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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
Court of Common Pleas
Eugene C. Griffith, Jr., Circuit Court Judge

Court of Appeals Case No. 2015-002090

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SC Court of Appeals

William Crenshaw, ...Appellant

v.

Erskine College and David Norman, ... Respondents.

RECORD ON APPEAL VOLUME I OF III

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ABBEVILLE	)	EIGHTH JUDICIAL CIRCUIT
	)	
William Crenshaw,	)	Case No.: 2012-CP-01-158
	)	
Plaintiff,	)	ORDER DENYING DEFENDANTS'
	)	MOTION FOR SUMMARY
vs.	)	JUDGMENT
	)	
Erskine College and David A. Norman,	)	
	)	
Defendants.	)	

TRUE COPY

BY *[Signature]*
ABBEVILLE COUNTY CLERK OF COURT

EMILY Y MCMAHAN
CLERK OF COURT

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STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

This matter came before the Court on Defendants' motion for summary judgment filed on March 26, 2014. The Court heard the matter on June 2, 2014.

Based upon the arguments of counsel and evidence presented at the hearing, the Court makes the following:

FINDINGS OF FACT and CONCLUSIONS OF LAW

1. Defendant Erskine College ("Erskine") hired Plaintiff ("Crenshaw") in 1976 as a professor and granted him tenured status in 1983.
2. On September 24, 2010, a student athlete who had suffered a head injury that morning at lacrosse practice showed symptoms of a closed head injury in Crenshaw's class so he requested the Dean of Student Services call an ambulance for the student.
3. As a result of this incident and its aftermath, the athletics director, an athletic trainer, and the chairman of the Department of Health & Human Performance filed grievances against Crenshaw.
4. The matter went before Erskine's Grievance Committee and then a committee appointed by Erskine's president, Defendant Norman ("Norman").

5. Neither committee made a determination on the matter, which was then returned to Norman.

6. At a meeting on August 6, 2011, Norman suspended Crenshaw from teaching the fall semester because he believed Crenshaw represented a threat to himself or others.

7. At this meeting just prior to the beginning of the fall semester, Norman began termination proceedings against Crenshaw.

8. These proceedings ended with Norman issuing a letter terminating Crenshaw on September 7, 2011.

9. Crenshaw filed a complaint against Erskine and Norman on June 6, 2012, with claims for breach of contract, wrongful termination, and intentional infliction of emotional distress.

10. Crenshaw raised genuine issues of material fact on his breach of contract claim regarding whether Erskine's Faculty Handbook constituted a contract for tenured faculty such as Crenshaw and whether Erskine and Norman breached this contract.

11. Crenshaw raised genuine issues of material fact on his wrongful discharge claim regarding whether Erskine and Norman deprived him of his tenured professorship without proper due process, and whether his tenured professorship created a property right requiring due process.

12. Crenshaw raised genuine issues of material fact on his intentional infliction of emotional distress claim regarding whether Erskine and Norman's behavior was sufficiently outrageous to meet the legal standard for this claim.

13. Crenshaw raised genuine issues of material fact regarding whether Norman may be individually liable for Crenshaw's alleged claims.

WHEREFORE, it is ordered:

Crenshaw has raised genuine issues of material fact regarding his breach of contract, wrongful termination, and intentional infliction of emotional distress claims against Erskine and Norman so that summary judgment is improper, and the claims should be submitted to a jury.



Eugene C. Griffith, Jr.
Presiding Judge, Eighth Judicial Circuit

Newberry, South Carolina

July 17th, 2014

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS
C.A. No. : 2012-CP-01-00158

William Crenshaw,

PLAINTIFFS,

vs.

Erskine College,

DEFENDANTS.

VERDICT FORM

1. Did Dr. William Crenshaw breach his obligation under the agreement?

 YES

✓ NO

2. Did Erskine College breach its obligation under the agreement?

✓ YES

NO

3. Please state the amount of damages, if any, sustained for this breach.

Six hundred thousand Dollars (\$ 600,000.00)

Monroe E. Harris

Signature, Foreperson of the Jury

June 11, 2015
Abbeville, SC

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

William Crenshaw,

Plaintiff,

vs.

Erskine College and David A. Norman,

Defendants.

C. A. No. 2012-CP-01-158

**ORDER GRANTING DEFENDANT ERSKINE COLLEGE'S
MOTION FOR A NEW TRIAL**

This matter is before the Court on Defendant Erskine College's Motion for JNOV and in the Alternative for a New Trial (the "Motion"). The Court considered the evidence at trial, the parties' arguments on the Motion including memoranda of law and oral arguments made at a hearing on the record on July 9, 2015, and applicable law. During the hearing on July 9, 2015, the Court granted Erskine College's Motion for a New Trial, for the reasons stated at the time.

The Court now enters this Order Granting Defendant Erskine College's Motion for a New Trial.

IT IS SO ORDERED.

Dated: 7-22-15

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B. M. McCallahan
ABBEVILLE COUNTY CLERK OF COURT

E. C. Griffith, Jr.
Eugene C. Griffith, Jr.
Eighth Judicial Circuit

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COUNTY OF ABBEVILLE
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Rec'd Aug 27, 2015

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STATE OF SOUTH CAROLINA)
COUNTY OF ABBEVILLE)

IN THE COURT OF COMMON PLEAS
C.A. No.: 2012-CP-01-00158

William Crenshaw,

Plaintiff,

v.

Erskine College and David A. Norman,

Defendants.

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ABBEVILLE COUNTY CLERK OF COURT

**ORDER GRANTING DEFENDANT'S
MOTION FOR JUDGMENT
NOTWITHSTANDING THE VERDICT
AND DENYING PLAINTIFF'S RULE
59(e), SCRCP MOTION**

This matter came before the Court upon Defendant Erskine College's ("Erskine") motion to alter or amend, pursuant to Rule 59(e), SCRCP. In its motion, Erskine sought clarification of whether an oral ruling from the bench denying its motion for judgment notwithstanding the verdict ("JNOV") had been made, and if not, Erskine requested that ruling be made for the purpose of preserving the issue for appeal. Additionally, Plaintiff William Crenshaw moved under Rule 59(e) for the court to alter or amend its order granting a new trial and re-enter the jury's judgment in favor of Crenshaw.

After considering the motions of both parties, I hereby grant Erskine's motion for JNOV and consequently vacate this court's July 22, 2015 order, which granted Erskine's motion for a new trial. *See Hainer v. Am. Med. Int'l, Inc.*, 320 S.C. 316, 320, 465 S.E.2d 112, 115 (Ct. App. 1995) ("In ruling on the denial of motions for directed verdict, j.n.o.v. and a new trial, the evidence and all reasonable inferences from the evidence must be considered in a light most favorable to the non-moving party. We are not at liberty to pass upon the veracity of the witnesses and determine the case according to our view of the weight of the evidence." (internal citations omitted)), *aff'd as modified*, 328 S.C. 128, 492 S.E.2d 103 (1997); *id.* ("If the evidence

scr

as a whole is susceptible of more than one reasonable inference, a jury issue is created and the motions for directed verdict and j.n.o.v. are properly denied. However, if only one reasonable inference can be drawn from the evidence, the motion must be granted." (internal citation omitted)).

