2019 PIP with no complaints and no indication about how her future behavior should be restricted and what the punishment would be if she did violate this procedure. To me one infraction after completion of the performance plan does not merit termination. So, for me this was complaint was nullified.
4. She indicated that the student told her that it was ok to share the number because they had been having extensive conversations about the school politics and how to get the board to hear their concerns about having the student and faculty seats removed from the Board at the school. Additionally, one of the members of the committee said that they knew the student and the written complaint did not appear to be drafted solely by that student. Additionally, I found no policy concerning a prohibition of these types of interactions in the Faculty Manual. So, for me this complaint was nullified.

Based on this evidence alone, with no witnesses to support the allegations against her, I found that the actions that she took in August-September of this year did not merit termination.
I looked in the faculty manual for a definition of termination for cause and I settled on the following statement:

6.2.4 Termination
The college reserves the right, at any time, to terminate the services of both tenured and non-tenured faculty members under appropriate circumstances which shall include but are not limited to:

1. **Adequate cause (which may include, but is not limited to: incompetence, significant neglect of duty, persistent refusal to comply with the college's policies: violations of the colleges standards of professional responsibility in teaching and research; violation of the college's non-discrimination, harassment, or equal opportunity policies; dishonesty in teaching or research; falsification if information concerning the qualifications for a position; felony conviction (which means a guilty verdict in a trial, an imposition of a sentence, a plea of no contest, or a plea of guilty), inability to perform essential functions of the job; moral turpitude; and other conduct or behavior prejudicial to the College) Faculty Manual (Draft Updated 3.5.10) page 32.**

I did not find that the information presented met this description. Moreover, the committee was informed by one of the members on the committee that some of the evidence presented against Professor Rogers did not appear to be written by the student who allegedly made the accusation. This was a critical factor in my decision and for me it impacted the veracity of the specific charges against her that activated the termination.
Clearly, when reviewed as a whole the student complaints against Professor Rogers are overwhelming. However, I worked very hard not to base my judgement on my feelings about her actions. For me it was critical to note that the only time these complaints actually resulted in a formal written reprimand issued to Professor Rogers was in the Fall of 2018. Professor Rogers one formal reprimand and PIP plan returned her to teaching without directions about what would

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happen if she was accused of inappropriate action in the future. This failure to outline the restraints on her future behavior and the penalties that would be associated with that continued behavior is problematic for me from a legal standpoint. I see inconsistent procedural due process in this case and that is what influenced my vote.

I am a staunch advocate of Benedict College and I believe that everyone should be treated fairly even if I do not care for them personally or care for their actions. Moreover, I am very concerned that we follow the policies and procedures the college has outlined because these policies and procedures help remove personal bias from these types of proceedings. I do not want to even appear to be exercising favoritism when it comes to accolades or punishments of the faculty and staff.

I was never shown a progressive pattern of reprimands against Professor Rogers, just a progressive pattern of student complaints that the Benedict College administration never reprimanded her about. When members of the committee insisted that we analyze her past actions at the college I noted that she was granted tenure in 2010-2011 which was in the midst of these student complaints and I even pointed out that one of the members on the committee had been the assistant Dean during these complaints and she had not personally reprimanded Professor Rogers during this time. To me this did not indicate that the college had warned her that her behavior was inappropriate and made progressive efforts to prevent her from continuing these inappropriate actions.

In all fairness to this process, I am unable to affirm the termination because my understanding of the Faculty Manual (Draft Updated 3.5.10), does not indicate that her actions in August-September 2019 merit termination.

Please do not allow this decision to be construed as evidence that I am not supportive of the Benedict college Administration. I am very committed to Benedict College and it's prior and new administration. I only want the best for Benedict College, and I believe that the college wanted me to conduct a fair assessment of its employee, that was free from bias and fear of retaliation against me personally for my honest opinion and judgement. I truly do not want my attempt at fairness and honesty in this case to impede my future ability to advance my career at the college or put my current position in jeopardy. I critically assessed this situation however; I am constrained by the policies outlined in the manual and the actions taken, and not taken, by the college administration over the years. Ultimately, I believe that my vote was in the best interest of the college.

EXHIBIT 33

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BENEDICT COLLEGE
1600 Harden Street
COLUMBIA, SOUTH CAROLINA 29204

MEMORANDUM

TO: Dr. Roslyn Clark Artis
President and CEO

FROM: Janeen P. Witty
Vice President for Academic Affairs

DATE: October 3, 2019

RE: Faculty/Staff Member of the Board of Trustees for 2019-2020

I write to inform you that at the April 2019 meeting of faculty and staff, Ms. Abigail Rogers was elected to serve as faculty/staff member of the Board of Trustees for 2019-2020. However, in light of the termination of Ms. Rogers for cause, I present to you the runner-up in the voting, Dr. Tami Ashford-Carroll. I've attached her curriculum vita from the file for the record.

Thank you.

Attachment

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From: Jenny Screen <Jenny.Screen@benedict.edu>
Sent: Friday, October 4, 2019 2:53 PM
To: Tami Carroll <Tami.Carroll@benedict.edu>
Cc: Charlie W. Johnson (cjohnson@immanuelrealty.com) <cjohnson@immanuelrealty.com>; Roslyn Artis <Roslyn.Artis@benedict.edu>; Ceeon Smith <Ceeon.Smith@benedict.edu>; Janeen Witty <Janeen.Witty@benedict.edu>
Subject: Re: Letter from Chairman Charlie W. Johnson

Please note for clarity, you should plan to arrive at 10:30 to make your presentation, after which you are excused to leave.

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October 4, 2019

Dr. Tami Ashford- Carroll
Professor
Benedict College
1600 Harden Street
Columbia, SC 29204

Dear Dr. Ashford-Carroll:

You have been invited to make a brief presentation to the Board of Trustees on behalf of the faculty during the Thursday, October 10, 2019 Board Meeting at 10:30a.m. The meeting will begin at 9:00 a.m., Board of Trustees Conference Room.

We look forward to your participation.

Sincerely,

Charlie W. Johnson
Chairman, Board of Trustees

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EXHIBIT 34

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BENEDICT COLLEGE

FACULTY MANUAL

(Draft Updated 3.5.10)

"Learning to Be the Best:
A Power for Good in the Twenty-First Century"

Dr. David H. Swinton
President

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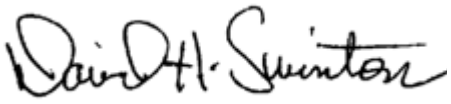
IMPORTANT NOTICE

THE PRIMARY PERSONNEL POLICIES AND PROCEDURES THAT AFFECT FACULTY ARE FOUND IN THIS FACULTY MANUAL. SELECTED OTHER PERSONNEL POLICIES AND PROCEDURES THAT AFFECT FACULTY ARE SO DESIGNATED IN THE BENEDICT COLLEGE PERSONNEL SERVICES POLICIES AND PROCEDURES MANUAL. OTHER POLICIES MAY ALSO BE FOUND IN OTHER DIVISIONAL OR DEPARTMENTAL POLICIES AND PROCEDURES MANUALS AND MEMORANDUMS, THE BENEDICT COLLEGE CATALOG, DEPARTMENTAL PAMPHLETS, AND THE STUDENT HANDBOOK.

THE POLICIES AND PROCEDURES INCLUDED IN THE FACULTY MANUAL ARE NOT ALL INCLUSIVE. FACULTY MEMBERS SHOULD ALSO REFER TO BENEDICT COLLEGE'S PERSONNEL SERVICES POLICIES AND PROCEDURES AND THE OTHER DOCUMENTS MENTIONED FOR ADDITIONAL POLICIES AND PROCEDURES, WHICH MAY APPLY TO THEM. HOWEVER, SHOULD ANYTHING IN THE PERSONNEL POLICIES AND PROCEDURES MANUAL OR ANY OTHER POLICIES OR PROCEDURE DOCUMENT CONTRADICT, OR IN ANY WAY BE INCONSISTENT WITH THE CONTENTS OF THE FACULTY MANUAL, THE CONTENTS OF THE FACULTY MANUAL SHALL PREVAIL.

THE CONTENTS OF THIS MANUAL ARE PRESENTED ONLY AS GUIDELINES OF SOME OF THE CURRENT POLICIES AND PROCEDURES OF BENEDICT COLLEGE AND THEY WILL BE CHANGED AND UPDATED BY BENEDICT COLLEGE WHEN NECESSARY. CHANGES IN THIS MANUAL MAY BE MADE BY WRITTEN POLICY OR PROCEDURE MEMORANDUM WITHOUT REVISING THIS MANUAL. SUCH WRITTEN PROCEDURES WILL BE DISTRIBUTED TO ALL FACULTY, PERSONNEL, AND ADMINISTRATORS. WE WOULD SUGGEST THAT A FACULTY MEMBER CHECK WITH A DEAN OR THE VICE PRESIDENT FOR ACADEMIC AFFAIRS TO VERIFY THAT A POLICY IS STILL IN PLACE BEFORE RELYING ON THE FACULTY MANUAL. THIS MANUAL WILL BE REVIEWED AND REVISED AS NECESSARY EVERY FIVE YEARS.

THE FACULTY MANUAL CONTENTS DO NOT CREATE A CONTRACT BETWEEN BENEDICT COLLEGE AND ANY EMPLOYEE. THIS MANUAL PROVIDES INFORMATION CONCERNING SPECIFIC PROCEDURES, POLICIES, BENEFITS, WORKING CONDITIONS, AND PRIVILEGES PERTAIN1NG SPECIFICALLY TO EMPLOYMENT AS A FACULTY MEMBER. NOTHING IN THIS FACULTY MANUAL MAY OVERRIDE ANY TERMS AND CONDITIONS OF EMPLOYMENT STATED IN THE ANNUAL CONTRACT. SHOULD THERE BE ANY INCONSISTENCIES OR CONTRADICTIONS BETWEEN THIS MANUAL AND THE ANNUAL CONTRACT THE CONTRACT SHALL PREVAIL.



David Holmes Swinton
President and CEO

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

TABLE OF CONTENTS

I. PRELIMINARY INFORMATION **1**

1.1 HISTORY OF THE COLLEGE **1**
1.2 VISION STATEMENT **2**
1.3 MISSION STATEMENT **2**

II. ADMINSTRATIVE ORGANIZATION OF THE COLLEGE **3**

2.1 BOARD OF TRUSTEES **3**
2.2 OFFICE OF THE PRESIDENT **3**
2.2.1 The President 3
2.2.1.1 The Executive Vice President 4
2.2.1.2 The Special Assistant to the President for Special Projects 4
2.2.1.3 Office of the Director of Athletics 4
2.2.1.4 Organizational Chart for 2009-10 5

2.3 DIVISION OF ACADEMIC AFFAIRS **5**
2.3.1 Office of the Vice President for Academic Affairs 5
2.3.1.2 Office of the Associate Vice President for Academic Affairs 6
2.3.2 The Schools and Departments 7
2.3.2.1 Academic Deans 7
2.3.2.2 Associate and Assistant Academic Deans 8
2.3.2.3 Director of Teacher Education Program 8
2.3.2.4 Department Chairpersons 8
2.3.3 Support Service Units 8
2.3.3.1 Directors 8
2.3.3.2 Academic Affairs Organizational Chart for 2009-10 9

2.4 DIVISION OF STUDENT AFFAIRS **10**
2.4.1 Office of the Vice President for Student Affairs 10
2.4.1.1 Office of the Associate Vice President/Dean of Students 10

2.5 DIVISION OF BUSINESS AND FINANCE **10**
2.5.1 Office of the Vice President for Business and Finance 10

2.6 DIVISION OF INSTITUTIONAL ADVANCEMENT **11**
2.6.1 Office of the Vice President for Institutional Advancement 11

2.7 DIVISION OF COMMUNITY DEVELOPMENT, SPONSORED PROGRAMS AND RESEARCH, GOVERNMENT AND EXTERNAL RELATIONS, AND INFORMATION TECHNOLOGY **11**
2.7.1 Office of the Senior Vice President 11
2.7.2 Business Development Center 12

2.8 OTHER RELATED ORGANIZATIONS **12**
2.8.1 Benedict-Allen Community Development Corporation (CDC) 12
2 8.1.1 Executive Director 12

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

III. COLLEGE COMMITTIES, ORGANIZATION, AND RESPONSIBILITIES **13**

3.1 THE FACULTY FORUM **13**
3.1.1 Specific Faculty Forum Duties and Responsibilities 13

3.2 COMMITTEE STRUCTURE **13**

3.3 ADMINISTRATIVE CABINET AND DIVISION COUNCILS **13**

3.4 LIST OF ADMINISTRATIVE (COLLEGE-WIDE) COMMITTEES **14**

3.5 LIST OF ACADEMIC AFFAIRS COMMITTEES **14**

3.6 LIST OF STUDENT AFFAIRS COMMITTEES **14**

3.7 SCHOOL/DEPARTMENT COMMITTEES **14**
3.7.1 School of Humanities, Arts, and Social Sciences 14
3.7.2 School of Science, Technology, Engineering, and Mathematics 14
3.7.3 School of Education 14

IV. THE FACULTY **15**

4.1 MEMBERSHIP, RIGHTS, AND RESPONSIBLITIES **15**
4.1.1 Membership in the Faculty 15
4.1.2 Type of Appointment 15
4.1.3 Academic Rank 16

4.2 FACULTY RIGHTS **16**
4.2.1 Academic Freedom 16

4.3 FACULTY RESPONSIBILITIES FOR INSTRUCTION **17**
4.3.1 Instructional Load 17
4.3.2 Instructional Quality Expectations 18
4.3.3 Faculty Responsibility for Scholarly Activities (Research and Professional Service) 19
4.3.4 Faculty Responsibilities for Service To The College 19

4.4 QUALIFICATIONS FOR INITIAL APPOINTMENT. REAPPOINTMENT. PROMOTION AND TENURE **20**
4.4.1 Eligibility Criteria 20
4.4.2 Standards and Criteria for Initial Appointment. Reappointment. Promotion. And Tenure 21
4.4.3 Tenure Standards 23

4.5 EVIDENCE TO BE USED IN ASSESSING ELIGIBILITY AND STANDARDS AND CRITERIA **23**
4.5.1 Eligibility Requirements 23
4.5.2 Evidence for Teaching Quality (Instructing, Advising and Counseling, and Providing Academic Service) 23
4.5.3 Evidence of Scholarship (Research and Professional Service) 24
4.5.4 Evidence of An Ability to Effectively Relate to the Entire Student Body of Benedict College 24
4.5.5 Evidence of Strong Commitment and Support for the Vision and Mission of the College 25

4.5.6 Evidence of Ability and Willingness to be an Effective. Cooperative, and Supportive Colleague 25

V. METHODOLOGY FOR FACULTY EVALUATION....26

5.1 REQUIRED USE OF STANDARDS/CRITERIA AND EVIDENCE....26

5.2 EVALUATION AND ASSESSMENT OF EACH STANDARD/CRITERIA....26
5.2.1 Evaluation Scale 26
5.2.2 Justification and Explanation for Rating 27

5.3 DETERMINING THE OVERALL EVALUATION OF AN EVALUATEE....27

5.4 APPLICABILITY OF EVALUATION METHODOLOGY 28
5.5.1 Initial Salary and Wages....28
5.5.2 Annual Merit Raises 28
5.5.3 Other Salary Adjustments....29
5.5.4 Christmas Bonus....29

VI. POLICIES AND PROCEDURES FOR FACULTY PERSONNEL ACTIONS....30
6.1 INITIAL APPOINTMENT....30
6.1.1 Faculty Recruitment and Search....30
6.1.2 Appointment and Responsibilities of Search Committee....30
6.1.3 Department Chair Report 30
6.1.4 Dean Makes Final Hiring Recommendation 30
6.1.5 Vice President Forwards to Personnel 31
6.1.6 Personnel Prepares Contract and Cover Letter Containing the Offer....31
6.1.7 The President Signs Contract and Offer Letter 31
6.1.8 The Initial Contract Must Contain all Terms 31

6.2 FACULTY REAPPOINTMENTS AND NON-REAPPOINTMENTS 31
6.2.1 Reappointment Procedure Non-Tenured Faculty Members....31
6.2.2 Reappointment Timetable for Tenured Faculty 32
6.2.3 Terminal Contracts for Non Tenured Faculty....32
6.2.4 Termination 32
6.2.5 Procedures for Terminating Faculty Members for Cause 32
6.2.6 Appeal of Termination 33

6.3 POLICY AND PROCEDURE FOR TENURE AND PROMOTION TO HIGHER RANK 33

6.4 POLICY AND PROCEEDURE FOR ANNUAL FACULTY EVALUATION....34
6.4.1 Purpose and Scope....34
6.4.2 Faculty Performance Evaluation Procedures....35
6.4.3 Performance Evaluation for Academic Administrators....36
6.5 FACULTY DEVELOPMENT 36

VII. FACULTY GRIEVANCE PROCEDURES....37

7.1 INFORMAL GRIEVANCE PROCEDURES....37

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

7.2 FORMAL GRIEVANCE PROCEDURES 37

VIII. FACULTY CHECK-IN AND END-OF-YEAR CLEARANCE PROCEDURES 39
8.1 CHECKING IN PROCEDURES 39
8.2 FACULTY CLEARANCE PROCEDURES 39

IX. ACADEMIC POLICIES 41
9.1 FACULTY RESPONSIBILITY 41
9.2 ACADEMIC PROCEDURES 41
9.3 GRADING SYSTEM, CREDITS. AND TEACHING RESPONSIBILITY 42
9.4 CHANGE OF GRADES 43
9.5 SELECTION OF TEXTBOOKS 43
9.6 ADVISEMENT 43
9.7 CLASS SCHEDULING 44
9.8 FIELD TRIPS 44
9.9 FACULTY CONSULTING 44
9.10 WORK SCHEDULES 44
9.11 ATTENDANCE AT SPECIAL CONVOCATIONS AND FACULTY MEETINGS 45
X. INTELLECTUAL PROPERTY RIGHTS 47
XI. EXTERNALLY FUNDED GRANTS AND CONTRACTS 51
11.1 RELATIONSHIP TO PURPOSE OF THE INSTITUTION 51
11.2 REQUIRED APPROVALS AND REPORTS 51
11.3 RELEASE TIME AND EXTRA SERVICE PAY 52
11.4 COLLEGE POLICY MUST BE FOLLOWED 53
11.5 ACADEMIC FREEDOM AND RESEARCH 53
11.6 TIME RECORDS OF EXTERNALLY FUNDED PROJECTS 53
11.7 INDIRECT COSTS 53
XII. HUMAN RESOURSES INFORMATION 54
12.1 HARRASSMENT 54
12.2 STUDENT RELATIONSHIPS 55
12.3 ALCOHOL AND DRUG ABUSE 55
12.4 SMOKING 55
12.5 NEPOTISM 55
12.6 INTRODUCTORY PERIOD 56

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

12.7 OUTSIDE EMPLOYMENT 56

12.8 SOLICITATION AND DISTRIBUTION 56

12.9 COMPENSATION 56

12.10 BENEFIT PROGRAMS 57

12.10.1 Eligibility 58
12.10.2 Insurance Changes 58
12.10.3 Termination of Coverage 58
12.10.4 Retirement 58
12.10.5 Tuition Remission 58
12.10.6 Vacation 59
12.10.7 Paid Sick Leave 60
12.10.8 Leaves of Absence 60
12.10.8.1 Military Leave 60
12.10.8.2 Physical Disability and Personal Leave 60
12.10.8.3 Family and Medical Leave Act 61
12.10.8.4 Jury Duty 61
12.10.8.5 Death in Family 61
12.10.8.6 Study Leave 61
12.10.8.7 Sabbatical Leave 64
12.10.8.8 Reviewing Bodies 66
12.10.8.9 Consultancies 66
12.10.8.10 Personal Leave 66
12.10.8.11 Other Absences 66
12.10.8.12 Holidays 66
12.10.8.13 Hazardous Weather and Emergency Leave 67
12.10.8.14 Personal Files 67

XIII. CONFLICT OF INTEREST STATEMENT

13.1 INTRODUCTION 68

13.2 DEFINITIONS 68

13.3 POLICY STATEMENTON FEDERAL CONTRACTS 70

13.4 EQUAL EMPLOYMENT OPPORTUNITY 70

13.5 REDUCTION-IN-FORCE 70

13.6 DISCIPLINE 71

13.7 EMPLOYEE CONDUCT 72

13.8 TERMINATION OF EMPLOYMENT 73

13.9 WORKPLACE PRIVACY 74

13.10 COMPUTER/INTERNET ABUSE 74

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

I. PRELIMINARY INFORMATION

1.1 HISTORY OF THE COLLEGE

Mrs. Bathsheba A. Benedict of Pawtucket, Rhode Island founded Benedict College, originally Benedict Institute, in 1870. With a small bequest from her husband, Mrs. Benedict purchased an eighty-acre plantation near Columbia as the site for a new school for the recently emancipated Black man. Under the auspices of the American Baptist Home Mission Society, Benedict Institute set out from humble beginnings in a dilapidated former slave master's mansion to prepare men and women to be "a power for good in society." On November 2, 1894, the South Carolina Legislature "chartered the institution as a liberal arts college and the name "Benedict Institute" was changed to "Benedict College". Benedict awarded the first Bachelor of Arts Degree in that same year.

During the first quarter century of its existence, Benedict Institute addressed its program to the basic educational needs of the Black population in the South. The institute's initial objective was to train teachers and preachers, and its original curriculum included, of necessity, reading, writing, spelling, arithmetic, and religion. Later, the curriculum was expanded to include the traditional college disciplines and an industrial program offering carpentry, shoe making, printing, and painting. The College developed its curriculum and improved its staffing and facilities. In 1946 Benedict received an "A" rating from the Southern Association of Colleges and Schools.

Benedict College continues to broaden and develop its academic program. Through the scope and depth of its varied programs and services, the College maintains a liberal arts tradition while meeting complex societal demands. The College currently offers bachelor degree programs in thirty major areas of study. The College provides training in the humanities, social sciences, business, education, the natural sciences, computer science, and mathematics. The Liberal Arts constitute the core of the curriculum; however, the current program includes a number of pre-professional programs, as well as a military officer-training program (Army Reserve Officer Training Corps).

Over the years, the graduates of this institution have succeeded in all areas of human endeavor. The successful graduates are the most important part of the success story of this institution.

From its founding to 1930, Benedict College was led by a succession of northern white Baptist ministers and educators. The year 1930 signaled the succession of African-American presidents at the College. Presidents of the College and their terms have been as follows: Timothy L. Dodge, 1871-1876; Lewis Colby, 1876-1879; E. J. Goodspeed, 1879-1882; Charles E. Becker, 1882-1895; Abraham C. Osborne, 1895-1911; Byron W. Valentine, 1911-1921; Clarence B. Antisdel, 1921-1930; John J. Starks, 1930-1944; John A. Bacoats, 1944-1965; Benjamin F. Payton, 1967-1972; Henry Ponder, 1973-1984; Marshall C. Grigsby, 1985-1993; David H. Swinton, 1994-Present. Interim Presidents have been as follows: T. J. Hanberry, 1965-1967; Luns C. Richardson, 1972-1973; Betty S. Shearin, 1984-1985; and Ruby W. Watts, 1993-1994.

Benedict College is currently experiencing a renaissance as it enters the twenty-first century. The enrollment goal of "2000 by the Year 2000" set in the 1994 was met four years in advance, with a fall semester 1996 enrollment of 2,138 students. The fall 2009 enrollment was 2989. Our academic programs and the faculty are expanding in quantity and quality. We are enhancing our technology and other educational resources. The College is undergoing an extensive campus improvement plan that includes land acquisition, campus facilities improvements, and new construction. Outreach and community service and development activities are at an all time high. We are striving for excellence as we continue our historic goal of being "a power for good in society."

Benedict College is a place where "Learning to Be the Best: A Power for Good in the Twenty First Century" is not just a motto but characterizes its commitment to quality and continuous improvement in its role as one of the nation's premier historically Black Colleges.

Benedict College is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools to award baccalaureate degrees. The Commission on Colleges at 1866 Southern Lane, Decatur, Georgia 30033-4097 or call 404-679-4501 can be contacted for questions about the college's status. The Social Work Program is accredited by the Council on Social Work Education (CSWE). The School of Education is accredited by the National Council for Accreditation of Teacher Education (NCATE), www.ncate.org. This accreditation covers initial teacher preparation programs. The Environmental Health Science Program is accredited by the National Environmental Health Science and Protection Accreditation Council. The Recreation and Leisure Services Program is accredited by the National Recreation and Park Association (in association with the American Association for Leisure and Recreation). The School of Business is accredited by the Association of Collegiate Business School Programs (ACBSP). The Child Development Center is accredited by the National Association for the Education of Young Children (NAEYC).

1.2 VISION STATEMENT

Benedict College will be the best open enrollment Historically Black College in the nation by 2012.

1.3 MISSION STATEMENT

Benedict College will be a power for good in society. We will be a full opportunity college with high quality programs of teaching, research, and public service. These programs will provide our students and community with the knowledge, skills, understandings, and values required to empower them to create a better world. We seek geographic, international, and racial diversity in our student body, while continuing to facilitate the empowerment, enhancement, and full participation of African Americans in a global society.

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II. ADMINSTRATIVE ORGANIZATION OF THE COLLEGE

2.1 BOARD OF TRUSTEES

The Board of Trustees, by charter, is the body that is legally responsible for the overall governance and the promulgation of all policies for the administration of Benedict College. This governing board is the legal body responsible for the selection and evaluation of a president to carry out all enacted polices. On the recommendation of the president, the board approves all vision and mission statements, strategic plans, budgets, curriculum changes, faculty promotion and tenure, and awarding of all earned and honorary degrees. The Board of Trustees recognizes a clear distinction between the policy-making functions of the Board and the responsibility of the administration and faculty to administer and implement policy.

2.2 OFFICE OF THE PRESIDENT

The Mission of the Office of the President is to provide the vision, leadership, and administrative oversight for all College divisions. The Office ensures that the mission of the College is appropriate, articulated to all College constituents, and adhered to in all activities of the College. The Office provides leadership in the development and implementation of the College's Strategic Plan and ensures that all goals and objectives of the College are met.

The President's Office regularly monitors, assesses, and gives feedback to the administrative divisions on the performance of all of the administrative divisions. The Office ensures that the organizational structure and staffing, as well as the financial, human, and other resources; are adequate to facilitate the success of the College. The Office also provides leadership and oversight for fund development and budget planning and administration.

The President establishes and maintains productive relations with internal constituents: faculty, staff, and students, as well as external constituents; churches, alumni, business, government, community, and others. The Office provides support for all activities of the Board of Trustees.

2.2.1 The President

The President is the Chief Executive Officer of the College and he/she is appointed by the Board of Trustees. He/she is responsible to the Board for administering the educational and business policies of the College and for securing and preserving the assets of the institution. He/she is the official channel for communication between the Board of Trustees and the faculty, staff and students of the College.

The President is responsible for the formulation of strategic direction, goals, and objectives of the College. With the assistance of the faculty, staff, and students, he/she provides optimum conditions to achieve the College's mission.

The President is the head of the faculty, and as such he/she is responsible for leading the faculty in the articulation and implementation of the academic goals and objectives of the College.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

2.2.1.1 The Executive Vice President

The mission of the Office of the Executive Vice President is to provide administrative oversight for designated administrative functions aimed at achieving the goals of the College. These functions include managing the Standing Committee program and chairing designated standing committees; providing oversight for the Records Center; providing leadership or oversight for special task forces and projects as specified by the President; and assisting the President in ensuring that all departments and divisions develop and implement strategic plans to achieve the College's goals and that they develop, implement, and maintain college wide policies and procedures manuals to govern the College's operations.

The Executive Vice President is second in charge to the President and acts on his/her behalf in his/her absence or as directed. The Executive Vice President is a member of the President's Cabinet.

2.2.1.2 The Special Assistant to the President for Special Projects

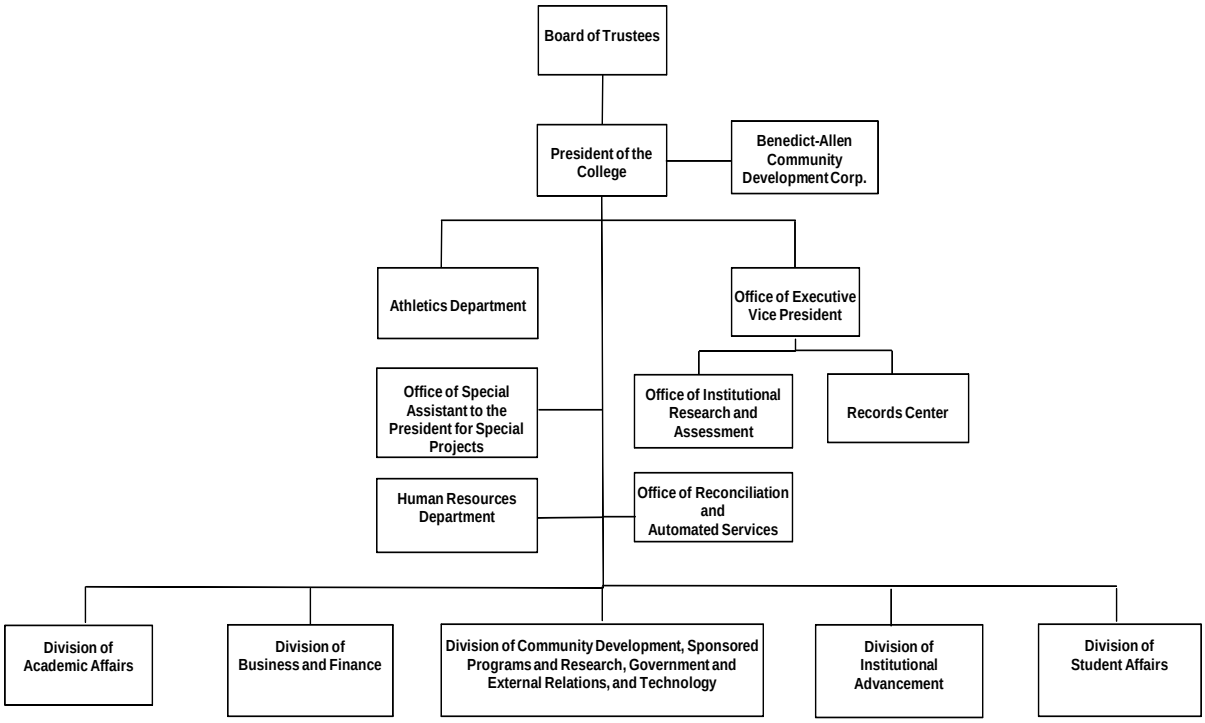
Under administrative supervision of the President, the Special Assistant has overall responsibility for the Annual Black History Teleconference, the Presidential Lecture Series, and special assignments given by the President.

2.2.1.3 Office of the Director of Athletics

The Director of Athletics reports to the President. The Director has basic administrative responsibility for the direct supervision, approval, conduct, and control of the athletics program; provides the President with information and documentation necessary for policy, programmatic, and operational decisions; and maintains and implements College NAIA and NCAA conference rules and regulations.

Key duties include, but are not limited to, the administration of all fiscal operations; the establishment of administrative policies and procedures designed to achieve athletics goals and sound academic standards; evaluating programs and staff; and working closely with the Compliance Coordinator to provide leadership for and supervision of compliance with rules and regulations by coaches, friends, and supporters of the College. As directed by the President, the Athletics Director reviews annually the applicable NAIA and NCAA rules and regulations with every coach and athletics staff member and ensures compliance.

2.2.1.4 BENEDICT COLLEGE ORGANIZATIONAL CHART for 2009-2010



ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

2.3 DIVISION OF ACADEMIC AFFAIRS

In keeping with the mission of the College, the mission of the Academic Affairs Division is to deliver high quality education programs in teaching, research, and service. The Division provides instruction for students pursuing baccalaureate degrees through the Schools of Business and Economics; Humanities, Arts and Sciences; Continuing Education; Education; and Science, Technology, Engineering, and Mathematics. The General Education core focuses on communication, technology, and liberal arts studies. Major and support courses which reflect current trends, concepts and technology in the disciplines along with electives prepare students for entry level career positions in their major field and for post baccalaureate studies. Quality faculty are recruited, provided orientation to the nature and mission of the college, engaged in continuous faculty development, and provided appropriate instructional resources so that they can provide relevant and innovative instruction for students.

2.3.1 Office of the Vice President for Academic Affairs

The Vice President for Academic Affairs is appointed by and is administratively responsible to the President for all matters relative to instruction, academic research, selected programs, curriculum, academic policy, standards, affiliations, faculty personnel, and the academic aspects of student life. The Vice President is the chief academic officer of the College and is a member of the President's Cabinet. In consultation with school deans and other administrators in the Division, the Vice President is responsible for (a) recommending the employment, promotion, and tenure of all academic personnel; (b) conducting suitable searches for new personnel; (c) overseeing the teaching, research, and service activities of the faculty; (d) recommending and implementing budgets for all academic activities; (e) overseeing academic program planning, development, and evaluation, (f) directing the preparation, review, assessment, and revision of annual and five-year academic plans; (g) overseeing the development and implementation of an annual faculty and staff development plan; and (h) direct supervision of school deans, associate vice president for academic affairs, and directors assigned to the Division.

The Office of Academic Affairs provides leadership and support for the academic programs of the College. It is headed by the Vice President for Academic Affairs. The Associate Vice President for Academic Affairs (to whom the Director of the Library reports), the Dean of the School of Humanities, Arts, and Social Sciences, the Dean of the School of Education, the Dean of the School of Continuing Education, the Dean of the School of Business and Economics, the Dean of the School of Science, Technology, Engineering, and Mathematics, the Dean of the School of Honors, the Director of Service-Learning and Leadership Development, the Director of Educational Support Services, the Director of Career Services, the Director of the Office of International Programs, and the Director of Counseling and Testing report to the Office of Academic Affairs.

The Office of Academic Affairs coordinates the educational programs of the College. It is responsible for arranging class schedules and registration, supervising programs for study, overseeing the Learning Resources Center and other support units, maintaining records on faculty, and generally administering the academic policies of the College.

2.3.1.2 Office of the Associate Vice President for Academic Affairs

The Office of the Associate Vice President for Academic Affairs is responsible for creating and maintaining the proper climate in which academic programs can function effectively. The Associate Vice President for Academic Affairs is appointed by the President upon recommendation of the Vice President of Academic Affairs. He/she supports the Vice President in carrying out his/her responsibilities. The director of the library reports directly to the Associate Vice President for Academic Affairs. He/she supports all units of the Division through provision of academic leadership and oversight of critical functions, including registration, documentation for the College's catalogue, and other related support functions.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

2.3.2 The Schools and Departments

The instructional program of the Academic Affairs Division is divided administratively into six Schools. Five of the degree-granting schools are subdivided into Departments as indicated below:

School of Business and Economics
Business Administration, Management & Marketing
Economics, Finance, and Accounting
Campus Communication Center

School of Continuing Education
Interdisciplinary Studies

School of Education
Teacher Education
Education, Child and Family Studies
Health, Physical Education, and Recreation
Social Work
Military Science

School of Honors

School of Humanities, Arts and Social Sciences
English, Foreign Languages, and Mass Communication
Fine Arts
Social Sciences and Criminal Justice

School of Science, Technology, Engineering, and Mathematics
Biology, Chemistry, and Environmental Health Science
Mathematics and Computer Science
Physics and Engineering

Through the Schools, the College offers instruction in thirty (30) majors.

2.3.2.1 Academic Deans

Academic Deans are appointed by the President upon recommendation by the Vice President for Academic Affairs and are administratively responsible to the Vice President for Academic Affairs for managing the affairs of the six Schools. Academic Deans are the heads of the faculty and the chief administrative officers in their respective Schools. Academic Deans are expected to provide bold leadership and extraordinary vision for the Schools in order to develop the faculty, prepare students for competition in the global economy, improve curriculum and provide instructional and other resources to carry out the mission of the School. Academic Deans provide leadership and oversight for the development and implementation of strategic plans and budgets for departments and units within the School; manage the development, implementation and assessment of curriculum and instruction; supervise department chairs; implement the faculty and staff evaluation process within the school; oversee the process of recruiting, searching for, and hiring appropriate faculty and staff for the school and its departments to ensure high quality hires; develop and oversee the implementation of a faculty and academic staff development program to ensure continuous improvement of the faculty and staff, and ensure that faculty, staff, and students in the area achieve the results included the strategic plans.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

2.3.2.2 Associate and Assistant Academic Deans

Associate and Assistant Deans are appointed by the President upon recommendation by the Dean of a School and the Vice President for Academic Affairs. Associate Deans are responsible to a School Dean and provide leadership for faculty, research and academic program development. Associate Deans are responsible for monitoring student advisement; registration and retention efforts; course schedules and inventories; and catalog updates. Assistant Deans are responsible to a School Dean and also have duties and responsibilities of Associate Deans.

2.3.2.3 Director of Teacher Education

The Director of Teacher Education oversees the Office of Teacher Education and reports directly to the Dean of the School of Education. He/She is committed to supporting and advancing the mission of the College, primarily through its focusing on the preparation of students for service as teachers in the South Carolina schools and the nation. The Teacher Education Program seeks to provide comprehensive support, guidance and technical assistance to all teacher education students and faculty. The administration of the teacher education admissions process, coordination of all professional field experiences, induction year (first year of teaching) activities are major efforts advanced through the Program. The Teacher Education Program serves as the lead unit of the College for the Teacher Education accreditation process.

2.3.2.4 Department Chairpersons

Department Chairpersons are appointed by the President upon recommendation by the Dean of a School and the Vice President for Academic Affairs. Department chairpersons are the administrative head of academic departments within the College, and report to a School Dean. Chairpersons are responsible for coordinating short and long-range planning in their departments. The chairperson oversees searches for part-time and full-time faculty; recommends part-time and full-time faculty appointments, retention, and promotion; develops and manages the departmental budget; conducts annual evaluation of faculty and staff; develops class schedules; assigns classrooms and other departmental resources; assigns teaching and advising responsibilities; supervises secretarial and support staff; and provides general oversight for departmental operations.

2.3.3 The Support Service Units

The support services of the Academic Affairs Division are divided administratively into five units as indicated below:

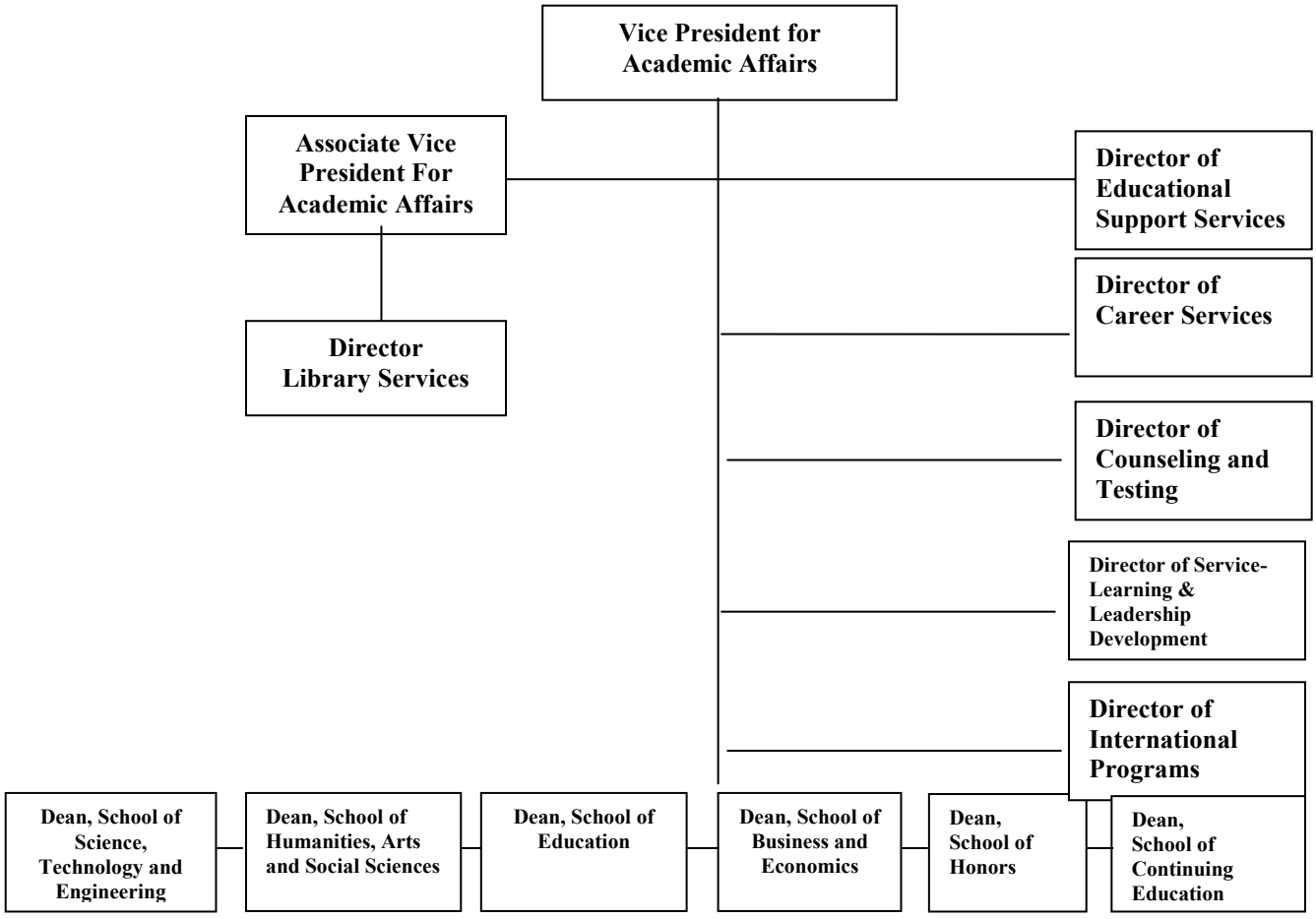
Career Services
Counseling and Testing
Educational Support Services
Special Student Services
International Programs
Service-Learning and Leadership Development

2.3.3.1 Directors

Directors are appointed by the President upon recommendation by the Vice President for Academic Affairs. Directors are the administrative heads of support service units within the Division and report to the Vice President for Academic Affairs. Directors are responsible for coordinating short and long-range planning in their units. The Director oversees searches for part-time and full-time staff; recommends part-time and full-time staff appointments, retention, and promotion; develops and manages the unit budget; conducts annual evaluation of staff; develops schedules; assigns unit resources; assigns duties and responsibilities; supervises secretarial and support staff; and provides general oversight for unit operations.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

2.3.3.2 ACADEMIC AFFAIRS ORGANIZATIONAL CHART for 2009-10



ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

2.4 DIVISION OF STUDENT AFFAIRS

The Division of Student Affairs contributes to the Mission of Benedict College by providing programs, extracurricular activities and services for students and the College community. The Division seeks to enhance quality of life for students; to facilitate intellectual, ethical, spiritual, social, and personal growth; to provide a healthy and safe living environment, and to create a culture that engenders respect for human diversity.

The Division of Student Affairs consists of the following operational units: Office of the Dean of Students, Admissions and Student Marketing, Registrar and Student Records, Religious Services, Community Life, Campus Police, Student Health Services, Student Activities, and Food Services.

2.4.1 Office of the Vice President for Student Affairs

The Vice President for Student Affairs is appointed by and administratively responsible to the President in matters relative to student life, development, and well-being. The Office of the Vice President is responsible for overall operations of the division, provides vision, leadership and oversight for the development, implementation, and assessment of strategic plans; recommends and monitors unit budgets; oversees the process of recruiting and hiring qualified staff; ensures continuous staff development and training; and conducts and monitors annual evaluation of unit directors and staff.

2.4.1.1 Office of the Associate Vice President/Dean of Students

The Associate Vice President/Dean of Students is responsible to the Vice President of Student Affairs for the administration student support and development services of the College. The Associate Vice President for Student affairs supports the Vice President in carrying out his/her responsibilities. He/she oversees Student Judiciary and Student Grievance processes, as well as general student concerns. The Associate Vice President provides supervision for departments of Public Safety, Residential Life, and Health Services.

2.5 DIVISION OF BUSINESS AND FINANCE

The mission of the Division of Business and Finance is to manage and oversee the business and finance, assets, and resources of the College in the most prudent way. The division administers planning, formulation, management and implementation of all budgets. The division also receives, manages, and accounts for all revenue and receipts of the College; and administers the College's purchasing procurement systems. The division oversees and administers all student accounts. The division is also responsible for all accounting and financial control functions. In addition, the division oversees and implements payroll functions. The Division is charged with the responsibility to ensure that the College receives maximum benefit from its assets and fiscal resources. The Business Office also oversees all auxiliary services, including those provided by external contractors.

It is also the mission of the Division to adopt and implement the College's investment policies. The Division participates in the governance of the institution and where appropriate, makes recommendations which would improve the effectiveness and/or efficiency of the College.

2.5.1 Office of the Vice President for Business and Finance

The Office of the Vice President for Business and Finance provides leadership for the overall administration and management of the Division. This unit is headed by a vice president who is a senior administrator reporting directly to the President of the College, he/she is also a member of the President's Cabinet.

The Vice President for Business and Finance supervises the administration of the following operational entities:

Associate Vice President for Business and Finance

- Contracting and Bidding Solicitations Department
- Financial Planning and Analysis Department
- Campus Post Office

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Campus Bookstore
Physical Plant Department
Assistant Vice President for Business and Finance/Controller
Accounting Department
Accounts Payable Department
Grants Accounting Department
Student Financial Services Department
Payroll Department
Financial Planning and Analysis

2.6 DIVISION OF INSTITUTIONAL ADVANCEMENT

Institutional Advancement engages in activities that help in obtaining the financial resources necessary to carry out the College Mission. This unit also communicates with certain constituencies in an effort to tell the Benedict story, to keep alumni, churches, and friends abreast of College news, and to cultivate supporters. The College runs two major fundraising campaigns on an annual basis: The Annual Giving Campaign and the UNCF Campaign. Through this Division, the College looks for major donors, actively conducts prospect research, and provides the opportunity for planned or deferred giving. All of these are rolling campaigns. Periodically, other fundraising events are held, including a Capital Campaign.

2.6.1 Office of the Executive Vice President for Institutional Advancement

The Vice President for Institutional Advancement is the primary administrator responsible for institutional development, fundraising, and external relations. The Vice President, who is member of the President's Cabinet, reports directly to the President of the College.

The Executive Vice President for Institutional Advancement supervises the following operational activities: Advancement Services and Major Gifts, Alumni Affairs, Church Relations, Communications and Marketing, and the Title III Program.

2.7 DIVISION OF COMMUNITY DEVELOPMENT, SPONSORED PROGRAMS AND RESEARCH, GOVERNMENT AND EXTERNAL RELATIONS, AND INFORMATION TECHNOLOGY

The Division of Community Development, Sponsored Programs and Research, Government and External Relations, and Information Technology implements much of the College's community development effort as part of its service mission. The Division seeks to encourage economic development in African American communities statewide. By partnering with communities, the Division's efforts provide state of knowledge programs and services to assist in the design and promotion of public policies that impact African Americans.

2.7.1 Office of the Senior Vice President for Community Development, Sponsored Programs and Research, Government and External Relations, and Information Technology

Under the administrative supervision of the President, the Senior Vice President for Community Development, Sponsored Programs and Research, Government and External Relations, and Information Technology has the overall responsibility for the development of new and existing programs sponsored primarily with external resources; for cultivating governmental relations that are beneficial to the College; and for providing leadership to the College's technology program. The Senior Vice President for Community Development, Sponsored Programs and Research, Government and External Relations, and Information Technology provides administrative support and oversight for the following areas:

The Center of Excellence
Summer Programs

The Business Development Center
The Child Development Center
The Office of Sponsored Programs and Research
The Office of Government and External Relations
The Management Information Systems Department
The Benedict-Allen Community Development Corporation

The Senior Vice President for Community Development, Sponsored Programs and Research, Government and External Relations, and Information Technology reports directly to the President and is a member of the President's Cabinet.

2.7.2 Business Development Center
The Business Development Center provides services to assist minority and disadvantaged businesses to grow and prosper. This Center provides below market rental space and support services for start-up forms, technical assistance, management and entrepreneurial education, and access to disadvantaged business loans.

2.8 OTHER RELATED ORGANIZATIONS

2.8.1 Benedict-Allen Community Development Corporation (CDC).
The Benedict-Allen CDC is a closely related subsidiary of Benedict College. It oversees efforts to improve economic, business, and housing opportunities for low and moderate-income persons and families in the area immediately surrounding Benedict College and Allen University. The CDC is a separately chartered, 501 C-3, tax-exempt, non-profit organization. Benedict College exercises control and influence through the appointment of the majority of the directors. Currently its staff members are employees of the College. The Senior Vice President exercises day-to-day supervision of the CDC's executive director.

2.8.1.1 Executive Director
The Executive Director is responsible for the efficient operation and management of the Corporation in order to accomplish its mission and facilitate its growth. The Executive Director develops and implements approved projects to carry out the Corporation's goals related to housing, business development, and economic development. The Executive Director is responsible for day-to-day management of the Corporation and makes recommendations to the Board for future funding initiatives to be developed by and on behalf of the Corporation.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

III. COLLEGE COMMITTEES, ORGANIZATION, AND RESPONSIBILITIES

3.1 THE FACULTY FORUM

The Faculty Forum of Benedict College includes all persons contracted to render full-time service as a faculty member in one of the academic schools, a researcher in the Center of Excellence for Community Development, or a learning specialist, counselor, or seminar instructor in the Student Development unit, librarians, and academic administrators. The President of the College is the chairperson of the Faculty Forum, sets the agenda for the meeting, and presides at all meetings when present. The Vice President for Academic Affairs is vice chairperson and presides at all meetings in the absence of the President. A faculty member designated by the Vice President for Academic Affairs serves as Secretary of the faculty to keep accurate minutes of the meetings and to distribute the same to the entire faculty and selected staff within fifteen (15) days after each meeting.

The purposes of the Faculty Forum are to facilitate the dissemination of important information from the administration to the faculty, provide a forum for discussion and input by the faculty on important College matters, approve of faculty recommendations to the administration and elect faculty representatives as required by College policies.

3.1.1 Specific Faculty Forum Duties and Responsibilities:

Meet monthly and in the fall and mid-year Institutes to discuss and conduct the business of the faculty.

- Elect the faculty member of the Board of Trustees.
- Elect faculty members of standing committees.
- Recommend curriculum changes to the administration.
- Recommend earned and honorary degree recipients to the administration.

3.2 COMMITTEE STRUCTURE

At Benedict College, standing committees have been established to facilitate shared governance at the College. Membership on a committee may be by appointment, by election, or by virtue of position. Where members are appointed or elected, membership terms are generally for three years and are staggered so as to insure continuity.

Committees are required to prepare action plans for each year which include an appropriate meeting schedule. They are to also develop and adhere to procedures for meeting their responsibilities. Action plans and committee procedures are to be submitted to the Chair of the Committee on Committees within one month of the first meeting of the academic year. The original and one copy of the minutes of each meeting are to be submitted to the Chair of the Committee on Committees within five school days following the meeting.

Recommendations resulting from committee deliberations are to be handled through established College channels. For composition and membership of each standing committee please refer to the latest edition of the Standing Committee Handbook.

3.3 ADMINISTRATIVE CABINET AND DIVISION COUNCILS

- Administrative Cabinet
- Academic Affairs Council
- Academic Affairs Deans Council
- Council of Academic Administrators
- Institutional Advancement Senior Cabinet
- Student Affairs Council

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

3.4 LIST OF ADMINISTRATIVE (COLLEGE-WIDE) COMMITTEES

- Athletics Committee
- Committee on Committees
- College Convocations, Assemblies, and Special Events Committee
- Enrollment and Retention Committee
- Faculty and Staff Grievance and Appeals Committee
- Faculty and Staff Recognition and Courtesy Committee
- Honorary Degrees Committee
- Information Technology Committee
- Institutional Assessment Advisory Committee
- Publications Committee
- Religious Life Committee
- Summer and Special Programs Advisory Committee

3.5 LIST OF ACADEMIC AFFAIRS COMMITTEES

- Biohazards and Radiation Safety Committee
- Bookstore Advisory Committee
- Curriculum Committee
- Faculty Awards Committee
- Faculty Promotion and Tenure Committee
- Honors Advisory Council
- Institutional Animal Care and Use Committee (IACUC)
- International Programs Advisory Committee
- Library Committee

3.6 LIST OF STUDENT AFFAIRS COMMITTEES

- Financial Aid Advisory Committee
- Food Services Advisory Committee
- Scholarships Committee
- Student Judiciary Committee

3.7 SCHOOL/DEPARTMENT COMMITTEES

3.7.1 School of Humanities, Arts and Social Sciences Committee

Literary Awards Committee

3.7.2 School of Science, Technology, Engineering and Mathematics Committee

Minority Biomedical Research Support Program (MBRS/RISE)

3.7.3 School of Education Committees

Advisory Council on Teacher Education
Recreation and Leisure Services Advisory Committee
Social Work Advisory Committee

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

IV. THE FACULTY

4.1 MEMBERSHIP, RIGHTS, AND RESPONSIBLITIES

Each faculty member at Benedict College plays a major role in implementing the Vision and Mission of the College. In view of the College's goal to be the "a power for good in society", Benedict needs an excellent, qualified, and committed faculty. The Faculty has primary responsibility for advising the administration on matters pertaining to its educational program. The Faculty carries out its shared governance function through individual faculty member appointments to College committees or special task forces, through its participation in regular and special meetings of the Faculty Forum, and through service on School and Department committees. The Faculty is also the principal implementer of the educational program. Benedict College's Faculty is committed to carrying out with excellence its responsibilities for teaching and scholarship

4.1.1 Membership in the Faculty

A Benedict College faculty member is an employee of the College who has a primary responsibility for full-time or part-time teaching (instruction, advising or counseling, academic service) or scholarly activities (discipline-related research and/or professional service). A librarian may be a member of the Faculty. All members of the Faculty must hold a faculty appointment.

4.1.2 Type of Appointment

A faculty member can hold any of the following types of appointment:

Full-time

A full-time faculty member at Benedict College is one who works full-time at the College and who holds one of the academic ranks. The academic rank is the designated title, e.g. "Associate Professor", in all official appointment documents.

Adjunct

An adjunct faculty member at Benedict College is one who works part-time at the College and holds an academic rank. The word "Adjunct" must precede the rank, e.g. "Adjunct Instructor", in all official appointment documents.

Tenured

A tenured faculty member is a faculty member who holds a tenure track appointment, has successfully completed the probationary period, and has been awarded tenure by the College. Tenure means that a faculty member will have continuous employment at Benedict College except for termination for cause, or financial exigency, or restructuring in accordance with Section 6.2.4. The probationary period will normally be a maximum of seven (7) years and a minimum of five (5) years, three of which must be served at the College. A non-tenured faculty member is a faculty member who has not been awarded tenure or who holds one of the non-tenure track positions.

Visiting

A visiting faculty member is one who has a temporary appointment at the College and holds an academic rank. The word "Visiting" must precede the title, e.g. "Visiting Assistant Professor", in all official appointment documents.

Emeritus

An emeritus faculty member is a faculty member who has retired from regular faculty status and continues to hold honorary faculty rank. The word "Emeritus" must follow the title, e.g. "Professor Emeritus", in all official appointment documents.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

4.1.3 Academic Rank

The following academic ranks are recognized at Benedict College:

Instructor

A rank that designates a regular non-tenure track appointment to the Faculty whose primary obligation is teaching. The appointee will not generally meet the scholarship and education requirements for appointment to a tenure track position.

Librarian

A member of the library staff who meets the qualifications for a regular appointment as an instructor may be appointed to the Faculty.

Lecturer

A rank that designates a regular non-tenure appointment to the Faculty whose primary obligation is teaching. The appointee will not generally be expected to meet the scholarship requirements but will generally be expected to meet the education requirements for appointment to a tenure track position.

Assistant Professor

This rank designates the initial or lowest level tenure track appointment and the incumbent has both teaching and scholarship obligations. The appointee will generally be expected to be capable of meeting or exceeding the scholarship and teaching requirements for promotion to Associate Professor within the probationary period.

Associate Professor

This rank designates the second rank or next level of tenure track appointment and the incumbent has both teaching and scholarship obligations. The appointee will generally be expected to have a demonstrable record of excellence in scholarship and teaching. The appointee must be fully expected to meet requirements for awarding of tenure.

Professor

This rank designates the highest ranked tenure track appointment and the incumbent has both teaching and scholarship obligations. The appointee will generally be expected to have a demonstrable record of exemplary or outstanding scholarship and teaching that is recognized as such by his/her peers. The appointee must have tenure or demonstrably exceed requirements for the awarding of tenure.

Research

The term Research appended to the title of a faculty member means a non-teaching appointment e.g. Research Associate Professor. Such a faculty member will be primarily engaged in scholarly activity.

Named or Endowed Chair or Professorship

This is a special rank designating a professorship that has a separate endowment fund associated with it. These appointments will be reserved for outstanding or exceptional faculty members whose accomplishments and/or credentials will generally exceed the merit of a regular faculty appointment.

4.2 FACULTY RIGHTS

4.2.1 Academic Freedom

Benedict College Board of Trustees and Administration generally subscribe to the following principles of academic freedom that are generally subscribed to by colleges and universities. These principles are consistent with the principles adhered to by the American Association of University Professors and the Association of American Colleges.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

a. Faculty members at Benedict College are entitled to full freedom in research and in the publication of their research findings, subject to the satisfactory performance of other duties and responsibilities. However, research undertaken for pecuniary gain must be based upon an understanding with the appropriate authorities of the College.

b. Faculty members at Benedict College are entitled to full freedom in their classrooms to teach and discuss anything relevant and pertinent to the subject being taught. However, faculty members should be careful to refrain from introducing into their teaching controversial matters unrelated to the subject being taught.

c. Benedict College faculty members are citizens, members of learned professions, and officials of the College. They are entitled to full freedom to act and speak in the capacity of a citizen without institutional censorship or discipline. However, their special position in the community imposes special obligations. As members of learned professions and Benedict College officials they should always remember that the public might judge their profession and Benedict College by their utterances. Hence, they should always be accurate, should exercise appropriate restraint, should respect the opinion of others, and indicate that they are not speaking for Benedict College.

4.3 FACULTY RESPONSIBILITIES FOR INSTRUCTION

4.3.1 Instruction Load

• **Regular Full-time Teaching Load:** Each faculty member is responsible for teaching 12 semester credit hours per semester as their regular instruction load. If at all possible the instruction load should include no more than three preparations and four sections (except when teaching 1 credit sections). The regular advising load is 30 advisees. Depending on Departmental circumstances this load may be increased by up to 9 students with out creating an overload. After the number of advisees exceeds 39 the faculty member will be considered to be in an overload situation. For each 10 advisees beyond 30 the faculty member will be considered to have 1 Semester Credit Hour overload. Faculty members are also expected to serve on Departmental, School, and College committees. The amount of committee work should be kept to a reasonable amount. Generally no more than three committee assignments should be given to any faculty member except under special circumstances.

• **Overloads:** Teaching overloads is discouraged except in emergency and with permission of the faculty member's Department Chair and Dean. If an overload is taught faculty must receive extra compensation at the existing approved rate.

• **Release Time:** A faculty member may be given up to 3 credits per semester of release time to pursue: additional professional development; to work on funded research; to compensate for an excessive advising load, to compensate for an excessive number of 1 credit sections; to compensate for exceptionally large class size; or to pursue any other special project that advances the interest of the College and requires a commitment of time in excess of the normal service or scholarship expectation. The Dean must personally review and approve all requests for release time. The Vice President for Academic Affairs must approve release time beyond 3 credit hours. A faculty member desiring release time must submit a request to the Dean through the Department Chair. The request must indicate the rationale or purpose for the release time, the amount of release sought, and the source of funds if any to pay the College for that portion of the faculty member's time that is to be released.

• **Regular Adjunct Faculty Load:** Part-time faculty load should be up to 6-semester hour or two courses. A regular load for an adjunct teaching a four credit math or science course is one course or four semester credit hours. Chairs should be discouraged from assigning more than 2 courses per semester and no more than 2

preparations. The Dean and the Academic Vice President must give explicit approval for these limits to be exceeded.

4.3.2 Instructional Quality Expectations

Providing quality instruction and advising are the most important responsibilities of a Benedict College faculty member. Every faculty member whether full-time or part-time should thoroughly plan their course and each lesson, they should thoroughly prepare for each class and advising session, and use their best efforts in and out of the classroom to ensure maximum student learning. All Benedict College faculty members should be prepared to teach and advise students from a wide diversity of backgrounds. They should be committed to providing extra help where required to improve student outcomes. They are also responsible for motivating students to attend and participate in class activities so that they may achieve their maximum potential. Benedict College faculty is expected to be imaginative and innovative as they strive to prepare our students to be the best in a highly competitive, global, high-technology world. Some of the expectations for each faculty member include:

Syllabi

Each faculty member shall prepare or adopt for distribution by the first class a syllabus, which contains at minimum the following

- A Concise Course Description Outlining the Content and Value of the Course
- An Outline and Schedule for Presentation of the Course Content
- All Course Requirements and Teacher Policies
- A Statement of the College's Attendance Policy
- A List of All Reading Material and Other Resources to Be Used in the Class
- A Clear Statement of Grading Policies and Procedures

Meeting Expectations

Each faculty member shall be expected to meet every class promptly and on time, to conduct class for the entire class period and to dismiss class on time. Classes are never to be dismissed before the official end of the class period. Teaching or other classroom activities should occur for the entire scheduled class period. Faculty members are also expected to keep all scheduled office hours and be prepared to meet with advisees during scheduled office hours. All advisee appointments should be kept except for unavoidable occurrences. If a scheduled appointment can not be kept the Student and the Department Chair should be notified as soon as possible before the scheduled appointment.

Responsibility for Absences

No faculty member shall miss a class except in case of emergency or absence due to required College Business. If an emergency arises which causes the faculty member to be absent, the faculty member is responsible for notifying the Department Chair. If the Department Chair is unavailable the faculty member should notify the Dean. If the absence is planned then the faculty member must make satisfactory alternative arrangements to cover the class. A faculty member may miss a class to attend a mandatory meeting called by the President, Academic Vice President, or the Dean.

Quality Instruction Expected

- Each Faculty Member Must Be Well Prepared for Each Class Meeting.
- Each Faculty Member Must Conduct Each Class in Clear Easily Understood Fashion.
- Faculty Members Must Use Up-To-Date Information, Materials, and Techniques.
- Faculty Members Must Incorporate Computer Technology and Writing
- Assignments Wherever Possible in Class Assignments.
- Faculty Members Must Incorporate a Global Perspective into Their Classes Whenever Feasible.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

- Faculty Members Must Maintain a Classroom Atmosphere Conducive to And Fosters a Stimulating and Productive Learning Environment in Which The Intellectual Freedom of Students and the Pros and Cons of Debatable Issues Are Fairly Acknowledged.

Respect and Empathy for all Students Expected

- It is expected that faculty will conduct themselves professionally at all times and display attitudes of respect, civility, and empathy when interacting with students.
- Faculty members are expected to assume that all students are capable of learning and to employ their best efforts to empower each student to learn.
- Faculty members must always address students with courtesy and respect.

Fair and Impartial Evaluation

- All faculty members must use fair and impartial methods to evaluate students based solely on course content and requirements.
- These fair and impartial methods must be clearly stated on the syllabi.
- All faculty members must provide any student who makes such a request a clear explanation of how the grade was derived or a review of the grade for any assignment, and the midterm or final grade.

Maintenance of Accurate Records

Faculty members are expected to maintain accurate records of grades, attendance, assignments, tests, quizzes, and other relevant records required by the College.

Prompt Reports

Faculty members are expected to turn in all grades, attendance records and other required reports on time.

4.3.3 Faculty Responsibility for Scholarly Activities (Research and Professional Service)

Faculty are responsible for engaging in scholarly activities to carry out the Research and Service Missions of the College, to contribute to the advancement or application of knowledge in their field of expertise, and to keep themselves current in their fields. Faculty are expected to conduct relevant studies in their area of expertise. They are expected to disseminate the results of these studies through publications and/or presentations before Peers. They are also expected to provide their expertise to help society find solutions to pressing societal problems through reports, newspaper articles, lectures, testimony, media appearances, consulting, and /or other methods of dissemination. Each faculty member is expected to achieve some scholarly activity each year that they hold a faculty appointment.

4.3.4 Faculty Responsibilities for Service To The College

College service consists of documented participation on departmental, school, or College committees or special task forces. This may consist of faculty recruitment, program development, sponsoring or other involvement with student organizations or other documented contributions to College life. Every faculty member is expected to contribute to the College through service.

Faculty members are also required to attend selected College Events. Unless officially excused in advance, faculty members are expected to attend each of the following:

- All Regular and Called College, Division of Academic Affairs, School, and Department Meetings
- Opening Fall Convocations
- Founders Day

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

- Graduation Exercises
- Faculty Institute
- Opening Fall and Spring Institutes
- Special Convocations

Faculty members are encouraged to attend and support as many other College events as possible to show their support for the College and its programs. Events that faculty may consider attending include:

- Coronation of Ms. Benedict College
- Pageant to Select Ms. Homecoming
- Fine Arts Performances by the Performing Arts Groups, Athletic Competitions for Each Varsity Sport
- Senior Week Events
- Gallery Receptions/Openings
- Other Events

4.4 QUALIFICATIONS FOR INITIAL APPOINTMENT, REAPPOINTMENT, PROMOTION AND TENURE

Because the College is committed to the pursuit of its vision and mission with intent of being the best, Benedict College seeks to employ excellent faculty members who are fully committed to its vision and mission. Therefore, the College has established a set of minimum eligibility requirements that establishes a threshold for considering persons for appointment at each rank. Meeting the minimum eligibility requirements will not generally be sufficient to warrant an appointment at Benedict College. Persons applying for appointment, promotion, or tenure to or at each rank also must meet the appointment, reappointment, and promotion Criteria/Standards specific to that rank as detailed in section 4.5.

4.4.1 Eligibility Criteria

Benedict College eligibility criteria define basic minimum threshold requirements to be considered for appointment or promotion to a specific rank. It also goes without saying that anyone seeking tenure or re-appointment must meet the threshold requirements except where they have earned rank or tenure under previously existing standards. Current standards apply to all new appointments, promotions, or tenure decisions. Anyone not meeting current eligibility standards cannot be recommended for promotion or tenure. Meeting basic eligibility requirements is not sufficient to guarantee appointment, re-appointment, promotion, or tenure. Meeting eligibility requirements merely guarantees consideration. From the pool of eligible candidates the College attempts to select the most worthy candidate in light of standards and criteria established for each rank and the College's needs, mission, and vision.

Instructor

To be eligible for appointment at the rank of Instructor a candidate must have a master's degree with a major in the teaching discipline or a master's degree in a related field with at least 18 graduate credits in the teaching discipline. Exceptions based on exceptional professional contributions and/or demonstrated contributions to the teaching discipline must be explicitly recommended in writing by the Dean and the Academic Vice President and approved by the President. An Instructor is a non-tenure track position and is not eligible for tenure.

Assistant Professor

To be eligible for appointment at the rank of Assistant Professor a candidate normally must have a terminal degree in the teaching, research, or closely related discipline. The terminal degree in most cases will be the doctorate. However, the MFA will be considered terminal in performing disciplines in Theatre and the Visual Arts, the JD or LLD with an appropriate masters degree may be considered terminal in Criminal Justice and an appropriate masters degree will be considered terminal in athletics for teaching or instruction in athletic technique or performance courses. A candidate who is ABD (all Requirements Except the Dissertation completed) in the teaching or research discipline may be appointed if the candidate is expected to complete all

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

requirements for the terminal degree within the first two contract years as specified in the appointment documents. In this case, failure to complete the degree requirements within the required time will result in automatic non-reappointment. In exceptional cases significant and outstanding professional service/employment at high levels for a long duration in the discipline and a suitable master's degree may substitute for the terminal degree. Each exception must be made in writing and approved by the President.

Associate Professor
To be eligible to be considered for appointment to the rank of Associate Professor a candidate must meet the eligibility qualifications for an Assistant Professor in the teaching/research or closely related discipline and have at least three complete years of teaching and scholarship as a fully qualified Assistant Professor.

Professor
To be eligible to be considered for appointment to the rank of Professor a candidate must meet the Associate Professor eligibility requirements in the teaching/research or closely related discipline and provide evidence of at least six complete years of teaching and scholarship at the Associate Professor level.

Lecturer
To be eligible for appointment as a Lecturer a candidate must meet the eligibility requirements for an appointment at the Assistant Professor rank.

Tenure
To be eligible for tenure a faculty member must hold a tenure track position and at least five years of successful service in a tenure track position. Normally at least three years of the service will be at Benedict College. The College reserves the right to make exceptions to the service requirement at Benedict College for truly exceptional candidates with outstanding service at other accredited Colleges or Universities. All such exceptions must be approved by the President in writing at the time of the initial appointment.

Full-time vs Adjunct
To be eligible for both full-time and adjunct appointments candidates must meet the eligibility requirements for the rank to which the fulltime or adjunct appointment applies. Adjuncts are expected to meet the same eligibility requirements as fulltime faculty. For example, eligibility for appointment as an Adjunct Assistant Professor requires meeting the eligibility requirements for an Assistant Professor. Adjunct faculty may also be labeled as "part-time" faculty.

Emeritus
To be eligible for an Emeritus appointment a candidate must be a faculty member who has retired in good standing and at least 65 years old.

4.4.2 Standards and Criteria for Initial Appointment, Reappointment, Promotion, and Tenure
In all cases whatever personnel action is contemplated it is in the interest of the College to appoint, promote, reappoint, and award tenure to the best faculty possible. Therefore, in addition to meeting the eligibility requirements for each anticipated personnel action the following criteria and standards must be used to recommend approval of the action.

Instructor
- Meet the Eligibility Requirements
- Expectation That The Candidate Will Be An Excellent Teacher (Instructor, Advisor And Counselor, And Provider Of Academic Service)
- An Ability To Effectively Relate To The Entire Student Body Of Benedict College
- Strong Support For The Vision And Mission Of The College

• Capable And Willing To Be An Effective, Cooperative, And Supportive Colleague

Assistant Professor
• Meet The Eligibility Requirements
• Expectation That The Candidate Will Be An Excellent Teacher (Instructor, Advisor And Counselor, And Provider Of Academic Service)
• Evidence Of Potential For Excellent Scholarship (Research And Professional Service)
• An Ability To Effectively Relate To The Entire Student Body Of Benedict College
• Strong Support For The Vision And Mission Of The College
• Capable And Willing To Be An Effective, Cooperative, And Supportive Colleague

Associate Professor
• Meet The Eligibility Requirements
• Evidence That The Candidate is An Excellent Teacher (Instructor, Advisor And Counselor And Provider Of Academic Service)
• Evidence Of Excellence In Scholarship (Research And Professional Service)
• Evidence Of All Ability To Effectively Relate To The Entire Student Body Of Benedict College
• Evidence Of Strong Commitment And Support For The Vision And Mission Of The College
• Evidence Of Ability And Willingness To Be An Effective, Cooperative, And Supportive Colleague

Professor
• Meet The Eligibility Requirements
• Evidence That The Candidate Is An Outstanding Teacher (Instructor, Advisor And Counselor, And Provider Of Academic Service)
• Evidence Of Exceptional Scholarship (Research And Professional Service)
• Evidence Of An Ability To Effectively Relate To The Entire Student Body Of Benedict College
• Evidence Of Strong Commitment And Support For The Vision And Mission Of The College
• Evidence Of Ability And Willingness To Be An Effective, Cooperative, And Supportive Colleague

Lecturer
• Meet the Criteria and Standards for an appointment at the Assistant Professor rank.

Adjunct
• To be eligible for an Adjunct appointment a candidate must meet the Standards and Criteria of the rank to which the Adjunct appointment applies except that the expectations of quantity of effort would be suitably lowered in light of the part-time nature of the adjunct relationship. For example, eligibility for appointment as an Adjunct Associate Professor requires meeting the qualitative but not quantitative Standards and Criteria for an Associate Professor.

Emeritus
• Meet The Criteria And Standards Of The Appropriate Rank At Retirement
• Evidence Of Ability And Willingness To Continue Be An Interested, Effective, Cooperative, And Supportive Colleague
• Recommended By The School Dean

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

4.4.3 Tenure Standards

To be awarded tenure a candidate must meet or exceed the eligibility requirements for an appointment or promotion to the Rank of Associate Professor and show promise to be an exceptional faculty member. A faculty member must already hold the rank of Associate Professor or be considered for promotion to that Rank simultaneously with the tenure application. If the promotion is denied then tenure may not be awarded. The tenure candidate must have completed at least five and no more than seven years at the rank of Assistant Professor or higher. At least three of the years must have been served at Benedict College.

4.5 EVIDENCE TO BE USED IN ASSESSING ELIGIBILITY AND STANDARDS AND CRITERIA

In performing the annual evaluation or assessing whether a candidate for Initial Appointment, Reappointment, Promotion or Tenure is to be recommended for approval the following evidence must be used to assess each criterion.

4.5.1 Eligibility Requirements

- Official original transcripts from the College/University that awarded the degree must be used to validate all degrees.
- Official reports, documents or transcripts from the awarding agency for any other qualifying factor, for example CPA designation requires an official certification.
- Documentation from employers validates claim of experience in teaching and research or service.
- Suitable documentation for claims of substantial professional experience or other qualification must/or will be used in exceptions to the minimum education requirement.

4.5.2 Evidence for Teaching Quality (Instructing, Advising and Counseling, and Providing Academic Service)

- If the candidate has never been a faculty member before, then the evaluator must use evidence from the candidate's recommendations, transcripts, trial lecture, interview, and personal statement.

- If the candidate has faculty experience, then the evaluator must use the following evidence whenever available. It is the responsibility of the candidate in conjunction with the Chair or Search Committee to make the evaluation information available:

    - Student Evaluations Of Teaching And Advising
    - Department Head And Peer Evaluations Of Teaching, Advising/Counseling and Academic Service
    - Letters From Former Students, Employers of Former Students, and Graduate Faculty of Former Students
    - Grade Distributions In Courses Taught
    - Attendance Records In Courses Taught Success At Pre-Registering Advisees
      Teaching and Advising Portfolio (e.g. Syllabi, Exams, Project Assignments, Quizzes, Student Reports, New Course Proposals, Testimonial Letters, Advising and Counseling Records, Etc.)
    - Academic Service Portfolios (records of committee assignments and contributions, special assignment reports, student organization or club sponsorship, and etc.)
    - Evidence Of Involvement In Continuing Professional Development Efforts To Improve Teaching
    - Student Complaints and/or Commendations If Any.

4.5.3 Evidence of Scholarship (Research and Professional Service)

Each evaluator will review the following evidence whenever it is available or can be readily obtained. The applicant is responsible for making the information available. The evaluator must assess both the quality and the quantity of the evidence.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

- Published Papers in Peer Reviewed Journals
- Published Papers in non Peer Reviewed Publicly Available Publications
- Published Books (Including Illustrations)
- Published Book Chapters Published Monographs
- Published Reviews Internally Published Working Papers and Reports
- Artistic Commissions, Performances and/or Recitals in Peer Reviewed Venues or Non-Peer Reviewed Publically Available Venues for Faculty Holding Rank in the Fine Arts Area
- Visual Arts Commissions, Exhibitions, Competitions and/or Published Illustrations in Peer Reviewed Venues or in Non-Peer Reviewed Publically Available Venues in the Visual Arts Area
- Works in Progress if of Substantial Merit and if Available in Written Draft Form
- Presentations at National, Regional, or Local Professional Meetings (when available in written form only)
- Funded projects on which the Candidate has a Documented major Role
- Evidence Of Involvement In Continuing Professional Development Efforts To improve Scholarship
- Volunteer or Paid Services as an Expert Consultant, Advisor, or Witness (provided it is supported by documentation from the recipient of the expert services)
- Service on state, regional, or national boards of professional organizations
- Writing or Participating in a Major way in the Development of a significant proposal for Funding which Required the Candidate's Professional Expertise
- The written opinions of Peers, Deans, Supervisors, Dissertation Committee Members, and other Professionals who had the opportunity to Interact and Work with the Applicant
- Service as a reviewer, editor, or evaluator for journals, publishing houses, government agencies, accrediting agencies, or Juror for Artistic Exhibitions or Performances

4.5.4 Evidence of An Ability To Effectively Relate to the Entire Student Body of Benedict College

The Evaluator will assess this factor with the following evidence whenever available:

- Testimonial Letters from Alumni, Students, Counselors, Parents, and Others Who Have Direct Knowledge
- Reports from Deans, Chairs, and Peers if Fully Documented
- Evidence from Existing Evaluations of Instruction and Advising
- Pre-registration Results
- Attendance Results
- Recommendations from Graduate School Faculty with Direct Experience and Knowledge of Candidate's Ability to Relate to an African American student body

4.5.5 Evidence of Strong Commitment and Support for the Vision and Mission of the College

The Evaluator will assess this factor with the following evidence whenever available:

- Reports of Dean, Department Chairs, Graduate School Faculty and Other Persons with Direct Knowledge
- Applicants Personal Philosophy Statement
- Written Recommendation from Alumni, Community Partners, and Others with Direct Knowledge

4.5.6 Evidence of Ability and Willingness to be an Effective, Cooperative, and Supportive Colleague

The Evaluator will assess this factor with the following evidence whenever available:

- Supervisor, Dean, and Peer Written Assessments
- Contributions to College Annual and Capital Fund Drives

- Participation at College Wide Events
- Participation and Contributions on College Wide Committees

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

V. METHODOLOGY FOR FACULTY EVALUATION

5.1 REQUIRED USE OF STANDARDS/CRITERIA AND EVIDENCE

In order to ensure that Benedict College has the best faculty possible, all persons performing faculty evaluations or making recommendations for initial appointments, re-appointments, promotions, tenure, and annual review must base these evaluations or recommendations on the Eligibility Standards and the Standards and Criteria outlined in Section 4.4. Each evaluator or recommender must apply the evidence outlined in Section 4.5 in deciding how to evaluate each applicant or candidate. The Vice President of Academic Affairs must provide suitable forms or instruments for each candidate to be evaluated. These forms must be approved by the President and may be modified from time to time. The approved evaluation form must be available for faculty review before it is employed. The approved instruments must allow the evaluator or recommender to assess and evaluate each Eligibility Standard of Section 4.4.1 and each Standard and Criteria of Section 4.4.2. The approved instrument must at minimum include the following standards/criteria:

- Eligibility
- Teaching Quality and Experience
    - Lecturing and Instructing
    - Class Management
    - Advising
    - Ability to Relate to All Students
    - Academic Service
- Quality and Experience of Scholarship
    - Research and Dissemination
    - Professional Service
        - To Government, Community, and Public
        - To Profession
- Commitment to College's Vision and Mission
- • Collegiality
    - Interaction with Supervisors and Officials
    - Interactions with Peers

5.2 EVALUATION AND ASSESSMENT OF EACH STANDARD/CRITERIA

For each decision the evaluator will first ascertain that the candidate/applicant meets the Eligibility Threshold of Section 4.3. If the candidate/applicant does not meet or exceed the threshold, then the candidate/applicant cannot be given any further consideration. If the candidate/applicant meets the threshold the evaluator is then required to assess the evidence outlined in Section 4.4 and assign a value to each Standard/Indicator of Section 4.3.2 from the Following Scale:

5.2.1 Evaluation Scale

- 5 - Exemplary or Outstanding: The assignment of this value means that the evaluatee is evaluated on the standard in question as performing or having the potential to perform at an exceptional level. It is contemplated that an evaluatee who is evaluated at a 5 will have an ability/potential and/or performance that greatly exceeds the normal performance of or expectation for Benedict Employees in quantitative and/or qualitative terms. One would expect this evaluatee's ability and/or performance to rank in the top quintile of all Benedict Employees and applicants.

- 4- Excellent or Very Good: The assignment of this value means that the evaluatee is evaluated on the standard in question as performing or having the potential to perform at an above average level. To be evaluated at a 4 an evaluatee should have an ability/potential and/or performance that exceeds the normal

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

expectation/performance for/of Benedict Employees in quantitative and/or qualitative terms. One would expect this evaluatee's ability and/or performance to rank in the second quintile of all Benedict Employees and applicants.

- 3- Good or Satisfactory: The assignment of this value means that the evaluatee is evaluated on the standard in question as performing or having the potential to perform at a satisfactory or normal level. Such an evaluatee should meet all normal qualification and performance expectations for employees at Benedict College. It is contemplated that an evaluatee who is evaluated at a 3 should have an ability/potential and/or performance that meet the normal expectation for Benedict Employees in quantitative and/or qualitative terms. One would expect this evaluatee's ability and/or performance to rank in the third or fourth quintile of all Benedict Employees and applicants.

- 2 - Fair or Needs Improvement: The assignment of this value means that the evaluatee is evaluated on the standard in question as performing or having the potential to perform below the standard level but has an ability and plan to develop into a satisfactory employee. In general an initial applicant evaluated at this level overall would not be offered employment except in unusual circumstances when no other better-qualified applicant is available. Nor could an applicant be recommended for promotion or tenure with an evaluation of 2. An employee could be re-appointed or given a minimum merit increase or bonus with an evaluation of 2. The College expects that an evaluatee who is evaluated at a 2 will have an ability/potential and/or performance that are below the expectation for Benedict Employees in quantitative and/or qualitative terms. An employee re-appointed or given a merit increase and/or bonus with an overall evaluation of 2 would be expected to improve within a specified period of time if they are to be continued. One would expect this evaluatee's ability and/or performance to rank in the bottom quintile of all Benedict Employees and applicants.

- 1 - Poor or Unsatisfactory: The assignment of this value means that the evaluatee is evaluated on the standard in question as performing or having the potential to perform below an acceptable level with little or no prospects for improving. It is contemplated that an evaluatee who is evaluated at a 1 will be terminated immediately following appropriate policies and procedures or not re-appointed at the end of the existing contract. Such employees will receive no Bonus or Merit Increase. One would expect this evaluatee's ability and/or performance to rank at the bottom of all Benedict Employees and applicants.

5.2.2 Justification and Explanation for Rating

In addition to assigning a numerical score from the above scale, the evaluator must provide a justification or explanation of how the numerical score was derived. This explanation must be based on evidence as defined in Section 4.4 above. The evidence must be included in the evaluatee's portfolio or the source of the evidence must be explicitly cited by the evaluator and readily available for review. Evaluators are expected to use their best judgment in assigning values to each criterion.

5.3 DETERMINING THE OVERALL EVALUATION OF AN EVALUATEE

The Evaluator will determine the overall evaluation of the evaluatee by applying the following weights to each standard assuming the candidate meets the Eligibility Threshold:

STANDARD	WEIGHT
• Teaching Quality and Experience	.50
• Lecturing and Instructing	.45
• Class Management	.10
• Advising	.20

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

- Ability To Relate to All Students .10
- Academic Service .15
- Quality and Experience of Scholarship .25
  - Research and Dissemination .60
  - Professional Service .40
    - To Govt. or Comm. .70
    - To Profession .30
- Commitment to College's Vision and Mission .15
- Collegiality .10
- Interaction with Supervisors and Officials .50
- Interactions with Peers .50

This profile is the Standard Profile. The faculty member in consultation with the Chair and with the approval of the Dean may negotiate a different profile that assigns different relative weights to Scholarship and Teaching. The Department Chair or Dean may on his/her own initiative, with consent of the faculty member, assign different relative weights to the subcomponents of Teaching or Scholarship and/or different relative weights to Teaching and Scholarship. This may be done whenever the needs of the Department dictate that a faculty member's workload deviates from the norm. The Vice President for Academic Affairs must approve the non-standard profile in writing.

5.4 APPLICABILITY OF EVALUATION METHODOLOGY

In order to ensure that the College gets and keeps the best possible faculty the Evaluation Methodology outlined in Sections 5.1 to 5.3 must be applied whenever the College is undertaking an evaluation of candidates or faculty for Initial Appointment, Re-Appointment, Promotion, Tenure, and Annual Performance Review.

5.5 SALARY AND WAGES

5.5.1 Initial Salary and Wages

The initial salary for a fulltime faculty member is set at the time of initial hire. The salary is determined through a process of negotiation with the applicant and is included in the terms of the offer. In general the College attempts to set a competitive salary depending on the credentials or qualifications of the new hire, the salary history of the new hire, market rates for persons in the same discipline and rank, availability of funds at the College, and internal considerations. The College does not operate from a fixed salary scale and attempts to recruit the best Faculty possible given its limited resources and market conditions. The College may pay new faculty members more or less than existing faculty members in the same discipline depending on its needs and conditions in the market.

5.5.2 Annual Merit Raises

Based on the availability of funds the College determines the amount of the annual raise. The Colleges use a performance-based system to determine the annual percentage raise for each faculty member. The percentage raise depends directly on the results of the annual evaluation. The highest annual percentage increase is awarded to those who obtained the highest evaluation and the percentage increase declines as the evaluation declines. In general an unsatisfactory evaluation results in a zero raise. The President and the Board set the amount of the raise for each evaluation category in April depending on the financial ability of the College. The College attempts to provide a raise each year for those evaluated at satisfactory or above but this is not guaranteed and is subject to the financial ability of the College as determined by the President and the Board.

5.5.3 Other Salary Adjustments

In addition to the annual merit raise the College also provides salary adjustments for promotions, completion of the terminal degree, and tenure. If a faculty achieves any of these milestones the College will automatically adjust their rate of pay in accordance with the following scale:

Promotion Assistant to Associate Professor $2,500
Promotion Associate to Professor $3,000
Achievement of Tenure $2,500
Achievement of Doctorate Degree $2,500

The adjustment of Pay will take place with the next contract year. The annual merit raise will be calculated on the old base and added to the milestone adjustment. A new faculty member hired as an ABD on the condition that the Doctorate is achieved will not generally be entitled to a salary adjustment for completing this condition of hire unless this is specified in the letter of offer.

In addition, from time to time the College may adjust the salary of one or more faculty members when, in the judgment of the administration, such a raise is in the best interest of the College.

5.5.4 Christmas Bonus

At the sole discretion of the College and depending on the availability of funds, the College may from time to time award a modest Christmas Bonus based upon merit. If Bonuses are available the College will announce the merit criteria prior to the award of the bonuses. A11 merit criteria must be based on one or more components of the annual evaluation criteria. The College is not obligated to announce the specific criteria in advance but will select criteria that in the sole discretion of the administration capture important priorities for the year. Each faculty member is encouraged to perform at his/her best at all times. If a Christmas Bonus is offered all faculty members will receive one of three categories of bonus based on their evaluation on the Bonus Merit Scheme. The Faculty will be ranked in order of the Bonus Merit evaluation. The top 25 percent will receive the highest bonus, the middle 50 percent will receive the middle bonus, and the bottom 25 percent will receive the base bonus. The Christmas Bonus plan is intended to encourage the highest level of achievement and to thank all faculty members for their contributions to the College.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

VI. POLICIES AND PROCEDURES FOR FACULTY PERSONNEL ACTIONS

6.1 INITIAL APPOINTMENT

6.1.1 Faculty Recruitment and Search

Because of the College's interest in obtaining the best possible faculty for full-time and part-time appointments each Department must undertake a search whose scope is appropriate for the position being filled. Search for full-time faculty will naturally be more intense and wide reaching than searches for adjunct faculty. Each department chair with the concurrence of the Dean and Assistance of the Search Committee will use a range of methods to find excellent faculty. These could include:

- Advertisement in Appropriate Higher Education or Professional Journals
- Sending Announcements to Higher Education Institutions and Graduate Programs
- Advertising in Local Newspapers
- Recruiting at Professional Meetings
- Advertising on the Benedict College Web Site
- Other Appropriate methods

6.1.2 Appointment and Responsibilities of Search Committee

A School or Department Search Committee must be appointed to conduct a search for every fulltime faculty appointment. The Search Committee is appointed by the Dean of the School in consultation with the Department Chair. The Search Committee, at the discretion of the Dean, may be a school-wide or departmental committee. Every Search Committee must have at least two members who are faculty from the searching department, one member from other departments within the School, one member from the other School, one student from the major of the applicant, and other members at the discretion of the Dean. The Chair and the Dean are ex-officio members of every search committee.