The undisputed testimony and other evidence is that Crenshaw never made any request for a hearing, even up through the conclusion of the trial of this matter. In order to allege and recover from a breach of contract claim, Crenshaw was required to satisfy his obligations under the terms of the employment contract and procedures for terminating tenured. "It is an elementary principle that one who seeks to recover damages for the breach of a contract, to which he was a party, must show that the contract has been performed on his part, or at least that he was at the appropriate time able, ready and willing so to perform it." *Parks v. Lyons*, 219 S.C. 40, 48, 64 S.E.2d 123, 126 (1951); see also *Swinton Creek Nursery v. Edisto Farm Credit, ACA*, 334 S.C. 469, 487, 514 S.E.2d 126, 135 (1999) (affirming the trial court's grant of a directed verdict because the plaintiff could not recover on the contract's implied covenant of good faith and fair dealing as he had breached the contract himself (citing *Parks*, 219 S.C. at 48, 64 S.E.2d at 126)); *Alala v. Peachtree Plantations, Inc.*, 292 S.C. 160, 167, 355 S.E.2d 286, 290 (Ct. App. 1987) ("Of course, all parties must be obligated under a contract in order for it to be enforceable.").

As the undisputed evidence in this case is that Crenshaw failed to comply with the terms of the contract and request a hearing, he cannot recover on a breach of contract claim where he himself failed to fulfill the obligations of the contract and consequently breached the contract. Based on this undisputed evidence, Defendants are entitled to judgment and this court accordingly grants Erskine's motion for JNOV. Moreover, Crenshaw's Rule 59(e) motion

seeking to reverse the order of a new trial and reinstate judgment in favor of Crenshaw is hereby denied. By means of this order, the issues raised at trial and in each party's motion to alter or amend are comprehensively addressed.

IT IS SO ORDERED.



Eugene C. Griffith, Jr.
Circuit Court Judge

Abbeville, South Carolina

August 24, 2015

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COUNTY OF ABBEVILLE
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STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF ABBEVILLE)

EIGHTH JUDICIAL CIRCUIT)

William Crenshaw,)

C. A. No.: 2012-CP-01-158)

Plaintiff,)

COMPLAINT)

vs.)

Erskine College and David A. Norman,)

Defendants.)

TRUE COPY
 BY *[Signature]*
 ABBEVILLE COUNTY CLERK OF COURT

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 CLERK OF COURT

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 COUNTY OF ABBEVILLE

The Plaintiff would respectfully allege and show unto the Court that:

PARTIES, JURISDICTION, AND VENUE

1. The Plaintiff is a citizen and resident of Abbeville County, South Carolina.
2. Defendant Erskine College is a domestic corporation incorporated under the laws of the State of South Carolina with its principal place of business in Abbeville County, South Carolina.
3. Upon information and belief, Defendant David A. Norman is a citizen resident of Abbeville County, South Carolina.
4. Venue is proper in Abbeville County, South Carolina.

FACTUAL ALLEGATION

5. Defendant Erskine College hired the Plaintiff in September 1976 as an assistant professor.
6. The Plaintiff continued working his way through Defendant Erskine College's tenure track and became a professor with tenured status in 1983. According to Defendant Erskine College's Faculty Manual, a tenured professor is "to be terminated only for adequate cause, upon the discontinuation of a program or department, or because of bona fide financial

distress of the College.” The Faculty Manual further specifies that a tenured professor can be terminated for “personal conduct which violates the moral standards which have always been a part of the Erskine College community, or which demonstrated incompetence or dishonesty in teaching or research, substantial and manifest neglect of duties, and breach of appointment.” (pp. 34-5.)

7. The Plaintiff was named the Dorn-Reeder Professor of English in 1984.

8. On or about June 2010, Defendant Erskine College hired Defendant Norman as the college’s president. At all times relevant to this Complaint, Defendant Norman was acting within the scope and course of his employment with Defendant Erskine College and thus bound Defendant Erskine College with his actions as its highest-ranking employee.

9. Defendant Erskine College’s Faculty Manual states that “academic freedom means freedom of thought and expression within the institution.” This right explicitly includes the right to criticize. The Faculty Manual states “academic freedom is necessary, not merely for the good of the faculty member or of the institution, but also for the common good.”

10. On the morning of September 24, 2011, a student in the Plaintiff’s English class who had slipped and fallen in an athletic team practice that morning became disoriented and lethargic. At that time, the Plaintiff called Dr. Robyn Agnew, Vice President for Student Services, to inform her of the situation, and she then called Abbeville County EMS to request an ambulance. The Plaintiff is a former paramedic with eighteen (18) years of experience in that field.

11. Defendant Erskine College’s Head Athletic Trainer, Adam Weyer, wrote a letter to Tracy Spires, Director of Institutional Research at Defendant Erskine College, complaining against the Plaintiff because Dr. Crenshaw had called EMS and questioned the Athletic Training

Department's procedures and protocols. None of Mr. Weyer's complaints dealt with the medical treatment the Plaintiff secured for the athlete. Instead, Mr. Weyer complained of the criticism the Plaintiff made of Mr. Weyer's department's protocol and that the Plaintiff's actions cost Defendant Erskine College time and money. In actuality, Dr. Agnew made the call to EMS rather than the Plaintiff.

12. Upon information and belief, Defendant Erskine College's Athletic Director, Mark Peeler, and Chair of the Department of Health and Human Performance, Gid Alston, sent similar complaint letters to Ms. Spires against the Plaintiff. These complaints followed a series of e-mails exchanged between the Plaintiff and Mr. Weyer, in which the Plaintiff questioned the Athletic Training Department's policy for dealing with head injuries and stated that such policies should undergo scrutiny. The Plaintiff requested a copy of the athletic training protocol five (5) times that Mr. Weyer claimed his department followed and that the Plaintiff breached. Mr. Weyer never produced said policy.

13. Upon information and belief, Ms. Spires found no discrimination in the Plaintiff's actions and forwarded the complaints to Bradley Christie, Defendant Erskine College's Interim Vice President and Dean.

14. Mr. Alston and Mr. Peeler wrote a letter to Dr. Howard Thomas, Chair of the Grievance Committee, on October 1, 2010, filing a complaint against the Plaintiff. Their letter complained of the Plaintiff's actions in securing proper medical treatment for the injured student on September 24. The letter also complained of the Plaintiff's criticism of policies and actions of the Athletic Training Department and accused the Plaintiff of slandering members of the Athletic Training Department without quoting any slanderous comments made by the Plaintiff.