The Search Committee is responsible for:

- Developing the Position Description
- Developing all Advertisements/Announcements
- Acquiring, Receiving, and Assembling all Applications
- Reviewing and Ranking all Candidates in Accordance with College Evaluation Methodology
- Checking all Candidate References and Verifying all credentials
- Preparing Preliminary Rankings and Inviting 1 to 5 Candidates to Campus for a Visit and Round of Interviews.
- Hosting and Scheduling Activities for Candidates Invited for Campus Visits
- Preparing and Submitting the Final Report to the Department Chair, recommending up to 3 Approved Candidates for Hire
- Every candidate must be interviewed and approved for hire by The President before the Final Recommendation is submitted.

6.l.3 Department Chair Report

The Department Chair receives and reviews Committee Report and passes it on to the Dean along with her/his recommendation.

6.1.4 Dean Makes Final Hiring Recommendation

The School Dean receives the recommendations from the Department Chair and the Search Committee. The School Dean then makes the final selection and negotiates with the candidate concerning the terms of. the offer. If the Dean has adequate budget authority to extend the offer, then the Dean makes his/her recommendation for

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

hire, salary, moving expenses, and other conditions of the offer to the President through the Vice President for Academic Affairs (VPAA). The Dean submits all appropriately signed Personnel Action Forms, Budget Transfers, and any other required documents with his/her package. If the Dean does not have adequate budget authority after the negotiations with the candidate are completed then the Dean either moves to the next choice candidate or negotiates with the President and Academic Vice President for additional Budget. If this is successful he/she submits the package to the VPAA. If not the Dean goes to the next choice candidate.

6.1.5 Vice President Forwards to Personnel
The VPAA reviews the recommendation for completeness and conformity to College Policy. If the recommendation is approved the VPAA passes the recommendation to personnel.

6.1.6 Personnel Prepares Contract and Cover Letter Containing the Offer
The Personnel office reviews all hiring packages checking for completeness and conformity and obtains required budget approval from the Business Office. Personnel then prepare final contract and offer letter for submission to the President for final approval. When the President approves, the Personnel Office completes processing the offer and forward it to the successful applicant and make all necessary arrangements to implement the offer and complete the hiring process.

6.1.7 The President Signs Contract and Offer Letter
The President reviews the final hiring package. After approval the President signs the contract, the cover letter, and the PAF and returns them to personnel for final processing.

6.1.8 The Initial Contract Must Contain All Terms
The initial contract must contain all agreements relating to rank, tenure, months of employment, and salary. Special conditions such as reduced loads or support for summer, etc. may be included in the cover letter. The rank indicated in the initial contract is the rank until there is some action to promote or demote the faculty member. Any years awarded towards tenure for prior service at another institution must be stated in the initial contract. Ordinarily a maximum of three years may be awarded for prior service. The initial starting salary, the number of months covered, and the starting and ending date of the contract must also be indicated.

6.2 FACULTY REAPPOINTMENTS AND NON-REAPPOINTMENTS
All faculty members are subject to reappointment annually. Tenured faculty members will be automatically reappointed each year except for reason of cause. **Reappointment of non-tenure faculty members is at the sole discretion of Benedict College.** All tenure track probationary faculty members will be explicitly considered for reappointment each year with no guarantee of reappointment during the probationary period. Non-tenure track employees will be explicitly considered for reappointment each year during their employment at Benedict College.

6.2.1 Reappointment Procedure for Non Tenured Faculty Members
The Vice President for Academic Affairs will request no later than January 15th of each year recommendations from the Dean concerning reappointment of each and every non-tenured faculty member. The Dean may receive recommendations from the Department Chair, review faculty evaluations, and any other information desired. Upon review of the recommendations of a faculty member's Dean, the Vice President of Academic Affairs will make recommendations to the President no later than February 15th concerning appointments and non-reappointments. The President will then make the final decision concerning reappointment and inform the faculty member no later than March 15th each year. Any faculty member not receiving a notice of non-reappointment by March 15th will be reappointed. The College reserves the right to reappoint or not reappoint any non-tenured faculty member at its sole discretion. The non-reappointment of a faculty member is not subject to the faculty grievance process nor may such a decision be appealed.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

6.2.2 Reappointment Timetable for Tenured Faculty
Tenured faculty will normally be automatically reappointed except for termination for cause, financial exigency or program discontinuation. Wherever feasible notice of non-reappointment of tenured faculty generally will be provided no later than December 15 of the academic year in which employment will terminate.

6.2.3 Terminal Contracts for Non Tenured Faculty
Any tenure track faculty who is not awarded tenure during the seven-year probationary period will be issued a terminal contract for the seventh year. If tenure is awarded during the seventh year then the contract will be renewed. If tenure is not awarded during the seventh year then the contract will not be renewed and the faculty member's employment at Benedict College will end with the seventh year.

All faculty members who have not received a notice of non-reappointment will be reappointed and will be issued a new contract no later than May 15th of each year if feasible, and to take effect in the new Academic year. If the College is unable to issue the contract by July 1st the terms and conditions of the new contract will be retroactive to July 1st of the contract year. Upon receipt of the contract it must be returned within 15 calendar days to guarantee employment for the following year. Failure to return the contract in a timely manner could result in non-reemployment.

IMPORTANT NOTICE

Benedict College reserves the right to change the timetable for non-reappointment of *tenured, tenure track, and/or non-tenure track* faculty members in cases involving cause, discontinuation of programs, and financial exigency whenever this is judged to be in the best interest of the College.

6.2.4. Termination
The College reserves the right, at any time, to terminate the services of both tenured and non-tenured faculty members under appropriate circumstances which shall include but are not limited to:

1. Adequate cause (which may include, but is not limited to: incompetence; significant neglect of duty; persistent refusal to comply with the College's policies; violations of the College's standards of professional responsibility in teaching and research; violation of the College's non-discrimination, harassment, or equal opportunity policies; dishonesty in teaching or research; falsification of information concerning the qualifications for a position; felony conviction (which means a guilty verdict in a trial, an imposition of a sentence, a plea of no contest, or a plea of guilty), inability to perform essential functions of the job; moral turpitude; and other conduct or behavior prejudicial to the College)
2. Financial exigency (financial exigency shall mean an imminent financial crisis which threatens the survival of the institution as a whole.)
3. Institutional restructuring and/or elimination of academic programs/majors.

At the discretion of the College, a person may be placed on leave with or without pay pending the outcomes of the hearing and appeals process.

6.2.5 Procedures for Terminating Faculty Members for Cause

1. Action to terminate a faculty member for cause may be initiated by any Department Chair, Assistant or Associate Dean of a School, the Academic Vice President, or President upon determination that probable cause may exist to justify termination of the faculty member.

2. The initiating party must submit a written request to the Academic Vice President requesting the convening of a faculty hearing committee to consider the charges or other circumstances motivating the request to terminate the faculty member.
3. With the consent of the President the Vice President for Academic Affairs will convene a standing or Ad Hoc faculty hearing Committee.
4. The hearing committee will conduct a fair and impartial hearing of all the evidence and make a recommendation to the Vice President for Academic Affairs.
5. The Vice President for Academic affairs will review the decision concerning the matter and notify both the initiating party, the faculty member, and the Dean of the decision.

6.2.6 Appeal of Termination

A faculty member terminated for cause or the party initiating the complaint may appeal the decision by requesting a hearing before the Faculty and Staff Appeals Committee within ten (10) days of notification. The request for an appeal must be submitted in writing to the Vice President for Academic Affairs.

(a) The Vice President for Academic Affairs will convene the Faculty and Staff Appeals Committee. The Committee will review the petition for appeal and will hear the appeal within ten (10) days of receipt of the appeal or as soon thereafter as feasible. The Committee will, after due deliberation, with or without the benefit of further hearings, issue its recommendation to the President.

(b) The President will review the recommendation of the Appeals Committee and make the final decision concerning whether to uphold, vacate, or modify the recommendation of the Appeals Committee. The President will then notify all parties of the final decision.

(c) The decision of the President is final and no further appeal is possible.

6.3 POLICY AND PROCEDURE FOR TENURE AND PROMOTION TO HIGHER RANK

A tenure track Faculty member may apply for tenure and/or promotion to higher rank if he/she believes that he/she meets the Eligibility Criteria for tenure or the rank outlined in Section 4.4.1 and Standards and Criteria for that rank outlined in Section 4.4.2. The Department Head may also invite an application for promotion or tenure from a member of the department's faculty. The following steps are used to apply for promotion or tenure:

1. The faculty member who wishes to be considered for promotion or tenure must complete the promotion or tenure application and provide the Department Head with a dossier that contains all of the information, evidence, and documentation required to make the promotion or tenure decision. The promotion or tenure application should be available from the Department Chair. Instructions for assembling the dossier will be incorporated with the instructions for completing the application. The dossier must contain information necessary to evaluate the Eligibility Criteria and Standards for the rank sought or the tenure decision. The faculty member must submit documentation or evidence of qualifications in accordance with the evidence outlined in Section 4.5 for assessing Eligibility and Standards and Criteria. The completed dossier should be submitted to the Department Chair.

2. The Department Chair will review the dossier for completeness and present the dossier to a departmental Promotion or Tenure Committee for review and recommendation.

3. The departmental Tenure Committee shall consist of all tenured members of the department's faculty and the Department Chair and the Promotion committee shall consist of all department members at or above the rank of the professor being considered. If there are fewer than three eligible departmental faculty for either the Promotion or Tenure Committee then the Dean will appoint members from a closely related department to

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ensure that at least three faculty members are on the committees. The Department Chair will be the chairperson of the committees. After the committee reviews all information and deliberates it will write up its recommendations. The committee's evaluation must address each element of the criteria by assigning a score and providing a written justification for each score as well as providing an overall recommendation. The department chair shall be responsible for writing the committee report on approved committee recommendation forms as well as providing a separate department chair recommendation on the approved forms.

4. The Department Chair will submit the completed promotion or tenure recommendation to the School Promotion or Tenure Committee for evaluation and recommendation.

5. The School committees will consist of four senior faculty members from departments in the school appointed by the Dean, the Associate or Assistant School Dean, one student appointed by the Dean, and two tenured faculty members from the other school. The Associate or Assistant Dean will chair the committee. After the committee reviews all information and deliberates it will write up its recommendations. The committee's evaluation must address each element of the criteria by assigning a score and providing a written justification for each score as well as providing an overall recommendation. The Associate or Assistant Dean shall be responsible for writing the committee report on the approved recommendation forms.

6. The Committee's report and recommendations will then be submitted to the Dean. The Dean will review the recommendations of the Department and School committees and the Department Chair and the faculty dossier and write a final recommendation to the Vice President for Academic Affairs on the approved Dean's recommendation form.

7. The Vice President for Academic Affairs forwards recommendations to the College's Faculty Promotions and Tenure Committee. This committee is a standing committee of the College. The Faculty Promotions and Tenure Committee reviews all applications and materials for promotion checking for completeness, fairness, consistency, and compliance with all college policies and procedures. Based on these procedural issues it makes recommendations to the Vice President for Academic Affairs on approved forms to support the recommendation of the Dean or to send the application back for further deliberation.

8. The Vice President for Academic Affairs reviews the recommendations of the Faculty Promotions and Tenure Committee and either forwards the Deans recommendation to the President with support or opposition or returns the portfolio if recommended by the College Committee. The Vice President's recommendation will also be on the approved forms.

9. The President reviews and evaluates all recommendations for promotion and tenure submitted by the Vice President and determines his/her recommendation. The President will then submit his/her recommendation to the Board of Trustees in time for action at its Spring Meeting. The President shall notify each applicant of the outcome of his/her application after the Spring Board meeting.

10. Faculty may file a grievance against an adverse tenure or promotion decision through the normal grievance process. The appeal must focus on procedural and process errors in the process as opposed to the judgment of the different decision makers.

6.4 POLICY AND PROCEDURE FOR ANNUAL FACULTY EVALUATION

6.4.1 Purpose and Scope

Benedict College evaluates all faculty personnel on an annual basis. The purpose of faculty evaluation is to help the College achieve its Mission at the highest level of quality by assuring that the College maintains the highest level of faculty performance feasible. The Annual Performance Evaluation is intended to assess the performance

of the faculty in light of the Policies, Procedures, and Methodology outlined in Section 4. Done properly the annual performance should promote and facilitate the improvement of teaching, scholarship, and service and aid with personnel decisions. Annual performance evaluations provide a basis for recommendations to improve performance, annual merit raises and/or bonus pay, reappointment/non-reappointment, promotions to higher rank, and tenure. All personnel actions resulting from performance evaluations are effective upon the drawing up and execution of the new contract.

6.4.2 Faculty Performance Evaluation Procedures

For returning faculty members, the evaluation process should begin with review of the Faculty Performance Plan based on feedback from the previous evaluation. The Chair should develop the Faculty Performance Plan with input from the *faculty* member at the end of each performance appraisal. The Dean must approve each faculty performance appraisal plan. The plans must be submitted on approved College forms. Such plans should include goals for improvement in teaching research, and service. The annual performance appraisals should be conducted in the following manner:

1. Formal performance evaluations are conducted annually for tenured and non tenured faculty members. The Vice President for Academic Affairs will initiate the Annual Performance Evaluation process with a memorandum that provides the timelines, forms, and instructions for the year. The Vice President for Academic Affairs will also ensure that all assessment data that is collected by the College is made available to the Dean of each School for distribution to the Chairs and Faculty.

2. Each faculty member must assemble and submit a portfolio to his/her department chair that will contain all of the evidence to evaluate performance for the year. The information must be provided according to the evidence requirements discussed above in Section 4.5. The Vice President of Academic Affairs will provide the format and forms for the submission and assembly of the portfolio. The Department Chair will assemble the faculty portfolios for all faculty members, adjunct and full-time, in the department.

3. The Dean is responsible for overseeing the Annual Performance Evaluation of the faculty in his/her School. The Department Chair will actually perform the initial evaluation of each faculty. These evaluations will then be submitted to the Dean. The Dean will discuss each evaluation with the Chair before the Dean and the Chair finalize the evaluation for submission to the Academic Vice President.

4. After the Dean and the Chair finalize the evaluation, the Dean and Department Chair are required to meet with each faculty member for the purpose of reviewing the Faculty Performance Appraisal. After Pmeeting with the Dean and/or Chair the faculty member is required to sign the completed performance appraisal to acknowledge that it has been presented to him/her.

5. The faculty member has the right, if he/she disagrees with the results of the evaluation, to place a written statement in the appraisal file recording this disagreement.

6. The Dean will submit recommendations based on the results of the Faculty Performance Appraisal to the Vice President for Academic Affairs who will review for conformity with procedures and policy, and College wide fairness and uniformity. If the Vice President does not approve the results he/she will return the appraisals to the Dean for adjustments. If the Vice President is satisfied with the results he/she will forward them as recommendations to the President who will take appropriate action.

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ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

6.4.3 Performance Evaluation for Academic Administrators

1. Formal performance appraisals are conducted annually for all academic administrators. If the administrator holds faculty rank and teaches at least two courses a year he/she must be partially evaluated on the basis of his/her performance as a faculty member. This faculty evaluation must be based on the same methodology, criteria and standards, and evidence as for a regular faculty member. In the case of a Dean, the Vice President for Academic Affairs will take the role of the Dean in the evaluation process. In the case of a Chair, the Assistant Dean will take the role of the Chair. The weight given to the faculty portion of the evaluation will be no more than one-half or the proportion of time devoted to faculty responsibilities, whichever is less. At least one-half of the evaluation must be based on the administrator's performance as an administrator.

2. The immediate supervisor is responsible for initiating the performance evaluation of the administrator in his or her unit.

3. The evaluation of academic administrators will consist of assessments of individual performance and the performance of their unit on available assessment indicators.

6.5 FACULTY DEVELOPMENT

Given Benedict College's commitment to developing and maintaining a quality faculty, it encourages all faculty members to regularly participate in activities that offer opportunities for professional development. Faculty are expected to be active in their profession, to participate on a regular basis in the professional associations in their disciplines, to regularly participate in scholarly activities, and to engage in continuous activities to improve themselves as a scholar and a teacher. Whenever possible and subject to the availability of resources the College is pleased to offer the faculty financial support to undertake professional development activities.

The College may offer support for participation in professional meetings as a presenter, to discuss papers, or to preside or chair a session. The College may offer support to faculty members who serve as officers or board members of professional associations. The College may share the cost of professional seminars or courses that enhance the skills of the faculty members when such activities will provide the College with high priority skills in shortage areas. The College may also assist a faculty member in paying expenses to take credit courses towards an advanced degree if the degree is in an area of shortage and is a priority interest for the College. All support for professional development is at the discretion of the College and subject to the availability of resources.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

VII. FACULTY GRIEVANCE PROCEDURES

The academic administrative officers are primarily responsible for resolving grievances raised by faculty members. A Faculty and Staff Grievance and Appeals Committee is designed as a mechanism in cases where an aggrieved faculty member feels that the academic administrators did not resolve his or her grievance satisfactorily.

This grievance procedure is not intended to prevent any faculty member from discussing any matter with any level of management, including the President. Faculty members, however, are encouraged to follow the procedures set forth in this section.

7.1 INFORMAL GRIEVANCE PROCEDURES

In most situations, a faculty member should discuss a complaint or problem with his or her immediate supervisor. If the supervisor is unable to resolve the complaint or problem or if the faculty member is uncomfortable discussing it with the immediate supervisor, he or she may discuss it with his or her Department Chairperson or **Dean of the appropriate school**. If the department **Chair** or D**ean** is unable to resolve the complaint or problem, or if the faculty member is uncomfortable discussing it with either **administrator,** he or she may discuss the complaint or problem with the Vice President for Academic Affairs.

Grievances should be discussed first with the faculty member's immediate supervisor who should give prompt attention to any complaint. The Vice President for Academic Affairs is available to supervisors and faculty members to assist in resolving conflicts and eliminating conditions that may lead to possible grievances.

7.2 FORMAL GRIEVANCE PROCEDURES

If the faculty member is unable to resolve his or her complaint or problem through the informal administrative process in Section 7.1, he or she may seek recourse to the Grievance and Appeals Committee (GAC). The following procedures should be used to bring a complaint before the GAC.

1. The faculty member must submit a written grievance to the Vice President for Academic Affairs who will submit the same to the Faculty and Staff Grievance and Appeals Committee. All grievances must be submitted in writing no later than **fourteen (14)** calendar days after occurrence of the event for which relief is sought.

2. The Chairperson and the Committee membership will meet and examine the grievance and its related issues and suggest a solution to the grievance to the Vice President for Academic Affairs. The Committee's proposed solution is not binding on the parties. The Vice President for Academic Affairs will notify the faculty member within seven (7) calendar days following the receipt of the Committee's proposed solution.

3. If the faculty member is dissatisfied with the proposed solution, or if the Vice President fails to respond within the seven (7) calendar day period, the faculty member has **14 calendar days** to request in writing a formal hearing before the Faculty and Staff Grievance and Appeals Committee. Failure of a faculty member to respond within the **14 calendar day** period shall be deemed a withdrawal of his or her grievance and the matter will be closed.

4. Upon receipt of a written request for a formal hearing, the Committee will then issue a written invitation to the faculty member to attend a formal hearing. The parties may bring an advisor or counsel. The Faculty Grievance and Appeals Committee has a right to utilize the services of an attorney provided by the College.

5. The Faculty and Staff Grievance and Appeals Committee will hear the charge, receive facts and evidence, and entertain arguments from the parties or representatives. The Chairperson of the Committee will preside over the hearing.

6. The faculty member will receive notification to be present at the hearing, and, along with the College, is invited to present evidence and cross-examine all witnesses. In the event that the faculty member does not appear, the hearing will proceed in his or her absence.

7. At the conclusion of the hearing, and within 10 calendar days, the Committee shall issue written findings of fact and recommendations to the Vice President for Academic Affairs. Within 5 days of receipt of the committee's recommendation, the Vice President for Academic Affairs will report the committee's decision to all parties. The Committee and the Vice President shall make every effort to issue the ruling within 15 calendar days.

8. If the faculty member is dissatisfied with the proposed solution the faculty member **has 7 calendar days from the receipt of the Committee's ruling** to appeal the decision to the President. The appeal must be in writing and state the grounds for appeal and the relief sought. Failure of a faculty member to file an appeal within the **7 calendar days** shall be deemed to resolve the grievance of the faculty member satisfactory and the matter will be closed.

9. Upon receipt of a written appeal, the President will review the Committee's decision. The President may issue a written invitation to the faculty member to attend a formal appeals hearing or the President may decide the matter on the basis of the record and the letter of appeal.

10. If the President grants an appeals hearing, the parties may bring an advisor or counsel to the appeals hearing. The President may utilize the services of the College attorney.

11. After considering all evidence, the President will issue his decision in writing to all parties. The decision of the President is final.

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ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

VIII. FACULTY CHECK-IN AND END-OF-YEAR CLEARANCE PROCEDURES

8.1 CHECKING IN PROCEDURES

All faculty, new and returning, are required to follow certain checking-in procedures. They must:

1. Attend all opening Faculty Institutes and Workshops at the College, School, and Department level. A faculty member who has a legitimate reason to miss an opening activity must obtain permission to be absent from the Dean. Failure to attend opening activities or obtain an excused absence could result in loss of pay for the days missed.

2. Each member of the faculty must submit to the **Department Chair**, at the opening departmental meeting but no later than August 30, up-to-date directory information and professional data to include transcripts for any additional education obtained and updated vitae to include in all publications, other scholarly activities, professional service, and all College service.

3. Each member of the faculty must submit to the Department **Chair**, by the first DAY of classes, course syllabi for each section to be taught during the semester, a completed Office Hours form showing the allocation across the week of the required ten office hours, and the signed Faculty Composite form. The Department **Chair** will retain one copy of each document and forward one to the **Dean**.

4. Each faculty member must participate in the student orientation and registration activities for the amount of time and in the fashion designated by the Department Chair and/or Dean. The orientation and/or the registration activities may require the faculty member to work some evening hours.

8.2 FACULTY CLEARANCE PROCEDURES

At the end of each semester, faculty will be required to submit a clearance form to the **Dean** with all appropriate signatures showing that:

1. All final examinations and grade sheets for each section taught have been turned in to the Department **Chair**.

2. Book orders have been placed for the next semester for every section assigned.

3. The preliminary course outline for each class to be taught during the new semester must be turned in to the Department **Chair** for review. It is recognized that this outline may be revised before the start of the new semester.

4. All equipment, materials, inventory, etc., issued through the Department, School, and/or College have been returned and/or accounted for to the Department Chair and/or the School Dean.

5. The roll book for each section of each class assigned for the semester has been submitted to the Department Chair and grade reports have been turned into the Registrar.

6. All library books are returned or satisfactory arrangements made with the librarian for materials outstanding.

7. All obligations to the Division of Business and Finance, including key deposits or returns and payment of parking fines, have been honored.

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8. Work study reports required by the Financial Aid Office have been turned in, and

9. All other year-end reports for Deans and Department have been submitted.

10. THE COLLEGE RESERVES THE RIGHT TO WITHHOLD THE FINAL PAYMENT OF EACH SEMESTER UNTIL ALL SEMESTER END CLEARANCE REQUIREMENTS ARE COMPLETED.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

IX. ACADEMIC POLICIES

9.1 FACULTY RESPONSIBILITY

The teaching faculty of Benedict College is an integral part of the system of academic program delivery and administration. Each teaching faculty member, upon his/her appointment or reappointment is required to adhere to or successfully implement the academic policies described in this section.

9.2 ACADEMIC PROCEDURES

1. Each faculty member assigned to a class must utilize the electronic roll book system for recording the names of all students enrolled in the class and keep an accurate record of the grades, performance, and attendance of each student at each class meeting. At the end of each semester these electronic roll books must be submitted to the Department Chair or the Dean's designee in accordance with directions issued each academic term by the Office of Academic Affairs.

2. Faculty members must take attendance daily, keep a record of class attendance, and enter attendance records as required by the Office of the Vice President for Academic Affairs.

3. A student enrolled in a course should be kept on the roll until he or she presents a drop card or is administratively withdrawn by the College.

4. Faculty members must meet and end all classes at the scheduled times conducting appropriate class activities for the entire class period.

5. In any and all instances where a faculty member must be absent from class, he or she must make suitable arrangements that must be approved by the department chair for the class to be covered by another qualified faculty member. In case of an emergency the faculty member must notify the Department Chair who will make the appropriate arrangements or notify the students. In no instances should a faculty member miss a class without consent of or notification to the Department Chair. Unexcused absences will result in disciplinary actions up to and including termination of employment. A termination for unexcused failure to cover more than three classes in one semester is not subject to the faculty grievance process. Such a termination must be recommended by the Dean and approved by the President. Suitable arrangements to cover the class include but are not limited to:

    a. Another faculty member or laboratory technician in the discipline may serve as a substitute for the absent instructor and conduct the class according to a plan provided by the regular instructor.

    b. Library assignments or other designate assignments may be used but only where they fulfill a specific objective and/or activity on the course outline. If the activity will take place in the classroom, another faculty member or lab technician must be present during the activity. If the activity will take place in the library a librarian must conduct the activity.
    c. He or she may hold make-up classes in lieu of classes missed for approved leave of absences.

    d. He or she may arrange a full period of examination to be administered by another faculty member or a laboratory technician.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

6. Faculty members are encouraged to use a variety of evaluative instruments to test the effectiveness of their teaching. These may include but are not limited to the following: teacher made exams, standardized subject exams, class participation, written term papers and projects, student portfolios, attendance records, and student surveys. The faculty should keep accurate records on the results for each method of evaluation employed.

7. There should be no change in the time or location of scheduled examinations without the explicit written permission of the appropriate Department **Chair, Dean**, and the **Associate Vice President for Academic Affairs.** A request to change class-meeting time or location must be submitted on the appropriate form. To the extent feasible, all enrolled students must agree to the change in time. The Registrar must be notified of all approved class changes (time and location).

8. Each instructor who is assigned a class is expected to give at least a mid-term and a final examination to each student enrolled in his/her class unless the Department Chair and the Dean has given prior written consent. Within **48 hours** after the final examination is given, final grades must be submitted to the Registrar, and a copy of the same must be submitted to the department chair within one week.

9. To obtain permission to eliminate the mid-term or final examination, a detailed statement setting forth the method of evaluation to be used in the course in lieu of the mid-term and/or the final exam should be submitted through the Department **Chair** to the **Dean**.

10. Classroom visitation

    a. Faculty members wishing to invite outsiders to visit, lecture to, participate in, or in any way attend regularly scheduled classes must obtain prior approval from the appropriate Department **Chair, Dean,** and the **Vice President for Academic Affairs.** In no case should a student be allowed to audit a class without the permission of the Dean and Academic Vice President. Faculty members will be held responsible for the conduct of outsiders whom they invite to their class.

    b. Faculty members wishing to attend, visit, or participate in classes held by other members of the faculty must notify and gain consent from the faculty member who is in charge of the class. This does not apply to a faculty member conducting a Department, School, or College authorized Peer Review.

    c. The President, the **Vice President for Academic Affairs** or his/her designee, and within their jurisdictions, **Deans**, and Department **Chairs** reserve the right to visit any classroom at any time.

11. Faculty members accepting invitations to act as sponsors or chaperones for events held by student organizations are expected to attend such events and remain for the duration of the event.

12. Faculty members are expected and encouraged to maintain memberships in professional societies and academic organizations within their teaching disciplines.

9.3 GRADING SYSTEM, CREDITS, AND TEACHING RESPONSIBILITY

The faculty is fully accountable for evaluating the work of students. Each faculty has the responsibility of maintaining class records in sufficient details as to the performance of each student enrolled in his/her respective classes. These records should be recorded in the electronic roll book system as authorized by the College. The

electronic roll book is the Official Class Record and remains the property of the College. It must be submitted to the Department Chair or designee at the end of each academic semester/session. Such records should be kept in accordance with the grading system described in the course outline and should serve as the basis for the final grade in the course. The Official Class Record should include, at minimum, all examination, quiz, and test scores on each student along with information as to attendance and performance in class and on assignments.

Final course grades for each course must be reported to the Registrar using the system made available to faculty each semester for that purpose.

9.4 CHANGE OF GRADES

Faculty members wishing to change a grade may obtain the required form from the Department Chair, who must obtain them from the Registrar. The Department Chair and Dean must approve all change of grade requests. All changes of grades must be reported to the Vice President for Academic Affairs. Each form should be numbered and registered and any faculty requesting a Change of Grade Form will be held accountable for the form until it is returned or submitted. Because of the possible abuse of grade change form if they fall into the wrong hands the faculty should handle them with care. A Change of Grade Form may not be handled by students or student workers at anytime in the grade change process.

Acceptable reasons for changing student grades include:

- A demonstrable error in the computation of a grade;
- A substantial error in the evaluation of student performance, and
- Completion of course requirements not completed during a proceeding academic term due to good cause such as illness, death in the family, military service, or other sufficient reason.

9.5 SELECTION OF TEXTBOOKS

The responsibility for selecting a given textbook rests with the faculty member(s) teaching the course with approval of the Department **Chair** and **Dean**. If the faculty member fails to choose a textbook on a timely basis the Department Chair and Dean may assign a textbook for the course.

Once a book has been selected and ordered for a course, such book must be used by the instructor who requested it or by the instructor who actually teaches the course for which the book was ordered. All textbooks should be reevaluated every three years in relation to current textbooks available, student performance, and the needs of the course. Since many publishers permit returns only under certain specified terms, care should be taken in estimating the number of books needed for courses.

9.6 ADVISEMENT

Department Chairs assign Faculty Advisors to students at the time of the student's initial enrollment. The regular advising load is 30 students. Depending on Departmental circumstances, this load may be increased by up to 9 students with out creating an overload. After the number of advisees exceeds 39, the faculty member will be considered to be in an overload situation. Faculty members will receive 1 Semester Credit Hour overload for each 10 students above thirty. An overload may be compensated by released time from other duties or by pay at the regular overload scale.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Faculty advisors will assist students with academic concerns, class selections, and career options. The advisor should also monitor the progress of his/her advisees towards completing the requirements of their degrees. The advisor should also assist each advisee with schedule selection and pre-registration. The advisor should also advise the advisee on minor personal and social matters. Matters concerning financial aid, student accounts or significant academic and\or personal problems that the advisor cannot resolve should be referred to the Counseling Service or to other appropriate College officials. **Each advisor must see every advisee at least once each semester.**

9.7 CLASS SCHEDULING

The Vice President for Academic Affairs publishes a master schedule of courses, sections, classrooms and instructors each semester on the basis of recommendations from Department Chairs and Deans. The Department Chair with input from the Faculty has responsibility for preparing a preliminary schedule for his/her Department. Each Dean has the ultimate responsibility for approving the schedule for each Department in his or her School. Faculty members are encouraged to provide input on scheduling to the Department Chair.

The Vice President for Academic Affairs or his or her designee must approve all changes in the master schedule.

9.8 FIELD TRIPS

Faculty wishing to take students off-campus on special outings or field trips must obtain approval from the administration before planning an off-campus trip. The Vice President for Academic Affairs and the Associate Vice President or Vice President for Student Affairs must approve the following details: date, time, purpose, mode of transportation, destination of students, names of individuals concerned, student emergency contact information, chaperones, faculty members in charge of the travel party, estimated duration of absence from campus, time of return, and medical-student insurance information where appropriate. The approvals are obtained by submitting the external trip request form through the Department Chair. Faculty are expected to assume responsibility for the safety of students while off-campus.

The administrative approval should be sought at least 5 days in advance, whenever possible, for all planned field trips.

9.9 FACULTY CONSULTING

The College encourages faculty consulting, including research relating to the educational activities of the College. Consulting should not conflict with the faculty member's duties to the College. Faculty members engaged in consulting activities should notify the Vice President for Academic Affairs of consulting activities for which they receive compensation from sources outside the College. ***Consulting should not exceed one day a week during the fall and spring semesters.***

9.10 WORK SCHEDULES

The work schedules of full-time faculty cannot be changed except with the written permission of the Office of the Vice President for Academic Affairs. Whereas there is no limit to the amount of time faculty may choose to devote to their profession, all faculty are expected to devote at least 40 hours per week to College work. The fulltime teaching load for a faculty member is 12 hours per week in the classroom. Within the constraints of their regularly scheduled classes, faculty members are required to set aside and post in a prominent place a minimum of ten hours per week during which they will hold office hours. In general faculty are expected to be in their offices at all times during regularly scheduled office hours. During the regularly scheduled office hours they are to make themselves available for conferences with student advisees as well as students enrolled in one of their classes. Students should not be required to have an appointment during regular office hours but may make appointments during this time.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Faculty are also required to devote some time to regular administrative duties related to their work as members of the faculty, to professional scholarship, service as members of committees. As teachers and scholars faculty are expected to make themselves available for both formal and informal meetings with other members of the faculty, the student body, and the administration of the College.

It is expected that the business of the College must be conducted on campus and not in private homes or at other locations. Any business of the College, including teaching, tutoring, counseling, evaluating, meetings conducted off campus must receive prior approval by the Vice President for Academic Affairs. Faculty members are expected to provide their Department Administrative Specialist with information concerning their whereabouts whenever they are absent from their office during the regularly scheduled work hours of 8:30 am to 5:00 pm.

Full-time faculty members may not accept full-time employment with other agencies or institutions as long as they have a contract with the College, except with the permission of the President. Subject to approval by their Department Chair, Dean, and the Vice President for Academic Affairs, faculty members may hold part-time outside employment so long as it does not conflict with the faculty member's responsibilities to the College and does not create a conflict of interest or competition for the College.

The acceptance of outside employment without written permission may be considered a substantial violation of the faculty member's contract and could lead to discipline up to and including termination.

Part-time faculty are required to hold a minimum of one conference hour each week for each course taught. In addition, they are required to make themselves available by appointment to help students in their courses. Finally, they must make themselves available as required to meet with College officials as needed. Otherwise they are not responsible for time on the campus beyond their teaching requirements.

9.11 ATTENDANCE AT SPECIAL CONVOCATIONS AND FACULTY MEETINGS

Special Convocations

Faculty members are required to attend public meetings that have traditional or special significance for the College such as Founder's Day Convocation, Fall Convocation, Commencement, the Annual Faculty/Staff Institute, Mid-Year Institute, All College Assemblies, monthly Faculty Forums, Faculty/Staff meetings and special assemblies called by the President.

Faculty members and principal administrative officers shall wear full academic regalia for Fall Convocation, Founder's Day Convocation, and Commencement Exercises. The College makes rental regalia available to faculty members. However, each faculty member is responsible for all rental costs for his/her own regalia.

Monthly Faculty Meeting

Each member of the faculty is required to attend the regular monthly Faculty Forum. The Vice President for Academic Affairs arranges the agenda in consultation with the Executive Vice President and the extended Academic Affairs Council. The President must approve the Agenda. Faculty members are urged to submit, through regular channels, items for inclusion on the agenda.

At a regularly scheduled Faculty Forum the full-time faculty present shall constitute a quorum for conduct of all faculty business before the Forum. Roberts' Rules of Order shall govern the conduct of the monthly forums. Voting shall ordinarily be by voice or by show of hands, but the presiding officer may at his/her discretion require a paper ballot. Paper ballot shall also be provided at the request of the Faculty. The President or his designee shall preside at the Faculty Forum.

No activities shall be scheduled to conflict with Faculty Forums, and faculty members unable to attend are obligated to request permission, in writing, from the Vice President for Academic Affairs to be excused from attending.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

X. INTELLECTUAL PROPERTY RIGHTS POLICY

Introduction

The Intellectual Property Rights Policy at Benedict College is intended to clarify ownership of intellectual property rights, establish an opportunity for commercialization of works, inventions, and discoveries, and provide for equitable distribution of resources, monetary and other benefits accruing from Benedict College exploitation of these works, inventions, and discoveries.

This Intellectual Property Rights Policy at Benedict College is applicable to all faculty (including visiting faculty) and staff, as well as full-time and part-time students at Benedict College.

Definitions (as used in the Policy)

"Intellectual Property" at Benedict College is defined as all materials subject to copyright, patent, trade secret, and/or trademark laws.

> Copyright laws protect original works of authorship fixed in a tangible medium of expression. Examples of works that are potentially copyrightable include original writings, works of visual art, musical compositions and recordings, scholarly articles, tests, syllabi, computer programs, photographs, movies and other audiovisual works, dramatic works, compilations, and other artistic creations.
>
> Patent laws protect useful and novel inventions and discoveries, including processes, machines, articles of manufacture, compositions of matter, product designs, and improvements thereof. Examples of inventions and discoveries that are potentially patentable include computer programs, electronic devices, chemical compositions, manufacturing processes, and pharmaceuticals.
>
> Trademark laws protect words, symbols, logos, names, and other devices (whether registered or not) that are used to identify and distinguish one person's, company's, or institution's goods or services from those of others. Benedict College owns a number of trademarks including registration at the U. S. Patent and Trademark Office for the marks BENEDICT COLLEGE®, the Benedict Tiger logo, and the Benedict College Seal.
>
> Trade secret laws protect economically valuable information formulas, processes, methods, compilations, techniques, systems and other matter which is not generally known or reasonably ascertainable, and which is the subject of efforts that are reasonable under the circumstances to maintain secrecy of the information.

"Creator" is defined as the person (being a Benedict College employee or student) or persons who invent, author, or otherwise create the Intellectual Property. Please note that the Creator if Intellectual Property, depending on the circumstances, will not necessarily be the owner of such Intellectual Property.

"Net Adjusted Income" in relation to specific Intellectual Property is defined as equaling the gross revenue received by Benedict College from licensing or exploitation of such Intellectual Property, minus the current and projected expenses that Benedict College deems necessary to defend, enforce, maintain, register, and/or exploit the Intellectual property.

"Significant Use of Benedict College Facilities or Resources" is the extensive use of Benedict College facilities used for developing Intellectual Property.

A "Work Made For Hire" is a potentially copyrightable work: (a) prepared by an employee of Benedict College within the scope of the employee's employment, or (b) specially ordered or commissioned by Benedict College as set forth in a written agreement and that falls within one of nine enumerated categories of works that qualify as a "work made fir hire" under the U. S Copyright Act. Under U. S. copyright law, the owner if a Work Made For Hire is considered the employer-not the employee who may have actually created the work. An employee of Benedict College can include faculty, staff, and students that are employed by Benedict College.

Ownership of Intellectual Property Rights

Intellectual Property may be owned by Benedict College, by the Creator of the Intellectual Property, or by shared ownership. The policy guidelines below are used to determine who owns Intellectual Property that is created by Benedict College faculty, staff, and students:

I. Circumstances Where Benedict College Owns Intellectual Property

Except where specific exemptions are made, Benedict College will own Intellectual Property created by Benedict College employees or students in the following circumstances:

- A Work Made fir Hire; or
- Works, inventions, and discoveries within the scope of the employment with Benedict College, or resulting from the Significant Use of Benedict College Facilities or Resources, or resulting from the Significant Use of Benedict College Funds. Where a work, invention, or discovery is created within the scope of employment, or through the Significant Use of Benedict College Facilities or Resources or the Significant Use of Benedict College Funds, the Creator agrees to execute any and all written agreements/documents necessary to transfer all right, title, and interest in the work, invention, or discovery to Benedict College; or
- Discoveries, inventions, and works subject to agreements that grant Benedict College rights of ownership; or
- Trademarks and other indicia that signify Benedict College as the source of goods or services.

II. Circumstances Where The Creator Owns Intellectual Property

The creator will own Intellectual Property created where all of the following circumstances are met:

- A written agreement does not specifically transfer the rights or ownership in the Intellectual Property to Benedict College or a third party; and
- The discoveries, inventions, or works were made without the Significant Use of Benedict College Facilities or Resources , without the Significant Use of Benedict College Funds, and made outside the scope of employment; and
- The work created is not deemed to be a Work Made For Hire under U. S. copyright law; and
- The Intellectual Property, if a trademark, does not signify Benedict College as the source of goods or services, suggest a sponsorship or endorsement by Benedict College where none exists, or otherwise infringe any rights that Benedict College may have.

All Creators at Benedict College will retain any copyrights in the creation of original works in the nature of texts books, research papers, and scholarship consistent with copyright laws, except:

- Where performed as a part of contractual obligations or specially commissioned be Benedict College or a third party; or

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

- When constituting a Work Made For Hire; or
- When created with Significant Use of Benedict College Facilities or Resources, or the Significant Use of Benedict College Funds. However, extensive use of a Benedict College facility ordinarily available to most or all employees and/or students (e.g., library, personal office space, office computers) and used in the creation of original copyrightable works in the nature of textbooks, research papers, and scholarship will *not* constitute Significant Use of Benedict College Facilities of Resources.

Creators who choose to use materials in which they claim rights, in the course if creating Intellectual Property at Benedict College, will automatically grant Benedict College a free, perpetual, non-exclusive, and irrevocable license for use (including reproduction, distribution, display, performance, preparation of derivative works, and transmission) of such materials and Intellectual Property for educational and research activities.

Benedict College will continue to encourage faculty, staff, and students, whose works, inventions, and discoveries are made on their own time, outside of the scope of their employment, and without the Significant Use of Benedict College Facilities or Resources of the Significant Use of Benedict College Funds, to work with the College to further develop such works, inventions, and discoveries. Works, inventions, and discoveries not Owned by Benedict College are considered the property of the Creators and if the Creators choose, they may avail themselves of the opportunity to submit the works, inventions, or discoveries to Benedict College for consideration of possible patenting and/or commercialization and management under terms to be agreed between the Creators and Benedict College.

III. Circumstances Where There is Shared Ownership if Intellectual Property
Benedict College and the Creator may, by written agreement, decide to share ownership of Intellectual Property.

IV. External Sponsorship/Funding
The ownership of Intellectual Property resulting from research that is sponsored or funded (in whole or in part) by the federal government will be governed in accordance with federal law, including the Bayh-Dole Act. The ownership of Intellectual Property resulting from research or activities funded by other third parties will be determined by the agreement in place between Benedict College and the funding source. Where practicable, Benedict College will attempt to ensure that any external sponsorship/funding agreements explicitly enumerate Intellectual Property ownership issues.

Income from Certain Intellectual Property/Revenue Sharing

Benedict College will share revenue that it receives from exploitation of patents or inventions with the inventors of such patents or inventions who are Benedict College employees, or as agreed upon. In some cases, specific provisions of grants or contracts may govern rights and revenue distribution regarding inventions or other Intellectual Property made in connection with sponsored research. As necessary, Benedict College may contract outside persons or organizations for managing, exploiting, enforcing, and/or defending patents or inventions, and any royalty shares of expenses contractually committed to such persons or organizations may be deducted as expenses in order to calculate Net Adjusted income.

Distribution of Income From Patents or Inventions

The Office of Sponsored Programs and Research will use the distribution formula listed below as a baseline to calculate and distribute the Net Adjusted Income from each license or other exploitation of the patent or

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

invention. However, the final determination of net distribution will be commensurate with the College resources used to establish, maintain, and exploit such patent or invention.

Subject to final determination of net distribution as discussed above, Net Adjusted Income shall be distributed to persons other than Benedict College as follows:

- 30% to the employee-inventor,
- 10% to the Department(s) that supported the creation of the patent or invention, and
- 10% to support the inventor's research group

In the case of co-inventors, the percentage share allowed to the inventor as listed above shall be subdivided equally among the co-inventors, or as otherwise determined by Benedict College. In some cases certain laws, regulations or provisions of grants or contract may require that a lesser share be paid to the inventor, and Benedict College will honor such requirements.

Distribution of New Adjusted Income will occur on an annual basis,

Equity Interest and Income Received From Exploitation of Certain Intellectual Property

Benedict College, in licensing or otherwise exploiting patents or inventions, may elect to accept equity in lieu of cash payments, licensing fees, royalties, or other consideration. Benedict College may also incur the payment of commissions, other fees or charges and other expenses when such equity interests are disposed. All such expenses are considered development expenses to be subtracted from gross revenue in determining the Net Adjusted Income.