On October 11, Mr. Alston wrote a similar letter to Dr. Thomas filing a complaint against the Plaintiff.

15. Mr. Christie referred Mr. Weyer, Mr. Peeler, and Mr. Alston to Defendant Erskine College's Grievance Committee. The Faculty Manual states that one of the Grievance Committee's duties is "[t]o act as a mediator in cases where misunderstanding or unjust criticism may adversely affect either the professional reputation of a faculty member or the academic standing of the institution."

16. Upon information and belief, the Grievance Committee was given copies of the allegations against the Plaintiff prior to the Plaintiff appearing before it or the Plaintiff being given copies of the allegations made against him.

17. On October 14, 2010, the Grievance Committee met to discuss the complaints. At that time, the Grievance Committee consisted of the Plaintiff, Brooks Kuykendall, George Schwab, Dale Smith, John Showalter, Howard Thomas, and Joan Little. The Plaintiff recused himself because of his conflict of interest, and Ms. Little recused herself because she did not think the situation could or should "be submitted for mediation by the Grievance Committee." Dr. Showalter stated that it was frustrating to have no institutional structure or instruction for how to accomplish the committee's task.

18. The Grievance Committee passed a resolution to return the filed complaints to the academic office because "the involvement of external legal counsel takes this above a peer negotiation that we would be able to attempt, and thus exceeds our role."

19. On October 25, 2010, Mr. Christie wrote a letter to the Plaintiff, Mr. Alston, Mr. Peeler, and Mr. Meyer that stated the next step in the process was to forward the case to Defendant Erskine College's President's Office for adjudication. Mr. Christie offered to hold

another mediation session individually between the involved parties as long as there were no electronic recordings, no lawyers, and no other mediators. The Plaintiff agreed to this mediation offer, but the complainants chose not to go forward with this mediation.

20. Mr. Christie then forwarded the matter to Defendant Norman for adjudication on November 2, 2010.

21. On November 8, 2010, Defendant Norman appointed a committee to determine the extent of culpability in the situation and to develop a plan for handling the case. The committee consisted of Dr. Chrystal Bruce, Dr. Robert Elsner, Dr. David Grier, Dr. Al Mina, Dr. Brad Parker, and Dr. Arthur Sparks. Upon information and belief, no such committee had ever existed at Defendant Erskine College, and neither the Faculty Handbook nor any other college material laid the procedure or mission for any such committee.

22. Defendant Norman charged this committee with rating the Plaintiff's performance on the following issues with a multiple choice response:

- a. Handling of an emergency situation involving an injured student athlete displaying abnormal behavior in the classroom;
- b. Treatment of emergency personnel including student's emergency contact;
- c. Professionalism and collegiality towards other faculty at the point of crisis;
- d. Professionalism and collegiality in the aftermath of the crisis;
- e. Respect for the grievance committee and evidence of respect for faculty governance and the policies and procedures of Erskine College and Seminary;

23. On December 9, 2010, Dr. Mina sent the Plaintiff an e-mail stating that the committee would merely gather information at its hearing on December 15, 2010, and did not possess any disciplinary authority.

24. Defendant Norman's committee met on December 15, 2010, and heard from and questioned the Plaintiff. The committee, however, did not have any policies or procedures in place to govern this hearing.

25. Prior to this hearing, Defendant Norman submitted approximately fifty (50) pages of material to the committee that did not directly pertain to the complaints made against the Plaintiff yet were apparently relied upon by the committee during this hearing.

26. During the hearing, committee members stated they were only gathering information and not adjudicating the matter despite their charge from the president to decide certain matters as laid out in Paragraph 20. Dr. Mina stated the committee was merely giving an opinion and that Defendant Norman "can do as he sees fit."

27. During the hearing, the committee referred to and relied upon documents and information that had been submitted to it by anonymous sources. The committee refused to reveal the documents, information, or sources to the Plaintiff.

28. The Plaintiff complained to the committee during the hearing because he could not see the evidence against him, he was not questioned about the specific charges he was trying to defend against, and no procedure was in place to govern the hearing and the committee's work.

29. At the conclusion of the hearing, Dr. Mina stated that the committee was suspending its actions because of "a significant difference of opinion into ... the function of this committee and its purpose and its objective."

30. On January 4, 2011, the members of the committee sent a letter to Defendant Norman that stated they were turning the matter back over to the president's office because they believed that they could not do any more to help resolve the situation.

31. On August 6, 2011, the Plaintiff met with his students for his fall courses and then with Defendant Norman, who informed the Plaintiff verbally that the Plaintiff would be terminated with cause if he didn't follow these steps:

- a. Apologize to the original complainants from the athletic department, who had to communicate to Defendant Norman in writing that they accepted the Plaintiff's apology;
- b. Apologize to Defendant Erskine College's faculty during a faculty meeting. The faculty then had to indicate by a two-thirds (2/3) vote that it accepted the Plaintiff's apology.
- c. Apologize to the "Erskine community," which Defendant Norman defined as people who read online comments made by the Plaintiff.
- d. Take a break from teaching.
- e. Engage in no further public discussions of Defendant Erskine College or her people or policies in a manner that could be construed as negative.

32. Defendant Norman stated that if the Plaintiff broke any of the steps listed in Paragraph 28, it would be grounds for immediate dismissal. Defendant Norman also told the Plaintiff at the meeting that he would not be allowed to teach any courses that fall.

33. On August 11, 2011, Defendant Norman notified the Plaintiff that he would "not be teaching for Erskine this fall," via e-mail.

34. On August 12, 2011, Defendant Norman sent the Plaintiff an e-mail with an attached letter that stated Defendant Norman had decided to suspend the Plaintiff from his position throughout the proceedings, with pay. Defendant Norman also escalated the proceedings to the Step 2 formal proceedings at this time despite Step 1 preliminary proceedings

only beginning on August 6, and the Plaintiff being under the impression they were still in Step 1 proceedings as he had until August 30 to decide whether to accept a settlement proposal from Defendant Norman. (The process for terminating tenured professors is described below in Paragraph 44.)

35. In this letter, Defendant Norman stated that he had set a faculty hearing for August 29 “unless you waive the right to a hearing.” He then gave the Plaintiff until August 15 to decide whether to go through with the hearing. The Plaintiff never affirmatively waived his right to a hearing.