Trademarks

Benedict College retains all rights to control the use of its name, trademarks (whether registered or unregistered), and other indicia of Benedict College. This reservation of rights includes use of the Benedict College name, trademarks, and other indicia that is on or in connection with materials not owned or created by Benedict College. Faculty, staff, students, and alumni may not use Benedict College's name, trademarks, and other College indicia in a way that would be likely to suggest sponsorship or endorsement by Benedict College, where none exists. Benedict College reserves the right to prohibit the use of its name, trademarks, and other College indicia in its sole discretion.

Intellectual Property Disclosure, Evaluation, Protection and Commercialization

The Office of Sponsored Programs and Research is responsible for protecting, marketing, negotiating and licensing of Intellectual Property at Benedict College. To protect the interests if the Creator and Benedict College, all creation of Intellectual Property in which Benedict College or a third party sponsor may have an ownership interest must be disclosed timely.

Therefore, before notifying outside parties (including sponsors) and for any Intellectual Property in which Benedict College or a sponsor may have an ownership interest, all Creators must submit a complete disclosure form in an approved format to the Office of Sponsored Programs and Research to ascertain if inventions, discoveries, works or other Intellectual Property have commercial value.

The Office of Sponsored Programs and Research will then determine how to protect, develop, market and/or commercialize Intellectual Property on behalf of Benedict College. The Office of Research and Sponsored Programs will provide a timely response to creators and may employ outside evaluations and other consultants to review the disclosure, as well as to assist in the licensing, commercialization and protection of the Intellectual Property.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Dispute Resolution
Benedict College shall appoint an Intellectual Property Committee ("IPC") consisting of no fewer than three members with a Vice President or designee as the chairpersons of the IPC. The IPC shall be responsible for the following:

- Review and recommend resolution on any Intellectual Property issues or disputes
- Decide upon appropriate disposition of Intellectual Property disclosures
- Resolve questions of Intellectual Property ownership
- Recommend expenditures associated with invention royalties
- Review and recommend changes in this Intellectual Property Rights Policy

If a Creator believes that the creation of Intellectual Property was made outside the general scope of his or her duties as an employee at Benedict College, or made without the Significant Use of Benedict College Facilities or Resources or the Significant Use of Benedict College, and does not believe that the rights in the Intellectual Property vest in or must be assigned to Benedict College, the Creator shall, in the disclosure form, request that the IPC determine the respective rights of Benedict College and the Creator. In reviewing the request, the IPC evaluation of the request may be based upon criteria including:

- The circumstances under which the Intellectual Property was created and developed;
- Time overlap if any, between the Creator's official duties and when the Intellectual Property was created;
- The relationship between the subject-matter of the Intellectual Property and the Creator's scope of employment and job duties; and
- Procedures for patent application and Benedict College's involvement, if any.

Use of Third-Party Copyrighted Material
Benedict College respects the valid intellectual property rights of third parties. Benedict College faculty, staff, and students shall not make reproductions, derivative works, public performances, distributions, or public displays of a work owned by a third party, unless the copyright holder has granted prior written permission, the work is in the public domain, or the use of the work qualifies as "fair use" under the U. S. Copyright Act.

NOTE:
This document may be superseded by legal instrument pertaining to a specific Intellectual Property agreement between the Creator and the authorized representative of the College.

XI. EXTERNALLY FUNDED GRANTS AND CONTRACTS

11.1 RELATIONSHIP TO PURPOSE OF THE INSTITUTION

The College encourages all faculty members to seek external funding to assist in their work. External funding may be sought to support research, service, or teaching. External funding may enable the College and the faculty member to pursue worthwhile projects that cannot be funded with internal resources alone. However, all proposals for external funding seek to advance work that promotes and is consistent with the mission and goals of the College and the unit in which the proposal is being written. Funding should not be sought for funding sake. External funding should be sought only if it advances the mission and goals of the College.

11.2 REQUIRED APPROVALS AND REPORTS

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

All proposals submitted to an external funding agency must be approved before submission through the regular administrative approval process. Faculty proposing to develop proposals should consult with their Chair, Dean, and Vice President prior to developing a proposal for external funding to ensure that the project is consistent with College goals and priorities. Prior to submission of the proposal, the Proposal Approval Form must be signed by approving authorities. The College must also approve all grant agreements once an award is made.

On receipt of a grant award it is the expectation of the College that those working on the Grant will use their best efforts to ensure successful completion of the project. It is the responsibility of the Principal Investigator and/or Project Director to ensure that the project is implemented in accordance with the approved grant agreement. All faculty members directing externally funded projects must make periodic reports on the activities and budgets if such awards to the Business Office, Sponsored Programs Office, and their Department Chairs, Deans and Vice President for Academic Affairs as requested.

11.3 RELEASE TIME AND EXTRA SERVICE PAY

Faculty members may propose to use release time from their teaching responsibilities in order to implement the work of the Grant. If release time is proposed the grant or contract must contain sufficient funding to cover the cost of salary and benefits attributable to the release time. Faculty members must have their release time for supervision or work on funded projects approved before research proposals are submitted for funding. Department Chairs will make initial recommendations for released time to appropriate academic administrators. Department Chairs will give primary consideration to satisfying the need for instruction before recommending release time. It is the policy of the College that the teaching responsibilities take priority. Release time can only be granted in cases where the normal teaching responsibilities of the faculty member can be covered.

The amount of time faculty members may devote to research and teaching varies according to the needs of the funded project and the needs of the College. However, faculty members who have release time to work on externally funded projects are generally expected to teach a minimum of two classes per semester, retain advising responsibilities of students, and serve on appropriate committees. The School Dean must approve any exceptions to this policy.

Fulltime faculty members may also be paid extra-service pay if they work on an externally funded grant program in addition to maintaining their full faculty leads. However, in no case should extra-service pay from all externally funded sources exceed 25 percent of the regular annual salary for a fulltime faculty member. If a faculty member does not work during the summer then the faculty member can be paid at their full salary rate for summer work on a funded grant.

In general Department Chairs and other Academic Administrators are not eligible to receive extra service pay for services rendered to funded projects that are housed either in whole or in part in the Department that they oversee or entirely within the Division of Academic Affairs. They may receive extra pay with the permission of their School Dean for extra services rendered to funded projects in the Divisions other than Academic Affairs.

College Administrators and Department Chairs are allowed to have release time in funded grants. Funds generated by the Chair or Administrator through funded release time cab ne used for departmental

purposes with the consent of the Vice President for Academic Affairs and approval of the President. Salary supplements or consulting fees paid to employees must not conflict with College, federal,, state, or grant guidelines.

11.4 COLLEGE POLICY MUST BE FOLLOWED

In order to ensure proper grant administration and compatibility of funded project activities with the College mission and goals, the College maintains control over all externally funded projects undertaken in the College's names. The College control is exercised through its policies and procedures and its administrative processes. Where conflicts exist between the policies and procedures of the College and the requirements of the funding agency, the policies and procedures of the College must prevail in all cases. However, if the College explicitly approves a project agreement that contains clauses that contradict College policies and/or procedures, the properly signed project agreement will prevail. It is the responsibility of the Principal Investigator/Project Director to point out any inconsistencies between College policies and project requirements when submitting the project proposal. Grants will not be accepted that interfere with the proper administration of the College or any of its departments.

11.5 ACADEMIC FREEDOM AND RESEARCH

Faculty and staff involved in research projects may exercise academic freedom in both the collection and reporting of results. The College Administration and Board of Trustees recognize the importance of established principles of academic freedom in an institution such as Benedict College. Academic freedom as described in section 4.2.1 of this document is recognized in grants, contracts and research activities as well.

11.6 TIME PERIODS OF EXTERNALLY FUNDED PROJECTS

All externally funded projects must have a time limit specifies in the grant/contract agreement. The College will not depend upon a grant for fiscal viability. Program controls and monitoring will ensure that external grants will not be depended upon for permanent finding for regular College programs.

11.7 INDIRECT COSTS

Benedict College deems indirect costs as a recovery of costs and not as a source of funds for direct operating expenses. All proposals must include indirect cost at the regular College Indirect Cost Rate. The area Vice President and the Vice President for Business and Finance must recommend any full or partial waiver of indirect cost. The President must approve all full or partial indirect cost waivers. On the recommendation of the Vice President for Business and Finance suitably estimated direct cost may be substituted for indirect cost.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

XII. HUMAN RESOURCES INFORMATION

12.1 HARASSMENT

It has long been the policy of Benedict College and it will continue to be the College's policy that all employees shall have the opportunity to perform their work in an atmosphere and environment free from any form of unlawful discriminatory or retaliatory treatment or physical or mental abuse, including, but not limited to, harassment based on race, color, religion, sex, national origin, age, disability, or veteran status. It is also the policy of Benedict College to provide a working environment free from discomfort or pressure resulting from jokes, ridicule, slurs, threats, or harassment related to the above distinctions or simply resulting from a lack of consideration of a fellow human being.

In keeping with this policy, the College will not tolerate any form of harassment of any of its employees based on race, color, religion, sex, national origin, age, or disability. By way of example, conduct will be considered harassing, and therefore a violation of this policy, if:

* Submission to the conduct is made either an explicit or implicit condition of employment;

* Submission to or rejection of the conduct is used as the basis for an employment decision affecting the harassed employee;

* The harassment substantially interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Disputes sometime arise as to whether conduct was “welcome” or “unwelcome.” Conduct that would violate the policy if it were unwelcome will be considered to violate this policy if anyone complains of it.

Any employee who feels he/she has suffered any form of harassment should report such incident to his/her supervisor or to any member of management without fear of reprisal. In the alternative, the employee may discuss the matter with the Director of Human Resources. Complaints against the President may be made to the Chairman of the Board of Trustees. In addition to reporting the matter to your supervisor, the Director of Human Resources, or a higher level of your chain of command, you may report such harassment on audio tape by dialing 803-705-4808.

Such a complaint will be treated confidentially to the extent possible. A prompt and thorough investigation of any such complaint will be discreetly carried out and appropriate action will be taken after an investigation. Any manager, supervisor, agent, or other employee who has been found, after a thorough investigation, to have harassed another employee will be subject to appropriate discipline. The making of accusations which are known by the accusing person to be false is a form of misconduct likely to result in serious impairment of the College's effort to administer this policy properly and effectively for the benefit of all employees, and, accordingly, such misconduct may also result in disciplinary action.

In order to avoid misunderstandings, complaints made to members of management or to the Human Resources department must include completion of the report form reproduced as part of this policy. You will be given a copy of the completed form. If you report on the answering machine, you must remember the date that you did so. These procedures have been established to get you relief if you feel you are the victim of harassment. The U.S. Supreme Court has said that as a general rule you may not sue the College for violation of your rights unless you first give us notice and opportunity to end the harassment. The reporting procedures which we have adopted are intended to establish a clear record of what has been reported.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

12.2 STUDENT RELATIONSHIPS

Benedict College students are its most valued assets and their welfare is its highest concern. The College expects its employees to conduct themselves in a professional and appropriate manner, particularly when dealing with students. Benedict College discourages employees from engaging in romantic or sexual relationships with any of its students or from engaging in activities which give the appearance of such inappropriate conduct.

In particular, the College believes it is highly inappropriate and unprofessional for an employee to engage in a romantic or sexual relationship with a student when the employee and student are working together or the employee is involved with the student in an administrative, coaching, counseling, teaching, supervisory, or other authoritative role. Under certain circumstances, such conduct may result in disciplinary action.

12.3 ALCOHOL AND DRUG ABUSE

It is well recognized that drug abuse has a harmful effect on public health and safety, on the welfare of employees, on morale, and on productivity. Furthermore, it is the policy of Benedict College to comply with the Drug Free Workplace Act, to comply with applicable government regulations, and to establish and maintain drug free workplaces.

Benedict College prohibits the unlawful possession, use, or distribution of illicit drugs or alcohol by anyone on its property (defined as any property or vehicle owned by the College or any vehicle or property rented or leased with the College's funds). Benedict College also prohibits its employees from swallowing, inhaling, injecting, dealing or otherwise using illegal drugs and substances (such as marijuana, LSD, cocaine, heroin, etc.) and prescribed drugs which are not prescribed for the employee's own use, at any time whether on or off the job.

Employees must notify the College within five calendar days after any criminal conviction for the manufacture, distribution, dispensation, possession, or use of narcotics, drugs, or other controlled substances at the workplace. Criminal conviction means a finding of guilt, an imposition of a sentence, a plea of no contest, or a plea of guilty.

Employees are to inform their immediate supervisor of the use of any prescription or non-prescription drug which may affect the employee's ability to perform his/her assigned duties and/or which may render the employee a safety risk to him/herself or others.

Violation of this policy will result in discipline (including discharge from employment) and/or referral for criminal prosecution. In addition, employees who violate this policy and who are not discharged may also be required to satisfactorily participate in a drug or alcohol abuse rehabilitation program.

12.4 SMOKING

Smoking is permitted only in designated areas. Smoking is not permitted in public working areas of Benedict College, including such places as the library, laboratories, Chapel, gymnasium, theatre and classrooms.

12.5 NEPOTISM

As far as is possible, persons closely related shall not be employed in the same department or unit and shall not supervise each other. For purposes of this policy, “persons closely related” includes parent and children, husbands and wives, sisters and brothers, in-laws, uncles and aunts, nieces and nephews and first cousins. This policy applies to all employees, including student employees.

Persons desiring the College to consider the employment of a relative must send a written request to the President. Requests must be sent prior to making an offer of employment.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

12.6 INTRODUCTORY PERIOD

The first 90 days of employment at Benedict College is an introductory period. This period serves as an extension of the application process, and gives both the College and its newly-hired employee additional opportunity to determine that the individual is the right fit for the job. Employment may therefore be terminated at any time during the introductory period that the employee or Benedict determines that continued employment is not in the best interest of the College or the individual. Employees who quit or who are discharged during the introductory period are not entitled to grieve the dismissal, nor are they entitled to advance notice of dismissal.

12.7 OUTSIDE EMPLOYMENT

Full-time Benedict College employees, both faculty and staff, are not normally permitted to engage in outside employment. This does not preclude professional consultation by faculty, under the guidelines embodied in The Faculty Manual, or by staff on a limited basis, subject to proper administrative approval. Nor does it preclude outside part-time employment after normal working hours when such work will not interfere or create a conflict of interest with the employee's regular Benedict College duties and responsibilities or the use of institutional resources.

Faculty or staff wishing to undertake outside employment must first obtain written approval from the President through their supervisor.

Approval will not be given when, from the nature of the work proposed, it appears likely that a conflict of interest will occur.

If outside employment is approved and it later appears to generate a conflict of interest or interferes with the performance of Benedict College duties, the employee may be subject to disciplinary action.

12.8 SOLICITATION AND DISTRIBUTION

Solicitation of Benedict College employees and students and distribution of Faculty and Staff lists require the specific approval of the President or his/her designee.

Solicitation of employees and students or distribution by persons other than employees or students of Benedict College on official College business is prohibited on the campus.

Solicitation by College employees for non-College sponsored activities on campus during working time is prohibited.

The unauthorized distribution, release, or sale of business records, lists, or personally identifiable information, or other College records maintained in the course of business of Benedict College is prohibited. Authorization for release shall be the responsibility of the custodian of the records upon approval of the President or his/her designee. College employees who violate this policy shall be subject to disciplinary action.

12.9 COMPENSATION

Employees may be classified as exempt from overtime compensation requirements of the Fair Labor Standards Act (FLSA) or as non-exempt from these requirements. The Office of Human Resources shall be responsible for determining the exempt or non-exempt status of employees.

Salaried employees are paid on the 15th and the last day of each month and hourly employees are paid every other Friday. Checks are disbursed at 11:00 a.m. from the Cashier's window in the Business Affairs Office. Arrangements are available for direct bank deposits. Employees are eligible to join the credit union (details in Payroll Office).

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Overtime Compensation

1. Department chairpersons and authorized supervisors may require employees under their supervision to work hours in excess of their regular work day in order to meet the needs of the College.

2. Non-exempt employees are eligible for overtime compensation at a rate of one and one-half the normal rate for all hours worked in excess of forty in one workweek. Overtime compensation may not be waived and employees are prohibited from working "off the clock" and not actually recording all their hours worked.

3. Exempt employees, those whose positions are exempt from the provisions of the Fair Labor Standards Act, are not eligible for overtime compensation.

4. At the discretion of the Department Head, exempt employees may be eligible to earn compensatory time on an hour-for-hour basis for hours worked in excess of 40 hours in any given workweek. Compensatory time cannot be accumulated during any workweek where sick leave or annual leave has been utilized, nor can employees accumulate more than 20 days of compensatory time. No employee shall be paid for unused compensatory time upon leaving the employ of Benedict College. Compensatory time may not be granted to non-exempt employees.

5. All overtime must be approved by an authorized supervisor prior to the time being worked.

6. Non-exempt employees may not work more than 40 hours per workweek unless prior approval has been given by the supervisor or the department chairperson.

7. Non-exempt employees who engage in unauthorized overtime work may be subject to disciplinary action up to and including termination.

8. Except as prohibited by the Fair Labor Standards Act, unit heads are responsible for implementing reasonable management controls in order to assure that unauthorized work is not being performed.

Workweek

1. The normal workweek for full-time employees is 37.5 hours for salaried staff and 40 hours per week or hourly employees.

2. For purposes of computing compensatory time, compensation of exempt Benedict College faculty and salaried staff employees is based on 40 hours per week.

12.10 BENEFITS PROGRAM

The Benefits Program currently available to qualifying employees of Benedict College and their eligible dependents includes health, dental, life, long term and supplemental disability insurance as well as a retirement plan and tuition remission. The Benefits Program is subject to change without notice at the discretion of the College. The following information is a general description of benefit plans that were available to employees when this manual was printed. Interested employees should consult the plan document or a summary plan description for complete information concerning benefits programs. This information can be provided by the Office of Human Resources.

New employees will receive detailed information and updated information will be provided to employees by the Office of Human Resources as changes occur.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

12.10.1 Eligibility

1. Insurance Plan – Benedict College currently provides full range insurance programs. Insurance carriers which administer these plans may change the plans based on negotiated contractual agreements. Currently, full-time employees who are scheduled to work at least 30 hours per week for at least six months in a fiscal year are eligible to voluntarily enroll in any or all of these plans. Employees must enroll in the plans through the Office of Human Resources. The Office of Human Resources will provide payroll information to the Payroll office for appropriate deductions. The various insurance programs available as of the date of this manual include:

a. Health

b. Dental Insurance

c. Life Insurance

d. Long –Term Disability Plan.

e. Benedict College Retirement Plan

12.10.2 Insurance Changes

Our health insurance contract provides that employees must enroll in the insurance plan within 30 days of the date of hire. Enrollment after that date will require medical certification. Otherwise, coverage changes can be made within 31 days of a qualified change in family status. An employee may delete or decrease health or life insurance coverage at any time. Qualified change in family status is defined as death, marriage, divorce or legal separation, birth, adoption or legal guardianship of a child, or the gain or loss of coverage by an eligible dependent under another group plan.

12.10.3 Termination of Coverage

Coverage in any of the insurance plans is terminated at the end of the month in which an employee leaves the College's employ, except that for nine-month academic employees who separate at the end of an academic year, coverage is terminated on the following August 31st.

Under the Federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), employees and/or their eligible dependents who lose coverage under certain qualifying conditions may buy extended coverage for group health and/or dental insurance through the insurance carrier. Detailed information concerning COBRA extensions and conversion options may be obtained from the Office of Human Resources.

12.10.4 Retirement

All full-time employees who are eligible may voluntarily enroll in Benedict's TIAA/CREF 403B retirement plan. Benedict College currently contributes 6% of the employee's salary and the employee contributes 6% through payroll deductions. A member may retire and apply for full benefits at age 65. Early retirement is also available. NOTE: The plan and the amount of contribution by Benedict College are subject to change at any time. Contact the Office of Human Resources for current information about this plan.

12.10.5 Tuition Remission

Benedict College provides Tuition Remission to assist employees and their immediate family members pursue college credit and college degrees. The following conditions apply:

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

1. Remission of tuition charges for courses of instruction offered at Benedict College is authorized for trustees who have served more than one year and the immediate families of full-time faculty and full-time staff who have been employed at least one year. Immediate family is defined as a spouse and dependent children under the age of 24. Proof of dependency must be provided at the time of initial application through the presentation of birth certificate, adoption, or guardianship papers or other legal documentation. If the student files as an independent student on his/her Federal Application for Federal Student Aid (FAFSA), the student will be considered independent to the College and will not be eligible for Tuition Remission.

2. In order to take a course for credit, individuals must be eligible for admission as a regular student seeking a degree and must complete a FAFSA by June 30. The FAFSA Application must be completed as a condition for Tuition Remission. Tuition Remission recipients will not be awarded campus-based aid. All grants, scholarships and tuition remission cannot exceed the cost of attendance (tuition, room and board, fees and book voucher at Benedict College. If tuition remission plus all grants and scholarships exceed the cost of attendance there will be a reduction in tuition remission. Tuition remission will be reduced until all grants and scholarships plus tuition remission equals the cost of attendance or until tuition remission equals zero. Financial aid requiring repayment will not be included in assistance analysis.

5. Employees are asked to schedule classes during off-duty hours whenever possible; however, when a desired class cannot be scheduled during off-duty hours, the department may elect to adjust the employee's work schedule provided doing so will not interfere with the normal and/or efficient operation of the department. For example, during 8:30 a.m. - 5:00 p.m. schedule, the department may allow an employee to work 9:30 a.m. until 6:00 p.m. so that the employee may meet an 8:00 a.m. class. Time spent attending class during the work day is not work time.

6. Employees should not take more than one class during the work day; however, with the advance approval of the department chairperson or department head, employees may be permitted to take two classes provided the time is made up or appropriately charged to leave.

Renewal of the tuition remission application is required for each semester. Persons receiving tuition remission must maintain at least a 2.0 or "C" cumulative grade point average and earn hours in accordance with the Satisfactory Academic Progress (SAP) Policy. Termination of the faculty or staff member's employment with Benedict College will automatically terminate eligibility for tuition remission. Should termination occur during the semester, the dependent or spouse will retain the award until the end of the current semester.

Eligible persons desiring to participate in this program should complete the Tuition Remission Form and process it through the offices indicated. Forms can be obtained from the Office of Admissions and Student Marketing and the Office of the Registrar.

12.10.6 Vacation

Nine Month, part-time and temporary employees are not eligible for vacation benefits. Full-time employees only are eligible for vacation benefits. Full-time 12-month employees are not eligible to take paid vacation leave until after they have been employed with Benedict College for one year.

Regular twelve-month full-time employees earn vacation leave according to the following schedule of longevity:

1. 1 to 5 years employment at a rate of 5/6 days per month up to a maximum of 10 days per year.
2. 6 to 10 year's employment at a rate of 1 1/4 days per month up to a maximum of 15 days per year.
3. 11 to 20 years employment at a rate of 1 3/4 days per month up to a maximum of 20 days per year.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Employees are allowed to accrue vacation time *and may carry this accumulated vacation past the ending date of their contract. However, the maximum vacation that may be carried over from year to year is twenty (20) days.* Additional accrued vacation time which is unused by the end of the employee's contract year will be lost at the end of each contract year. Circumstances may occur whereby the College would require that employees take accumulated leave. *Employees who resign or whose employment is terminated for non-disciplinary reasons will be paid for accrued vacation, provided in the case of an employee who voluntarily resigns that he/she give a two-week notice of resignation*. Accumulated leave is not payable upon separation and must be utilized prior to separation.

Vacation schedules are to be arranged at the convenience of the College as directed by the employee's supervisor. In scheduling vacation periods, individual department heads should honor employee's requests whenever possible. However, the interest of the College in maintaining adequate work force to fulfill its obligations and responsibilities must be accorded first priority.

12.10.7 Paid Sick Leave

Sick leave for twelve and ten-month, full-time faculty and staff are accrued at the rate of one day (7.5 hours) per month, computed from the first day of service. However, new employees are not eligible to utilize paid sick leave until after they have been employed with Benedict College for 120 days.

Sick leave may be accumulated to a maximum of forty-two (42) working days (315 hours). Employees are not entitled to use or be reimbursed for accumulated sick leave upon termination of employment *or during the notice of resignation period.*

Paid sick leave can be used for an employee's own illness, injury, or health care. Employees may use up to five (5) days (40 hours) of paid sick leave per year for illness in the family that is not covered by the Family Medical Leave Act.

When an employee is unable to work due to illness or injury, the supervisor is to be notified as soon as possible on the initial day of absence. Whenever possible, the supervisor is to be informed of the employee's condition and anticipated date of return. When the illness of an employee extends beyond leave credits, every day lost shall be without pay. [*See Leave of Absence Policy*]

In case of absence due to illness or injury, or illness in family extended beyond three (3) days, a medical certificate will be required. Benedict College may at its discretion require medical certification of an employee's illness or injury at any time.

12.10.8 Leaves of Absence

12.10.8.1 Military Leave

Employees are entitled to such leave of absence and reinstatement upon return from leave of absence for military service (including Reserve and National Guard duty) as may be provided by applicable state and federal law. Employees may use to 10 vacation days per fiscal year for this purpose. The provisions of such laws change from time to time and for that reason no effort is made to set forth the law in this policy.

12.10.8.2 Physical Disability and Personal Leave

(Applies only to employees employed less than 12 months and to employees who have fewer than 1250 hours in preceding 12 months and to employees whose reasons for leave are not covered by the Family and Medical Leave Act.)

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

An employee who has completed his initial probation(and any extension thereof) absence for up to six months when unable to work because of sickness, pregnancy, or injury due to on or off the job. Such an employee may also apply for leave of absence for personal reasons. Personal leaves are granted only at the discretion of the President upon recommendation of the supervisor. Employees still in their introductory periods who are absent for more than five consecutive workdays because of physical disability will be automatically terminated but will be eligible for rehire.

Employees are requested to apply for leaves of absence as far in advance of need as is possible, but an employee may be placed on leave status without application when circumstances warrant such action.

Physical disability leaves will begin on the first day of absence.

After the employee has exhausted his vacation and/or sick leave, as a general rule, an employee on leave of absence is not entitled to wages or fringe benefits and does not accrue fringe benefits. Certain exceptions may be established by law.

Employees desiring to return to work from an unpaid leave of absence should notify the supervisor in writing at least ten (10) days prior to their desired date of return. If the College finds that the employee is fit to resume his duties, the employee shall be recalled to his former job if a vacant exists which is to be filled. If no such vacancy exists, the employee shall be recalled to any job in which there is a vacancy which is to be filled and for which he is qualified. If no such vacancy exists at the time the employee desires to return to work, the employee's leave will be continued. Any employee who has not been reinstated within six (6) months following commencement of a leave of absence shall be terminated. This action shall not affect the employee's eligibility to be considered for hire as a new employee at some future time.

12.10.8.3 Family and Medical Leave Act (FMLA)

The Family and Medical Leave Act applies only to employees employed 12 months or longer and who have worked 1250 hours or more in the preceding 12 months prior to commencement of leave.

General: Employees who meet the length of service hours worked requirement described above have rights under the Family and Medical Leave Act. As a general rule, employees must request leaves of absence under this law and policy, but in appropriate situations, employees may be placed on leave status without application.

Reason for Leave of Absence

An eligible employee will be granted a leave of absence under this policy if a serious health condition, including disability resulting from an on-the-job injury, prevents the employee from being able to perform his job, if the employee's spouse, child or parent has a serious health condition and the employee must be absent from work in order in order to care for that relative, or to care for a natural child, adopted child, or formally placed foster child, provided that entitlement to leave to care for a child who is newly born or newly received in the employee's household shall end 12 months after a natural child is born or 12 months after an adopted or foster child is received in the employee's household. **Proof of need for leave of absence may be required.**

Length of Leave

An eligible employee is entitled to the equivalent of a total of 12 work weeks of leave during any 12 consecutive months. Leave to care for a newly born or newly received child must be taken consecutively. Leave required because of the employee's own serious health condition or that of a spouse, child, or parent, may be taken intermittently or by means of a modified work schedule when necessary.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Effect of Leave on Paid Time Off

An employee who must be absent due to his own disability will be paid for time lost from work first from accrued sick leave balances and then from accrued annual leave balances. An employee who takes leave for any other reason will be paid for time lost from his annual leave balance, unless paid sick leave is available under the sick leave policy.

Effect of Leave on Accrual of Fringe Benefits

Health benefit plan. Employees taking leave under this policy must continue to pay their portion of the health benefit plan premiums on the same date that such portion of premiums would be deducted from the employee's wages.

Unpaid time lost from work due to leave granted under this policy is not considered time worked for the purpose of accrual of paid time off.

Employee Responsibility

Employees who request leave under this policy must give 30 days advance notice or such lesser amount of notice as is possible in the particular circumstances.

Light Duty

Employees who accept a light duty assignment because of a condition which qualifies them for FMLA leave will have a right to restoration to their regular positions for only 12 weeks counting both FMLA leave and time spent on light duty,

Termination of Leave of Absence

A leave of absence under this policy will end when the need for leave of absence ends, or when the maximum leave described above has been taken, whichever occurs sooner.

Reinstatement

At or before consideration of the FMLA leave of absence (or 12 week combination of leave of absence and time spent on light duty), the employee is entitled to reinstatement to his former position or to a position equivalent to his former position. The employee must demonstrate that he is fit for duty and must give reasonable notice of intent to return to work.

Extension of Leave without Benefits

An employee who is unable to perform the duties of his position due to his own disability and who has exhausted his entitlement to leave under the Family and Medical Leave Act by taking 12 consecutive weeks of leave will, upon written application, be granted up to an additional 14 weeks of leave. This additional leave of absence does not entitle the employee to reinstatement nor to payment of any portion of his health benefit plan premiums. If the employee is able to return to work prior to the exhaustion of his extended leave, he will be returned to his previous position if there is a vacancy to be filled, or to some other position of equal or lesser compensation for which he is qualified and in which there exists a vacancy which is to be filled. If the employee is not returned to active employment, he will be continued on extended absence status until he is returned to active duty status or his extended leave of absence expires, whichever occurs sooner.

Employees who have exhausted their FMLA leave under other circumstances, but who continue to require leave which would qualify for FMLA leave if such leave had not been exhausted, may apply for an extended leave of absence for personal reasons. Such extended leaves are granted only in the discretion of the President upon recommendation of the supervisor.

Automatic Termination of Employment

An employee's employment will automatically terminate if he does not return to full active employment status at the conclusion of his leave of absence or extended leave of absence.

Special Situations

Spouses. When both a husband and wife are employed, their combined right to a leave of absence to care for a child or parent is 12 weeks in a 12 month period.

Key Employees (salaried employee in highest paid 10% of all employees). Such employees may be denied reinstatement rights if reinstatement would cause substantial grievous economic injury to operations.

NOT A CONTRACT

This policy does not create contract rights. In no case will an employee have a greater right to a job than he would have had if he had not taken leave under this policy.

12.10.8.4 Jury Duty

Benedict College will provide up to five (5) days of paid leave for jury duty each fiscal year. To be eligible for paid leave for jury duty, employees must present a summons and a voucher from the court indicating the number of days actually served. Employees who are excused from jury duty before 2:00 p.m. on any day are expected to return to work.

12.10.8.5 Death in Family

In the case of death in the immediate family (spouse, parent, sibling, grandparents, mother or father-in-law, children or any person living in the household of the employee, whether or not related by blood or marriage), full-time employees may apply for up to three (3) days of leave of absence. This cannot be construed as an automatic guarantee of three (3) days in every case. Verification of the reason for the absence may be required upon request by the College. *Leave time may be extended under extreme situations.* [*Employees may substitute paid vacation or personal leave days for unpaid leave.]*

12.10.8.6 Study Leave

The purpose of study leave is to stimulate professional development and similar scholarly activities for the improvement of one's qualifications or ability to serve the institution.

Employees wishing to pursue further study at an accredited institution, in order to improve qualifications, earn additional degrees or earn a terminal degree, may apply for a leave of absence for that purpose. In the discretion of the College, such leave may be granted without pay for up to one year at a time. Faculty and staff are urged to seek grants to support such leave. However, the College may obtain funds through funded projects to support some employees on leave. Such leave will be governed by guidelines of the source of funding.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

When granted, study leave will be granted for definite periods of time up to one year in duration. Employees on study leave will be reinstated to their positions at the end of the study leave of absence or at the beginning of the next academic semester following the end of the study leave of absence, as deemed appropriate by the College. Employees who wish to extend their study leave of absence beyond the initial one-year period should apply for subsequent leave at least 90 days before the termination date of their current study leave period.

12.10.8.7 Sabbatical Leave

The purpose of sabbatical leave at Benedict College is to provide the faculty member an extended opportunity for enrichment in one or more of the elements that the College considers essential to academic professionalism: teaching effectiveness, scholarly activity, and professional service. In granting, sabbatical leave, the College affirms the faculty member's previous accomplishments in one or more of these essential elements and approves the faculty member's sabbatical plan for his/her continued enhancement. In accepting sabbatical leave, the faculty member affirms a commitment both to participate fully in the sabbatical project(s) contained in the proposal and, at the conclusion of the leave, to return to the College more enriched because of such participation.

Eligibility
The opportunity to apply for sabbatical leave is open to those who hold faculty rank through at the College and who:

a. Possesses the terminal degree in field

b. Is tenured

c. Have been employed full-time for the previous six continuous academic years at Benedict College

d. Have not taken sabbatical leave in the last six academic years Agree in writing to return to full-time employment at Benedict College for two consecutive semesters immediately following the completion of the sabbatical leave, or to refund the salary and benefits earned while on sabbatical leave.

Compensation During Sabbatical Leave
Sabbatical leave may be taken for one semester (full pay) or for the full academic year (half pay). During the period of the leave, it is intended that no changes take place in the faculty member's benefits. For example, the College will continue to make the normal payroll deductions and employer contributions, leave time will accrue, the faculty member may apply to the Faculty Development Program for grants, and the faculty member's eligibility for salary increase the following year will not be adversely affected. In the event a faculty member is scheduled for sabbatical leave the spring in which the faculty member is bringing forward his/her name for promotion consideration, the faculty member must prepare the appropriate promotion materials and submit them to his/her Department Chair/School Dean prior to taking sabbatical leave. In no other way will the possibility of promotion differ as a result of sabbatical leave.

External Funding During Sabbatical Leave
Faculty members are encouraged to secure funding, where appropriate, to support their proposed sabbatical project(s). Any employment or compensation must be for the purpose of covering out-of-pocket living expenses during the sabbatical period, may not be for the purpose of financial gain, and must not interfere with the pursuit of the sabbatical project(s). A faculty member's total compensation for services rendered during the sabbatical leave, including sabbatical leave salary, is not to exceed the faculty member's normal salary at the College for the same period plus all out-of-pocket expenses related to the sabbatical. Thus, when salary is earned for services rendered during the sabbatical leave period, the College will normally adjust the faculty member's sabbatical

leave salary accordingly so that the total compensation will equal the compensation the faculty member would normally have received plus these out-of pocket expenses.

Application Process

The number of sabbatical leaves granted at any one time is limited and depends on the extent to which the applications meet the purpose of the sabbatical leave program, the quality both of the sabbatical projects being proposed and of the proposals themselves, and the amount of funds available for replacing those faculty members whose absence during the sabbatical period cannot be absorbed by the College.

The quality of the projects and of the proposals and the likelihood of successful completion will be the primary reasons for being awarded sabbatical leave. Seniority is taken into consideration only when applications of equal quality are submitted, but it should never be the overriding criterion.

Applications for sabbatical leave must be completed and filed in the Office of the Vice President for Academic Affairs no later than November 1 of the academic year prior to the academic year in which the sabbatical is to be taken. Judgment of the quality of a sabbatical leave will be made solely on the basis of the information contained in the sabbatical leave proposal.

Each proposal must contain the following:

1. An abstract indicating the specific period for which the sabbatical leave is being requested, describing the project(s), and summarizing the purposes and anticipated results;

2. A narrative fully detailing the significance, objectives, rationale, and method of the sabbatical project(s),

3. A full discussion of the sabbatical project's (s') significance to, and impact on, ~he enhancement of the faculty member's teaching effectiveness, scholarly activity, and/or professional service;

4. The faculty member's curriculum vitae;

5. A signed statement acknowledging the faculty member's obligation to return to fulltime employment at the College for the two consecutive semesters immediately following completion of the sabbatical or to refund to the College the salary and benefits earned while on leave,

6. An appendix containing, any supportive materials essential to understanding and appreciating the proposal, including

    a. Any applicable financial information relating to the sabbatical project(s), including grant proposals for project funding, out-of-pocket living expenses, and details concerning any reposed services for which compensation is anticipated or being negotiated;

    b. A letter from the faculty member's Department Chair and Dean dealing with the qualifications for the applicant and the merits of the proposal;

    c. Correspondence from host institutions, including libraries, regarding such matters as contractual agreements, commitments, compensation, access to facilities, and fees or other expenses.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

12.10.8.8 Reviewing Bodies

All proposals for sabbatical leave will be reviewed by the Academic Council in November of the academic year prior to the academic year of the proposed sabbatical and by December 1 will be forwarded to the Office of the Vice President for Academic Affairs in recommended priority order. The Council will include in writing any additional observations it chooses to make.

The Vice President for Academic Affairs will forward the Council's recommendations and observations, together with a written recommendation in priority order and any additional observations he chooses to make to the President by December 15.

The President of the College will make final decisions regarding sabbatical leaves. Announcements of final decisions will be made by February 15 in time for the results of these decisions to be included in planning course offerings for the subsequent academic year.

12.10.8.9 Consultancies

Benedict College believes that qualified employees should render services to external constituencies by acting as consultants and as appointees to government boards and commissions. In its sole discretion the College may therefore grant leave with or without pay to such consultants and appointees with approval of the President.

12.10.8.10 Personal Leave

Nine-month faculty members do not earn vacation but are entitled to two (2) days of personal leave with pay during the nine month school year and one-half day during each summer session that they teach. Faculty members must arrange for coverage of any classes in their absence as outlined in the Faculty Manual. Personal leave for faculty members cannot be carried forward past the semester or summer session in which leave is earned.

12.10.8.11 Other Absences

1. Employees requested by the Administration to be absent from duty for the purpose of attending professional meetings, conferences, workshops, internships, athletic schedules, etc., shall be granted leave with pay for that purpose.

2. Requests for leave for similar purposes originating from employees may be granted by the Administration with or without pay, according to circumstances.

12.10.8.12 Holidays

1. Official College holidays for all employees are: Independence Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day, New Year's Day, Martin Luther King's Birthday, Labor Day and Good Friday. Additional holidays may be declared from time to time by the President. In order to be eligible for holiday pay, employees must be present at work the day before and the day after the recognized holiday(s) unless prior approval for absence is obtained from the employee's department head/supervisor.

2. In addition, nine-month faculty is normally entitled to the holiday period between the end of the first semester and their scheduled duties at the beginning of the second semester.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

12.10.8.13 Hazardous Weather and Emergency Leave

Declaration of Emergency

1. The President or his designee shall excuse employees of the College from reporting to work during extreme weather or other emergency conditions. The President or his designee shall issue a statement indicating that, because of extreme weather or other specified emergency conditions, employees should not report to work. Unless such a statement has been issued, all Benedict College employees are expected to report to work.

2. A decision for closing during regular working hours shall be transmitted by the Director of Communications and Marketing to all local television and radio stations for public announcement.

3. During closure for hazardous weather conditions, essential and direct care services shall be maintained. The President or his designee shall identify and notify these essential employees who are expected to report to work during extreme weather or specified emergency situations.

4. No provision of the Hazardous Weather and Emergency Leave policy shall preclude the necessary, immediate evacuation of a facility by an authorized supervisor in the interest of personal safety.

Compensation

1. Employees who do not report to work or who report late during hazardous weather which does not result in closure of College facilities shall use annual leave or take leave without pay for the time lost from work in the discretion of the College. The employee's supervisor shall notify the employee and the Office of Payroll.

Persons on leave other than annual leave at the time of the shut down will continue on such leave, i.e., sick leave, leave of absence.

In the discretion of the College, employees may be given the option of making up time lost from work; however, such time shall be made up and/or scheduled according to the business needs of the College.

12.10.8.14 PERSONNEL FILES

Employees have the right to review the documents contained in their personnel files. Employees may gain access to their personnel files and may review their files by making a request to the Personnel Director with a three-day notification. An employee may receive photocopies of any information contained in his/her personnel file by providing a written request to the Personnel Director.

Information in an employee's personnel file with which the employee disagrees may be so noted by the employee with an appropriate memorandum of explanation or disagreement that shall be added to the file by appending it to the relevant document.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

XIII. CONFLICT OF INTEREST STATEMENT

13.1 Introduction

Benedict College encourages and supports outside interactions of its faculty and student employees with federal, state, and local governments, and with business and industry as important parts of their research, education, and public service activities. In limited cases, similar opportunities are encouraged for the College staff members as well. Since outside interactions also carry with them an increased potential for conflicts of interest and/or commitment, either actual or perceived, it is important to communicate the following points:

(a) Many conflicts that are properly disclosed can be adequately managed without detriment to the reputation, integrity or position of the institution and the individual;

(b) In most cases, problems associated with actual or perceived conflicts of interest or commitment do not arise from the conflicts per se, but rather are the result of a failure to openly acknowledge and actively manage them;

(c) It is important to outline the institutional process for identifying, assessing and managing these potential conflicts to assure that both the integrity of the College and the core activities of its faculty, staff and students are protected;

(d) It is critical to establish guidelines, in accordance with requirements from state and federal agencies for those relationships with outside organizations that will help to assure the primacy of academic integrity and delineate the bounds of acceptable conduct.

This administrative policy statement is designed to facilitate implementation of the general conflict of interest policy. Nothing in this policy shall be construed to be inconsistent with other personnel policies and procedures including the College's policy on Nepotism. With the acceptance of an appointment at the College, employees shall adhere to the policies and state and federal laws and regulations related to conflict of interest and commitment.

13.2 Definitions

A. Conflicts of Interest

The term "conflict of interest" refers to situations in which financial or other personal considerations may adversely affect, or have the appearance of adversely affecting, an employee's professional judgment in exercising any College duty or responsibility in administration, management, instruction, research and other professional activities. The bias such conflicts could conceivably impart may inappropriately affect the goals of research, instructional, or administrative programs. The education of students, the methods of analysis and interpretation of research data, the hiring of staff, procurement of materials, and other administrative tasks at the College must be free of the undue influence of outside interests.

Because it is essential to the effective operation of the College that administrative officers and other employees of the College be independent and impartial in all actions involving the institution, that no office be used for private gain, and that there be complete public confidence in the integrity of the College, now, therefore, that it is the policy of Benedict College that the College shall conduct its affairs so that no member of the College community shall derive private gain from his/her association with the College except as provided by explicit policies of the College.

B. Examples of Conflict Situations

Activities and situations that could present conflicts of interest or commitment can be divided into three categories:

1. Activities that ordinarily are permissible;

2. Activities that appear to present potential conflicts of interest or commitment;

3. Activities that clearly present such serious problems as to be incompatible with College policies.

The separation into categories is imperfect and the following list of examples is not exhaustive.

1. Activities that ordinarily are permissible include:

a. Participation in scientific or professional association activities, editorial responsibilities, or service on review boards and panels;

b. Acceptance of honoraria for commissioned papers and occasional lectures;

c. Performance of professionally related activities such as consulting, textbook authorship, involvement with professional societies, and participation on review panels, etc.

d. Service as a consultant to outside organizations provided the arrangement does not unreasonably restrict the duties to the College.

e. Service on boards and committees of organizations that does not distract unduly from the College's obligations.

2. Activities that appear to present potential conflicts of interest or commitment:

a. Relationships that might enable an employee to influence the College's dealings with an outside organization in ways leading to personal gain or to improper advantage for anyone. For example, an employee could have a financial interest in an enterprise with which the College does business and be in a position to influence relevant business decisions. Ordinarily such problems may be resolved by full disclosure as well as making appropriate arrangements that clearly exclude that employee from participating in the decisions.

b. Situations in which the time or creative energy an employee devotes to extramural activities, including those listed in the section above, appears substantial enough to compromise the amount or quality of his or her participation in the instructional, scholarly, and administrative work of the College itself.

c. Activities (research projects, conferences, teaching programs, remunerative consulting agreements, etc.) for which employees are personally remunerated that involve, or might reasonably be perceived to involve, the College, its name, its employees, its laboratories, computers or other facilities and equipment.

d. Activities that violate or might reasonably be perceived to violate any of the principles governing research supported by funds administered through the College insofar as these principles are relevant to individual behavior.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

3. Activities that present such serious problems as to be incompatible with College policies:

a. Situations in which the individual assumes responsibilities for an outside organization that divert his or her attention from College duties, or create other conflicts of loyalty.

b. Circumstances in which research that could and ordinarily would be carried on within the College is conducted elsewhere to the disadvantage of the College and its legitimate interests.

A description of the College enforcement mechanisms and sanctions for violating this policy where appropriate is outlined in the Employee Conduct and Discipline sections of the Human Resources Policies and Procedure Manual.

13.3 POLICY STATEMENT ON FEDERAL CONTRACTS

Benedict College shall consistently maintain standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the award. The officers, employees, and agents of the College shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or other parties to the sub-agreements. However, the College may waive this policy for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. Any employee seeking such waiver must apply to the Vice President for Business and Finance. Any violations of the policy set forth will result in disciplinary action for failure to comply with federal or state grant terms and conditions as stated in the College's guidelines governing Employee Conduct.

13.4 EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of Benedict College to provide equal opportunity for all employees and applicants regardless of race, color, religion, sex, national origin, age, disability, or veteran status. In connection with its equal opportunity policy, Benedict College prohibits discrimination in recruitment, employment, promotion, compensation, discipline, training, layoffs, discharge or any other aspect of employment at Benedict College.

13.5 REDUCTION-IN-FORCE

Reduction in force may be effected by Benedict College during periods of diminished revenue or when declining enrollment or participation in an area of study dictates the reorganization or elimination of departments, courses, or positions within departments.

This policy describes the manner in which employees of Benedict College shall be released if a reduction-in-force (RIF) becomes necessary.

1. The RIF shall be administered without regard to race, color, religion, sex, age, national origin, disability, or veteran status.

2. The RIF may require the separation of all employees in a department or employees in a segment of the College or may require the separation of some employees and the demotion or reassignment of others. A RIF may be temporary or permanent.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

3. The Office of Human Resources will ensure that the requirements of the federal WARN ACT (Worker Adjustment and Retraining Notification Act) are adhered to where applicable to any layoff or reduction in force conducted under this policy.

4. The order in which employees are to be laid off shall be determined by the President or his designee, the appropriate department head, and the Office of Human Resources.

5. In determining which employees will be subject to layoff, the College will consider, among other things, the needs of the College, operational requirements, the skill, productivity, past performance, and attendance of those involved; and, whenever feasible, length of service.

6. The Director of Human Resources shall verify the details on which the lists are based and shall approve the RIF Plan for compliance with policy prior to action being taken to separate the affected employee.

7. For a period of 24 months following layoffs due to reduction in force, employees who have been separated from service should be notified of available positions for which they qualify.

Written notice shall be given the affected employees by the Office of Human Resources before any action is taken to effect separation, reassignment or involuntary demotion.

13.6 DISCIPLINE

Benedict College expects its employees to observe "common sense" rules of honesty, good conduct, general job interest and safe practices, and adhere to generally accepted customs of good taste. In the event it becomes necessary to discipline an employee, types of discipline may include, but are not limited to, one of the following:

- verbal counseling
- written warning
- suspension
- termination.

While the circumstances of a particular case can result in termination for the first offense, other cases may result in another form of discipline. The degree and type of discipline to be imposed is in the sole discretion of the College depending on the circumstances. Particular forms of discipline may be omitted or repeated if deemed necessary. Discipline shall be imposed when the department head or supervisor believes that such action is necessary for the good of the College.

The decision to suspend or terminate an employee should be made by the President or his/her designee.

Employees must sign disciplinary notices, counseling memoranda, performance appraisals, and similar documents. The employee's signature indicates only that the employee is aware of the action taken and does not indicate that the employee agrees with such action. An employee who refuses to sign such a document will be subject to immediate discharge, but will normally be suspended without pay and given until the close of the next business day in which to sign. If he still does not sign, he will be discharged.

THESE DISCIPLINARY PROCEDURES IN NO WAY IMPLY ANY CONTRACTUAL OBLIGATION TO FOLLOW ANY CERTAIN PROCEDURE NOR DO THEY CREATE CONTRACTUAL CONDITIONS OF EMPLOYMENT.

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ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

13.7 EMPLOYEE CONDUCT

Benedict College helps to mold and prepare young students to take their places in the working world. An important part of this process is providing good examples for students to emulate. The College requires that its employees exemplify those standards of ethical behavior that will provide positive role models for its students.

Generally, Benedict College expects and demands that its employees comport with those standards of conduct which it deems necessary and appropriate for the workplace. While it is not possible to predict in advance what acts or omissions or combinations of acts or omissions will violate Benedict College's standard of employee conduct and result in disciplinary action, the following are some of the more obvious acts or omissions that are unacceptable:

1. Insubordination. Insubordination includes failing or refusing to follow a directive as well as other conduct tending to undermine authority.

2. Abuse of position, including using one's Benedict College employment to obtain special privileges, for financial gain or for any purpose other than College business.

3. Rude or unprofessional speech or behavior to parents, students, visitors, administrators or co-workers.

4. Sexual harassment or discriminatory behavior to students, visitors or co-workers.

5. Becoming involved in relationships with students subject to your supervision, control or who are taking one of your classes.

6. Performing personal jobs on work time.

7. Sleeping or giving the appearance of sleeping on work time.

8. Disrupting the work of others.

9. Unexcused absences*.

10. Excessive "excused" absences.*

11. Repeated tardiness or failure to observe assigned work hours.

12. Refusal to sign disciplinary notices, counseling memoranda or evaluations.

13. Excessive use or abuse of sick leave*.

14. Excessive use of phone to place, receive or engage in personal calls.

15. Possessing weapons of any kind on College property or at College-sponsored functions, unless required for your job.

***FMLA-covered absences will not be considered for the purposes of determining whether absences are excessive or otherwise in violation of College policy.**

16. Drinking alcohol while on the job.

17. Leaving work station without authorization.

18. Reporting to work or being at work or at College-sponsored function while under the influence of alcohol. "Under the influence" is defined as having any detectible amount of alcohol in your body.

19. Using tobacco products in prohibited areas.

20. Illegal use or possession of drugs on or off the job.

21. Failure to observe safety procedures.
22. Dishonesty.

23. Fighting.

24. Stealing.

25. Falsifying time records; working "off the clock" or failing to accurately record hours worked when required.

26, Failure to comply with federal or state grant terms and conditions.

27. Unbecoming conduct which reflects discredit on the College or any of its employees.

28. Failure to wear proper uniform by an employee who has been issued a uniform.

29. Failure by non-uniformed employees to wear clothing that is neat in appearance and appropriate to the employee's job. Acceptable dress includes appropriate undergarments and shoes and proper grooming and hygiene.
30. Violation of any College policy or directive, including directives of the Administration or your supervisor.

13.8 TERMINATION OF EMPLOYMENT

To the extent possible, Benedict College expects employees who submit resignations to provide a minimum of two week's notice. Failure to give and work a two week notice will result in forfeiture of accrued vacation.

Any debts owed to Benedict College will be deducted from all wages due to separating employees at the time of separation.

As is set forth in its contracts of employment, Benedict College may terminate the employment of salaried employee at any time upon 30 days notice, and may terminate the employment of hourly employees upon two weeks notice. Introductory employee's contracts may be terminated during the introductory period immediately upon written notice to the employee.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

13.9 WORKPLACE PRIVACY

The workplace is intended to be a place to work. An important part of work is communications and record keeping. No employee is at work 24 hours, seven days a week and there are times when management needs access to communications or records maintained by employees in their workplaces. Each employee must understand that personal items and personal communications received or stored on Benedict College premises are not entitled to a guarantee of privacy.

Benedict College reserves the right to search for College property and documents in employee desks, lockers, file cabinets, etc.

Electronic media raise similar issues. The College provides electronic and telephone communications and, when necessary, computers to employees. Although assigned to employees, these items belong to the College. Similarly, any computer files created on a College computer belong to the College. Employees should not use College computers for personal business without the express written permission of the College. Unauthorized programs and files may not be used on College computers without the written permission of the College. The College reserves the right to review voice mail, electronic mail, computer files, and other electronic information generated by or stored in the College's electronic systems.

13.10 COMPUTER/INTERNET ABUSE

Benedict College's workplace privacy policy prohibits the use of College computers for personal business without the express written permission of Benedict College. The College consents to the "reasonable" use of its computers for personal business, but what is "reasonable" will be determined in the sole discretion of Benedict College. The only sure way to avoid violating the College's policy on personal computer use is to not use the College's computers for any personal purpose.

The following personal computer use is absolutely forbidden:

1. To access material which Benedict College considers pornographic.

2. To purchase any goods or services, even if charged to the employees' personal credit card.

3. To transmit or knowingly to accept receipt of any communications which is pornographic, obscene, or in the College's opinion might contribute to a hostile work environment in that it demeans individuals an the basis of race, sex, age, national origin, disability or some similar distinction.

IMPORTANT NOTICE: Benedict College has the capacity to examine computer usage of individual employees in detail. Even though an item has been "deleted" and the employee cannot retrieve it, this does not mean that the College cannot do so. It is also possible to generate a report of every Internet connection made by each user and of how much time was spent in each connection.

EXHIBIT 35

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

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ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

BYLAWS

BENEDICT COLLEGE

ARTICLE I.

Board of Trustees

Section I:

The Governing Board of this institution shall be known as the Board of Trustees of Benedict College. It shall be self-perpetuating and independent of any control other than this Board in both memberships for the Board and policy of this institution.

The Board of Trustees shall have and exercise those corporate powers prescribed by law. Its ultimate authority is affirmed through its general, academic, responsibility for the financial health and welfare of the corporation. The Board of Trustees shall exercise ultimate institutional authority as set forth in these bylaws and in such other policy documents it deems to be appropriate.

Section 2.

The Board of Trustees shall have the authority to carry out all lawful functions that are permitted by these bylaws or by the articles of incorporation. This authority, in consultation with the president, shall include but shall not be limited to these illustrative functions.

1. Determine and periodically review the mission and purpose of Benedict College.

2. Appoint the president, who shall be chief executive officer of Benedict College, and set appropriate conditions of employment, including compensation.

3. Consult with and advise the president on establishing the conditions of employment of other key institutional officers who serve at the pleasure of the president.

4. Support the president and assess his or her performance.

5. Review and approved propose changes in the academic programs and other major enterprises of Benedict College consistent with the mission, plans, and financial resources of Benedict College.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

6. Approve institutional policies that bear on faculty appointment, promotion, tenure, and dismissal as well as personnel or anti-discrimination policies for other categories of employees.

7. Approve the annual budget and annual tuition and fees, regularly monitor the financial condition of Benedict College, and establish policy guidelines that affect all institutional assets including investments and the physical plant.

8. Contribute financially to the fund-raising goals of Benedict College, participate actively in strategies to secure sources of support, and authorize Benedict College officers to accept gifts or bequests to the College subject to Board policy guidelines.

9. Authorize any need for debt financing and approve the securing of loans.

10. Authorize the construction of new buildings, capitalization of deferred maintenance backlogs, and major renovations of existing buildings.

11. Authorize the purchase, sale, and management of all land, buildings, or major equipment and approve purchasing policies.

12. Approve policies that contribute to the best possible environment for students to learn and develop their abilities and that contribute to the best possible environment for the faculty to teach, pursue their scholarship, and perform public service. These policies include the protection of academic freedom.

13. Approve all earned and honorary degrees.

14. Serve actively as advocates for Benedict College in appropriate matters of public policy in consultation with the president and other responsible parties as the Board shall determine.

15. Periodically undertake or authorize assessments of the performance of the Board.

Section 3:

The Board of Trustees shall consist of not more than thirty-six (36) persons elected at Annual Meetings of the Board. One-third of the Board shall be elected each year, and the group elected each year shall be elected for a term of three years, with the exception that faculty and student trustees shall be elected from April to April, unless the official connection as faculty or student is served prior to the expiration of the term. Vacancies on the Board of Trustees may be filled at any Annual Meeting, and persons elected to fill vacancies on the Board of Trustees shall be elected for the unexpired term for which elected. The Board of Trustees, upon recommendation of the Committee on Trustees, in consultation with the President, and on approval of two-thirds of its members present and

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

voting, may declare a vacancy to exist if a member has been absent for three consecutive meetings of the Board without good cause and the Board shall then proceed to fill such vacancy for the unexpired term of the individual who has been removed from membership.

Section 4.

Include in the total membership of trustees provided in the preceding paragraph, there shall be two chosen from the nominees proposed by the American Baptist Home Mission Society; one elected annually by the faculty; one elected annually by the student body; the President of the Baptist Education and Missionary Convention of South Carolina; the President of the Women's Baptist Education and Missionary Convention of South Carolina; and one appointed by the Mather School Alumni.

Section 5:

Each member of the Board of Trustees shall be entitled to one vote either in person or by proxy to the extent legal in the State of South Carolina.

Section 6:

Upon recommendation of the committee on trusteeship, trustees who served with distinction for at least two terms may be elected by the majority of trustees as trustee emeriti. Terms shall be three years and shall be renewable provided the total number of trustees emeriti does not exceed one-third of the total number of regular voting trustees. Trustee Emeriti shall be eligible to serve on board committees, except for the executive committee and the committee on trusteeship, with vote and shall speak freely at all board and committee meetings. They shall not have voting privileges at board meetings and shall not be counted as part of quorum determinations. Trustee emeriti shall be sent notices and minutes of all board meetings and are encouraged to attend board meetings or otherwise accept special assignments that are helpful to the Board of Trustees and Benedict College.

ARTICLE II

Meetings

Section 1.

There shall be four (4) regular meetings of the Board of Trustees each year, one in October, one in February, one in April, and the fourth to be a Retreat in July.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Section 2.

The Annual Meeting of the Board of Trustees shall be held in the City of Columbia, South Carolina, during the month of April in each year. The exact date of the meeting shall be determined by the Chairman of the Board in consultation with the President of the College. The exact dates and places of the other meetings shall be determined by the Chairman of the Board in consultation with the President of the College.

Section 3.

Notice of the time and place of such meetings shall be mailed to each member of the Board by the Secretary at least one month in advance of the selected date of the meeting.

Section 4.

Special meetings shall be called by the Secretary upon request of the Chairman of the Board, or three members of the Board, or the President of the College. Notice of special meetings of the Board shall state the nature of the business to be considered, the time and place of the meeting, and shall be provided to the members of the Board at least one week in advance of the proposed date of the meetings. At special meetings of the Board no matters of business shall be considered other than those stated in the call of the meeting.

Section 5.

One-third of the members of the Board shall constitute a quorum for the transaction of business, except that for the election of officers and the amendment of bylaws a quorum shall consist of a majority of the Board.

Section 6.

Board members may be reimbursed by the College for their reasonable travel expenses to all regular and special meetings of the Board.

ARTICLE III

Officers of the Board

Section 1.

The Officers of the Board shall be a Chairman, a Vice Chairman, a Secretary and an Assistant Secretary. These Officers shall be elected at the Annual Board meeting for a term of one year. If a vacancy occurs in an office, the unexpired term may be filled by the Executive Committee of the Board.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Section 2.

The Chairman of the Board shall preside at the meetings of the Board and fulfill the responsibilities which ordinarily pertain to that office. He shall execute such contract and other documents as may be authorized by the Board. He shall advise and consult with the President of the College and seek to reflect the judgment of the Board in policy matters affecting the general administration of the College.

Section 3.

In the absence or disability of the Chairman, the Vic Chairman shall preside at meetings of the Board and perform the duties of the Chairman of the Board.

Section 4.

The Secretary shall fulfill the responsibilities usually pertaining to this office. He shall keep a full and true record of the minutes of all meetings of the Board and committees of the Board. He shall assure that a true copy of the full record of the minutes of each Board Meeting shall be provided to each trustee within sixty days after each meeting of the Board.

Section 5.

The Assistant Secretary shall carry out the duties of the Secretary in his absence.

ARTICLE IV

Executive Committee

Section 1.

The Executive Committee shall consist of Board Officers, Standing Committee Chairs, and two Board members at large nominated by the Committee on Trustees at the Board's Annual Meeting. The Board shall name a Chairman, a Secretary, and an Assistant Secretary of the Executive Committee. In the absence of the Chairman at a duly called meeting, the members present shall elect a Chairman pro tem.

All members of the Board shall be privileged to attend meetings of the Executive Committee, and participate in the deliberations, without vote.

Section 2.

One-half of the members elected to the Executive Committee shall constitute a quorum for the transaction of business.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Section 3.

The Executive Committee shall represent the Board in interim between meetings of the Board and shall exercise in general the authority of the Board in matters pertaining to the regular administration of the Board except when referral with power has been given by the Board in respect to certain specific items of business. The Executive Committee shall oversee the work of the Board standing committees, the institution's planning process, the Board's support of the President and Chief Executive Officer, and matters relating to the President and the Chief Executive Officer, including his/her compensation and performance evaluation. The committee will deal also with personnel matters that do not fall under the jurisdiction of the Academic/Student Affairs Committee.

Section 4.

The Executive Committee shall meet at the call of the Chairman between regular meetings.

Section 5.

If the Secretary of the Executive Committee, as named by the Board, is not the Secretary of the Board of Trustees, then the Secretary of the Executive Committee shall provide a full report of the actions of the Executive Committee of the Secretary of the Board for inclusion in the full minutes of the Board.

Section 6.

A full report of the actions of the Executive Committee shall be transmitted to the entire Board within one month after each meeting of the Executive Committee.

ARTICLE V.

Standing Committees

Section 1.

There shall be five (5) Standing Committees to the Board of Trustees which shall meet periodically to transact business pertaining to their particular areas and shall make a report of their activities and recommendations in writing to the full meeting of the Board after consultation with the president. These committees shall be advisory bodies to the Board. The membership of each committee shall consist of not less than five (5) members of the Board. They are Academic/Student Affairs Committee, Development Committee, Finance/Audit/Investment Committee, Building and Grounds Committee, and Committee on Trustees. The Chairman of each Standing Committee shall be responsible for assuring the maintenance of records of all meetings with staff secretarial assistance when requested.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Section 2.

Academic/Student Affairs Committee: This committee is responsible for observing, studying and evaluating the educational operation and student personnel services of the College with a view to bringing the full attention of the Board to methods of aiding the continuance and further development of the strongest possible service in these areas. The committee should ensure that the educational program is consistent with the institutional mission and strategy and it appropriate for the institution's students; that the quality of academic activities is evaluated; that adequate resources are provided to support the academic and student affairs program consistent with program priorities; that faculty personnel policies and procedures are equitable and supportive of academic priorities; that the interests and needs of a diverse student population are represented in all Board policies and policy decisions; and that the committee is visible to students and faculty as stewards of the health and welfare of the academic community. The committee will work closely with the President and the chief academic/student affairs officer.

Section 3.

Finance/Audit/Investment Committee: This committee shall be responsible for studying and evaluating the fiscal and business operations of the College. It will give special attention to the annual budget in terms of its effectiveness as a fiscal statement of the institution's educational programs. It shall ensure that a viable long-range financial plan is in place or being developed. The committee shall review annually the audits of the College as well as any management letters submitted by the auditors, and make recommendations to the full Board. The committee will also review on a periodic basis the investment policies of the College as well as the performance of the investment assets of the College and mangers of the College's investment, and make recommendations to the full Board. The committee is responsible for communicating with and educating the Board on finance/audit/investment matters. The committee works closely with the President and the chief business and finance officer of the College.

Section 4.

Building and Grounds Committee: This committee has broad oversight for the College's land, buildings, and equipment. It shall be the responsibility of this committee to study and make recommendations regarding the maintenance of the buildings, utilities, grounds, and vehicles owned and/or operated by the College. This committee's responsibilities include ensuring the adequacy and condition of capital assets; developing and keeping current physical planning policies for land, buildings and equipment; recommending new structures and rehabilitating or removing older structures as dictated by general board policies; and controlling plant debt and assuring adequate levels of funding for plant maintenance. The committee works closely with the President, the chief business and finance officer and the chief maintenance officer.

Section 5.

Development Committee: This committee is responsible for making recommendations regarding find-raising policy and ensuring that fund-raising efforts are consistent with the College's mission statement. The committee must understand the need for fund-raising and be able to educate other board members to this need and encourage them to participate in raising funds. The committee helps set goals and develops strategies for soliciting gifts. It helps monitor the operation of the development program, including budget, staff, and use of fund-raising counsel. The committee works closely with the President and the chief development officer of the College.

Section 6.

Committee on Trustees: This committee is charged with the responsibility of cultivating prospects for Board membership; recruiting potential Board members; recommending candidates to fill Board vacancies; orienting and training for Board members; and developing procedures for evaluating Board members. The committee is responsible for evaluating on a continuing basis the structure and composition of the Board and thereby ensuring that continuity and effectiveness and enhanced. This committee shall nominate officers of the Board, as well as membership on the Executive and Standing Committees.

ARTICLE VI

Special Committees

Section 1.

From time to time, the Board may appoint other committees on an ad hoc basis to deal with special concerns of the college.

ARTICLE VII

President of the College

Section 1.

The President of the College shall be the chief executive officer of the College. He shall serve as the official channel of communication between the Board of Trustees and the administrative officers, the faculty, and the student body. The President shall have the responsibility of executing all Board policies and directives and keeping the Board and/or Executive Committee informed of matters which may lead to Board consideration.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

The President serves at the pleasure of the Board of Trustees for such term, compensation, and conditions of employment as the Board shall determine.

Section 2.

The President shall be the chief executive officer of the College and the chief advisor to and executive agent of the Board of Trustees. His or her authority is vested through the Board of Trustees and includes responsibilities for all College educational and managerial affairs. The President is responsible for leading Benedict College, hiring all vice presidents, implementing all board policies, keeping the Board informed on appropriate matters, consulting with the Board in a timely fashion on matters appropriate to its policy-making and fiduciary functions, and serving as the key spokesperson for Benedict College. He or she has the authority to execute all documents on behalf of Benedict College and Board of Trustees consistent with board policies and the best interests of Benedict College.

The President shall appoint after consultation with the Board, those personnel who shall have the status of administrative officers.

Section 3.

The President shall delegate to the administrative officers the responsibility for carrying out the key administrative functions of the College.

Section 4.

The President shall make, or cause to be made by an administrative officer, such reports as the Board of Trustees may request of him from time to time. The Annual Report of the President shall provide for the Board of Trustees a comprehensive review of the work and the condition of the College and a full report pf all funds of the College. The President shall coordinate the preparation and presentation of the budget of the College to the Board of Trustees and shall assure that a proper audit of all funds of the College shall be presented to the Board annually.

Section 5.

The President shall be a member ex-officio with full voting rights of all standing and special committees of the Board of Trustees.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ARTICLE VIII

Amendments

Section 1.

These Bylaws may be amended or repealed at any regular meeting of the Board by a vote of two-thirds of the members present, providing that a majority of the Trustees shall be present and participating in the meeting, previous notice of the nature of the amendment having been given at least one regular meeting before action thereon shall be taken.

Section 2.

Bylaws may be amended or repealed at a special meeting of the Board by vote of two-thirds of the member present, provided that an exact statement of the proposed amendment or intention to repeal has been provided to the Board of Trustees with the call of the meeting.

ARTICLE IX

Conflict of Interest

Section 1.

A trustee shall be considered to have a conflict of interest if:

1. Such trustee has existing or potential financial or other interests that impair or might reasonably appear to impair such member's independent, unbiased judgment in the discharge of his or her responsibilities to Benedict College, or
2. Such trustee is aware that a member of his or her family, or any organization in which such trustee (or member of his or her family) is an officer, director, employee, member trustee or controlling stockholder, has such existing or potential financial or other interests. For the purpose of this provision, a family member is defined as a spouse, parents, siblings, children and any other relative if the latter resides in the same household as the trustee.

All trustees shall disclose to the board any possible conflict of interest at the earliest practical time. Furthermore, the trustees shall abstain himself or herself from discussions of, and abstain from voting on, such matters under consideration by the Board of Trustees or its committees. The minutes of such meeting shall reflect that a disclosure was made and conflict abstained from voting. Any trustee who is uncertain whether a conflict of interest may exist in any matter may request that the board or committee resolve the questions in his or her absence by majority vote. Each trustee shall complete and sign a disclosure form provided annually by the secretary of the Board of Trustees.

(Rev. 2/13/04)

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

EXHIBIT 36

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

BYLAWS

BENEDICT COLLEGE

ARTICLE I.

Board of Trustees

Section 1:

The Governing Board of this institution shall be known as the Board of Trustees of Benedict College. It shall be self-perpetuating and independent of any control other than this Board in determining both membership for the Board and policy of this institution.

The Board of Trustees shall have and exercise those corporate powers prescribed by law. Its ultimate authority is affirmed through its general, academic responsibility for the financial health and welfare of the corporation. The Board of Trustees shall exercise ultimate institutional authority as set forth in these bylaws and in such other policy documents it deems to be appropriate.

Section 2.

The Board of Trustees shall have the authority to carry out all lawful functions that are permitted by these bylaws or by the articles of incorporation. In carrying out its responsibilities, the Board shall consult with the President as appropriate. This authority shall include, but shall not be limited to the following illustrative examples.

1. Determine and periodically review the mission and purpose of Benedict College.

2. Appoint the President, who shall be Chief Executive Officer of Benedict College; periodically evaluate and establish terms of employment including, and if necessary, termination in accordance with all applicable laws and the express terms of the employment contract.

3. Advise the President on establishing the conditions of employment and/or contract terms of other key institutional officers who serve at the pleasure of the President.

4. Appoint, if the need arises, an Interim President, whose salary and benefits would be negotiated by the Executive Committee and approved by the full Board.

5. Review and approve proposed changes in the academic programs and other major enterprises of Benedict College consistent with the mission, plans, and financial resources of Benedict College.

6. Approve institutional policies that bear on faculty appointment, promotion, tenure, and dismissal as well as personnel or anti-discrimination, and harassment policies for other categories of employees, and the Board of Trustees.

7. Approve the annual budget and annual tuition and fees, regularly monitor the financial condition of Benedict College, and establish policy guidelines that affect all institutional assets including investments and the physical plant.

8. Contribute financially to the fund-raising goals of Benedict College, participate actively in strategies to secure sources of support, and authorize Benedict College officers to accept gifts or bequests to the College subject to Board policy guidelines. Gift Acceptance Policy attached hereto and incorporated herein by reference.

9. Authorize any need for debt financing and approve the securing of loans.

10. Authorize the construction of new buildings, capitalization of deferred maintenance backlogs, and major renovations of existing buildings.

11. Authorize the purchase, sale, and management of all land, buildings, or equipment and approve purchasing policies.

12. Approve policies that protect academic freedom, maintain College accreditation and contribute to the best possible environment for students to learn and develop their abilities and contribute to the best possible environment for the faculty to teach, pursue their scholarship and perform public service, consistent with the mission, purpose, and financial resources of the College.

13. Approve all earned and honorary degrees.

14. Serve actively as ambassadors for Benedict College. In appropriate matters of public policy, the President and Chairman of the Board (or designee) will serve as official spokespersons for the College.

15. Periodically undertake or authorize assessments of the performance of the Board, collectively and individually.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Section 3:

The Board of Trustees shall consist of not more than thirty (30) persons elected at Annual Meetings of the Board. One-third of the Board shall be elected each year, and the group elected each year shall be elected for a term of three years. Vacancies on the Board of Trustees may be filled at any meeting, and persons elected to fill vacancies on the Board of Trustees shall be elected for the unexpired term for which elected. The Board of Trustees, upon recommendation of the Committee on Trustees, in consultation, with the President, and on approval of two-thirds of its members present and voting, may declare a vacancy to exist if a member has been absent for three consecutive meetings of the Board without good cause and the Board shall then proceed to fill such vacancy for the unexpired term of the individual who has been removed from membership. A Trustee elected to complete an unexpired three-year term may be eligible for election to one or more term(s) not to exceed the three term maximum (nine years) of the replaced member, however, the Board reserves the right to review this policy if the replacement occurs in the last two years of the replaced Board Member's term. The Board reserves the right to review this policy.

Section 4.

Included in the total membership of trustees provided in the preceding paragraph, there shall be two from the American Baptist Home Mission Society; one from the National Alumni Association; one from the Baptist Education and Missionary Convention of South Carolina; one from the Women's Baptist Education and Missionary Convention of South Carolina; and one from the Mather Alumni Association. These proposed members are nominated by the Committee on Trustees and elected by the Board at its Annual Meeting.

Section 5.

Each member of the Board of Trustees shall be entitled to one vote either in person or by written proxy to the extent legal in the State of South Carolina.

Section 6.

Upon recommendation of the Committee on Trustees, Trustees who served with distinction for at least two terms may be elected by the majority of trustees as Trustee Emeriti. Terms shall be three years and shall be renewable provided the total number of Trustees Emeriti does not exceed one-third of the total number of regular voting trustees. Trustee Emeriti shall be eligible to serve on Board committees, except for the executive committee and the committee on trusteeship, with vote and shall speak freely at all Board and committee meetings. They shall not have voting privileges at Board meetings and shall not be counted as part of the quorum determinations. Trustee Emeriti shall be sent notices and minutes of all Board meetings and are encouraged to attend Board meetings, at their expense, or otherwise accept special assignments that are helpful to the Board of Trustees and Benedict College.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ARTICLE II

Meetings

Section 1.

There shall be three (3) regular meetings of the Board of Trustees each year. The Spring Meeting of the Board of Trustees shall be the Annual Meeting. A planning retreat may be held from time to time as directed by the Board Chairman in consultation with the President.

Section 2.

The Annual Meeting of the Board of Trustees shall be held in the City of Columbia, South Carolina, during the spring in each year. The exact date of the meeting shall be determined by the Chairman of the Board in consultation with the President of the College. The exact dates and places of the other meetings shall be determined by the Chairman of the Board in consultation with the President of the College.

Section 3.

Notice of the time and place of such meetings shall be mailed to each member of the Board by the Secretary at least one month in advance of the selected date of the meeting. A Trustee participation in such a meeting is considered to be present at the meeting.

Section 4.

Special meetings shall be called by the Secretary upon request of the Chairman of the Board, or three members of the Board, or the President of the College. Notice of special meetings of the Board shall state the nature of the business to be considered, the time and place of the meeting, and shall be provided to the members of the Board at least one week in advance of the proposed date of the meetings. At special meetings of the Board no matters of business shall be considered other than those stated in the call of the meeting.

Section 5.

One-third of the members of the Board shall constitute a quorum for the transaction of business, except that for the election of officers and the amendment of bylaws; a quorum shall consist of a majority of the Board.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ARTICLE III

Officers of the Board

Section 1.

The Officers of the Board shall be a Chairman, a Vice Chairman, a Secretary and an Assistant Secretary. These Officers shall be elected at the Annual Board meeting for a term of one year. If a vacancy occurs in an office, the unexpired term may be filled by the Executive Committee of the Board.

Section 2.

The Chairman of the Board shall preside over all meetings of the Board and fulfill the responsibilities which ordinarily pertain to that office. He/She shall execute such contract and other documents as may be authorized by the Board. He/She shall advise and consult with the President of the College and seek to reflect the judgment of the Board in policy matters affecting the general administration of the College.

Section 3.

In absence or disability of the Chairman, the Vice Chairman shall preside at meetings of the Board and perform the duties of the Chairman of the Board.

Section 4.

The Secretary shall fulfill the responsibilities usually pertaining to this office. He/She shall keep a full and true record of the minutes of all meetings of the Board and committees of the Board. He/She shall assure that a true copy of the full record of the minutes of each Board Meeting shall be provided to each trustee within sixty days after each meeting of the Board.

Section 5.

The Assistant Secretary shall carry out the duties of the Secretary in his/her absence.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ARTICLE IV

Executive Committee

Section 1.

The Executive Committee shall consist of Board Officers, Standing Committee Chairs, and two Board members at large appointed by the Chairman of the Board of Trustees at the Board's Annual Meeting. The Chairman of the Board serves as Chairman of the Executive Committee with the Vice Chairman, Secretary and Assistant Secretary of the Board, for the Executive Session. In absence of the Chairman at a duly called meeting, the members present shall elect a Chairman pro tem.

All members of the Board shall be privileged to attend meetings of the Executive Committee, and participate in the deliberations, without vote.

Section 2.

One-half of the members elected to the Executive Committee shall constitute a quorum for the transaction of business.

Section 3.

The Executive Committee shall represent the Board in interim between meetings of the Board and shall exercise in general the authority of the Board in matters pertaining to the regular administration of the Board except when referral with power has been given by the Board in respect to certain specific items of business. The Executive Committee shall oversee the work of the Board standing committees, the institution's planning process.

Section 4.

The Executive Committee shall meet at the call of the Chairman between regular meetings.

Section 5.

The Secretary of the Executive Committee, as named by the Board, is also the Secretary of the Board of Trustees. The Secretary of the Executive Committee, as named by the Board, shall be the Secretary of the Board of Trustees, and the Secretary (of the Executive Committee) shall provide a full report of the actions of the Executive Committee for inclusion in the full minutes of the Board.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Section 6.

A full report of the actions of the Executive Committee shall be transmitted to the entire Board as soon as is practical, not to exceed 30 days after each meeting of the Executive Committee.

ARTICLE V.

Standing Committees

Section 1.

There shall be Seven (7) Standing Committees to the Board of Trustees which shall meet periodically to transact business pertaining to their particular areas and shall make a report of their activities and recommendations in writing to the full meeting of the Board after consultation with the President. These committees shall be advisory bodies to the Board. The membership of each committee shall consist of not less than five (5) members of the Board. They are Academic Affairs Committee, Student Affairs and Athletic Committee, Institutional Advancement Committee, Finance/Audit/Investment Committee, Buildings and Grounds Committee, Committee on Trustees and President Evaluation and Compensation. The Chairman of each Standing Committee shall be responsible for assuring the maintenance of records of all meeting with staff secretarial assistance when requested.

Section 2.

Academic Affairs Committee: This Committee is responsible for observing, studying and evaluating the educational operation and student personnel services of the College with a view to bringing the full attention of the Board to methods of aiding the continuance and further development of the strongest possible academic offerings. The Committee should ensure that the educational program in consistent with the institutional mission and strategy and it is appropriate for the institution's students; that the quality of academic activities is evaluated; that adequate resources are provided to support the academic and student affairs programs consistent with program priorities; that the interests and needs of a diverse student population are represented in all Board policies and policy decisions; and that the committee is visible to students and faculty as stewards of the health and welfare of the academic community. The Committee will work closely with the President and the Chief Academic officer.

Section 3.

Finance/Audit/Investment Committee: This Committee shall be responsible for studying and evaluating the fiscal and business operations of the College. It will give special attention to the annual budget in terms of its effectiveness as a fiscal statement of the institution's educational programs. It shall ensure that a viable long-range financial plan is in place or being developed. The Committee shall review annually the audits of the

College as well as any management letters submitted by the auditor, and make recommendations to the full Board. The Committee will also review on a periodic basis the investment policies of the College as well as the performance of the investment assets of the College and managers of the College's investment, and make recommendations to the full Board. The Committee is responsible for communicating with and educating the Board on finance/audit/investment matters. The Committee works closely with the President and the chief business and finance officer of the College. The Committee shall direct the selection of the College's Audit firm on a periodic basis. The audit firm shall be reviewed a minimum of every five (5) years.

Section 4.

Buildings and Grounds Committee: This Committee has broad oversight for the College's land, buildings, and equipment. It shall be the responsibility of this Committee to study and make recommendations regarding the maintenance of the buildings, utilities, grounds, and vehicles owned and/or operated by the College. This Committee's responsibilities include ensuring the adequacy and condition of capital assets; developing and keeping current physical planning policies for land, buildings and equipment; recommending new structures and rehabilitating or removing older structures as dictated by general Board policies; and controlling plant debt and assuring adequate levels of funding for plant maintenance. The Committee works closely with the President, the chief business and finance officer and the chief maintenance officer.

Section 5.

Student Affairs and Athletics Committee: This Committee shall review policies and activities of the Division of Student Affairs and be responsible for ensuring the Division successfully achieves the goals of the division and supports the College's mission, goals, and strategic plans. The Committee shall have as its principal liaison the Vice President for Student Affairs. The duties of the Student Affairs Committee include: Ensuring that the Board is informed on policies governing the entire range of Student Affairs and Athletics; periodically reviewing policies affecting students including but not limited to student health and welfare, residence life, student development, counseling and substance abuse, student honor and conduct systems, campus social, cultural and recreational programs, and critical incident response planning. The Student Affairs and Athletic Committee shall review, when appropriate, the fees and rates recommended by the Administration and the Finance Committee for major student services, including health and residence life. The committee shall make recommendations, when appropriate, to the Facilities Committee about major capital improvement projects for Student Affairs and Athletic facilities and shall, when appropriate, make recommendations to the Development Committee about capital fund-raising campaigns for Student Affairs programs and athletic facilities.

The Committee should ensure that the athletics program meets the institution's priorities in the following areas:

a. Conference affiliation

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

b. Compliance, including but not limited to Title IX
c. Safety and health of all student athletes, including monitoring the condition of facilities and ensuring adequate health care policies and practices.

The Committee shall direct an annual review of athletic activities, including expenditures and revenues; conference records, and recruitment and graduation of student athletes.

Section 6.

Institutional Advancement Committee: The Committee is responsible for making recommendations regarding fund-raising policy and ensuring that fund-raising efforts are consistent with the College's mission statement. The Committee must understand the need for fund-raising and be able to educate other Board members to this need and encourage them to participate in raising funds. The Committee helps set goals and develops strategies for soliciting gifts. It helps monitor the operation of the development program, including budget, staff, and the use of fund-raising counsel. The Committee works closely with the President and the chief development officer of the College.

Section 7.

Committee on Trustees: This Committee is charged with the responsibility of cultivating prospects for Board membership; recruiting potential Board members; recommending candidates to fill Board vacancies; orienting and training for Board Members; and developing procedures for evaluating Board members. The Committee is responsible for evaluating on a continuing basis the structure and composition of the Board and thereby ensuring that continuity and effectiveness are enhanced. This Committee shall nominate membership on the Executive and Standing Committees.

Section 8.

President Evaluation and Compensation: This Committee shall be responsible for establishing goals in conjunction with the President and CEO. It will evaluate the president's performance annually. In addition, the Committee shall be authorized to establish compensation and benefits for the President and CEO. The Committee shall be composed of 3-5 members appointed by the Chairman of the Board, who will also chair the President Evaluation and Compensation Committee.

ARTICLE VI

Special Committees

Section 1.

From time to time, the Board may appoint other committees on an *ad hoc* basis to deal with special concerns for the College.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ARTICLE VII

President of the College

Section 1.

The President of the College shall be the Chief Executive Officer of the College. He/She shall serve as the official channel of communication between the Board of Trustees and the administrative officers, the faculty/staff, and the student body. The President shall have the responsibility of executing all Board policies and directives and keeping the Board and/or Executive Committee informed of matters which may lead to Board considerations. The President serves at the pleasure of the Board of Trustees for such term, compensation, and conditions of employment as the Board shall determine. The President of the College shall not be a member of the Board of Trustees.

Section 2.

The President/CEO of the College shall be the chief advisor and executive agent of the Board of Trustees. His or her authority is vested through the Board of Trustees and includes responsibilities for all College educational and managerial affairs. The President is responsible for leading Benedict College, hiring all vice Presidents, faculty and staff, implementing all Board policies, keeping the Board informed on appropriate matters, consulting with the Board in a timely fashion on matters appropriate to its policy-making and fiduciary functions, and serving as the key spokesperson for Benedict College. He or she has the authority to execute all documents on behalf of Benedict College and Board of Trustees consistent with Board policies and the best interests of Benedict College.

Section3.

The President shall delegate to the administrative officers the responsibility for carrying out the key administrative functions of the College.

Section 4.

The President shall make, or cause to be made by an administrative officer, such reports as the Board of Trustees may request of him/her from time to time. The Annual Report of the President shall provide for the Board of Trustees a comprehensive review of the work and the condition of the College and a full report of all funds of the College. The President shall coordinate the preparation of the presentation of the budget of the College to the Board of Trustees and shall assure that a proper audit of all funds of the College shall be presented to the Board annually.

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ARTICLE VIII

Amendments

Section 1.

These Bylaws may be amended or repealed at any regular meeting of the Board by a vote of two-thirds for the members present, providing that a majority of the Trustees shall be present and participating in the meeting, previous notice of the nature of the amendment having been given at least one regular meeting before action thereon shall be taken.

Section 2.

Bylaws may be amended or repealed at a special meeting of the Board by vote of two-thirds of the members present, provided that an exact statement of the proposed amendment or intention to repeal has been provided to the Board of Trustees with the call of the meeting.

ARTICLE IX

Executive Session of the Board

Section 1.

Upon vote of the Board, sessions of the Board may be held in executive session, where all members shall be eligible to attend the executive session of the Board except for the following:

- Any Board member with a conflict of interest concerning a matter being discussed in executive session when the issue is discussed.

- Any Trustee Emeritus who may be attending the Board Meeting

The Chairman of the Board may allow the President to attend an executive session where his/her presence will be helpful to the Board members in executive session.

Minutes of any executive session of the Board will be filed in the office of the General Counsel or his/her successor.

Section 2.

Reasons to go into executive session include, but are not limited to:

- Receive legal advice
- Discuss the results of any audit
- Discuss assessment of the performance of the President
- Discuss assessment of the performance of members of the Board
- Discuss any sensitive personnel or contract matters

Section 3.

Upon the conclusion of the executive session, the Board in its discretion may report out to those excluded from the session on any matters discussed and/or decided in executive session.

ARTICLE X

Conflict of Interest

Section 1.

A trustee shall be considered to have a conflict of interest if:

1. Such trustee has existing or potential financial or other interests that impair or might reasonably appear to impair such member's independent, unbiased judgment in the discharge of his or her responsibilities to Benedict College, or

2. Such trustee is aware that a member of his or her family, or any organization in which such trustee (or member of his or her family) is an officer, director, employee, member trustee or controlling stockholder, has such existing or potential financial or other interest. For the purpose of this provision, a family member is defined as a spouse, parents, siblings, children any other person if the latter resides in the same household as the trustee.

   All trustees shall disclose to the Board any possible conflict of interest at the earliest practical time. Furthermore, the trustee shall abstain himself or herself from discussions of, and abstain from voting on, such matters under consideration by the Board of Trustees or its committees. Notwithstanding a known conflict, a Trustee may make a presentation to the Board or present opportunities, initiatives, and partnerships to the members of the Board. However, at the conclusion of the presentation, the Board Member must be excused from any discussion of the matter and must abstain from any vote relative to the matter. The minutes of such meeting shall reflect that a disclosure was made and that the trustee abstained from discussion and voting on the

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

matter. Any trustee who is uncertain whether a conflict of interest may exist in any matter may request that the Board or committee resolve the questions in his or her absence by majority vote. Each trustee shall complete and sign a disclosure form provided annually by the secretary of the Board of Trustees.

(Rev. 4/18/67)
(Rev. 4/19/68)
(Rev. 4/29/69)
(Rev. 12/5/70)
(Rev. 10/12/72)
(Rev. 4/4/73)
(Rev. 10/13/94
(Rev. 4/26/96)
(Rev. 2/13/04)
(Rev. 4/24/09)
(Rev. 2/9/18)
(Rev. 5/10/19)
(Rev. 6/24/19)
(Rev. 9/18/19)
(Rev. 2/7/2020)
(Rev. 5/22/2020)

ELECTRONICALLY FILED - 2023 Sep 13 5:39 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2025 Mar 17 4:03 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Abigail Rogers, Plaintiff, v. Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson, Defendants.	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT C/A No.: 2019-CP-40-06624 **MOTION TO RECONSIDER**

Plaintiff respectfully moves the Court to reconsider its order granting summary judgment filed on March 7, 2025.