36. Defendant Norman’s reasons for terminating the Plaintiff as outlined in the August 12 letter were broken into three categories:

- a. The First Category was based upon the events of September 24, 2010, as outlined above. Defendant Norman’s complaints are based on his belief the Plaintiff should not have gotten involved with the medical treatment of his student once EMS was called.
- b. The Second Category was based on the failure of the Special Faculty Grievance Committee to resolve the situation. Defendant Norman accused the Plaintiff of bullying the members of the faculty and creating a hostile work environment that impaired the Plaintiff’s “fulfillment of institutional responsibilities.”
- c. The Third Category was based on criticisms the Plaintiff leveled at Defendant Norman and Defendant Erskine College on a private computer blog. Defendant Norman said it was a terminable offense for the Plaintiff to post

that people were encouraged to quit donating to Defendant Erskine College and sending their children to school there.

37. On August 23, 2011, Defendant Norman wrote to the Plaintiff that the school suspended him because "immediate harm to [the Plaintiff] or others is threatened by his continuance." The Plaintiff questioned Defendant Norman as to what harm the Plaintiff's presence would cause, and Defendant Norman referred to the August 12 letter and specifically stated that the Plaintiff could not remain on the active faculty and "encourage people to quit donating to Erskine and to quit sending their kids to Erskine."

38. On September 7, 2011, Defendant Norman wrote a letter to the Plaintiff notifying him that Defendant Norman was terminating him from Defendant Erskine College effective at the end of the day because of the Plaintiff's "failure to make a timely demand for a hearing before the faculty committee in accordance with [the August 12 letter]. Defendant Norman's letter stated that the grounds for termination were set forth in the August 12 letter.

39. On September 8, 2011, Gregory W. Haselden, Defendant Erskine College's vice president for finance and operations, notified the Plaintiff that he could clean out his office by September 16, 2011, but only on the weekend or after 5 p.m. and by giving Mr. Haselden advanced notice. The Plaintiff had material he had accumulated during thirty-five (35) years of teaching at Defendant Erskine College.

40. On September 12, 2011, the Faculty Executive Committee ("FEC") issued a statement to the voting faculty, in which it found that the Plaintiff's procedural rights had not been violated during his termination. This FEC reached its decision without interviewing the Plaintiff. The FEC consisted of Brooks Kuykendall, Naoma Nelson, Brad Parker, Steve Sniteman, and Gid Alston, who was one of the original complainants against the Plaintiff.

**For a First Cause of Action against Defendant Norman and Defendant Erskine College
(Wrongful Discharge)**

41. The Plaintiff reiterates and realleges Paragraphs 1-40 as though set forth herein verbatim.

42. Defendant Erskine College's Faculty Handbook explicitly grants tenured faculty "the right of due process concerning their employment status." This provision is consistent with South Carolina law, which recognizes a tenured professor's property right in that position that is protected by due process.

43. Defendant Erskine College's Faculty Handbook states that tenured faculty can be terminated for "personal conduct which substantially impairs the individual's fulfillment of institutional responsibilities, personal conduct which violates the moral standards which have always been a part of the Erskine College community, or which demonstrated incompetence or dishonesty in teaching or research, substantial and manifest neglect of duties, and breach of appointment." The Faculty Handbook further specifies that each faculty member "is required to support the College Mission Statement and to contribute to our mission to provide 'an excellent liberal arts education in a Christ-centered environment.' Any professor, tenured or non-tenured, who behaves in a manner that is not consistent with our Mission Statement may be subject to disciplinary action up to and including dismissal."

44. Defendant Erskine College's Faculty Handbook requires the college to follow a five-part process when terminating a tenured professor:

- a. Preliminary Proceedings require the President, in consultation with the appropriate academic vice president, to seek to resolve the matter with the tenured faculty member in private. If the matter is not resolved by mutual consent, the President will produce a statement with the grounds for dismissal.

- b. Formal Proceedings require the President to inform the tenured professor in writing of the termination and of the terminated professor's right to a hearing before a faculty committee. The President must also inform the terminated professor of a time and place for the hearing, which must allow the terminated professor adequate time to prepare a defense. The terminated professor must then reply in writing to the President as to whether a hearing is requested not less than two (2) weeks prior to the hearing.
- c. The Hearing Committee consists of seven (7) faculty members not previously concerned with the case. The Hearing Committee holds a hearing in which the President presents its case for termination, and the terminated professor presents any defenses. The Hearing Committee notifies the President and terminated professor simultaneously in writing of its decision.
- d. Any decision by the Hearing Committee is appealable to the Board of Trustees.
- e. During the termination proceedings, the terminated professor is only to be suspended from his position "if immediate harm to himself or others is threatened by his continuance."

45. Defendant Erskine, through its president, Defendant Norman, did not follow the due process required by the Faculty Handbook or law in terminating the Plaintiff in the following particulars:

- a. Defendant Norman rushed the Plaintiff through Preliminary Proceedings by initially giving the Plaintiff twenty-one (21) days to respond to an offer and then escalating the process to Formal Proceedings just six (6) days later.

- b. Defendant Norman did not properly handle the Formal Proceedings as he gave the Plaintiff only three (3) days, including a weekend during which the Plaintiff was unable to meet with legal counsel, to decide whether to go through with a hearing and then canceled the hearing, which had already been set, despite the Plaintiff not waiving this hearing.
- c. Defendant Norman had appointed so many faculty members to handle the case in various capacities on the committees described above that it would have been impossible to form a committee of seven (7) faculty members not previously concerned with the case. This point was proved by the FEC, which served in a capacity similar to the Hearing Committee. The FEC included Brooks Kuykendall, who had been on the Grievance Committee; Brad Parker, who had been on the special committee formed by Defendant Norman; and Gid Alston, who was one of the original complainants against the Plaintiff. The biased FEC sided with the Defendants in determining that the Plaintiff's procedural rights had not been violated by the Defendants in his termination.
- d. The Defendants violated the termination process by Defendant Norman suspending the Plaintiff based on the speculative fear that he was or would encourage people to quit donating to Erskine and to quit sending their kids to Erskine. Even if Defendant Norman's fear was true, it does not rise to the level of immediate harm to himself or others as required to suspend a professor who is in the termination process.

46. Had the Defendants followed the proper procedure, the Plaintiff would not have been terminated because the Plaintiff did not violate any rules or regulations promulgated by Defendant Erskine College.

47. As a direct and proximate result of the Defendants' actions, the Plaintiff was wrongfully deprived of his tenured professorship without the due process he is guaranteed by S.C. law and Defendant Erskine College's Faculty Handbook. The Plaintiff is entitled to recover all damages sustained because of the Defendants' actions.

**For a Second Cause of Action against Defendant Norman and Defendant Erskine College
(Breach of Contract)**

48. The Plaintiff reiterates and realleges Paragraphs 1-47 as though set forth herein verbatim.

49. The Plaintiff and Defendant Erskine College had an employment contract that guaranteed the Plaintiff "the right of due process concerning [his] employment status" at a minimum based on his status as a tenured professor employed by Defendant Erskine College.

50. While in the past, the Plaintiff signed an annual contract with Defendant Erskine College, this formal practice terminated some years ago. The relationship thus became an ongoing contract between the Plaintiff and Defendant Erskine College governed by the College Faculty Handbook. No contract was ever terminated prior to the events complained of in this Complaint, and the Plaintiff received pay increases and raises based upon his excellent performance. He was twice named Professor of the Year and achieved tenured status, which was designed to protect him from the heavy-handed practices of the Defendants complained of in the Complaint. The parties had an ongoing contractual relationship that Defendant breached by not following the procedure laid out in Paragraph 51 for terminating a tenured professor.

51. Defendant Erskine College agreed in its College Faculty Handbook that it must comply with the following five-part process before terminating a tenured professor such as the Plaintiff:

- a. Preliminary Proceedings require the President, in consultation with the appropriate academic vice president, to seek to resolve the matter with the tenured faculty member in private. If the matter is not resolved by mutual consent, the President will produce a statement with the grounds for dismissal.
- b. Formal Proceedings require the President to inform the tenured professor in writing of the termination and of the terminated professor's right to a hearing before a faculty committee. The President must also inform the terminated professor of a time and place for the hearing, which must allow the terminated professor adequate time to prepare a defense. The terminated professor must then reply in writing to the President as to whether a hearing is requested not less than two (2) weeks prior to the hearing.
- c. The Hearing Committee consists of seven (7) faculty members not previously concerned with the case. The Hearing Committee holds a hearing in which the President presents its case for termination, and the terminated professor presents any defenses. The Hearing Committee notifies the President and terminated professor simultaneously in writing of its decision.
- d. Any decision by the Hearing Committee is appealable to the Board of Trustees.

- e. During the termination proceedings, the terminated professor is only to be suspended from his position "if immediate harm to himself or others is threatened by his continuance."

52. The Defendants breached this agreement by terminating the Plaintiff without complying with the five-part process required the employment contract with the Plaintiff in the following particulars:

- a. Defendant Norman rushed the Plaintiff through Preliminary Proceedings by initially giving the Plaintiff twenty-one (21) days to respond to an offer and then escalating the process to Formal Proceedings just six (6) days later;
- b. Defendant Norman did not properly handle the Formal Proceedings as he gave the Plaintiff only three (3) days to decide whether to go through with a hearing and canceled the hearing, which had already been set, despite the Plaintiff not waiving this hearing.
- c. Defendant Norman had appointed so many faculty members to handle the case in various capacities on the committees described above that it would have been impossible to form a committee of seven (7) faculty members not previously concerned with the case. This point was proved by the FEC, which served in a capacity similar to the Hearing Committee. The FEC included Brooks Kuykendall, who had been on the Grievance Committee; Brad Parker, who had been on the special committee formed by Defendant Norman; and ~~Gid Alston, who was one of the original complainants against the Plaintiff.~~

The biased FEC sided with the Defendants in determining that the Plaintiff's procedural rights had not been violated by the Defendants in his termination.

d. The Defendants violated the termination process by Defendant Norman suspending the Plaintiff based on the speculative fear that he was or would encourage people to quit donating to Erskine and to quit sending their kids to Erskine. Even if Defendant Norman's fear was true, it does not rise to the level of immediate harm to himself or others as required to suspend a professor who is in the termination process.

53. The Plaintiff did not breach any terms of his employment contract with Defendant Erskine College. The Plaintiff never demonstrated "personal conduct which substantially impairs the individual's fulfillment of institutional responsibilities, personal conduct which violates the moral standards which have always been a part of the Erskine College community, or which demonstrated incompetence or dishonesty in teaching or research, substantial and manifest neglect of duties, and breach of appointment." Therefore, no grounds existed to terminate the Plaintiff had the Defendants complied with the process for termination required by the employment contract.

54. The Plaintiff was wrongfully deprived of his tenured professorship as a direct and foreseeable result of the Defendants' breach of the employment contract. The Plaintiff is entitled to recover all damages sustained because of the Defendant's breach of the parties' agreement.

**For a Third Cause of Action against Defendant Norman and Defendant Erskine College
(Intentional Infliction of Emotional Distress)**

55. The Plaintiff reiterates and realleges Paragraphs 1-54 as though set forth herein verbatim.

56. The Defendants intentionally or recklessly inflicted severe emotional distress and were certain, or substantially certain, that such result would occur when Defendant Norman

allowed him to meet with his students for the upcoming semester on August 6, 2011, despite knowing that he would initiate termination proceedings and suspend the Plaintiff later that day.

57. The Defendants' conduct was designed to embarrass the Plaintiff and make him look and feel as if he had abandoned his students, which is so extreme and outrageous that it exceeds all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community.

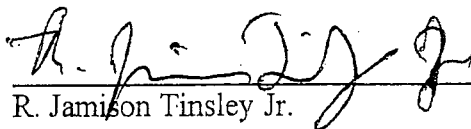
58. These actions by the Defendants caused the Plaintiff severe emotional distress such that no reasonable man could be expected to endure it.

PRAYER

WHEREFORE, the Plaintiff prays for the following relief:

1. Actual, consequential, and punitive damages in an amount to be determined by a jury;
2. Reinstatement as the Dorn-Reeder Professor of English at Defendant Erskine College;
3. Back pay from the date he was terminated from his tenured professorship at Defendant Erskine College in an amount to be determined by a jury;
4. Front pay for the amount of time the Plaintiff would reasonably be expected to be employed as a tenured professor with Defendant Erskine College, but for the Defendants' tortious behavior in an amount to be determined by a jury;
5. Any and all retirement pay and benefits to which the Plaintiff is entitled including for past services rendered; benefits he would have accrued since the time of his wrongful discharge; and any annuitized future benefits, related or unrelated, all inclusive from this date forward;
6. Attorneys' fees and costs;
7. Such other and further relief as the Court finds just, equitable, and proper.

TINSLEY & TINSLEY, P.C.
Attorney for Plaintiff

A handwritten signature in black ink, appearing to read "R. Jamison Tinsley Jr.", is written over a horizontal line.

R. Jamison Tinsley Jr.

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Greenwood, S.C.

June 6, 2012

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF ABBEVILLE	)	EIGHTH JUDICIAL CIRCUIT
William Crenshaw,	)	
	)	
Plaintiff,	)	
	)	C. A. No. 2012-CP-01-158
v.	)	
	)	
Erskine College and David A. Norman,	)	
	)	
Defendants.	)	
	)	

ANSWER TO COMPLAINT

COMES NOW Erskine College ("Erskine") and David A. Norman ("Dr. Norman") (collectively, "Defendants") and answer Plaintiff's ("Plaintiff" or "Crenshaw") Complaint as follows:

DEFENSES

Without assuming any burden of proof that would otherwise rest with Plaintiff, Defendants assert the following separate defenses:

FIRST DEFENSE

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Plaintiff's claim for wrongful discharge against Dr. Norman fails to state a claim upon which relief may be granted, and is barred, because Dr. Norman was not Plaintiff's employer and cannot, as a matter of law, be liable for the alleged tort of wrongful discharge in violation of public policy.