This motion is a motion to alter or amend the Court's final order in this matter pursuant to Rule 59(e), SCRCP.

Plaintiff respectfully argues that the order improperly resolved material factual disputes, weighed evidence, made credibility determinations, and resolved ambiguities in the Defendant's Faculty Manual in favor of the Defendant College.

1. Procedural History

This is a revocation of tenure case regarding the termination of a tenured professor at Benedict College.

The record before the Court was fact-laden and voluminous. There were more than 200 pages of exhibits submitted with both the Defendant's Motion for Summary Judgment and the Plaintiff's response in opposition.

The Court held two hearings on the motion on September 20, 2023, and October 3, 2023. At the second hearing, the Court focused on fact-specific questions about whether Plaintiff was afforded due process as provided for in the College's Faculty Manual.

ELECTRONICALLY FILED - 2025 Mar 17 4:03 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

The Court did not indicate its inclination following the hearings on this matter nor ask for proposed orders.

After a year had passed, the parties sought a status update from the Court as directed by the Chief Administrative Judge.

In response, the Court communicated on November 14, 2024, that "the Summary Judgment motion was ruled on but it must not have been communicated" to the parties and that "a ruling [would be] sent to the parties in the next few days." On November 18, 2024, the Court followed up to state that they "recall[ed] ruling in favor of the defendant's motion" and said it believed that the ruling was discussed at an "October 3rd phone call."

The defendants and plaintiff's counsel both clarified that the Court had not indicated its ruling. Plaintiff further clarified that the October 3, 2023, meeting was a formal supplemental hearing rather than a phone call.

Plaintiff's counsel suggested on November 26, 2024, that the Court order the parties to prepare competing proposed orders.

On February 5, 2025, the Court asked for competing proposed orders.

On March 7, 2025, the Court signed the Defendants' proposed order with modifications, granting summary judgment on all claims.

2. Standard

"A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order." Rule 59, SCRCP

"When an issue or argument has been raised to but not ruled upon by the trial court, a party must file a Rule 59(e), SCRCP, motion to preserve the issue for appeal." *Shirley's Iron Works, Inc. v. City of Union*, 397 S.C. 584, 598, 726 S.E.2d 208, 215 (Ct. App. 2010), *aff'd in part, rev'd in part*, 403 S.C. 560, 743 S.E.2d 778 (2013).

ELECTRONICALLY FILED - 2025 Mar 17 4:03 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

3. Grounds for Motion

This motion asserts that the Court made improper fact determinations and granted summary judgment to the Defendant on the claims of breach of contract, declaratory judgment, breach of contract with a fraudulent act, tortious interference with contract, and civil conspiracy.[1]

"[U]nder Rule 56(c), SCRCP: 'summary judgment is proper when 'there is no genuine issue as to any material fact and … the moving party is entitled to judgment as a matter of law.'" *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003); *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 114–15–410 S.E.2d 537, 545 (1991); Rule 56(c), SCRCP; *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023) ("Rather, the proper standard is the "genuine issue of material fact" standard set forth in the text of the Rule.").

"In determining whether summary judgment is appropriate, the evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party." *Dawkins*, 580 S.E.2d at 439.

3.1. The Court overlooked genuine issues of material fact in its order:

The Court overlooked genuine issues of material fact when concluding summary judgement was appropriate to include:

1) That the timing of Plaintiff's termination, mere days before a critical Board Meeting where Plaintiff was set to challenge her allegedly unlawful removal from the Defendant's Board of Trustees, indicates the purported reasons for her termination were a pretext.

[1] Plaintiff does not contest summary judgment on Count 2 of her breach of contract claim or her claim under the Non-Profit Corporation Act.

ELECTRONICALLY FILED - 2025 Mar 17 4:03 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

2) That much of the rationale used for Plaintiff's termination consisted of prior allegations that predated her most recent contract renewal and thus indicated pretext and a potential breach of contract in and of itself.

3) The Court disregarded conflicting evidence regarding whether the statements proffered by Benedict College were fabricated and taken out of context given that his declaration adds context which contradicts or at least undermines the weight of those statements.

4) The Court's order does not reference the declaration of Jordan Rice Woodruff which undermines the statements relied upon by the College to substantiate its alleged reasons for termination.

5) The Court overlooked procedural dup process violations, including:

   a. Prevented her from cross-examining witnesses.

   b. Severely restricting her use of counsel.

   c. Conducted an ex parte hearing before its Ad Hoc Committee.

   d. Failing to communicate a final decision by the University President.

6) The Court incorrectly resolved apparent ambiguities in the Faculty Manual in favor of the Defendant College, contrary to settled contract interpretation principles. *S. Atl. Fin. Servs., Inc. v. Middleton*, 349 S.C. 77, 84, 562 S.E.2d 482, 486 (Ct. App. 2002), *aff'd as modified*, 356 S.C. 444, 590 S.E.2d 27 (2003). ("It is well settled that ambiguities arising within a contract must be construed against the drafter.").

7) The Court disregarded critical evidence to the declaratory judgment and tort claims, including: that the College's bylaws state faculty representatives serve "April to April;" that Plaintiff did not receive notice or an invitation to the Board Meeting where her

ELECTRONICALLY FILED - 2025 Mar 17 4:03 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

Board Seat was removed by the College's Board in May 2019; and that Plaintiff's removal form the Board was not carried out by the constituency that elected her.

3.2. The Court made fact determinations in order to grant summary judgment.

"When evidence is susceptible to more than one reasonable inference, the issue should be submitted to the jury." *Murphy v. Tyndall*, 384 S.C. 50, 54, 681 S.E.2d 28, 30 (Ct. App. 2009). In this case, the Court, in order to grant summary judgment, naturally decided issues of fact. In particular:

1) The Court weighed witness credibility in order to accept the College's version of events over the Plaintiff's, particularly in regard to: (1) the validity of student complaints about Plaintiff, (2) whether the College terminated Plaintiff because she opposed her unlawful removal from the Defendant's Board of Trustees, and (3) whether the College's asserted reason for terminating Plaintiff was a pretext in light of the declaration of Jordan Rice-Woodruff. *See, Oakman Serv. Station v. People's Oil Co.*, 174 S.C. 517, 178 S.E. 129, 130 (1935) ("The credibility of witnesses is entirely for the jury.").

2) The Court resolved ambiguities about the level of process afforded to the Plaintiff in favor of the Defendant College even though the College drafted the Faculty Manual. *S. Atl. Fin. Servs., Inc. v. Middleton*, 349 S.C. 77, 84, 562 S.E.2d 482, 486 (Ct. App. 2002), *aff'd as modified*, 356 S.C. 444, 590 S.E.2d 27 (2003). ("It is well settled that ambiguities arising within a contract must be construed against the drafter.").

3) The Court granted summary judgment to the Defendant on Plaintiff's breach of contract claim as it pertains to cause for Plaintiff's termination even though motive and intent where at issue. *Ballinger v. N.C. Agr. Extension Serv.*, 815 F.2d 1001, 1005 (4th Cir. 1987) ("[S]ince 'summary judgment is seldom appropriate in cases wherein particular states of mind are decisive as elements of [a] claim or defense,' courts must

take special care in cases such as the instant one because motive often is the critical issue in employment discrimination cases.").

3.3. The Court's Order includes misstatements or disputed statements of fact.

The proposed order signed by the Court includes misstatements or disputed statements of fact including that:

1) The Order implies at pp. 8-9 that Jordan Rice-Woodruff went to Defendant's Human Resources office on his own initiative to make a complaint about Plaintiff. However, Mr. Woodruff's declaration says that he was encouraged to go to Human Resources by the College's Dean of Student Affairs. This complaint by Mr. Jordan Rice-Woodruff was asserted by the College to be the impetus for Plaintiff's termination.
2) The Order says at p. 10 that Plaintiff and her counsel "presented Plaintiff's argument" to the College's Grievance and Appeal Committee; however, Plaintiff was not permitted to have counsel present on her behalf. She was also not permitted to call or examine witnesses.
3) The Order says at pp. 10 and 18 that Dr. Artis issued a "final decision regarding the matter;" however, there is no evidence in the record of a final decision rendered by Dr. Artis being issued to the Plaintiff.
4) The Order says at p. 16 that the Faculty and Staff Greivance Committee was "Not required by § 6.2.6" of the Faculty Manual to even hear "argument" from the Plaintiff even though that provision reads: "The Committee will review the petition for appeal **and will hear the appeal** within ten (10) days of the receipt of the appeal or as soon thereafter as feasible.
5) The Order says at p. 16 that the cursory Faculty and Staff Grievance Committee hearing "far exceed anything 'required' by the Faculty Manual." However, the Manual

ELECTRONICALLY FILED - 2025 Mar 17 4:03 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

ELECTRONICALLY FILED - 2025 Mar 17 4:03 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4006624

does not define the procedure for a § 6.2.6 hearing, but states in the case of a lower-level hearing for a non-termination level grievance that the Grievance Committee will "hear the charge, receive facts and evidence, and entertain arguments from the parties or representatives" (§ 7.2(5)) and that a faculty member will be permitted to "present evidence and cross-examine all witnesses." (§7.2(6)).

4. Conclusion

This case involves is fact-intensive, involving claims determined by genuine issues of material fact. This case is not appropriate for summary judgment.

Plaintiff respectfully requests that this Court reconsider and withdraw its order granting summary judgment to the Defendants.

Plaintiff further asks the Court to adopt Plaintiff's competing proposed order and direct this matter to proceed trial.

Respectfully Submitted By:

BY: s/J. Paul Porter
J. Paul Porter (#100723)
Cromer Babb & Porter, LLC
1418 Laurel Street, Ste. A (Street Address)
Post Office Box 11675
Columbia, South Carolina 29211
Phone 803-799-9530
Fax 803-799-9533
paul@cromerbabb.com

March 17, 2025

CB&P CROMER BABB & PORTER

Fearless Advocates. Fierce Challengers.

November 12, 2024

Via U.S. Mail and Email
The Honorable Judge Ferrell Cothran
Post Office Box 32
Manning, SC 29102
RCothranSC@sccourts.org

Re: Case # 2019CP4006624; Abigail Rogers v. Benedict College

Dear Judge Cothran:

I represent the Plaintiff, Ms. Abigail Rogers, in the above-referenced case. You heard Defendants' Motion for Summary Judgment in September 2023 and held a supplemental hearing in October 2023. We were called to a roster meeting for this case last month in front of Judge Coble and we informed him that we have not received your ruling on summary judgment yet and requested a continuance. Judge Coble instructed the parties to reach out to your chambers to inquire about the status of the ruling.

Please let me know if you need anything from me, my co-counsel Paul Porter, or our opposing counsel, Gene Matthews related to this motion.

Sincerely,

Harper Hutson

Harper L. Hutson
Attorney at Law

cc: via email
Gene Matthews, gmatthews@richardsonplowden.com
Law Clerk to Judge Cothran, rcothranlc@sccourts.org
Law Clerk to Judge Coble, dcoblelc@sccourts.org

CB&P CROMER BABB & PORTER

1418 Laurel Street, Suite A
P.O. Box 11675
Columbia, SC 29211



The Honorable Judge Ferrell Cothran
Post Office Box 32
Manning, SC 29102

740

From:	Harper L. Hutson
To:	Paul Porter; Gene Matthews; RCothranSC@sccourts.org; Cothran, Ralph F. Jr., Law Clerk (Caroline Land)
Cc:	Coble, Daniel Law Clerk (Sarah Di Stefano); MJ Wilson; cothranj@sccourts.org
Subject:	RE: Case 2019CP4006624-Abigail Rogers vs Benedict College , defendant, et al added to Court Roster for period 2024-10-21 through 2024-10-25.
Date:	Tuesday, November 12, 2024 4:59:00 PM
Attachments:	11-12-24 - Rogers - Ltr to Judge Cothran.pdf image001.png

Judge Cothran:

Please see the attached letter regarding the status of a motion for summary judgment filed in the above-referenced case. A hard copy was also placed in the mail to you today.

Sincerely,
Harper

Harper L. Hutson
Attorney
(803) 799-9530 | harper@cromerbabb.com
www.cromerbabb.com
1418 Laurel St., Ste. A, Columbia, SC 29201
P.O. Box 11675, Columbia, SC 29211

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From: Paul Porter <Paul@cromerbabb.com>
Sent: Wednesday, October 16, 2024 3:49 PM
To: Gene Matthews <GMatthews@RichardsonPlowden.com>; RCothranSC@sccourts.org; Cothran, Ralph F. Jr., Law Clerk (Caroline Land) <rcothranlc@sccourts.org>
Cc: Harper L. Hutson <Harper@cromerbabb.com>; Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>; MJ Wilson <mwilson@richardsonplowden.com>; cothranj@sccourts.org
Subject: RE: Case 2019CP4006624-Abigail Rogers vs Benedict College , defendant, et al added to Court Roster for period 2024-10-21 through 2024-10-25.

Judge Cothran:

I represent the Plaintiff in the above referenced case "Rogers v. Benedict College".

I am following up on the below email where defense counsel asked about the status of your ruling on summary judgment in this case.

We had a roster meeting this afternoon and defense counsel was asked by the Court to follow back up with you before end of week on the status of your ruling in this matter. Defense counsel is out of the office and asked me if I would write you in his stead.

This is a breach of contract/tenure case that was argued on summary judgment before you at an initial hearing on 9/20/23 and a second hearing to address follow up questions from the Court on 10/3/23.

Please let me know if us need anything from me or opposing counsel, Gene Matthews.

I added your direct email to this chain, because I understand that your clerk may have changed since this motion was heard.

Sincerely, Paul

Paul Porter
Partner
(803) 799-9530 | paul@cromerbabb.com
www.cromerbabb.com
1418 Laurel St., Ste. A, Columbia, SC 29201
P.O. Box 11675, Columbia, SC 29211

Paul Porter

From: Cothran, Ralph F. Jr., Law Clerk (Caroline Land) <rcothranlc@sccourts.org>
Sent: Tuesday, September 26, 2023 9:26 AM
To: Paul Porter; Gene Matthews; Kate Benoit
Cc: MJ Wilson; Chance Sturup; Stephanie Workman
Subject: RE: Abigail Rogers v. Benedict College et al - 2019CP4006624

Good Morning,

Judge Cothran would like to have a follow up hearing on this matter via webex. Judge Cothran is available anytime **Monday, October 2nd, or anytime after 10:30am on Tuesday, October 3rd.** Please let me know if there is a time Monday or Tuesday that works for yall.

Thank you,
Caroline "Bitsy" Land
Law Clerk for the
Honorable R. Ferrell Cothran, Jr.
3rd Judicial Circuit
Phone: 803-435-2450
Clarendon County Court House
P.O. Box 32
3 West Keitt Street
Manning, South Carolina 29102

From: Paul Porter <Paul@CBPHLaw.com>
Sent: Monday, September 25, 2023 3:04 PM
To: Gene Matthews <GMatthews@RichardsonPlowden.com>; Cothran, Ralph F. Jr., Law Clerk (Caroline Land) <rcothranlc@sccourts.org>; Kate Benoit <Kate@cbphlaw.com>
Cc: MJ Wilson <mwilson@richardsonplowden.com>; Chance Sturup <Chance@cbphlaw.com>; Stephanie Workman <Stephanie@cbphlaw.com>
Subject: RE: Abigail Rogers v. Benedict College et al - 2019CP4006624

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Ms. Land:

1. No witnesses presented at either hearing. Ad Hoc or Tenure Appeal.
2. Here is Ms. Roger's termination appeal letter.

I will have the attached e-filed as an additional document so it is in the Court's e-file record.

Please let me know if you have any other questions.

Thanks, Paul

CBPH CROMER BARR PORTER HICKS
Paul Porter
Partner
(803) 799-9530 | paul@cbphlaw.com

www.cbphlaw.com
1418 Laurel St., Ste. A, Columbia, SC 29201
P.O. Box 11675, Columbia, SC 29211

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From: Gene Matthews <GMatthews@RichardsonPlowden.com>
Sent: Sunday, September 24, 2023 2:38 PM
To: Cothran, Ralph F. Jr., Law Clerk (Caroline Land) <rcothranlc@sccourts.org>; Kate Benoit <Kate@cbphlaw.com>; Paul Porter <Paul@CBPHLaw.com>
Cc: MJ Wilson <mwilson@richardsonplowden.com>; Chance Sturup <Chance@cbphlaw.com>
Subject: RE: Abigail Rogers v. Benedict College et al - 2019CP4006624

Ms. Land –

Thanks for your questions.

1. At the meeting of the "ad hoc" committee – which provided the initial review of Dr. Witty's recommendation to terminate Plaintiff's employment – the committee did not hear witness testimony (p. 15 of Defendants' Motion for Summary Judgment). Thus, there were no witnesses to be examined or cross-examined.

2. Exhibit II (Tab 36) is Debbie Durban's letter to Blaney Coskrey – dated September 30, 2019 – acknowledging Benedict's receipt of Plaintiff's request to appeal of the recommendation of the ad hoc committee to the Faculty & Staff Appeals Committee. Plaintiff's request was dated September 26, 2019.

Mr. Sturup is added to this e-mail chain, as is my assistant, MJ Wilson.

Best regards,
Gene Matthews

HOME VCARD BIO LOCATION

RICHARDSON PLOWDEN ATTORNEYS AT LAW

Eugene H. Matthews
Attorney at Law
GMatthews@RichardsonPlowden.com

Richardson, Plowden & Robinson, P.A.
1900 Barnwell Street
Columbia, SC 29201
Tel: 803.576.3733 Fax: 803.779.0016
www.RichardsonPlowden.com

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From: Cothran, Ralph F. Jr., Law Clerk (Caroline Land) <rcothranlc@sccourts.org>
Sent: Sunday, September 24, 2023 2:04 PM
To: kate@cbphlaw.com; paul@cbphlaw.com; Gene Matthews <GMatthews@RichardsonPlowden.com>
Subject: Abigail Rogers v. Benedict College et al - 2019CP4006624

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Good Afternoon,

After reviewing the material provided by both sides on the above-mentioned matter, Judge Cothran and I have two questions. First, were there any witnesses present at the Ad Hoc hearing and if so, was the opportunity provided for these witnesses to be cross examined. Second, is there a letter or some type of record of Ms. Rogers requesting the Faculty Appeals hearing?

Additionally, I was unable to locate Mr. Sturup's email. If one of you have his email I would greatly appreciate you including him on this chain.

Thank you,
Caroline "Bitsy" Land
Law Clerk for the
Honorable R. Ferrell Cothran, Jr.
3rd Judicial Circuit
Phone: 803-435-2450
Clarendon County Court House
P.O. Box 32
3 West Keitt Street
Manning, South Carolina 29102

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Paul Porter

From: Gene Matthews <GMatthews@RichardsonPlowden.com>
Sent: Sunday, October 6, 2024 7:36 PM
To: RCothranSC@sccourts.org; Cothran, Ralph F. Jr., Law Clerk (Caroline Land)
Cc: Harper L. Hutson; Coble, Daniel Law Clerk (Sarah Di Stefano); Paul Porter; MJ Wilson
Subject: RE: Case 2019CP4006624-Abigail Rogers vs Benedict College , defendant, et al added to Court Roster for period 2024-10-21 through 2024-10-25.

Judge Cothran:

I hope you are well.

As you may recall, you heard Defendants' Motion for Summary Judgment in the above-referenced matter in September 2023, and held a supplemental hearing in October 2023.

As you can see from the email chain below, Judge Coble has directed me to contact your office concerning the status of the motion. Judge Coble's clerk is copied on this email.

Best regards,
Gene Matthews
Counsel for Defendants

Eugene H. Matthews
Attorney at Law
GMatthews@RichardsonPlowden.com

Richardson, Plowden & Robinson, P.A.
1900 Barnwell Street
Columbia, SC 29201
Tel: 803.576.3733 Fax: 803.779.0016
www.RichardsonPlowden.com

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-----Original Message-----

From: Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>
Sent: Wednesday, October 2, 2024 9:35 AM
To: Paul Porter <Paul@cromerbabb.com>; MJ Wilson <mwilson@richardsonplowden.com>; Gene Matthews <GMatthews@RichardsonPlowden.com>
Cc: Harper L. Hutson <Harper@cromerbabb.com>
Subject: RE: Case 2019CP4006624-Abigail Rogers vs Benedict College , defendant, et al added to Court Roster for period 2024-10-21 through 2024-10-25.

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Good Morning,

You all will need to attend the roster meeting and the moving party should reach out to Judge Cothran about the status of the Motion for Summary Judgment.

Thank you so much!

Best,

Sarah DiStefano
Law Clerk to the Honorable Daniel Coble
Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street, Room 214
Columbia, SC 29201
Office: 803-576-1774
Fax: 803-576-1744

-----Original Message-----
From: Paul Porter <Paul@cromerbabb.com>
Sent: Tuesday, October 1, 2024 1:05 PM
To: MJ Wilson <mwilson@richardsonplowden.com>; Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>; Gene Matthews <GMatthews@RichardsonPlowden.com>
Cc: Harper L. Hutson <Harper@cromerbabb.com>
Subject: RE: Case 2019CP4006624-Abigail Rogers vs Benedict College , defendant, et al added to Court Roster for period 2024-10-21 through 2024-10-25.

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Hi Sarah,

Ms. Wilson is correct. J. Cothron heard the motion in September of 2023 and we are awaiting his ruling.

Sincerely, Paul

Paul Porter
Partner
(803) 799-9530 | paul@cromerbabb.com

https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fprotect.checkpoint.com%2fv2%2fr01%2f___www.cromerbabb.com___.YzJ1OnNjanVkaWNpYWw6YzpvOjFlMjNlMDc1OGU4MmM0NDQ4NGRjMTM5NjJiNmZkMTM3Ojc6MzAwYzpjZGQ5N2ZkZWNhNjg5YzdjMmViZWE5YzA0Y2U1OGFjZWQ2MzNhZWY0ZmU0MTFlMTMyZGQzYjM0ZDVkM2JkODkzOnA6VDpO&c=E,1,jd6-vZulWXDbuMchJyRLG7iMsZPoJC-CcDlns_laaUnBmqRQrTklqZQuGExVNkAVf7v4mDK_jXYO-VH8ZHmNTwq2-nr4sedhJ3tXfi8blnVAGpfNT6obTaOnqi4,&typo=1
1418 Laurel St., Ste. A, Columbia, SC 29201 P.O. Box 11675, Columbia, SC 29211 Disclaimers like this are not legally enforceable. If I sent this email to you by accident, please delete it and let me know. But you don't have to. Magic words below an attorney's signature block do not create a duty on your part to do anything. Thanks for coming to my TED Talk. Have a nice day. Also, I'm not your lawyer, unless you have a signed agreement that says I am. Happy Fall! Go Gamecocks!

-----Original Message-----
From: MJ Wilson <mwilson@richardsonplowden.com>
Sent: Tuesday, October 1, 2024 12:45 PM
To: Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>; Gene Matthews <GMatthews@RichardsonPlowden.com>
Cc: Paul Porter <Paul@cromerbabb.com>; Harper L. Hutson <Harper@cromerbabb.com>
Subject: RE: Case 2019CP4006624-Abigail Rogers vs Benedict College , defendant, et al added to Court Roster for period 2024-10-21 through 2024-10-25.

Hi, Sarah,

Gene is in trial, and unavailable to respond until tonight or later. I have reviewed the file and it appears that Judge Cothran heard this matter back on 9/27/23, with a supplemental hearing on 10/3/23. Please let me know if you need any further information.

Thanks
MJ

-----Original Message-----
From: Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>
Sent: Tuesday, October 1, 2024 11:19 AM
To: Gene Matthews <GMatthews@RichardsonPlowden.com>
Cc: Paul Porter <Paul@cromerbabb.com>; MJ Wilson <mwilson@richardsonplowden.com>; Harper L. Hutson <Harper@cromerbabb.com>
Subject: RE: Case 2019CP4006624-Abigail Rogers vs Benedict College , defendant, et al added to Court Roster for period 2024-10-21 through 2024-10-25.

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Good Morning,

Thank you for the update. Could you please tell me which judge heard the motion?

Best,

Sarah DiStefano
Law Clerk to the Honorable Daniel Coble

Fifth Judicial Circuit
Richland County Judicial Center
1701 Main Street, Room 214
Columbia, SC 29201
Office: 803-576-1774
Fax: 803-576-1744

-----Original Message-----
From: Gene Matthews <GMatthews@RichardsonPlowden.com>
Sent: Monday, September 30, 2024 11:22 PM
To: Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>
Cc: Paul Porter <Paul@cromerbabb.com>; MJ Wilson <mwilson@richardsonplowden.com>; Harper L. Hutson <Harper@cromerbabb.com>
Subject: FW: Case 2019CP4006624-Abigail Rogers vs Benedict College , defendant, et al added to Court Roster for period 2024-10-21 through 2024-10-25.

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Judge Coble:

The case referenced above is still subject to a pending Motion for Summary Judgment that has been previously argued but not yet ruled upon.

Please let me know if you have any questions, and if you would still like us to attend the roster meeting.

Best regards,
Gene Matthews
Counsel for Defendants

-----Original Message-----
From: Courtmail40_DoNotReply@sccourts.org <Courtmail40_DoNotReply@sccourts.org>
Sent: Monday, September 30, 2024 4:20 PM
To: Gene Matthews <GMatthews@RichardsonPlowden.com>
Cc: GUNTER.PAUL@richlandcountysc.gov
Subject: Case 2019CP4006624-Abigail Rogers vs Benedict College , defendant, et al added to Court Roster for period 2024-10-21 through 2024-10-25.

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The Roster Meeting for the term of October 21, 2024 will be held on WEDNESDAY October 16, 2024 at 1 PM via WebEx. TO ACCESS THE ROSTER MEETING, GO TO SCCOURTS.ORG, SELECT "CALENDAR" AND THEN "MONTHLY VIEW". YOU WILL SELECT "CIRCUIT" ON THE DAY OF YOUR HEARING AND LOOK FOR JUDGE DANIEL COBLE. ATTENDANCE IS MANDATORY. Any request for a Continuance should be filed along with the required filing fee. ALL proposed orders of continuance must be accompanied by a motion. If you have any questions or concerns please contact Judge Daniel Coble's law clerk at DCobleLC@SCCourts.org and/or Paul Gunter at Gunter.Paul@RichlandCountySC.Gov.

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Paul Porter

From: Cothran, Ralph Ferrell, Jr. Law Clerk (Kimberly Land) <rcothranlc@sccourts.org>
Sent: Friday, February 21, 2025 2:40 PM
To: Gene Matthews; Paul Porter; Harper L. Hutson; Jamie Mills
Cc: Cothran, Ralph Ferrell, Jr.; MJ Wilson
Subject: RE: Case # 2019CP4006624; Abigail Rogers v. Benedict College

Good afternoon,

Judge Cothran is fine with you submitting the proposed Order only, as we have a copy of the complaint in the file already.

Please let me know if I can be of any other assistance.

Have a great weekend,

Kimberly W. Land
S.C. Jucicial Branch
Law Clerk
803-435-2450 (work)
803-473-8586 (cell)
rcothranlc@sccourts.org
3 West Keitt Street
Manning, SC 29102

From: Gene Matthews <GMatthews@RichardsonPlowden.com>
Sent: Thursday, February 20, 2025 10:27 PM
To: Paul Porter <Paul@cromerbabb.com>; Cothran, Ralph Ferrell, Jr. Law Clerk (Kimberly Land) <rcothranlc@sccourts.org>; Harper L. Hutson <Harper@cromerbabb.com>; Jamie Mills <Jamie@cromerbabb.com>
Cc: Cothran, Ralph Ferrell, Jr. <RCothranJ@sccourts.org>; MJ Wilson <mwilson@richardsonplowden.com>
Subject: RE: Case # 2019CP4006624; Abigail Rogers v. Benedict College

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Judge Cothran –

Defendants have prepared their proposed order, which we will submit to your office on 2/21. If Plaintiff's counsel wishes, we will also exchange proposed orders with him under separate cover.

As a matter of drafting, we have removed many citations to the record from the proposed order, which is the request of most Judges before whom we practice. However, we can also submit a copy of our Motion for Summary Judgment and exhibits, should you like to use it as a reference, which includes all relevant citations to the record. P lease let us know if would like us to resubmit this pleading as well as our proposed order.

Please contact us if you have any questions or further direction.

Best regards,
Gene Matthews

HOME VCARD BIO LOCATION

Eugene H. Matthews
Attorney at Law
GMatthews@RichardsonPlowden.com

Richardson, Plowden & Robinson, P.A.
1900 Barnwell Street
Columbia, SC 29201
Tel: 803.576.3733 Fax: 803.779.0016
www.RichardsonPlowden.com

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From: Paul Porter <Paul@cromerbabb.com>
Sent: Wednesday, February 5, 2025 2:09 PM
To: Gene Matthews <GMatthews@RichardsonPlowden.com>; Cothran, Ralph Ferrell, Jr. Law Clerk (Kimberly Land) <rcothranlc@sccourts.org>; Harper L. Hutson <Harper@cromerbabb.com>; Jamie Mills <Jamie@cromerbabb.com>
Cc: Cothran, Ralph Ferrell, Jr. <RCothranJ@sccourts.org>
Subject: RE: Case # 2019CP4006624; Abigail Rogers v. Benedict College

Warning: Unusual sender <paul@cromerbabb.com>
You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Thank you Ms. Land,

I have calendared 2/21 to submit a proposed order if the Court needs a faster turnaround time please let me know.

Sincerely, Paul

Paul Porter
Partner
(803) 799-9530 | paul@cromerbabb.com
www.cromerbabb.com
1418 Laurel St., Ste. A, Columbia, SC 29201
P.O. Box 11675, Columbia, SC 29211

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From: Gene Matthews <GMatthews@RichardsonPlowden.com>
Sent: Wednesday, February 5, 2025 12:19 PM
To: Cothran, Ralph Ferrell, Jr. Law Clerk (Kimberly Land) <rcothranlc@sccourts.org>; Paul Porter <Paul@cromerbabb.com>; Harper L. Hutson <Harper@cromerbabb.com>; Jamie Mills <Jamie@cromerbabb.com>
Cc: Cothran, Ralph Ferrell, Jr. <RCothranJ@sccourts.org>
Subject: Re: Case # 2019CP4006624; Abigail Rogers v. Benedict College

Will do.

Get Outlook for Android

From: Cothran, Ralph Ferrell, Jr. Law Clerk (Kimberly Land) <rcothranlc@sccourts.org>
Sent: Wednesday, February 5, 2025 11:46:24 AM
To: Gene Matthews <GMatthews@RichardsonPlowden.com>; Paul Porter <Paul@cromerbabb.com>; Harper L. Hutson <Harper@cromerbabb.com>; Jamie Mills <Jamie@cromerbabb.com>
Cc: Cothran, Ralph Ferrell, Jr. <RCothranJ@sccourts.org>
Subject: RE: Case # 2019CP4006624; Abigail Rogers v. Benedict College

Warning: Unusual sender <rcothranlc@sccourts.org>
You don't usually receive emails from this address. Make sure you trust this sender before taking any actions.

Good morning,

I apologize for the delayed response. If both parties could please do proposed Orders on Defendants' Motion for Summary Judgement in the above referenced case for Judge Cothran's review, it would be appreciated.

Please let me know if I can be of any other assistance.

Warm regards and sincerely,

Kimberly W. Land
S.C. Jucicial Branch
Law Clerk
803-435-2450 (work)
803-473-8586 (cell)
rcothranlc@sccourts.org
3 West Keitt Street
Manning, SC 29102

From: Gene Matthews <GMatthews@RichardsonPlowden.com>
Sent: Wednesday, November 27, 2024 10:48 AM
To: Paul Porter <Paul@cromerbabb.com>; Harper L. Hutson <Harper@cromerbabb.com>; Cothran, Ralph Ferrell, Jr. Law Clerk (Caroline Land) <rcothranlc@sccourts.org>; Jamie Mills <Jamie@cromerbabb.com>; Cothran, Ralph Ferrell, Jr. Secretary (Gayle Brunson) <RCothranSC@sccourts.org>; MJ Wilson <mwilson@richardsonplowden.com>
Subject: RE: Case # 2019CP4006624; Abigail Rogers v. Benedict College

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Ms. Land:

While I respectfully disagree with Paul's characterization of Judge Cothran's decision in favor of summary judgment in this matter, I would be happy to submit a proposed order.

Best regards,
Gene

HOME VCARD BIO LOCATION

RICHARDSON PLOWDEN ATTORNEYS AT LAW

Eugene H. Matthews
Attorney at Law
GMatthews@RichardsonPlowden.com

Richardson, Plowden & Robinson, P.A.
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From: Paul Porter <Paul@cromerbabb.com>
Sent: Tuesday, November 26, 2024 2:56 PM
To: Gene Matthews <GMatthews@RichardsonPlowden.com>; Harper L. Hutson <Harper@cromerbabb.com>; Cothran, Ralph Ferrell, Jr. Law Clerk (Caroline Land) <rcothranlc@sccourts.org>; Jamie Mills <Jamie@cromerbabb.com>; Cothran, Ralph Ferrell, Jr. Secretary (Gayle Brunson) <RCothranSC@sccourts.org>; MJ Wilson <mwilson@richardsonplowden.com>
Subject: RE: Case # 2019CP4006624; Abigail Rogers v. Benedict College

External sender <paul@cromerbabb.com>
Make sure you trust this sender before taking any actions.

Dear Ms. Land,

I was out on vacation last week when these emails were exchanged.

I have removed Judge Coble's clerk from this email chain.

There was a very large record of disputed facts and several claims at issue. I have no way of knowing which way Judge Cothran was leaning, but I respectfully urge the Court to re-review this record before issuing a decision in favor of summary judgment on all claims at issue. Given the breadth of claims, facts, and issues, I would be surprised and disappointed if the conclusion of the Court were summary judgment *in total*.

I think the best course of action, given the nature of the record and the time that has transpired since the hearings on this matter, would be to have the Court rule on competing proposed orders.

The background on how we got here informs my position:

1. The Court held two hearings on this motion.
2. This is a motion for summary judgment in a case that involves the termination of a tenured professor. The plaintiff conceded to the dismissal of Counts 2 and 8, and the arguments before the court were whether to grant summary judgment to the defendant on Counts 1 and 3 (breach of contract), Count 4 (declaratory judgment), count 5 (BOK w/ Fraudulent Act), Count 6 (Tortious Interference with Contract), and Count 7 (Civil Conspiracy).
3. The record before the Court was voluminous. I've **attached** both sides' memoranda for reference, but there were also hundreds of pages of exhibits.
4. The first hearing was on 9/20/23.
5. After that, you posed follow-up questions on behalf of the Court, which counsel answered via email and then requested a follow up hearing be set for 10/3/23. I have **attached** that email chain.
6. The Court then held a follow-up hearing on 10/3/23. The Court's questions at the follow-up hearing focused on factual disputes related to the tenure revocation process for the Plaintiff. After the hearing, the Court did not ask for proposed orders, but simply said an order would be forthcoming.

I respectfully request that the Court request competing proposed orders by 12/18/24 (or an earlier or later date at the Court's discretion) to enable it to rule on this long-fought and factually-dense case.

Thank you in advance for the Court's consideration.

Sincerely, Paul

Paul Porter
Partner
(803) 799-9530 | paul@cromerbabb.com
www.cromerbabb.com
1418 Laurel St., Ste. A, Columbia, SC 29201
P.O. Box 11675, Columbia, SC 29211

Disclaimers like this are not legally enforceable. If I sent this email to you by accident, please delete it and let me know. But you don't have to. Magic words below an attorney's signature block do not create a duty on your part to do anything. Thanks for coming to my TED Talk. Have a nice day. Also, I'm not your lawyer, unless you have a signed agreement that says I am. Happy Fall! Go Gamecocks!

From: Gene Matthews <GMatthews@RichardsonPlowden.com>
Sent: Monday, November 18, 2024 12:10 PM
To: Harper L. Hutson <Harper@cromerbabb.com>; Cothran, Ralph Ferrell, Jr. Law Clerk (Caroline Land) <rcothranlc@sccourts.org>; Jamie Mills <Jamie@cromerbabb.com>; Cothran, Ralph Ferrell, Jr. Secretary (Gayle Brunson) <RCothranSC@sccourts.org>; Paul Porter <Paul@cromerbabb.com>; MJ Wilson <mwilson@richardsonplowden.com>
Cc: Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>
Subject: RE: Case # 2019CP4006624; Abigail Rogers v. Benedict College

Ms. Land,

While I do not share Paul's view of the way Judge Cothran may have been "leaning," I think Paul is correct that Judge Cothran did not request a proposed order at the hearing in October 2023.

In any event, please let us know how Judge Cothran wishes to proceed regarding a proposed order.

Best regards,
Gene

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RICHARDSON PLOWDEN ATTORNEYS AT LAW

Eugene H. Matthews
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GMatthews@RichardsonPlowden.com

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From: Harper L. Hutson <Harper@cromerbabb.com>
Sent: Monday, November 18, 2024 12:02 PM
To: Gene Matthews <GMatthews@RichardsonPlowden.com>; Cothran, Ralph Ferrell, Jr. Law Clerk (Caroline Land) <rcothranlc@sccourts.org>; Jamie Mills <Jamie@cromerbabb.com>; Cothran, Ralph Ferrell, Jr. Secretary (Gayle Brunson) <RCothranSC@sccourts.org>; Paul Porter <Paul@cromerbabb.com>
Cc: Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>
Subject: RE: Case # 2019CP4006624; Abigail Rogers v. Benedict College

Warning: Unusual link
This message contains an unusual link, which may lead to a malicious site. Confirm the message is safe before clicking any links.

Ms. Land,

I wasn't involved with this case back in October 2023, but I conferred with my co-counsel, Paul, (who's on vacation currently) about the phone call you mentioned to see if he had any notes. According to his calendar and recollection, this was a supplemental hearing held virtually and no ruling was issued from the bench and no proposed orders were requested. Based on his impression from the questions Judge Cothran was asking, it didn't sound like Judge Cothran was leaning towards ruling in favor for Defendant, at least not on all eight causes of actions.

We would be happy to also draft a proposed order denying the motion for summary judgment if Judge Cothran would like to review both Plaintiff and Defense counsel's proposed orders before issuing a ruling. If Judge Cothran would like Plaintiff to file a proposed order, we request 30 days to do so, given that Paul is out of state for the week, the upcoming holidays, and our pretty full calendars.

Thank you,

Harper L. Hutson
Attorney
(803) 799-9530 | harper@cromerbabb.com
www.cromerbabb.com
1418 Laurel St., Ste. A, Columbia, SC 29201
P.O. Box 11675, Columbia, SC 29211

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From: Gene Matthews <GMatthews@RichardsonPlowden.com>
Sent: Monday, November 18, 2024 11:43 AM
To: Cothran, Ralph Ferrell, Jr. Law Clerk (Caroline Land) <rcothranlc@sccourts.org>; Harper L. Hutson <Harper@cromerbabb.com>; Jamie Mills <Jamie@cromerbabb.com>; Cothran, Ralph Ferrell, Jr. Secretary (Gayle Brunson) <RCothranSC@sccourts.org>; Paul Porter <Paul@cromerbabb.com>
Cc: Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>
Subject: RE: Case # 2019CP4006624; Abigail Rogers v. Benedict College

Ms. Land:

I am, of course, delighted to hear this, but I do not recall Judge Cothran ruling from the bench.

If Judge Cothran wishes, I am happy to draft a proposed order and circulate it with opposing counsel.

Best regards,
Gene

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Eugene H. Matthews
Attorney at Law
GMatthews@RichardsonPlowden.com

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From: Cothran, Ralph Ferrell, Jr. Law Clerk (Caroline Land) <rcothranlc@sccourts.org>
Sent: Monday, November 18, 2024 11:25 AM
To: Harper L. Hutson <Harper@cromerbabb.com>; Jamie Mills <Jamie@cromerbabb.com>; Cothran, Ralph Ferrell, Jr. Secretary (Gayle Brunson) <RCothranSC@sccourts.org>
Cc: Gene Matthews <GMatthews@RichardsonPlowden.com>; Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>
Subject: RE: Case # 2019CP4006624; Abigail Rogers v. Benedict College

External sender <rcothranlc@sccourts.org>
Make sure you trust this sender before taking any actions.

Good Morning,

Judge Cothran and I recall ruling in favor of the defendant's Motion for Summary Judgement. I have been unable to find our ruling in an email, but did see that we had a phone conference on 10/3/23 after we had reviewed all the material and had our follow up questions answered. This leads us to believe that we discussed our ruling in this October 3rd phone call. Do any of yall have your notes from that phone call?

Caroline "Bitsy" Land
Law Clerk to the Honorable R. Ferrell Cothran, Jr.
Circuit Judge of the Third Judicial Circuit
P.O. Box 32
Manning, SC 29102
OFFICE: (803) 435-2450
rcothranlc@sccourt.org

From: Harper L. Hutson <Harper@cromerbabb.com>
Sent: Thursday, November 14, 2024 2:28 PM
To: Cothran, Ralph Ferrell, Jr. Law Clerk (Caroline Land) <rcothranlc@sccourts.org>; Jamie Mills <Jamie@cromerbabb.com>; Cothran, Ralph Ferrell, Jr. Secretary (Gayle Brunson) <RCothranSC@sccourts.org>
Cc: gmatthews@richardsonplowden.com; Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>
Subject: RE: Case # 2019CP4006624; Abigail Rogers v. Benedict College

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Thank you, Bitsy! We figured it was something like that. We appreciate you looking into it for us.

Harper L. Hutson
Attorney
(803) 799-9530 | harper@cromerbabb.com
www.cromerbabb.com
1418 Laurel St., Ste. A, Columbia, SC 29201
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From: Cothran, Ralph Ferrell, Jr. Law Clerk (Caroline Land) <rcothranlc@sccourts.org>
Sent: Thursday, November 14, 2024 11:56 AM
To: Jamie Mills <Jamie@cromerbabb.com>; Cothran, Ralph Ferrell, Jr. Secretary (Gayle Brunson) <RCothranSC@sccourts.org>
Cc: Harper L. Hutson <Harper@cromerbabb.com>; gmatthews@richardsonplowden.com; Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>
Subject: RE: Case # 2019CP4006624; Abigail Rogers v. Benedict College

Good Afternoon,

There must have been a miscommunication previously. It is our understanding that the Summary Judgement motion was ruled on but it must not have been communicated from our end. We apologize and will have a ruling sent to the parties in the next few days.

Caroline "Bitsy" Land
Law Clerk to the Honorable R. Ferrell Cothran, Jr.
Circuit Judge of the Third Judicial Circuit
P.O. Box 32
Manning, SC 29102
OFFICE: (803) 435-2450
rcothranlc@sccourt.org

From: Jamie Mills <Jamie@cromerbabb.com>
Sent: Tuesday, November 12, 2024 5:16 PM
To: Cothran, Ralph Ferrell, Jr. Secretary (Gayle Brunson) <RCothranSC@sccourts.org>
Cc: Harper L. Hutson <Harper@cromerbabb.com>; gmatthews@richardsonplowden.com; Cothran, Ralph Ferrell, Jr. Law Clerk (Caroline Land) <rcothranlc@sccourts.org>; Coble, Daniel Law Clerk (Sarah Di Stefano) <DCobleLC@sccourts.org>
Subject: Case # 2019CP4006624; Abigail Rogers v. Benedict College

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Judge Cothran,

Please see attached from Attorney Harper Hutson in the above referenced matter, the original of which is being mailed via USPS this date.

Thank you for your time and consideration.

Jamie Mills
Paralegal
(803) 799-9530 | jamie@cromerbabb.com
www.cromerbabb.com
1418 Laurel St., Ste. A, Columbia, SC 29201

P.O. Box 11675, Columbia, SC 29211

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SC Court of Appeals

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2019-CP-40-06624

Abigail Rogers, Appellant,

v.

Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson, Respondents.