THIRD DEFENSE

Plaintiff's Complaint fails to state a claim for the tort of wrongful discharge under South Carolina law, because, among other reasons, Plaintiff's termination was not a violation of public

policy. Plaintiff does not allege that Defendants required him to violate a law or that Plaintiff's termination was, itself, a violation of a criminal law. Because Erskine is a private institution, Plaintiff had no property right in his employment with Erskine that would entitle him to substantive or procedural due process under Art. 1, § 3 of the South Carolina Constitution; hence, there was no constitutional due process violation.

FOURTH DEFENSE

Plaintiff's claim for breach of contract against Dr. Norman fails to state a claim upon which relief may be granted, and is barred, because Dr. Norman was not a party (nor is he alleged to be a party) to the contract that is alleged by Plaintiff.

FIFTH DEFENSE

Plaintiff's breach of contract claims are barred because: (1) Plaintiff's employment was terminable at will; (2) Plaintiff had no employment contract; and (3) the policies set forth in Erskine's *Employee Resource Handbook* ("Handbook") and *The College Faculty Manual* ("Faculty Manual") did not create, and do not constitute, a contract of employment with Plaintiff.

SIXTH DEFENSE

Plaintiff's wrongful discharge and breach of contract claims are barred, or fail, because, if Defendants were contractually bound to comply with the policies and procedures outlined in Erskine's Faculty Manual when terminating the Plaintiff's employment, which Defendants do not admit, Defendants had "adequate cause" to terminate the Plaintiff's employment and complied with the "procedures" for terminating a tenured faculty member which are outlined in the Faculty Manual.

SEVENTH DEFENSE

Plaintiff's wrongful discharge and breach of contract claims are barred, or fail, because Plaintiff failed to comply with the requirements of Erskine's policies. In particular, Plaintiff

violated the policy by engaging in personal conduct which substantially impaired his fulfillment of institutional responsibilities and engaging in conduct demonstrating an abject failure to contribute to Erskine's mission, as fully explained to the Plaintiff by Dr. Norman in his letter dated August 12, 2011.

EIGHTH DEFENSE

Plaintiff's Complaint fails to state a claim of intentional infliction of emotional distress because the conduct alleged by Defendants was not, as a matter of law, "extreme" or "outrageous."

NINTH DEFENSE

Plaintiff's claim for intentional infliction of emotional distress is barred, in whole or in part, under the exclusive remedy provision of South Carolina's workers' compensation law.

TENTH DEFENSE

Plaintiff's claims are barred, in whole or in part, by the doctrines of laches, waiver, estoppel, and/or unclean hands because of Plaintiff's own misconduct and his failure to comply with Erskine's lawful policies.

ELEVENTH DEFENSE

Defendants reserve the right to assert the after-acquired evidence defense should it discover evidence during the course of this action that would otherwise justify any action taken with respect to Plaintiff, including termination of employment, or any other adverse employment action. The discovery of any such evidence would bar any recovery of damages by Plaintiff.

TWELFTH DEFENSE

Defendants are entitled to all of the protections of the South Carolina Solicitation of Charitable Funds Act, S.C. Code Ann. §§ 33-56-10, *et seq.*, and Defendants specifically plead the Act as an affirmative defense to Plaintiff's claims for punitive damages.

THIRTEENTH DEFENSE

Some or all of Plaintiff's alleged damages are limited by the statutory caps in The Fairness in Civil Justice Act, to the extent applicable.

FOURTEENTH DEFENSE

Defendants reserve the right to amend their answer and to assert additional affirmative defenses as facts are developed in the course of additional investigation and discovery.

FIFTEENTH DEFENSE

Any allegations or prayers for relief set forth in Plaintiff's Complaint that are not expressly admitted, denied, or otherwise addressed are denied.

RESPONSE TO SPECIFIC ALLEGATIONS**DEFENSES TO PARTIES, JURISDICTION, AND VENUE**

1. Since Defendants are without sufficient information to form a belief, the allegations of Paragraph 1 are denied.
2. The allegations of paragraph 2 are admitted, with the qualification that Erskine College is a domestic, non-profit corporation incorporated under the laws of the State of South Carolina.

3. The allegations of paragraph 3 are admitted.
4. The allegations of paragraph 4 are admitted.

DEFENSES TO FACTUAL ALLEGATIONS

5. The allegations of paragraph 5 are admitted.
6. The allegations of paragraph 6 are denied, with the qualification that Plaintiff was appointed to the tenured faculty on May 17, 1984, and with the further qualification that Erskine College's Faculty Manual, revised August 31, 2009, and in effect at the time of Plaintiff's termination, speaks for itself, and is attached, in relevant part, as Exhibit A and incorporated by

reference.

7. The allegations of paragraph 7 are denied, with the qualification that Plaintiff was named the Dorn-Reeder Professor of English in December 1987.

8. Defendants admit that in or about June 2010, Erskine College hired Dr. Norman as the College's President, its highest-ranking employee, and that, at all times relevant to this Complaint, Dr. Norman was acting within the course and scope of his employment with Erskine College. The remaining allegations of paragraph 8 are denied, with the qualification that Dr. Norman, as Erskine's President, has limited authority to bind Erskine in certain contractual matters. Defendants expressly deny that Dr. Norman "bound Defendant Erskine College," either in contract or in tort, "with his actions" toward Plaintiff, including, but not limited to, any and all of the actions Dr. Norman is alleged to have taken concerning Plaintiff.

9. The allegations of paragraph 9 are denied, with the qualification that the Faculty Manual, revised August 31, 2009, and in effect at the time of Plaintiff's termination, speaks for itself, and is attached, in relevant part, as Exhibit B and incorporated by reference.

10. The allegations of paragraph 10 are admitted, with the qualification that the incident in question occurred on the morning of September 24, 2010, and with the further qualification that, upon information and belief, Plaintiff Crenshaw, not Dr. Agnew, called the Abbeville County EMS, and with the further qualification that since Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations regarding Plaintiff's experience as a former paramedic, those allegations are denied.

11. The allegations of paragraph 11 are denied, with the qualification that Adam Weyer, Head Athletic Trainer, and Mark Peeler, Director of Athletics, together submitted a letter to Tracy Spires, Director of Institutional Research, to file a grievance on behalf of their departments against Plaintiff, and that the letter speaks for itself, and is attached as Exhibit C and

incorporated by reference.