NOTICE OF APPEAL

Abigail Rogers appeals the Order of the Honorable R. Ferrell Cothran, Jr. granting Respondents' Motion for Summary Judgment dated March 7**,** 2025, and the Order denying Appellant's Motion for Reconsideration dated March 18, 2025. Appellant received written notice of entry of these Orders on the dates they were filed. Copies of the Orders are attached hereto and incorporated by reference.

April 15, 2025

s/Harper L. Hutson
J. Paul Porter (#100723)
Chance T. Sturup (#105647)
Harper L. Hutson (#106343)
CROMER BABB & PORTER, LLC
1418 Laurel Street, Ste. A (Street Address)
Post Office Box 11675
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paul@cromerbabb.com
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Attorneys for Appellant

Other Counsel of Record:
Eugene H. Matthews (#10193)
P.O. Drawer 7788
Columbia, South Carolina 29202
Phone: 803-771-4400
Fax: 803-779-0016
gmatthews@richardsonplowden.com
Attorney for Respondent

RECEIVED
Apr 15 2025
SC Court of Appeals

NOTICE OF APPEAL IN A CIVIL CASE

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2019-CP-40-06624

Abigail Rogers, Appellant,

v.

Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson, Respondents.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on the Respondents by despositing a copy of it in the United States Mail, postage prepaid, on April 15, 2025, adddressed to its attorneys of record as follows:

Eugene H. Matthews (#10193)
P.O. Drawer 7788
Columbia, South Carolina 29202
Phone: 803-771-4400
Fax: 803-779-0016
gmatthews@richardsonplowden.com

Gina Blyler
Litigation Paralegal

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Abigail Rogers, Plaintiff, v. Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson, Defendants.	IN THE COURT OF COMMON PLEAS FIFTH JUDICIAL CIRCUIT C/A No.: 2019-CP-40-06624 **ORDER**

This matter came before the Court on the Defendants' Motion for Summary Judgment. The Court held hearings on Defendants' Motion on September 20, 2023, and October 3, 2023.[1]

The Court **grants in part** and **denies in part** the Defendants' motion for summary judgment.

1. Introduction

This is a tenure revocation case. The Plaintiff is a former tenured professor at Benedict College. The individual Defendants are leadership officials at Benedict College.

Plaintiff's lawsuit pleads 8 causes of action:

1. Breach of Contract against Benedict College as it relates to Plaintiff's termination and provisions of the Benedict College Faculty Manual.
2. Breach of Contract against Benedict College as it relates to Benedict College's Grievance Policy.
3. Breach of Contract against Benedict College as it relates to Plaintiff's Faculty Contract for School Year 2019-2020.
4. A declaratory judgment claim alleging that Plaintiff was unlawfully removed from the College's Board of Directors.
5. Breach of Contract with fraudulent act against Benedict College.
6. Tortious Interference with Contract against Defendants Artis and Witty.
7. Civil Conspiracy against Defendants Artis, Witty, and Johnson.
8. A claim alleging violation of the South Carolina Nonprofit Corporation Act.

The Plaintiff did not oppose Defendants' motion with respect to causes of action 2 and 8. The Court **grants** Defendants' motion for summary judgment on those claims.

[1] A follow up hearing was held to address questions from the Court about the tenure-revocation process Plaintiff received.

Plaintiff asserts that there are genuine issues of material fact underlying the balance of her claims. This Court, applying Rule 56 standard, agrees. Therefore, Defendants' motion for summary judgment is **denied** as to causes of action 1 and 3-7.

2. Facts[2]

2.1. Introduction to the Parties

Plaintiff, Abigail Rogers, worked for the College from 1995 until her termination in 2019 as a professor of criminal justice. She was conferred tenure and promoted to Associate Professor in 2012.

Defendant Roslyn Clark Artis is the Benedict College's President. She was appointed to that role in 2017. Defendant Janeen Witty is the Vice President for Academic Affairs. Defendant Charles Johnson is the Chairman of the Benedict College Board of Trustees.

2.2. Plaintiff's Work History

Plaintiff received multiple student complaints over the years accusing her of being harsh, intimidating, and berating students. Those complaints started in 1998 and many were on record at the time Plaintiff was conferred tenure and promotion.

Plaintiff's evaluations for the 2016-17 and 2017-18 academic years said she exceeded performance expectations.

2.3. 2018-2019 School Year

On October 23, 2018, Defendant Witty placed Plaintiff on administrative leave, citing student complaints. Plaintiff grieved her placement on administrative leave.

The "Faculty and Staff Grievance and Appeals Committee" met on November 20, 2018, and ruled that Plaintiff should be reinstated to her position but placed on a professional improvement plan. Plaintiff satisfactorily completed the plan by the end of the 2018-19 academic year.

2.4. Election to the Board of Trustees

[2] The facts are viewed in the light most favorable to the non-moving Plaintiff.

On April 11, 2019, Plaintiff was elected to serve in the faculty and staff seat on the College's Board of Trustees. On April 16, 2019, Defendant Johnson wrote Plaintiff a letter congratulating her, but also telling her she would not be able to start her Board Service until the next academic year. Next on June 7, 2019, he wrote Plaintiff that her position had been eliminated at the Board's annual meeting on May 10, 2019.

Plaintiff challenged her removal from the Board via letter dated June 20, 2019. That letter said Plaintiff's removal violated several of the Board of Trustees' Bylaws and the Nonprofit Corporation Act in several ways including:

- That the Bylaws state that faculty and student trustees shall be elected from April to April. (Art. I, § 3)
- That Plaintiff was not given notice of the May 10, 2019, meeting. (Art. II, § 4).
- That Plaintiff was not removed from the Board by the class that elected her as required by S.C. Code Ann. § 33-31-808(b).

On July 25, 2019, the College wrote Plaintiff and said she would be given notice of the next Board Meeting, as a Board Member, where, ostensibly, the Board intended to attempt a "re-do" the challenged actions from the May 10, 2019, meeting.

On September 11, 2021, Plaintiff was given email notice of a "Special Meeting" set for September 18, 2019, to vote on amendments to the Board Bylaws which would include the removal of her Board Seat from the Board of Trustees.

2.5. Plaintiff's Termination

Plaintiff and the College signed a 1 page definite-term contract for school year 2019-2020 in August 2019.[3]

A new dean named Richard Miller was appointed over Plaintiff in June 2019. In response to student complaints, he recommended that Plaintiff be reassigned to non-teaching duties effective

[3] Benedict College professors, even tenured professors, are continuously employed and reemployed under successive one-year contracts.

September 6, 2019. Defendant Witty then asked him to conduct a comprehensive review of Plaintiff's faculty file, including conduct prior to Plaintiff's 2019-2020 school year contract. Dean Miller conducted this review and maintained his recommendation that Plaintiff should be reassigned to non-teaching duties, with her tenure intact.

Defendant Witty then wrote an email to Defendant Artis on September 16, 2019, sharing that Dean Miller "stopped short of recommending termination." Defendant Artis testified she was "unhappy with [that] assessment" and said she was "not interested in creating a paying job for a faculty member that can't behave."

On September 16, 2019, Plaintiff was suspended without pay and escorted off campus.

On September 17, 2019, Defendant Witty sent a letter to Defendant Artis requesting that proceedings be initiated to terminate Plaintiff for cause based on a complaint said to be filed against the Plaintiff by Student Body President Jordan-Rice Woodruff.

The College claims that Mr. Rice-Woodruff went to Human Resources and filed a complaint against Plaintiff after she pressured him to oppose the actions of the Board and that the Plaintiff improperly disclosed his phone number to a media outlet. Mr. Rice-Woodruff wrote and signed two contemporaneous statements saying that Plaintiff encouraged him to oppose the Board's action and offered to write him a letter of recommendation for law school if he did so.

Mr. Rice-Woodruff has provided a declaration in this case providing more context and information than what was contained in the contemporaneous statements prepared at the College's behest. Mr. Rice-Woodruff's declaration states he had been previously cussed at by Defendant Artis when he asked her about the removal of seats from the Board of Trustees. Rice-Woodruff also states he was encouraged by a Benedict College official to go to human resources rather than on his own initiative. When he did so, Rice-Woodruff says he wrote statements at the request of the college. In that meeting, he says Defendant Artis told him Plaintiff "was using [him] as a pawn to get her seat

back on the board." She then, in the presence of Rice-Woodruff, said Plaintiff was "terminated" directed campus police officers to remove her "from [her] campus."

2.6. Post-Termination Proceedings

A recommendation to terminate Plaintiff was then sent by Defendants Witty and Artis to the College's Ad Hoc Committee who conducted an *ex parte* review of information pertaining to student complaints (beyond the Jordan Rice Woodruff complaint) from both the 2019-2020 and 2018-2019 school years.

A hearing was then held before the College's Faculty and Staff Appeals Committee on October 23, 2019, where Plaintiff was limited to a thirty-minute presentation, was not allowed to have counsel advocate on her behalf, was not allowed to call witnesses, and was not allowed to cross-examine witnesses. At the hearing, the College presented the Committee with infractions dating back to 2006 in support of its argument that Plaintiff should be terminated.

The Committee initially voted 6-2 in favor of Plaintiff's termination.

Plaintiff's termination had the effect of removing her from the College's Board of Trustees because her role was as faculty representative.

2.7. Benedict College Faculty Manual

Benedict College has a formal Faculty Manual.

The Faculty Manual, regarding tenure, says:

> A tenured faculty member is a faculty member who holds a tenure track appointment, has successfully completed the probationary period, and has been awarded tenure by the College. Tenure means that a faculty member will have continuous employment at Benedict College except for termination for cause, or financial exigency, or restructuring in accordance with Section 6.2.4.

(Faculty Manual § 4.1.2). The Faculty Manual, at § 6.2.4 (1) defines cause as:

> [I]ncompetence; significant neglect of duty; persistent refusal to comply with the College's policies; violations of the College's standards of professional responsibility in teaching and research; violation of the College's nondiscrimination, harassment, or equal opportunity policies; dishonesty in teaching or research; falsification of

> information concerning the qualifications for a position; felony conviction (which means a guilty verdict in a trial, an imposition of a sentence, a plea of no contest, or a plea of guilty), inability to perform essential functions of the job; moral turpitude; and other conduct or behavior prejudicial to the College[.]

The Faculty Manual also confers "full" academic "freedom" with respect to classroom instruction. (§ 4.2.1)

The Faculty Manual says that the Ad Hoc faculty hearing Committee, charged with approving a recommendation for termination of a tenured faculty member with cause, "will conduct a fair and impartial hearing of all the evidence." (§ 6.2.5 (4)). The Faculty Member is then afforded the right to appeal her termination before the Faculty and Staff Appeals Committee. (§ 6.2.6) That provision states that the Committee "will hear the appeal" and will "after due deliberation, with or without the benefit of further hearings, issue its recommendation to the President. (§ 6.2.6(a)). The President, according to the Faculty Manual, must then "review the recommendation" and give the tenured faculty member notice of her "final decision." (§ 6.2.6(b)).

Section 6.2.6 does not define the hearing's procedure, but § 7.2 defines hearing procedures for lesser faculty grievances which include the right of the Faculty Committee to "hear the charge, receive facts and evidence, and entertain arguments from the parties or representatives." (§ 7.2(5)). Those hearing procedures permit a faculty member to "present evidence and cross-examine all witnesses." (§7.2(6)).

2.8. Benedict College Bylaws

The relevant Bylaws for the Benedict College Board of Trustees provide that Board Members are elected from "April to April, unless the official connection as faculty or student is [severed] prior to the expiration of the term."(Pre-Amendment Bylaws, Art I, § 3) The bylaws say that "[n]otice of the time and place of [] meetings shall be mailed to each member of the Board by the Secretary at least one month in advance of the selected date of the meeting." (Art II, § 3). The Bylaws also provided for "one [board member] elected annually by the faculty." (Art I, § 4).

3. Standard of Review

"[U]nder Rule 56(c), SCRCP: 'summary judgment is proper when 'there is no genuine issue as to any material fact and ... the moving party is entitled to judgment as a matter of law.'" *Dawkins*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003); *Baughman v. American Tel. and Tel. Co.*, 306 S.C. 101, 114–15–410 S.E.2d 537, 545 (1991); Rule 56(c), SCRCP. "In determining whether summary judgment is appropriate, the evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party." *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003).

4. Discussion

This Court finds there are genuine, material issues of fact underlying Plaintiff's breach of contract-termination claims, her claim for declaratory relief, and her tort claims.

4.1. Breach of Contract (Counts 1, 3)

Plaintiff alleges her termination violated (1) the Faculty Manual and (2) Plaintiff's employment contract for the 2019-20 academic year.

The College's argument against these claims turns on the sufficiency of the evidence. Specifically, for the purposes of summary judgment, whether there is sufficient evidence in the record upon which Plaintiff could establish a breach of the College's Faculty Manual and/or her 2019-2020 contract.

The parties agree that Faculty Manual and Plaintiff's 2019-2020 employment contract are both contractual in nature. *Crenshaw v. Erskine Coll.*, 432 S.C. 1, 20, 850 S.E.2d 1, 11 (2020). ("[T]he promise of tenure leaves us with no doubt that the Faculty Manual is a contract.").

Plaintiff points to several provisions of the Faculty Manual that she claims were breached with respect to her termination. Plaintiff argues:

1) She was terminated without cause as defined by § 4.2.1 and as required by § 4.1.2.

2) That she was terminated at least in part based on her for her determinations about how to deliver classroom instruction in violation of § 4.2.1's provision of "full"

academic “freedom” with respect to classroom instruction.

3) She (and any other witness for that matter) did not have an opportunity appear before the Ad Hoc Committee meaning it did not “conduct a fair impartial hearing of all the evidence,” as required by § 6.2.5(4).

4) The Faculty and Staff Appeals Committee did not “hear the appeal” in order to perform “due deliberation” within a reasonable rendering of § 6.2.6 wherein a tenured faculty member up for termination would presumably be afforded at least the same level of hearing rights as a Faculty Member asserting a run-of-the-mill grievance under § 7.2 to include: right to counsel, right to present evidence, and the right to cross examine witnesses.

5) That the College President did not render a final decision as required by § 6.2.6(b).

(Plaintiff Memo p. 11). There is sufficient evidence in the record to support at least some of these theories advanced by Plaintiff. The question of whether or not Plaintiff’s termination breached the Faculty Manual provisions turns then on factual issues for the jury. *Jones v. Ridgely Commc'ns, Inc.*, 304 S.C. 452, 454, 405 S.E.2d 402, 403 (1991) (“A jury issue exists where the evidence is susceptible of more than one reasonable inference . . . We find in the record before us evidence sufficient to create a jury issue as to whether Jones breached his contractual duty to Ridgely.”).

Plaintiff’s 2019-2020 annual contract did not contain a right to terminate within its four corners. That means it, a definite term contract, could only be terminated for “just cause.” *Shivers v. John H. Harland Co.*, 310 S.C. 217, 220, 423 S.E.2d 105, 107 (1992) (“A person hired under an employment contract for a definite term may not be discharged before the completion of the term without just cause.”). The College argues it had good cause to terminate Plaintiff’s employment contract based on Plaintiff’s allegedly improper interactions with Jordan Rice-Woodruff. However, Plaintiff presents a different account of these interactions through Mr. Rice-Woodruff’s declaration in this matter. Thus, this claim too turns on an issue of fact for the jury.

In conclusion, whether the College breached the Faculty Manual and Plaintiff’s employment contract presents a genuine dispute of material fact best resolved by a jury.

4.2. Declaratory Judgment

The College argues Plaintiff's declaratory judgement action is moot and that it properly applied and amended its bylaws.

"A case becomes moot when judgment, if rendered, will have no practical legal effect upon existing controversy." *Mathis v. South Carolina State Highway Dep't.*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973). Plaintiff argues the legality of her removal from the College's Board of Trustees is justiciable because she says it is critical to the legal element of fraud underlying Plaintiff's breach of contract with fraudulent act claim and the issue of illegality underlying Plaintiff's civil conspiracy claim. *See*, *Sloan v. Friends of the Hunley*, *Inc.*, 369 S.C. 20, 25, 630 S.E.2d 474, 477 (2006) ("A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract."). The Court agrees that this is a live controversy on these grounds.[4]

Factually, Plaintiff has submitted sufficient evidence to overcome Defendants' motion for summary judgment on this claim. Specifically Plaintiff has produced evidence that Defendant failed to follow the Board's Bylaws when it did not seat Plaintiff after she was elected to the Board of Trustees in April 2019 and when it removed Plaintiff from its Board of Trustees without notice on May 10, 2019.

Defendant is also not entitled to summary judgment on the legal issue of whether or not Plaintiff's removal from the Board on May 10, 2019 violated S.C. Code Ann. § 33-31-808(b) because it is undisputed that Plaintiff was not removed from the Board by the class or organizational unit that elected her to the Board of Trustees.

4.3. Breach of Contract with a Fraudulent Act

[4] *See also*, *Sloan*, 380 S.C. at 535 holding there are three exceptions to the mootness doctrine: (1) "if the issue raised is capable of repetition but generally will evade review, the appellate court can take jurisdiction"; . . . and (3) "if a decision by the trial court may affect future events, or have collateral consequences for the parties, an appeal from that decision is not moot, even though the appellate court cannot give effective relief in the present case."

Breach of contract with a fraudulent act requires "(1) a breach of contract; (2) fraudulent intent relating to the breaching of that contract, not merely to its making; and (3) a fraudulent act accompanying the breach." *Hotel & Motel Holdings, LLC v. BJC Enters., LLC*, 414 S.C. 635, 654, 780 S.E.2d 263, 273-74 (Ct. App. 2015) (citing *Floyd v. Country Squire Mobile Homes, Inc.*, 287 S.C. 51, 53-54, 336 S.E.2d 502, 503-04 (Ct. App. 1985)). In analyzing these elements, a "jury [can] reasonably infer a fraudulent intent from several circumstances relating to the breach." *Floyd v. Country Squire Mobile Homes, Inc.*, 287 S.C. 51, 54, 336 S.E.2d 502, 504 (Ct. App. 1985). Further, a "fraudulent act is any act characterized by dishonesty in fact, unfair dealing, or the unlawful appropriation of another's property by design." *Harper v. Ethridge*, 290 S.C. 112, 119, 348 S.E.2d 374, 378 (Ct. App. 1986).

Plaintiff argues that one or more of the following circumstances may indicate fraudulent intent to a reasonable jury:

(1) The College's efforts to come up with a pretext to terminate Plaintiff including its alleged mischaracterization of Plaintiff's interactions with Jordan Rice-Woodruff.
(2) The College's alleged attempts to come up with different excuses to terminate the Plaintiff.
(3) The College's alleged disregard for the Plaintiff's substantive and procedural rights under the Faculty Manual.
(4) The College's alleged improper and unlawful acts to remove Plaintiff from its Board of Trustees.

(Plaintiff Memo, p. 15).

The Court finds that there is sufficient evidence in the record to overcome summary judgment on these issues and that a reasonable jury could infer fraudulent intent and find a fraudulent act on these facts.

4.4. Tortious Interference with Contract

Plaintiff's next claim is tortious interference with contract. This claim is pled against individual Defendants Artis and Witty.

"The elements of a cause of action for tortious interference with a contract include the following: (1) a valid contract exists; (2) the defendant has knowledge of the contract; (3) the defendant

intentionally procures its breach; (4) the defendant acted without justification; and (5) the plaintiff suffers prejudice." *Broach v. Carter*, 399 S.C. 434, 441 (Ct. App. 2012) (citing *Vortex Sports & Entm't, Inc. v. Ware*, 378 S.C. 197, 205, 662 S.E.2d 444, 449 (Ct. App. 2008)).

Defendants Artis and Witty argue that they did not exceed the scope of their employment and therefore cannot be liable for tortious interference with contract.

"It is generally recognized that when a contract is breached by a corporation as the result of the inducement of an officer or agent of the corporation acting on behalf of the corporation and within the scope of his employment, the inducement is privileged and is not actionable." *Bradburn v. Colonial Stores, Inc.*, 273 S.C. 186, 188, 255 S.E.2d 453, 455 (1979).

However, where an officer or agent of an entity is acting outside of the scope of his employment or official status, they may be liable for tortiously interfering with their employer's contracts. *See*, *Walker v. Progressive Cas. Ins. Co.*, No. CV 3:17-1935-MBS-SVH, 2017 WL 4676602, at *3 (D.S.C. Sept. 15, 2017), report and recommendation adopted, No. CV 3:17-1935-MBS-SVH, 2017 WL 4617031 (D.S.C. Oct. 16, 2017). In South Carolina specifically, "an agent may be liable for tortious interference, just as if the agent were an outside third party, if the allegedly interfering acts were conducted outside the scope of the agent's authority." *Dutch Fork Dev. Grp. II, LLC v. SEL Properties, LLC*, 406 S.C. 596, 605, 753 S.E.2d 840, 844 (2012) (citing *CGB Occupational Therapy, Inc. v. RHA Health Servs., Inc.*, 357 F.3d 375, 385 (3d Cir. 2004)).

Plaintiff asserts there is evidence that Defendants Artis and Witty acted outside the scope of their employment on the basis that they took actions that contravened the College's Bylaws and Faculty Manual and that they terminated Plaintiff for allegedly pretextual reasons. The Court finds the evidence is adequate to create a triable fact issue on this issue.

4.5. Civil Conspiracy

Plaintiff last asserts a claim of civil conspiracy against each of the individual defendants.

Defendants argue that they are entitled to "intercorporate immunity", that the conspiracy claim fails because it is duplicative to the other causes of action, and that Plaintiff fails to establish the element of unlawfulness required for the claim to succeed.

Defendants intracorporate immunity argument fails, on summary judgment, for the same reason their insider liability argument on tortious interference with contract fails. There is sufficient evidence in the record to give rise to a fact issue about whether the Defendants were acting within or outside of the course and scope of their employment. *Fernander v. Thigpen*, 278 S.C. 140, 142, 293 S.E.2d 424, 425 (1982) ("[Q]uestions of agency ordinarily should not be resolved by summary judgment where there are any facts giving rise to an inference of an agency relationship," *Pridgen v Ward*, 391 S.C. 238, 245, 705 S.E.2d 58, 62 (Ct. App. 2010 ("[T]he evidence in the record creat[ed] more than one reasonable inference as to whether the [individual defendants] acted outside the scope of their employment[.]"). Whether Defendants acted outside the scope of their employment is a factual dispute that precludes summary judgment.

Defendants rely on the *Todd* rule to argue Plaintiff is precluded from advancing a conspiracy claim based on pleadings that are duplicative to her other claims. *Todd v. S.C. Farm Bureau Mut. Ins. Co.*, 276 S.C. 284, 293, 278 S.E.2d 607, 611 (1981), overruled by *Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 861 S.E.2d 774 (2021). The *Todd* rule, as it applies to special damages, was overruled by the Supreme Court in *Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 861 S.E.2d 774 (2021). The question of the *Todd* rule as it applied to pleading separate acts in furtherance of a conspiracy was not before the court in *Paradis*. Yet, the logic for the *Todd* rule on special damages is intertwined with the logic of the *Todd* rule on acts in furtherance. Both defenses relied on the same over-extension of a secondary authority that was intended to prohibit a double recovery. *Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 573, 861 S.E.2d 774, 779 (2021), reh'g denied (Aug. 18, 2021) ("We find this section of *Corpus Juris Secundum* simply addressed a prohibition on duplicative recoveries; it did not establish a

requirement of pleading special damages for civil conspiracy claims."). Therefore, for the same reason conspiracy claims are actionable irrespective of if the claim's pled damages are duplicative to those asserted in other claims, natural overlap between allegations or evidence alleged in support of a conspiracy claim and other alternative claims is not legally preclusive.

The *Paradis* case re-established older pre-*Todd* elements to civil conspiracy claims in South Carolina:

> In light of our decision today, we are returning to our long-standing precedent pre-*Todd* and for clarification specifically state a plaintiff asserting a civil conspiracy claim must establish (1) the combination or agreement of two or more persons, (2) to commit an unlawful act or a lawful act by unlawful means, (3) together with the commission of an overt act in furtherance of the agreement, and (4) damages proximately resulting to the plaintiff.

Paradis, 861 S.E.2d at 780. Defendants final argument is that Plaintiff has failed to show the element of unlawfulness. Under South Carolina law, "unlawful" as used in the context of a civil conspiracy claim includes tortious conduct and does not necessarily require proof that an action or process is criminally illegal. *See*, *Lee v. Chesterfield Gen. Hosp., Inc.*, 289 S.C. 6, 11, 344 S.E.2d 379, 382 (Ct. App. 1986), *overruled on other grounds by*, *Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 861 S.E.2d 774 (2021). Here, there is sufficient evidence within the record from which a reasonable jury may infer unlawful action.

5. Conclusion

Therefore, the Court **grants** Defendants' motion as to causes of action 2 and 8 but **denies** summary judgment as to the remaining claims.

This ruling does not end the case.

This ruling does not preclude the Defendants from re-raising the arguments it has made at a later procedural posture.

Hon. R. Ferrell Cothran, Jr.
Presiding Circuit Court Judge

STATE OF SOUTH CAROLINA COUNTY OF RICHLAND Abigail Rogers, Plaintiff, -vs- Benedict College, Roslyn Clark Artis, Janeen Witty, and Charles Johnson,[1] Defendants.	FIFTH JUDICIAL CIRCUIT COURT OF COMMON PLEAS CIVIL ACTION NO.: 2019-CP-40-06624 **ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Defendants' Motion for Summary Judgment under Rule 56, SCRCP, came before this Court and is now ripe for ruling. In view of the pleadings filed, applicable law, and arguments of counsel, the Court grants Defendants' Motion for Summary Judgment, and dismisses the action in its entirety with prejudice, with each side to bear its own costs and fees.

Plaintiff Abigail Rogers is a former faculty member at Benedict College (the "College"). Collectively, Defendants are Benedict College, its President Roslyn Clark Artis, its Vice President for Academic Affairs Janeen Witty, and its Chairman of the Board of Trustees Charlie Johnson

Plaintiff has brought a total of six (6) causes of action[2] against these Defendants, variously related to (1) the College's removal of three positions from the membership of its Board of Trustees in 2019, including the "faculty representative" position, and (3) her termination from employment with the College in the Fall of 2019.

[1] The proper name for Defendant "Charles Johnson" is "Charlie Wilbur Johnson."

[2] Plaintiff has voluntarily dismissed her Second Cause of Action and her Eighth Cause of Action, which were related to her administrative suspension with pay in the Fall of 2018, and a purported claim under the South Carolina Non-Profit Corporation Act.

FACTUAL RECORD

Benedict College was founded in 1870, then as the "Benedict Institute," to educate recently emancipated Black persons and prepare them to be "a power for good in society." In 1894, the South Carolina legislature chartered Benedict College (the "College") as a liberal arts college, and the College remains listed as a non-profit corporation by the South Carolina Secretary of State. From 1994 until 2017, David Swinton served as the College's President.

Plaintiff Abigail Rogers joined Benedict College as a faculty member in 1995 following her removal from office as a Family Court Judge.[3] Then-President Swinton personally recruited her to teach criminal justice courses at the College after she was formally removed from her position as a judge.

Throughout Plaintiff's time at the College, students often complained about the way she treated them. For example:

- In 1998, Plaintiff's Department Chair noted that she was "receiving numerous complaints from students in your classroom concerning your classroom demeanor that she termed classroom student victimization, whereby your students are intimidated, ridiculed, humiliated, made to feel inferior and berated in the presence of other students." She found Plaintiff's behavior to be "unethical and unprofessional."

[3] The reasons for Plaintiff's removal as a Judge are remarkably similar to those causing her dismissal from Benedict College – namely, using her position to mistreat others. Concerning her removal as a Judge, the legislature's Joint Committee Report stated that "[t]he majority is particularly concerned by evidence of a situation in which Judge Rogers attempted to use her judicial office to intimidate her former secretary." The majority also reported that "Judge Rogers threatened to use a bench warrant for the arrest of her former secretary after the secretary took another job." The Joint Committee Report also found that "[f]or these and other reasons, the majority believes that Judge Rogers threatened to issue a bench warrant for the secretary's arrest and was not truthful about this issue in her testimony under oath before the Joint Committee." Finally, the majority of the Joint Committee noted that, "in its collective memory, the majority has no recollection of any candidate who, when confronted with a substantial body of evidence in contradiction, including testimony from a number of disinterested witnesses, either always shifted the blame, or failed to account for her own behavior."

- By 2008, after continuing to receive complaints about Plaintiff's behavior towards students, her Department Chair reported that Plaintiff's "professional behavior, teaching quality, and general demeanor historically have been so contrary to Benedict's stated ideas and policies that several faculty, student, and parents alike question how Ms. Rogers has been able to maintain such longevity at this institution." Her supervisory chain – including incoming Vice President for Academic Affairs Janeen Witty – recommended to President Swinton that the College remove Plaintiff from the faculty.

Mr. Swinton did not act on any of these requests. Indeed, despite her abuse of students, and even though some of Plaintiff's supervisors recommended that she be removed from the faculty and not granted tenure, the College granted Plaintiff tenure in 2012.

In June 2017, Benedict College's Board of Trustees unanimously appointed Dr. Roslyn Clark Artis to replace Dr. Swinton as the College's President. At that time, Dr. Janeen Witty was serving as the College's Vice President for Academic Affairs, and Charlie Johnson was serving as the Chairman of the College's Board of Trustees. During the academic year 2017-2018, Plaintiff and the individual Defendants had little interaction.

A. PLAINTIFF'S ADMINISTRATIVE SUSPENSION IN FALL 2018.

In the fall of 2018, the College again began to receive complaints from students about Plaintiff's abusive manner. Several students from her "Court System" class submitted an initial set of complaints at the beginning of the semester on August 20, 2018, which included, but were not limited to, the following:

- Plaintiff told them they would have to wait if she was late to class, and that Plaintiff would be late to class.

- Plaintiff told them that "[i]f one person messes up we all mess up and we all get a zero."

- Plaintiff made the comment that "If I dismiss the class early she still will get paid."

One month later, in September 2018, the College received other student complaints about Plaintiff, which detailed Plaintiff's insults to the students in question, changing the subject of an examination, telling one student she would never be a lawyer or make it to law school, and commenting that "she hates seeing black men with white women."[4]

In October 2018, the College continued to receive student complaints about Plaintiff, with one student complaining that Plaintiff insulted him by stating that he was "wasting her time" and "needed an easier class." By mid-October 2018, it became apparent to Plaintiff's supervisor, interim Dean Charles Austin, that the relationship between Plaintiff and two of her students had deteriorated to "a very toxic level." Consequently, he recommended to Vice President Witty that he should supervise the students for remainder of the semester.

After receiving Dr. Austin's directive, Plaintiff inflamed the situation further by sending an email to the two students. The email directed them not to return to her class, not to contact her for any reason, and not to even contact other students in the class about work or assignments. As a result, the other students in Plaintiff's class became concerned about Plaintiff's policy that "the hand of one is the hand of all" and circulated a text threatening bodily harm to the complaining students.

After he reviewed Plaintiff's email, Dr. Austin told Plaintiff that she had "exacerbated an environment of tension between students in your class," and at that point, he recommended that Plaintiff be removed from the classroom until further notice. On October 23, 2018, the College placed Plaintiff on a paid administrative leave while the College investigated the student

[4] Dr. Charles Austin, Sr., then the College's interim Dean of the School of Arts and Sciences, testified that he did not take note of Plaintiff's racist statement when he reviewed the student complaint. He also testified that he found the statement "disturbing," and that if he had not overlooked the statement, he would have addressed the matter with Plaintiff.

complaints against her. In response, Plaintiff hired counsel to challenge the College's decision, and on November 20, 2018, the College's "Faculty & Staff Grievance and Appeals Committee" reviewed the matter and recommended that Plaintiff be permitted to return to duty effective December 15, 2018.[5] The Committee also recommended that Plaintiff and the College agree on a "Performance Improvement Plan and Conflict Resolution Plan" for Plaintiff.

Plaintiff returned to the classroom in Spring 2019 and completed the Performance Improvement Plan by the end of the semester.

B. BENEDICT COLLEGE CHANGES THE COMPOSITION OF ITS BOARD OF TRUSTEES IN 2019.

When Dr. Artis became President of the College in 2017, she noted that the membership of the Board of Trustees included as voting members (1) the President herself, (2) one position elected annually by the faculty, and (3) one position elected by the student body. She specifically told the Board that she was concerned that these three positions – including her own – involved an "obvious conflict of interest." She also noted that the faculty representative on the Board – Dr. Samuel Darko[6] – had refused to vote for a budget that did not include salary increases for faculty, even though the "institution was incredibly financially constrained."

Charlie Johnson, as Chairman of the Board of Trustees, shared these concerns. For that reason, on April 9, 2019, Chairman Johnson appointed an "Ad Hoc Committee on Governance" to review the issue and make a recommendation to the full Board concerning the status of the President, faculty/staff representative, and the student representative as voting Board members.

[5] By December 15, 2018, Plaintiff no longer had any duties concerning classes held in the Fall 2018 semester.

[6] At the beginning of the Spring semester of 2019, Dr. Samuel Darko, a professor of environmental engineering at the College, was serving as the elected faculty representative on the Board. Dr. Darko served in this capacity until the beginning of the 2019-2020 academic year.

On April 11, 2019, Benedict's faculty elected Plaintiff to replace Dr. Darko at the end of his service on the Board. Apparently believing that she would *immediately* replace Dr. Darko on the Board in April 2019, Plaintiff contacted several other Board members and told them she would immediately assume Dr. Darko's position. In response, Chairman Johnson and Board member William Thomas wrote a letter to Plaintiff, congratulating her on her election, but explaining that her term would commence at the beginning of the *following* academic year, i.e., after new member orientation in the 2019-20 academic year.

In any event, on May 1, 2019, at the request of Chairman Johnson, Dr. Artis sent the Board's Ad Hoc Committee on Governance a memorandum detailing whether peer institutions permitted faculty and student representatives to serve as voting members on their boards of trustees. Of the 45 institutions reviewed, fewer than 5 institutions permitted faculty and/or student representatives to be voting members of their respective Boards. Of the 6 HBCUs surveyed, none permitted faculty and student representatives to serve as voting members, and only one – S.C. State University – permitted these representatives to serve as non-voting members.

Informed by this research, at the Board of Trustees meeting on May 10, 2019, the Board voted to adopt the committee's recommendation to remove the three positions – President, faculty representative, and student representative – as voting members of the Board. Chairman Johnson notified Plaintiff of the Board's decision by letter dated June 7, 2019.

Later that summer, concerned that notice of its meeting on May 10, 2019 was insufficient, the Board decided to vote again on the matter at the beginning of the 2019-20 academic year. For that reason, counsel for the Board contacted Plaintiff's counsel on July 25, 2019, and advised him that the Board would notify Plaintiff of the next Board meeting, which it did.

At a special Board meeting for September 18, 2019, the Board voted again to adopt the proposed changes in Board membership. Plaintiff received notice of the special meeting, but was recorded as "absent" from the meeting. Consequently, the Bylaws were updated, and the President, faculty representative, and student representative were removed as voting members of the Board.[7]

C. PLAINTIFF'S EMPLOYMENT WITH BENEDICT COLLEGE IS TERMINATED IN THE FALL OF 2019.

When the Fall semester began in August 2019, Plaintiff had completed her Performance Improvement Plan and was otherwise a tenured faculty member in good standing at the College. However, from the very beginning of the Fall 2019 semester, students again began complaining about Plaintiff's conduct, such as being late, dismissing their concerns about errors in the schedule, dismissing them from the class, opining that she could not be fired, and otherwise behaving in an unprofessional manner. On September 4, 2019, Plaintiff met with her new interim Dean, Dr. Richard Miller, to discuss these issues.

By September 6, 2019, Dr. Miller reported to Dr. Witty that his review of the most recent student complaints and Plaintiff's faculty file led him to "recommend that Ms. Rogers be immediately removed from her classroom teaching responsibilities and given non-teaching duties as determined by her department chair, Dr. Leon Geter." Dr. Artis and Dr. Witty conferred and directed Dr. Miller to complete his review of Plaintiff's entire file before making a final recommendation. Dr. Witty also voiced her concern that assigning Plaintiff a non-teaching position at full regular pay would be regarded as "rewarding bad behavior."

[7] Overall, the maximum number of members who could serve on the Board was reduced from 36 to 30.

On September 16, 2019, Dr. Miller submitted an "Administrative Review of Faculty File of Ms. Abigail Rogers" to Dr. Witty. The review indicated that Plaintiff's file was "replete with multiple filings of student complaints along with documentation from academic administrators of inappropriate, unprofessional behavior, and neglect of faculty compliance with expectations…It is clear that over a lengthy period of time Ms. Rogers has exhibited a consistent pattern of disrespectful and demeaning behavior toward students, disregard of faculty expectations, poor classroom management skills, and an intimidating classroom culture." Dr. Miller also included the following recommendation:

> Ms. Rogers should be removed from any interaction with students and, as a tenured faculty member, be assigned non-teaching responsibilities. As an interim dean of less than three (3) months, I leave it to the discretion of the Vice President for Academic Affairs, and President to pursue any additional course(s) of action.

However, before Dr. Witty or Dr. Artis could act on Dr. Miller's recommendation, another troubling issue came to the College's attention.

At the beginning of the Fall 2019 semester, Plaintiff was concerned about the prospect of not serving her term as the faculty representative on the College's Board of Trustees. For that reason, Plaintiff sought out student body president Jordan Rice-Woodruff to enlist his aid, and the aid of other students, in opposing changes to the membership of the College's Board of Trustees. According to Rice-Woodruff, Plaintiff pursued and solicited his support in the following ways:

- On August 22, 2019, Plaintiff approached Rice-Woodruff near the chapel, and told him that the faculty and student positions were in the process of being removed from the Board. Plaintiff identified individuals that Rice-Woodruff could contact to "help us get this overturned into our favor."

- Plaintiff also asked Rice-Woodruff to "put the matter out on social media; to spread the word to people on campuses; and also…to call those individuals [whose contacts I received from her]."

- Days after, Plaintiff asked another student, Henry Peterson, for Rice-Woodruff's cell phone number, which Peterson gave to Plaintiff.

- Later, on September 12, 2019, Plaintiff again contacted Rice-Woodruff and identified numerous individuals that she wanted him to contact to "express your concern that the faculty staff and student seats are taken off the board by the Board of Trustees."

- On September 14, 2019, in an effort to prompt Rice-Woodruff to write the letters she wanted him to send to the Board members, Plaintiff sent Rice-Woodruff "buzzwords" to use in his correspondence. Plaintiff also stated "Jordan you must go to social media also and get yourself some support you can't do this alone judge Rogers [*sic*]."[8]

- Rice-Woodruff did not send out letters as Plaintiff requested. Instead, he requested a meeting to discuss the matter with Dr. Artis and Chairman Johnson, which he later cancelled due to his own illness.

- On September 16, 2019, Rice-Woodruff received a telephone call on his cell phone from the WIS news station, which stated that Plaintiff had "given them my contact information and they wanted to speak with me about the Board of Trustees matter." Rice-Woodruff did not give Plaintiff permission to share his contact information with outside media outlets, and was alarmed that she had done so.

- After receiving the telephone call from WIS, Rice-Woodruff went to the College's Human Resources office, and was joined there by Henry Peterson. At the HR office, Rice-Woodruff and Peterson wrote out statements memorializing these events.

- Rice-Woodruff testified that no one at Benedict recommended any specific words to use in his statements, and confirmed that the events as described in his statements were true.

Following receipt of Rice-Woodruff's and Peterson's statements, Dr. Witty decided to suspend Plaintiff without pay, and recommended to Dr. Artis that Plaintiff's employment with the College be terminated.[9] Plaintiff received Dr. Witty's suspension notice on September 16, 2019,

[8] Rice-Woodruff also stated that, in the same telephone call on September 12, 2019, Plaintiff offered to write letters of recommendation to the USC School of Law both for him and for Henry Peterson. To Rice-Woodruff, it appeared that Plaintiff was offering to write him a recommendation if he did as she asked.

[9] Under § 6.2.4 of the College's Faculty Manual, a tenured faculty member may be fired for "adequate cause," which includes, but is not limited to, "inability to perform essential functions of

and the following day, Dr. Witty requested permission to convene the "Ad Hoc Committee" referenced in § 6.2.5 of the College's Faculty Manual.

In accordance with § 6.2.5 of the College's Faculty Handbook, on September 18, 2019, Dr. Witty convened the Ad Hoc Committee to review her recommendation of termination. The Ad Hoc Committee reviewed all evidence presented to it by the College, and following its review, unanimously endorsed Dr. Witty's recommendation to terminate Plaintiff's employment.

Thereafter, Plaintiff appealed the recommendation of the Ad Hoc Committee to the full Faculty and Staff Grievance and Appeal Committee as permitted by § 6.2.6 of the College's Faculty Handbook.[10] In consultation with its legal counsel, the College outlined hearing procedures in a letter to Plaintiff's counsel, and delivered documents it intended to use at the hearing to Plaintiff's counsel

Plaintiff and her counsel both appeared before the Faculty and Staff Grievance and Appeal Committee on October 23, 2019, and presented Plaintiff's argument. Dr. Witty presented the argument of the College. Following these presentations. of the eight members on the committee, six (6) voted to recommend termination, and two (2) voted against termination.

After receiving the recommendation of the Faculty and Staff Grievance and Appeal Committee, Dr. Artis was required to make the final decision regarding the matter. She considered

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the job" to "other conduct prejudicial to the College." The same section permits the College, at its discretion, to place the faculty member on leave without pay pending the outcomes of the hearing and appeals processes.

[10] The Faculty and Staff Grievance and Appeal Committee is required to "review the petition for appeal and will hear the appeal within ten (10) days of receipt for appeal or as soon thereafter as feasible. The Committee will, after due deliberation, with or without the benefit of further hearings, issue its recommendation to the President." The President of the College reviews the recommendation of the Committee and makes the final decision on the appeal.

the recommendation of the committee and decided that terminating Plaintiff's employment was the appropriate decision. In Dr. Artis's view, Plaintiff's conduct was "grossly inappropriate."[11]

After receiving notice of Dr. Artis's final decision, Plaintiff filed her Complaint against the Defendants on November 25, 2019, and a few days later filed an Amended Complaint.

PLAINTIFF'S AMENDED COMPLAINT

Plaintiff has voluntarily dismissed her Second and Eighth Causes of Action. Her remaining Causes of Action are as follows:

1. Against **Benedict College** only, Plaintiff has brought the following claims:

    - Breach of Contract (First Cause of Action) – Plaintiff claims that Benedict College breached its Faculty Manual by purportedly failing to abide by the procedures set forth in the College's Faculty Manual regarding her appeal of her termination in the Fall of 2019. She also claims that her termination breached the Faculty Manual's provision that tenured faculty could only be terminated "for cause."

    - Breach of Contract (Third Cause of Action) – Plaintiff claims that Benedict College breached her "Faculty Contract" for the academic year 2019-2020 when it terminated her.

    - Declaratory Relief (Fourth Cause of Action) – Plaintiff seeks a declaratory judgment that the action of the Board of Trustees to eliminate positions from the Board, including her own, was "unlawful."

2. Against **Benedict College and individual Defendants Artis, Witty, and Johnson**, Plaintiff has brought the following claims:

    - Breach of Contract Accompanied by a Fraudulent Act (Fifth Cause of Action) – Plaintiff claims that the Defendants fraudulently interfered with her Faculty Contract and the Faculty Manual by "secretly" ghost-writing the student complaints that led to her termination, by "secretly encouraging" the Board of Trustees to eliminate her

[11] After the vote of the Faculty and Staff Grievance and Appeal Committee, the two members who voted against termination, Drs. Sybil Rosado and Gwendolyn Green, wrote memoranda explaining their votes. Dr. Rosado wrote to Dr. Artis to explain her vote, although Dr. Artis considered any attempt by Dr. Rosado to involve her in the deliberative process of the committees to be inappropriate. Contrary to Dr Rosado, Dr. Green wrote to Dr. Witty to explain that she wished to change her vote and that she would "UNEQUIVOCALLY uphold that the berating needed to end and it would be YES if I could retract."

position, among others, from the Board, and by "improperly" encouraging others to participate in these "secret actions."