12. The allegations of paragraph 12 are denied, with the qualification that Adam Weyer, Head Athletic Trainer, and Mark Peeler, Director of Athletics, together submitted a letter to Tracy Spires, Director of Institutional Research, to file a grievance on behalf of their departments against Plaintiff, and that the letter speaks for itself and is attached as Exhibit C and incorporated by reference; and with the further qualification that W. Gid Alston, Chair of the Department of Health and Human Performance, also submitted a letter to Ms. Spires to file a grievance on behalf of his department against Plaintiff, and that the letter speaks for itself and is attached as Exhibit D and incorporated by reference; and with the further qualification that the e-mails exchanged between Plaintiff and Adam Weyer speak for themselves, and are attached as Exhibit E and are incorporated by reference herein.

13. The allegations of paragraph 13 are admitted, with the qualification that Ms. Spires found no evidence of sexual harassment, sexual assault, or discrimination in the grievances filed by Prof. Weyer, Mr. Peeler, and Dr. Alston and forwarded the grievances to Bradley Christie, Interim Vice President and Dean, pursuant to the section of Erskine's *Employee Resource Manual* entitled "Grievances and Appeals" (section E-7).

14. Since Defendants lack sufficient information at this time to form a belief, the allegations of paragraph 14 are denied, but upon information and belief, the letters to Ms. Tracy Spires signed by Prof. Weyer and Mr. Peeler and the separate letter to Ms. Spires signed by Dr. Alston were forwarded to Dr. Thomas.

15. The allegations of paragraph 15 are admitted, with the qualification that Dr. Christie referred the grievances filed by Prof. Weyer/Mr. Peeler and Dr. Alston to Erskine's Grievance Committee, and with the further qualification that the Faculty Manual, revised August 31, 2009, and in effect at the time of Plaintiff's termination, speaks for itself and is attached, in

relevant part, as Exhibit F and incorporated by reference.

16. The allegations of paragraph 16 are denied, with the qualification that both Plaintiff and the members of the Grievance Committee received copies of the grievances filed by Prof. Weyer/Mr. Peeler and Dr. Alston in their faculty mailboxes in Belk Hall on or about October 10, 2010, several days before Plaintiff appeared before the committee.

17. The allegations of paragraph 17 are admitted, upon information and belief.

18. The allegations of paragraph 18 are denied, with the qualification that the minutes of the October 14, 2010, committee meeting, which speak for themselves, and are incorporated by reference, show that the committee passed a motion to return to the academic office the grievances against Plaintiff filed by Prof. Weyer, Mr. Peeler, and Dr. Alston because the committee was unable to formulate a workable mediation plan.

19. The allegations of paragraph 19 are admitted, upon information and belief, with the qualification that Dr. Christie's letter speaks for itself, and is incorporated by reference; and with the further qualification that since Defendants lack sufficient information to form a belief as to the truth of the allegations regarding the response of Plaintiff, Prof. Weyer, Mr. Peeler, and Dr. Alston to Dr. Christie's offer to mediate, those allegations are denied.

20. The allegations of paragraph 20 are admitted.

21. Defendants admit that on November 8, 2010, Dr. Norman appointed a committee which consisted of Dr. Chrystal Bruce, Dr. Robert Elsner, Dr. David Grier, Dr. Al Mina, Dr. Brad Parker, and Dr. Arthur Sparks, with the qualification that Dr. Norman communicated by letter to the members of the committee the purpose and assignment of the committee, and that the letter speaks for itself and is incorporated by reference. Each and every remaining allegation of paragraph 21 is denied.

22. The allegations of paragraph 22 are admitted, with the qualification that Dr.

Norman's letter speaks for itself, and is incorporated by reference; and with the further qualification that Dr. Norman directed this committee to "determine the extent of [Plaintiff's] offense in each category," including Plaintiff's "handling of an emergency situation involving an injured student athlete displaying abnormal behavior in the classroom," "treatment of emergency personnel including student's emergency contact," "professionalism and collegiality towards other faculty at the point of crisis," "professionalism and collegiality in the aftermath of the crisis," and "respect for the grievance committee and evidence of respect for faculty governance and the policies and procedures of Erskine College and Seminary." Dr. Norman asked the committee to determine, collectively, whether Plaintiff's conduct in each category was "commendable behavior," "compliant behavior," "mishandled the situation," "grossly mishandled the situation," or "handled the situation in a way that severely limits Erskine's ability to carry out its mission."

23. Since Defendants lack sufficient information to form a belief, the allegations of paragraph 23 are denied.

24. Defendants admit that the committee appointed by Dr. Norman met on December 15, 2010, and heard from and questioned the Plaintiff. The remaining allegations of paragraph 24 are denied.

25. The allegations of paragraph 25 are denied, with the qualification that Dr. Norman supplied to the committee, prior to the hearing, documents relevant to the various grievances against Plaintiff and to the committee's task.

26. The allegations of paragraph 26 are denied, with the qualification that the transcription of the committee's meeting speaks for itself, and is incorporated by reference.

27. The allegations of paragraph 27 are denied, with the qualification that the transcription of the committee's meeting speaks for itself, and is incorporated by reference.

28. Defendants admit that during the committee meeting/hearing, Plaintiff complained

to the committee that: (1) he had not had the opportunity to see all of the evidence against him, (2) he believed he was not being questioned about the specific "charges" he was trying to "defend" against, and (3) he believed that no procedure was in place to govern the hearing and the committee's work. The remaining allegations of paragraph 28 are denied.

29. The allegations of paragraph 29 are admitted, with the qualification that the transcription of the committee's meeting speaks for itself, and is incorporated by reference.

30. The allegations of paragraph 30 are admitted, with the qualification that the committee's letter to Dr. Norman speaks for itself, and is incorporated by reference.

31. The allegations of paragraph 31 are admitted, with the qualification that the conversation between Plaintiff and Dr. Norman on August 6, 2011, was recorded, the recording speaks for itself, and is incorporated by reference.

32. The allegations of paragraph 32 are denied, with the qualification that Dr. Norman informed Plaintiff at the meeting in question that he would not be allowed to teach any courses that fall; and with the further qualification that the conversation between Plaintiff and Dr. Norman on August 6, 2011, was recorded, the recording speaks for itself, and is incorporated by reference.

33. The allegations of paragraph 33 are denied, with the qualification that Dr. Norman notified Plaintiff in person on August 6, 2011, that he would not be allowed to teach any courses at Erskine during the fall term.

34. Defendants admit that on August 12, 2011, Dr. Norman sent correspondence to Plaintiff stating that "the attempt to privately resolve the question of his continued employment by mutual consent" had not been successful and that "We must now proceed to the second phase of the formal process afforded to you as a tenured faculty member who is being terminated for cause." Defendants further admit that Dr. Norman suspended Plaintiff from his position throughout the termination proceedings, effective immediately, with pay. Defendants deny the

remaining allegations of paragraph 34.