- Civil Conspiracy (Seventh Cause of Action) – Plaintiff claims that Benedict College and the individual Defendants "combined for the purpose of injuring Plaintiff," but does not otherwise distinguish this cause of action from any of her other causes of action.

3. Against **Benedict College and individual Defendants Artis and Witty**, Plaintiff has brought the following claims in her Amended Complaint:

- Tortious Interference with Contract (Sixth Cause of Action) – Plaintiff claims that Defendants Artis and Witty "intentionally procured" breaches of the Faculty Contract and the Faculty Manual "without justification."

LEGAL STANDARD

A suit for declaratory judgment is neither legal nor equitable, but is determined by the nature of the underlying issues. *Loadholt v. South Carolina State Budget and Control Bd., Div. of General Services, Ins. Reserve Fund,* 339 S.C. 165, 169, 528 S.E.2d 670, 672-73 (S.C. App. 2000). To the extent Plaintiff's declaratory judgment action is based on an alleged contract, "[o]ne cardinal rule of contract interpretation is to ascertain and give effect to the intention of the parties." *S.C. Dep't of Transp. v. M & T Enters. of Mt. Pleasant, LLC*, 379 S.C. 645, 655, 667 S.E.2d 7, 12 (S.C. App. 2008). In construing a contract, the court "must first look at the language of the contract to determine the intentions of the parties." *C.A.N. Enters., Inc. v. S.C. Health & Human Servs. Fin. Comm'n*, 296 S.C. 373, 377, 373 S.E.2d 584, 586 (1988). "[I]f the language is perfectly plain and capable of legal construction, it alone determines the document's force and effect." *Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC,* 374 S.C. 483, 498, 649 S.E.2d 494, 501 (S.C. App. 2007); *Kirkland v. Wolfson*, No. 2019-000203, 2022 WL 951251, at *3 (S.C. App. 2022).

As to other claims, "[s]ummary judgment is appropriate when there is no genuine issue of material fact such that the moving party must prevail as a matter of law." Rule 56, SCRCP;

Savannah Bank, N.A. v. Stalliard, 400 S.C. 246, 250, 734 S.E.2d 161, 164 (2012) (citing *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002)). Summary Judgment is appropriate when "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Gecy v. S.C. Bank & Tr.*, 422 S.C. 509, 516, 812 S.E.2d 750, 754 (S.C. App. 2018). As stated in *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 892 S.E.2d 297 (2023):

> We now clarify that the "mere scintilla" standard does not apply under Rule 56(c). Rather, the proper standard is the "genuine issue of material fact" standard set forth in the text of the Rule. As we stated in *Town of Hollywood v. Floyd*, "it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine." 403 S.C. at 477, 744 S.E.2d at 166.

440 S.C. at 463-64, 892 S.E.2d at 301.

LEGAL ARGUMENT

I. PLAINTIFF'S FIRST CAUSE OF ACTION FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT SUGGESTING THAT BENEDICT COLLEGE BREACHED ANY PROVISION OF THE FACULTY MANUAL REGARDING HER TERMINATION IN 2019.

Plaintiff's First Cause of Action is a claim for a Breach of Contract against the College based on her termination in 2019. Plaintiff claims that the College breached its Faculty Manual in the following ways:

(a) by failing to comply with the procedures set forth in the Faculty Manual, including Section 6.2.5.

(b) by failing to give Plaintiff notice of the Ad Hoc Committee hearing.

(c) by failing to provide for a "fair" and "impartial" hearing, or to allow for a consideration of "all the evidence."

(d) by imposing improper and unlawful restrictions on Plaintiff's participation in the hearing of the Faculty and Staff Appeals Committee, including, inter alia, not being allowed to present witnesses, not being allowed to have the full participation of counsel, not being allowed to cross-examine witnesses; not

being informed of the specific bases for the termination; not being informed of the names of the students who allegedly complained; not being allowed to call those students as witnesses; and being limited to thirty minutes in her defense.

(e) by failing to apply the applicable standard for termination of a tenured faculty member, and

(f) by incorrectly finding the standard for termination of Plaintiff had been met.

Plaintiff's First Cause of Action is governed by the South Carolina Supreme Court's recent ruling in *Crenshaw v. Erskine College*, 432 S.C. 1, 20, 850 S.E.2d 1, 11 (2020), which held that a tenured faculty member can sue for breach of contract based on alleged breaches of provisions of a faculty manual related to termination of employment. In describing the nature of this type of action against a private college like Benedict College, the Supreme Court stated as follows:

> Erskine College is a private institution. This case, therefore, is not about tenure. This case is not about whether Erskine denied Crenshaw due process, academic freedom, or free speech. This case is not about whether Crenshaw was correct the student should be taken to the hospital for evaluation, or whether Erskine's alleged "protocol" was medically unsound and Crenshaw was justified in criticizing it. This case is not about whether Crenshaw should be free to publicly criticize Erskine, or publicly argue it should split from the church. **Rather, this is an ordinary breach of contract case in which the terms of the contract are set forth in The College Faculty Manual.**

432 S.C. at 9-10, 850 S.E.2d at 18 (emphasis added).

Plaintiff's First Cause of Action fails initially because Plaintiff cannot point to a single procedure in §§ 6.2.4, 6.2.5, or 6.2.6 of the Faculty Manual that the College breached, or any damage that may have resulted from any alleged breach.[12] With regard to the initial procedures for terminating tenured faculty members for cause, § 6.2.5 provides as follows:

[12] Plaintiff's reliance on § 4.1.2 of the Faculty Manual – which describes types of academic appointments – is particularly unavailing. In fact, that section specifically notes that a tenured faculty member may be fired "for cause…in accordance with Section 6.2.4" of the Faculty Manual, which is exactly what happened here.

1. Action to terminate a faculty member for cause may be initiated by any Department Chair, Assistant or Associate Dean of a School, the Academic Vice President, or President upon determination that probable cause may exist to justify termination of the faculty member.

2. The initiating party must submit a written request to the Academic Vice President requesting the convening of a faculty hearing committee to consider the charges or other circumstances motivating the request to terminate the faculty member.

3. With the consent of the President the Vice President for Academic Affairs will convene a standing or Ad Hoc faculty hearing Committee.

4. The hearing committee will conduct a fair and impartial hearing of all the evidence and make a recommendation to the Vice President for Academic Affairs.

5. The Vice President for Academic affairs will review the decision concerning the matter and notify both the initiating party, the faculty member, and the Dean of the decision.

As set forth in great detail above, Dr. Witty had significant reason to initiate the action to terminate Plaintiff's employment. After the events of 2018 and the Performance Improvement Plan resulting therefrom, Plaintiff was once again the subject of numerous student complaints in the beginning of the Fall 2019 semester. Following his review of these more recent incidents, as well as Plaintiff's previous employment record, Dr. Miller recommended – at the very least – that Plaintiff should be removed from class, and that Drs. Witty and Artis might consider other sanctions as well. While Dr. Witty was reviewing Dr. Miller's recommendation, Jordan Rice-Woodruff reported additional misconduct by Plaintiff that included Plaintiff's release of his personal contact information to outside media outlets without his consent for her own purposes. These events provided ample reason for Dr. Witty to initiate termination proceedings against Plaintiff.

As the initiating party, Dr. Witty directly requested permission from Dr. Artis to convene the Ad Hoc Committee, as the Faculty Manual provides, and which Dr. Artis granted.

While Plaintiff complains that she was not given notice of the meeting of the Ad Hoc committee, such notice is not required by the Faculty Manual. Plaintiff also has failed to produce any evidence that creates a genuine issue of material fact that the Ad Hoc Committee members did not conduct a "fair" and "impartial" review of the matter, or did not consider "all the evidence" to its complete satisfaction.[13]

With the regard to the hearing before the Faculty and Staff Grievance and Appeal Committee, Plaintiff again has failed to produce any evidence that creates a genuine issue of material fact in support of her First Cause of Action, where § 6.2.6 provides that:

> (a) The Vice President for Academic Affairs will convene the Faculty and Staff Appeals Committee. The Committee will review the petition for appeal and will hear the appeal within ten (10) days of receipt of the appeal or as soon thereafter as feasible. The Committee will, after due deliberation, with or without the benefit of further hearings, issue its recommendation to the President.
>
> (b) The President will review the recommendation of the Appeals Committee and make the final decision concerning whether to uphold, vacate, or modify the recommendation of the Appeals Committee. The President will then notify all parties of the final decision.
>
> (c) The decision of the President is final and no further appeal is possible.

In this case, the Faculty and Staff Grievance and Appeal Committee convened on October 23, 2019, which was a date mutually chosen by the parties. The Committee reviewed Plaintiff's petition. Although not required by § 6.2.6, it actually heard argument from both Plaintiff and Dr. Witty. Plaintiff could have presented any supporting documentation she wished. Committee members were free to ask any questions that they wished. The College provided all documents to Plaintiff's counsel that it provided to the Committee. These measures far exceed anything

[13] According to Dr. Artis, the Ad Hoc Committee serves to "consider charges or other circumstances that motivated the request to terminate. So what -- on what basis was there a request to terminate made? It sounds like a probable-cause hearing for the most part for me -- to me."

"required" by the Faculty Manual.

Finally, Plaintiff has failed to produce any evidence that creates a genuine issue of material fact in support of her claim, other than her own opinion, that the College did not have "adequate cause" to fire her. Indeed, at every turn, from Dr. Witty's initial recommendation, to the recommendation of the Ad Hoc Committee, to the recommendation of the Faculty and Staff Grievance and Appeal Committee, to the ultimate decision of Dr. Artis as President of the College, each level concluded that adequate cause existed to terminate Plaintiff's employment.

For instance, Dr. Artis, the ultimate decision maker in this matter, testified as follows with regard to Jordan Rice-Woodruff's complaints about Plaintiff:

> Q. Which of the facts contained in Exhibit 33, the alleged facts, in your mind reflect behavior by Professor Rogers warranting termination?
>
> A. [Reading] "She continued to contact me throughout the weekend, providing numbers and email addresses. I received a call from WIS News Station stating Rogers had given them my contact information and they wanted to speak to me about the board of trustees matter."[14] **You gave a reporter a student's personal contact information. That is grossly inappropriate**.
>
> Q. All right. So giving the number was inappropriate. Was having –
>
> A. Absolutely. Without his permission?
>
> Q. Well, we'll come back to that. Was having the discussion with him about board composition inappropriate, in your opinion?
>
> A. Yes. I think it was.
>
> Q. Why is that? I mean, why was that crossing the line?
>
> A. Because this conversation is couched as though it were expressed -- an expression of concern for the students when, in fact, obviously, this has a lot more to do with her in her role than it does with these students. **And so to pull these students in as your personal army to try to effectively create a smokescreen and negative PR, encouraging them to go to social media and all those sorts of things, I think it's really beneath an adult**.

[14] At direction of opposing counsel, Dr. Artis quoted Rice-Woodruff's statement at her deposition.

Q. In what way? I mean, why, if the board composition issue affected both the students and their representative as well as the faculty and their representative, why is it inappropriate to discuss that common concern?

A. I don't have a challenge with discussing a common concern, but everything in here relates directly to the students. If Ms. Rogers had an issue then Ms. Rogers can pursue that issue, as she has chosen to do. Why is it necessary to engage the students and encourage them to place confidential board matters by the way, in social media. It's just grossly inappropriate. It's my opinion and I stand by it. I think this is grossly inappropriate and beneath an adult.

Q. And I'm trying to understand which part of that? And I understand the giving the number out. We'll talk about that more in a minute, but I'm trying to be precise about why, in your view, if the student rep and the faculty rep shared the same interest of board representation, why that conversation would be inappropriate in your view?

A. Because the student clearly has demonstrated more emotional intelligence in saying, no, we are not going to post to social media, we're going to do the proper thing and speak to Dr. Artis and the board chairman concerning this matter on the representative. No, no, no, it would not be best to talk to Dr. Artis. Why? You are encouraging a student to go around – **it doesn't matter how many times you ask me, my opinion is that this is grossly inappropriate**.

(emphasis added).

Under South Carolina law, where an employee can only be fired "for cause," the focus of the court's inquiry is not whether the employee actually committed misconduct, but instead on whether the employer had a **reasonable good faith belief** that sufficient cause existed for the employee's termination. *Conner v. City of Forest Acres*, 348 S.C. 454, 464–65, 560 S.E.2d 606, 611 (2002); *Horton v. Darby Elec. Co.*, 360 S.C. 58, 68, 599 S.E.2d 456, 461 (2004) (summary judgment appropriate where "appellant's conduct was serious enough to proceed directly to termination"); *Lingard v. Carolina By-Prod.*, 361 S.C. 442, 452, 605 S.E.2d 545, 550 (S.C. App. 2004) (the conclusions of employers "do not have to be uncontested fact, but must instead simply be supported by enough evidence to support their good faith belief in the cause for termination");

Nelson v. Charleston Cnty. Parks & Recreation Comm'n, 362 S.C. 1, 11, 605 S.E.2d 744, 749 (S.C. App. 2004) (same).

The evidence of Plaintiff's misconduct in this matter does not merely support a "good faith belief" that termination was justified, it is overwhelming. When Plaintiff's misconduct allegations again arose in 2019, Dr. Witty received statements not only from complaining students in Plaintiff's classes, but also from Messrs. Rice-Woodruff and Peterson. There is absolutely no admissible evidence in the record that anyone other than Rice-Woodruff and Peterson wrote their statements.[15] "South Carolina courts have consistently held evidence must amount to more than speculation and conjecture to submit a case to the jury." *McKnight v. S.C. Dep't of Corr.*, 385 S.C. 380, 389, 684 S.E.2d 566, 570 (S.C. App. 2009).

Further, Plaintiff's other arguments to the contrary are unavailing. First, she relies on provisions of the Faculty Manual – such as § 7.2 – which are not related to termination of a tenured faculty member. Provision § 7.2 is simply *not* a provision of the Faculty Manual applicable to termination of tenured faculty members.

Second, while Plaintiff was dissatisfied with the review and recommendations of Ad Hoc Committee and the Faculty and Staff Appeals Committee, her dissatisfaction with their work is of no importance. There is no evidence in the record that either of these committees failed to meet their obligations, and the mere fact that Plaintiff disagreed with the majority of the members of each committee creates no genuine issue of material fact relevant to this lawsuit.

[15] In fact, while Plaintiff has made unsupported assertions that Rice-Woodruff did not write his statement, her accusations are refuted directly by Rice-Woodruff's own sworn testimony. In any event, Plaintiff's unsupported assertions are inadequate to create a genuine issue of material fact sufficient to withstand summary judgment.

Finally, Plaintiff has curiously argued that President Artis never rendered a final decision on the recommendations to terminate Plaintiff's employment, as required by § 6.2.6(b) of the Faculty Manual. Plaintiff's argument is curious because it is not only contradicted by President Artis's own testimony describing her decision, it is also contradicted by Plaintiff's own allegations in her Amended Complaint, in which she admits that Benedict College terminated her employment.

For these reasons, Plaintiff's First Cause of Action must be dismissed with prejudice.

II. PLAINTIFF'S THIRD CAUSE OF ACTION FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT SUGGESTING THAT BENEDICT COLLEGE BREACHED ANY PROVISION OF ITS "FACULTY CONTRACT" WITH PLAINTIFF REGARDING HER TERMINATION IN 2019.

Plaintiff's Third Cause of Action is a claim for a Breach of Contract against the College for an alleged breach of Plaintiff's "Faculty Contract" signed on August 7, 2019, for the academic year 2019-2020. This contract is similar to all faculty contracts signed by the College's faculty members from year to year.

Plaintiff claims not to know whether her Faculty Contract for the 2019-2020 academic year could be ended prior to the end of the academic year. Illustrative of her testimony was this answer at her deposition:

> Q. My question to you is in terms of your allegation that Benedict College violated the faculty contract, is your allegation that the faculty contract itself is violated because it does not state that you can be fired for cause?
>
> MR. COSKREY: Form objection.
>
> A. I can't answer that.
>
> Q. Okay. Well, ma'am, when you read the complaint and thought it was true before it was filed, what did you consider the third cause of action to be attempting to address?
>
> MR. COSKREY: Form objection.

A. That there were no grounds for termination. To the extent that the law implies and allows grounds for termination, in the absence of express grounds, those grounds were not present here. And there were no grounds to fire me.

To the extent Plaintiff alleges that she cannot be fired because her "Faculty Contract" – as opposed to the Faculty Manual – lacks a specific termination provision, such a claim is without merit. The Faculty Contract itself references Plaintiff's "acceptance of this appointment and conditions pertaining thereto." It also requires faculty members, including Plaintiff, to "fulfill responsibilities to the specifications above or in other capacities compatible with his/her qualifications." As set forth above at length, the College had ample evidence to demonstrate that Plaintiff failed to "fulfill responsibilities" of this type. Because the College viewed Plaintiff's misconduct as "adequate cause" for her termination, Plaintiff was fired.

In fact, even Plaintiff does not appear to believe that she was immune from termination, as the Amended Complaint also states that "[t]o the extent the law implies or allows grounds for termination in the absence of express grounds, those grounds were not present here." Thus, to that extent, Plaintiff's Third Cause of Action mirrors her First Cause of Action, and for the same reasons that the First Cause of Action fails, the Third Cause of Action must also fail.

For these reasons, Plaintiff's Third Cause of Action must be dismissed with prejudice.

III. PLAINTIFF'S FOURTH CAUSE OF ACTION FOR A DECLARATORY JUDGMENT FAILS BECAUSE (1) IT IS MOOT AND THERE IS NO JUSTICIABLE ISSUE THAT A DECLARATORY JUDGMENT CAN RESOLVE, AND (2) BENEDICT COLLEGE CORRECTLY CONSTRUED AND AMENDED ITS OWN BYLAWS REGARDING MEMBERSHIP OF ITS BOARD OF TRUSTEES.

Plaintiff's Fourth Cause of Action requests that this Court issue a Declaratory Judgment that "she was wrongfully denied her position on the Benedict College Board of Trustees, that as a result of her election to the Board on April 11, 2019, she has held and still holds such position,

that all actions taken by the Board since her denial are of no legal effect." For the reasons set forth below, Plaintiff's claim has no merit and must be dismissed with prejudice.

In April 2019, the College's Bylaws provided that the one member of the Board would be elected annually by the faculty and another would be elected by the student body. In pertinent part, the pre-amendment Bylaws also provided for the following:

- The Board is "self-perpetuating and independent of any control other than this Board in both memberships for the Board and policy of this institution."
- The Board "shall have the authority to carry out all lawful functions that are permitted by these bylaws or by the articles of incorporation."
- The Bylaws "may be amended or repealed at a special meeting of the Board by vote of two-thirds of the member[s] present, provided that an exact statement of the proposed amendment or intention to repeal has been provided to the Board of Trustees with the call of the meeting."
- One-third of Board members are elected at the Annual Meetings of the Board and would serve a three-year term, "with the exception that faculty and staff trustees ***shall be elected*** from April to April, unless the official connection as faculty or student is served prior to the expiration of the term." (emphasis added).

The gravamen of Plaintiff's cause of action is that she wanted to be seated as the "faculty representative" on the Board *immediately* after her election in April 2019. Instead, consistent with the College's prior practice, Dr. Darko remained as the faculty representative on the Board until the end of the summer in 2019. Plaintiff alleged that Bylaws stated that her "term" ran from April to April, although the actual language in the pre-amendment[16] Bylaws clearly stated that the faculty trustee "shall be ***elected*** from April to April." For this reason alone, Plaintiff is not entitled to a Declaratory Judgment in her favor.

[16] The Bylaws in effect prior to the amendments approved on September 18, 2019, are referenced in this Brief as the "pre-amendment Bylaws".

Benedict College amended its Bylaws in September 2019 that, among other things, eliminated seats from the Board in September 2019, including the President's seat, the seat for the student representative, and the seat for a faculty representative.

A. PLAINTIFF'S FOURTH CAUSE OF ACTION IS MOOT AND DOES NOT PRESENT A "JUSTICIABLE CONTROVERSY."

Under the Declaratory Judgment Act, courts only consider cases presenting a justiciable controversy. *Tourism Expenditure Rev. Comm. v. City of Myrtle Beach*, 403 S.C. 76, 81, 742 S.E.2d 371, 374 (2013); *Byrd v. Irmo High School,* 321 S.C. 426, 430, 468 S.E.2d 861, 864 (1996). A justiciable controversy exists when there is a real and substantial controversy which is appropriate for judicial determination, as distinguished from a dispute that is contingent, hypothetical, or abstract. *Id* at 431, 468 S.E.2d at 864. By contrast, a "moot" case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy because an intervening event renders any grant of effectual relief impossible for the reviewing court. *Mathis v. South Carolina State Highway Dep't*, 260 S.C. 344, 346, 195 S.E.2d 713, 715 (1973). If there is no actual controversy, this Court will not decide moot or academic questions. *Id.* (citing *Jones v. Dillon–Marion Human Res. Dev. Comm'n.,* 277 S.C. 533, 535, 291 S.E.2d 195, 196 (1982)); *see also Wallace v. City of York*, 276 S.C. 693, 694, 281 S.E.2d 487, 488 (1981).

This cause of action has become moot on two separate grounds. First, as more fully set forth below, the Board lawfully changed the structure of its membership in September 2019 under the provisions of the College's Bylaws and the South Carolina Non-Profit Corporation Act (the "Act"). As a result of that change, there is no longer a "faculty representative" seat on the Board, and there is no such seat on the Board for Plaintiff to presently occupy. Thus, she has no "position" on the Board into which the Court can place her.

Second, even if Plaintiff's interpretation of the pre-amendment bylaws was accurate, her term would have expired in April 2020. Plaintiff is simply not entitled, under any theory of law, to perpetual membership on the Board.[17] *See Sasser v. S.C. Democratic Party*, 277 S.C. 67, 69, 282 S.E.2d 602, 604 (1981) ("In the instant case, the election has already occurred. It is therefore our determination that the issues raised by this action have been rendered moot."); *City of Charleston v. Masi*, 362 S.C. 505, 508, 609 S.E.2d 301, 303 (2005) ("We find the District correctly argues that this case regarding the Town residents' entitlement to vote in the District elections and the entitlement to serve as a District commissioner is moot given that the Town is a nullity.").

Two exceptions in which the court may address an issue despite mootness are (1) when the issue raised is capable of repetition, yet evading review, and (2) when the question considers matters of important public interest. *Sloan v. Friends of Hunley, Inc.*, 369 S.C. 20, 26-27, 630 S.E.2d 474, 478 (2006). Neither exception applies here. As to the first exception, if a similar issue ever arises, the Court will again have an opportunity to review the issue. *Id*. at 27, 630 S.E.2d at 478 ("Although Friends admits that the current situation is capable of repetition, it does not evade review. Should another person bring an action against Friends for a violation of FOIA and Friends fails to produce the requested documents, the Court will have the opportunity to review the issue.") (*citing Seabrook v. City of Folly Beach*, 337 S.C. 304, 307, 523 S.E.2d 462, 463 (1999)). To determine whether the second exception applies – "matters of important public interest" – the court must find that the issue presents "questions of imperative and manifest urgency." *Sloan v. Greenville Cnty.*, 361 S.C. 568, 571, 606 S.E.2d 464, 466 (2004). In light of the fact that Plaintiff's "term" has long since expired, and that the College amended its Bylaws in a manner that moots

[17] In fact, because the College terminated Plaintiff's employment in 2019, her "official connection as faculty" with the College ended prior to the expiration of the term, and she could not continue as a member of the Board under its pre-amendment Bylaws.

the entire issue, the matter cannot, as a matter of law, present any question of "imperative and manifest urgency." *Id*. at 572, 606 S.E.2d at 466 ("In light of these developments, we hold there is no imperative or manifest urgency in obtaining an advisory opinion on the application of an obsolete procurement ordinance to these completed projects.").

For these reasons alone, her Fourth Cause of Action must be dismissed with prejudice.

B. BENEDICT COLLEGE CORRECTLY CONSTRUED AND AMENDED ITS OWN BYLAWS REGARDING THE MEMBERSHIP OF ITS BOARD OF TRUSTEES.

Even if Plaintiff's Fourth Cause of Action was not moot, and she could present a justiciable controversy, it would still fail. The Board's interpretation of its pre-amendment Bylaws was well within its latitude, and in amending the Bylaws, the Board stayed well within the spirit and letter of the existing Bylaws and the Act.

The College's pre-amendment practice of permitting an incumbent faculty representative to serve on the Board until the end of the summer, and for newly-elected faculty representative to begin his or her term at the beginning of the academic year following his or her election in April, was certainly not forbidden in the pre-amendment Bylaws. It is undisputed that Dr. Darko served on the Board through the end of the summer of 2019, and it is undisputed that Plaintiff received timely notice of the special meeting of the Board called in September 2019.

Plaintiff also argues that these amendments were unlawful and violated S.C. Code Ann. § 33-31-808(b), which provides that "[i]f a director is elected by a class, chapter, or other organizational unit or by region or other geographic grouping, the director may be removed only by the members of that class, chapter, unit, or grouping." However, Plaintiff's reliance on S.C. Code Ann. § 33-31-808(b) is misplaced. That statute addresses the "removal" of a particular director, not the permanent deletion of a number of positions on a board of directors. In fact, the Act specifically permits a board of directors to increase or decrease the number of directors on the

board "by amendment to or in the manner prescribed in the articles or bylaws." S.C. Code Ann. § 33-31-803(b); *see also* S.C. Code Ann. § 33-31-1021 (authorizing a board of directors to amend or repeal the corporation's bylaws). By ignoring S.C. Code Ann. §§ 33-31-803(b) and 33-31-1021, Plaintiff also ignores the "cardinal rule of statutory construction" that, to ascertain and effectuate the actual intent of the legislature, "statutes which are part of the same Act must be read together." *Burns v. State Farm Mut. Auto. Ins. Co.*, 297 S.C. 520, 522, 377 S.E.2d 569, 570 (1989). Further, sections which are part of the same general statutory law of the state must be construed together, and each provision must be given effect, if it can be done by any reasonable construction. *Smalls v. Weed***,** 293 S.C. 364, 370 360 S.E.2d 531, 534 (S.C. App. 1987) (quoting *State v. Fidelity & Deposit Co. of Maryland,* 114 S.C. 511, 104 S.E. 182 (1920)). Plaintiff's argument, if accepted, would require the Court to ignore the difference between removing a specific director and the Board's unquestioned authority – under both the Act and the pre-amendment Bylaws – to determine the number of directors on the Board, to amend its own Bylaws, and to determine membership on the Board.

Under the pre-amendment Bylaws, the College's Board had every right to amend the Bylaws in the manner it did. The Board was, and remains, a "self-perpetuating and independent of any control other than this Board in both memberships for the Board and policy of this institution." The Bylaws could be "amended or repealed at a special meeting of the Board by vote of two-thirds of the member[s] present, provided that an exact statement of the proposed amendment or intention to repeal has been provided to the Board of Trustees with the call of the meeting." Timely notice for the special meeting on September 18, 2019 was given on September 11, 2019 in accordance with the notice provisions of the pre-amendment Bylaws. Thus, the

College and its Board were perfectly within their latitude to interpret their Bylaws and act as they did. For these reasons alone, Plaintiff's Fourth Cause of Action must be dismissed with prejudice.

IV. PLAINTIFF'S FIFTH CAUSE OF ACTION FOR A "BREACH OF CONTRACT ACCOMPANIED BY A FRAUDULENT ACT" FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT IN THE RECORD SUPPORTING THE CLAIM'S ELEMENTS.

Plaintiff's Fifth Cause of Action is a claim for "Breach of Contract Accompanied by a Fraudulent Act" against Benedict College and individual Defendants Artis, Witty, and Johnson. Specifically, Plaintiff alleges that her "2019-2020 Faculty Contract and the Benedict College Faculty Manual constitute binding contracts" with Benedict College, and that each of the Defendants "breached one or more of Plaintiff's contracts with Benedict as described hereinabove." Plaintiff also alleges that the Defendants "had fraudulent intent relating to the breaching of the contract" and that they "engaged in fraudulent acts accompanying the breach," in that they:

> (a) secretly participated in the composition, choice of words, writing, and content of student statements;
>
> (b) well exceeded the scope of their responsibilities by secretly encouraging the Board of Directors, including Defendant Johnson, to exclude Plaintiff from her rightful position on the Board.
>
> (c) improperly encouraged other persons, including Benedict employees whose livelihoods were dependant [*sic*] on Defendants, to participate in their secret actions.

For the reasons set forth below, Plaintiff's Fifth Cause of Action fails and must be dismissed with prejudice.

In order to maintain a claim for breach of contract accompanied by fraudulent act, a plaintiff must prove three elements: (1) a breach of contract; (2) fraudulent intent relating to the breaching of the contract, not merely to its making; and (3) a fraudulent act accompanying

the breach. *Hotel & Motel Holdings, LLC v. BJC Enterprises, LLC*, 414 S.C. 635, 654, 780 S.E.2d 263, 273-74 (S.C. App. 2015). "With regard to the third element of this claim, the standard of proof of clear and convincing evidence is applicable." *Osborn v. Univ. Med. Assocs. of Med. Univ. of S.C.*, 278 F. Supp. 2d 720, 740 (D.S.C. 2003) (emphasis added).

As an initial matter, as set forth above in the discussion of Plaintiff's First and Third Causes of Action, Plaintiff cannot maintain any of her claims for Breach of Contract. This is fatal to her claim for breach of contract accompanied by fraudulent act. *Hotel & Motel Holdings, LLC,* 414 S.C. at 654, 780 S.E.2d at 274; *Curtis v. Cafe Enterprises, Inc.*, 715 Fed. App'x 268, 270 (4th Cir. 2017) ("Further, because Curtis' evidence does not support a claim for breach of contract, it cannot support the claim of breach of contract accompanied by a fraudulent act."). For this reason alone, her claim must be dismissed with prejudice as to all Defendants.

Further, Plaintiff also cannot present admissible evidence supporting the second and third elements of the claim, and most certainly not by "clear and convincing" evidence. For instance, there is no evidence in the record that anyone "secretly participated in the composition, choice of words, writing, and content of student statements," and Jordan Rice-Woodruff's sworn testimony actually refutes Plaintiff's allegations on that point.[18] Other than Plaintiff's own conjecture, there is no admissible evidence in the record to support her allegations that anyone at the College "secretly encourag[ed] the Board of Directors, including Defendant Johnson, to exclude Plaintiff from her rightful position on the Board," or that anyone was "improperly encouraged" to "participate in [the Defendants'] secret actions." For these reasons, Plaintiff's Fifth Cause of Action must be dismissed with prejudice as to all Defendants.

[18] Plaintiff's reliance on Sybil Rosado's testimony is particularly unavailing on this point, as Rosado herself relies on Rosado's repeating unsubstantiated and hearsay remarks allegedly made by Dr. Green.

V. PLAINTIFF'S SIXTH CAUSE OF ACTION FOR "TORTIOUS INTERFERENCE WITH CONTRACT" FAILS BECAUSE THERE IS NO GENUINE ISSUE OF MATERIAL FACT IN THE RECORD SUPPORTING THE CLAIM'S ELEMENTS.

Plaintiff alleges her Sixth Cause of Action for "Tortious Interference with Contract" against Defendants Benedict College and individual Defendants Artis and Witty. Plaintiff claims that Benedict College, Artis, and Witty "intentionally procured the breaches and/or otherwise interfered with the [Faculty Manual and Plaintiff's Faculty Contract]." For the reasons set forth below, Plaintiff's Sixth Cause of Action fails and must be dismissed with prejudice.

To establish a cause of action for tortious interference with contractual relations, a plaintiff must show: (1) the existence of a contract; (2) knowledge of the contract; (3) intentional procurement of its breach; (4) the absence of justification; and (5) resulting damages. *Eldeco, Inc. v. Charleston Cnty. Sch. Dist.*, 372 S.C. 470, 480, 642 S.E.2d 726, 731 (2007).

As with Plaintiff's Fifth Cause of Action, where there is no breach of contract, there can be no recovery for "Tortious Interference with Contract." Thus, as set forth above in the discussion of Plaintiff's First and Third Causes of Action, because Plaintiff cannot maintain any of her claims for Breach of Contract, she also cannot maintain a claim for "Tortious Interference with Contract." *Eldeco*, 372 S.C. at 481, 642 S.E.2d at 732.[19]

Further, because Benedict College is a party to the two contracts referenced in Plaintiff's Sixth Cause of Action – the Faculty Manual and Plaintiff's Faculty Contract – the College cannot be a proper party to this claim, and it must be dismissed from this claim with prejudice. *Dutch*

[19] To the extent Plaintiff bases any Breach of Contract claim, or variant thereof, on the College's decisions related to her participation or membership on the Board of Trustees, her claim suffers the same fate. She cannot show that any contract was "breached" by those decisions or events, and for those reasons, any related claim must be dismissed with prejudice. Notably, neither the Faculty Manual nor Plaintiff's annual Faculty Contract address or promise membership on the Board of Trustees.

Fork Dev. Grp. II, LLC v. SEL Properties, LLC, 406 S.C. 596, 604, 753 S.E.2d 840, 844 (2012) ("one cannot be held liable for tortious interference with a contract to which he is a party"); *Threlkeld v. Christoph,* 280 S.C. 225, 227, 312 S.E.2d 14, 15 (S.C. App. 1984). Similarly, to the extent that Drs. Witty and Artis acted within the scopes of their employment with the College regarding an alleged breach of a contract, they are immune to this claim. *Dutch Fork Dev. Grp. II, LLC*, 406 S.C. at 605, 753 S.E.2d at 844.

Furthermore, there is no admissible evidence supporting Plaintiff's allegation that Benedict College, Dr. Witty, or Dr. Artis acted "outside the scope of their proper roles and of their authority" at any time with regard to Plaintiff's contracts, or how these alleged acts related to an intentional procurement of a breach of contract, or an absence of justification regarding such a breach. In fact, other than making this conclusory allegation, and the equally unsupported allegation that the Defendants acted "with personal motivation," there is simply no admissible evidence in the record that supports any of these allegations. For these reasons, Plaintiff's Sixth Cause of Action must be dismissed with prejudice.

VI. PLAINTIFF'S SEVENTH CAUSE OF ACTION FOR "CIVIL CONSPIRACY" FAILS BECAUSE (1) IT IS BARRED BY THE INTRACORPORATE CONSPIRACY DOCTRINE, (2) IT IS BARRED BY THE LACK OF "ADDITIONAL ACTS" IN SUPPORT OF THE CLAIM, AND (3) PLAINTIFF'S FAILURE TO PRODUCE ADMISSIBLE EVIDENCE SUPPORTING THE CLAIM'S ELEMENTS.

Plaintiff alleges her Seventh Cause of Action for "Civil Conspiracy" against Defendants Benedict College and individual Defendants Artis, Witty, and Johnson. For the reasons set forth below, the claim must be dismissed with prejudice as to all Defendants.

A. PLAINTIFF'S SEVENTH CAUSE OF ACTION IS BARRED BY THE "INTRACORPORATE CONSPIRACY DOCTRINE."

With regard to the civil conspiracy claim, a corporation cannot conspire with itself. *Broyhill v. Resolution Mgmt. Consultants, Inc.*, 401 S.C. 466, 477, 736 S.E.2d 867, 872 (S.C. App.

2012). However, a civil conspiracy cannot exist when the alleged acts arise in the context of a principal-agent relationship because by virtue of the relationship such acts do not involve separate entities. *McMillan v. Oconee Mem'l Hosp., Inc.*, 367 S.C. 559, 564, 626 S.E.2d 884, 886-87 (2006), *overruled on other grounds by Paradis v. Charleston Cnty. Sch. Dist.*, 433 S.C. 562, 861 S.E.2d 774 (2021); *Sales v. Res-Care, Inc.*, 2021 WL 1186553, at *6 (D.S.C. Mar. 30, 2021) ("With respect to Plaintiff's civil conspiracy claim, Plaintiff fails to present any colorable argument to challenge the intracorporate conspiracy doctrine, which mandates that there can be no conspiracy between an employer and its employees.").

While Plaintiff has alleged that "Defendants Witty, Artis, and Johnson were at times acting outside the scope of their agency with Benedict" in support of her civil conspiracy claim, she has failed to produce any evidence supporting such an allegation. Indeed, it would be impossible for these Defendants to conspire with Benedict College – the fourth Defendant that Plaintiff sued for civil conspiracy – outside the scope of their duties as officers or directors of Benedict College.

For this reason alone, Plaintiff's Seventh Cause of Action is barred and must be dismissed with prejudice.

B. PLAINTIFF'S SEVENTH CAUSE OF ACTION IS BARRED BY THE LACK OF "ADDITIONAL ACTS" IN SUPPORT OF THE CIVIL CONSPIRACY CLAIM.

A plaintiff asserting a civil conspiracy claim must establish (1) the combination or agreement of two or more persons, (2) to commit an unlawful act or a lawful act by unlawful means,[20] (3) together with the commission of an overt act in furtherance of the agreement, and (4)

[20] In Justice Kittredge's concurrence in *Paradis*, he explained that "[i]t is the second element – to commit an *unlawful act* or a lawful act by *unlawful means* – that restores an objective legal standard to this cause of action. When the appellate courts of this state approved of an analytical framework that allowed one's personal sense of fairness and right and wrong to be sufficient for a civil conspiracy claim, we created a rudderless cause of action. Justice Few correctly observes that the post-*Todd* sanctioned civil conspiracy claim 'permit[ted] the court and jury to impose liability

damages proximately resulting to the plaintiff. *Paradis*, 433 S.C. at 574, 861 S.E.2d at 780 (abolishing the requirement that a plaintiff must plead "special damages" as part of a civil conspiracy claim). Also, in order to state a civil conspiracy following the Supreme Court's decision in *Paradis*, a plaintiff must also allege "additional acts" that are independent of the basis of any other of the plaintiff's causes of action.

> Although the *Paradis* court held that special damages are no longer a required element of a civil conspiracy claim in South Carolina, Lang's claim for conspiracy fails on two grounds independent thereof. First, the Magistrate Judge initially recommended dismissal of the conspiracy claim because Plaintiff did not identify concrete acts that are independent of any other alleged wrongdoing. Rather, Plaintiff based his civil conspiracy claim on the same alleged actions that serve as the basis for his other causes of action.

Lang v. Furman Univ., 2022 WL 816455, at *1 (D.S.C. Mar. 16, 2022); *Doe 9 v. Varsity Brands, LLC*, 679 F. Supp. 3d 464, 494 (D.S.C. 2023) ("But because Plaintiff has not identified "additional acts in furtherance of the conspiracy separate and independent from other wrongful acts alleged in [her] complaint," *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 682 S.E.2d 871, 875 (S.C. App. 2009), *overruled on other grounds by Paradis*, 861 S.E.2d at 780, she has failed to state a valid claim for civil conspiracy.").

Similarly, in the instant case, Plaintiff has failed to plead – and certainly has failed to produce evidence of – any "additional acts" in support of her civil conspiracy claim. In fact, Plaintiff herself cannot distinguish between her allegations supporting her other claims and her allegations supporting her civil conspiracy claim.

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for lawful, non-tortious conduct based on a court or juror's sense of fairness or responsibility.' I do not construe Justice Few's concurrence as 'abolishing' civil conspiracy. Rather, by restoring the traditional elements of a civil conspiracy claim and overruling *Todd*'s so-called special damages pleading requirement, this Court returns civil conspiracy to its historical roots." *Paradis*, 433 S.C. at 578, 861 S.E.2d at 782

Indeed, Plaintiff's own pleading actually requires the court to look to other causes of action to define the nature of her civil conspiracy claim. Her Seventh Cause of Action does not describe a single act taken in furtherance of the alleged civil conspiracy that it is not also alleged in her other causes of action. In fact, this cause of action explicitly incorporates and repeats the allegations supporting her other claims, and adds no new additional acts in support of her civil conspiracy claim.

For instance, in her claims for "Breach of Contract Accompanied by a Fraudulent Act" and "Tortious Interference with Contract," Plaintiff claims that Dr. Witty, Dr. Artis, and Chairman Johnson "well exceeded the scope of their responsibilities" and acted "with personal motivation" and "outside the scope of their proper roles and of their authority." The allegations mirror Plaintiff's allegations in support of her civil conspiracy claim stated as follows:

> 134. As a result of their personal goals related to Plaintiff as described herein, which were unrelated to any legitimate Benedict goals, Defendants Witty, Artis, and Johnson were at times acting outside the scope of their agency with Benedict.
>
> 135. Defendants Witty, Artis, and Johnson had their own independent personal stakes in achieving the unlawful objectives of violating Plaintiff's rights.

Plaintiff herself cannot explain the differences between her allegations supporting her other claims and her civil conspiracy claim:

> Q. I understand. Is there any personal motivation that you've already described, and frankly, you've described this before when you were talking about personal motivations with regard to paragraph 131, without asking you to belabor the point, is there any personal motivation that is different from an independent personal stake that you reference in both 131 and again in 135? Is there any difference?
>
> A. And as I said, I can't answer that.
>
> Q. You're the only person who could answer that. It's your complaint.
>
> MR. COSKREY: I object to the form.

A. I don't have an answer. I cannot answer that at this particular time.

For this reason alone, Plaintiff's Seventh Cause of Action is barred and must be dismissed with prejudice.

C. PLAINTIFF'S SEVENTH CAUSE OF ACTION FAILS BECAUSE SHE HAS NOT, AND CANNOT, PRODUCE ADMISSIBLE EVIDENCE SUPPORTING THE ELEMENTS OF A CIVIL CONSPIRACY CLAIM.

Plaintiff has presented no evidence that any of the Defendants (1) combined with each other (2) to commit an unlawful act or a lawful act by unlawful means (3) together with the commission of an overt act in furtherance of the agreement (4) that proximately resulted in injuries to her. The record is, in fact, devoid of such evidence. For instance, Plaintiff has failed to produce evidence of any "unlawful act" or "lawful act by unlawful means" committed by a combination of the Defendants. Plaintiff has failed to point to any overt act in furtherance of the alleged conspiracy. In short, Plaintiff has produced no evidence, other than her own unsupported and vague assertions, that any of the Defendants engaged in a civil conspiracy to injure her. *See Rice v. M-E-C Co*., 2021 WL 5822645, at *6 (D.S.C. Dec. 8, 2021) ("Plaintiff has failed to demonstrate a genuine issue of material fact as to his civil conspiracy claim because Plaintiff has pointed to no evidence, other than his own unsupported assertions or assumptions, to show that Fisk combined with Lichtenfeld *with the specific intent to commit wrongful conduct and harm Plaintiff as a result*.") (citing to *Paradis*) (emphasis in the original). For this reason alone, Plaintiff's Seventh Cause of Action must be dismissed with prejudice.

CONCLUSION

For the reasons set forth above, I hereby GRANT the Defendants' Motion for Summary Judgment, and Dismiss Plaintiff's claims with prejudice, with each side to bear its own costs and fees.

AND IT IS SO ORDERED.

The Honorable R. Ferrell Cothran, Jr.
Fifth Judicial Circuit

_____, 2025
Richland, South Carolina.

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2019-CP-40-06624
Appellate Case No. 2025-000724

Abigail Rogers .....Appellant,

v.

Benedict College, Roslyn, Clark Artis, Janeen Witty,
and Charles Johnson,.....Respondents.

CERTIFICATE OF APPELLANT'S COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record of Appeal complies to the best of my ability with the April 14, 2014 order from the South Carolina Supreme Court titled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information on Appellate Court Filings."

Harper Hutson

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Attorney for Appellant Abigail Rogers

November 25, 2025
Columbia, South Carolina

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Benedict College, Roslyn Clark Artis, Janeen Witty,
and Charles Johnson, ...Respondents.

CERTIFICATE OF SERVICE

I certify that I have served the Record on Appeal in the above-captioned on the Respondents via electronic mail, on November 5, 2025, adddressed to its attorney(s) of record as follows:

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PROOF OF SERVICE

I certify that I have served the updated Record on Appeal on the Respondents via electronic mail, on November 18, 2025, adddressed to its attorney(s) of record as follows:

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