35. The allegations of paragraph 35 are denied, with the qualification that in his letter, Dr. Norman informed Plaintiff of the following: (1) that he had the right to a full hearing before a faculty committee; (2) that, unless he waived his right to the hearing, "it shall be held on August 29th at 9 AM in the Chestnut Room"; (3) that the scheduled hearing was "subject to adjustment upon reasonable request"; and (4) that "As also stated in the handbook, you will reply to this letter in writing, stating whether this hearing is desired. This reply shall not be less than two weeks before the date set for the hearing."; and with the further qualification that Plaintiff failed to comply with the stated procedure and failed to reply to Dr. Norman's letter by stating whether he desired a hearing.

36. The allegations of paragraph 36, including subparagraphs (a) – (c), are denied, with the qualification that, in his letter outlining the reasons for terminating Plaintiff, Dr. Norman organized his discussion of the "allegations" against Plaintiff into three categories; and with the further qualification that Dr. Norman's letter of August 12, 2011, speaks for itself and is attached as Exhibit G and incorporated by reference.

37. The allegations of paragraph 37 are admitted, upon information and belief, with the qualification that Dr. Norman's letter dated August 23, 2011, speaks for itself and is incorporated by reference.

38. The allegations of paragraph 38 are admitted, with the qualification that Dr. Norman's letter dated September 7, 2011, speaks for itself and is attached as Exhibit H and incorporated by reference.

39. The allegations of paragraph 39 are admitted, upon information and belief.

40. Defendants admit that the Faculty Executive Committee issued a statement to the voting faculty announcing that it was "satisfied that the college followed the procedures for

dismissal as outlined in the College Faculty Manual...and that Dr. Crenshaw's procedural rights had not been violated." Defendants admit that the Faculty Executive Committee consisted of Brooks Kuykendall, Naoma Nelsen, Brad Parker, Steve Sniteman, Gid Alston, and Mary Lang Edwards (whose signature was not included on the committee's statement). The Faculty Executive Committee's statement speaks for itself and is incorporated by reference. The remaining allegations of paragraph 40 are denied.

**DEFENSES TO FIRST CAUSE OF ACTION AGAINST DEFENDANTS
DR. NORMAN AND ERSKINE (WRONGFUL DISCHARGE)**

41. Defendants reiterate and reallege their defenses to paragraphs 1 – 40, as though set forth here verbatim.

42. The allegations of paragraph 42 are denied, with the qualification that, to the extent Plaintiff had the right to due process, his rights were not violated by Defendants. Defendants expressly deny that a tenured professor in a private college has a property right in his employment subject to protection under the due process clause of the South Carolina Constitution.

43. The allegations of paragraph 43 are admitted, with the qualification that the document quoted is entitled *The College Faculty Manual* (there is a separate document entitled *The Employee Resource Handbook*), speaks for itself, and is attached, in relevant part, as Exhibit I and incorporated by reference.

44. The allegations of paragraph 44 are denied, with the qualification that *The College Faculty Manual* (not "Handbook") sets forth procedures for terminating a tenured faculty member for cause, yet states conspicuously and unambiguously on its front cover that the terms of the Faculty Manual "do not create a contract of employment" and that "In the event that any mandatory language appears in this manual, the terms of this disclaimer shall take precedence over any such apparently mandatory language, so that no contract is created."; and with the further

qualification that the Faculty Manual speaks for itself, and is attached, in relevant part (*See Exhibit I*), and incorporated by reference.

45. Each and every allegation of paragraph 45, including subparts (a) – (d), is denied.

46. Each and every allegation of paragraph 46 is denied.

47. Each and every allegation of paragraph 47 is denied.

**DEFENSES TO SECOND CAUSE OF ACTION AGAINST DEFENDANTS
DR. NORMAN AND ERSKINE (BREACH OF CONTRACT)**

48. Defendants reiterate and reallege their defenses to paragraphs 1 – 47, as though set forth here verbatim.

49. The allegations of paragraph 49 are denied, with the qualification that, while Plaintiff did not have a contract of employment with Erskine which guaranteed him a right to due process upon termination, nevertheless, Erskine implemented guidelines for terminating a tenured faculty member which were designed to “insure that both individual rights and its own institutional integrity are preserved through procedures that guarantee due process”; and with the further qualification that Defendants followed these guidelines and procedures in terminating Plaintiff.

50. The allegations of paragraph 50 are denied, with the qualification that Plaintiff periodically received pay increases during his employment with Erskine, was twice selected to receive the Younts Excellence in Teaching Award, and was appointed to the tenured faculty.

51. The allegations of paragraph 51 are denied, with the qualification that Erskine in its Faculty Manual (not “Handbook”) provided guidelines and procedures to follow when terminating a tenured professor for cause, and that the Faculty Manual speaks for itself and is incorporated by reference. (*See Exhibit I*)

52. Each and every allegation of paragraph 52, including subparts (a) – (d), is denied.

53. Each and every allegation of paragraph 53 is denied.

54. Each and every allegation of paragraph 54 is denied.

**DEFENSES TO THIRD CAUSE OF ACTION AGAINST DEFENDANTS
DR. NORMAN AND ERSKINE
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)**

55. Defendants reiterate and reallege their defenses to paragraphs 1 – 54, as though set forth here verbatim.

56. Each and every allegation of paragraph 56 is denied.

57. Each and every allegation of paragraph 57 is denied.

58. Each and every allegation of paragraph 58 is denied.

DEFENSES TO PRAYER

In response to the “PRAYER” paragraph following paragraph 58 of Plaintiff’s Complaint, Defendants deny that Plaintiff is entitled to the relief requested, or to any relief whatsoever.

Each and every allegation not expressly admitted above is denied.

WHEREFORE, having fully answered Plaintiff’s Complaint, Defendants respectfully request:

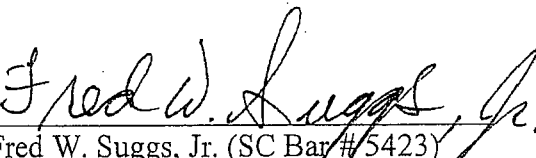
(a) that the Court dismiss the Complaint against Defendants Erskine and Dr. Norman and enter a judgment in favor of Defendants on all causes of action contained in the Complaint;

(b) that all costs of this action, including attorneys’ fees, be taxed against Plaintiff; and

(c) that the Court grant Defendants such other and further relief as is just and proper.

Dated this 6th day of July, 2012.

Respectfully submitted,

By: 
Fred W. Suggs, Jr. (SC Bar #5423)
Collie W. (Trip) Lehn, Jr. (SC Bar #76582)

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Attorneys for Defendants Erskine College and
David A. Norman

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

_____	)	
William Crenshaw,	)	
	)	
Plaintiff,	)	
vs.	)	C. A. No. 2012-CP-01-158
	)	
Erskine College and David A. Norman,	)	
	)	
Defendants.	)	
_____	)	

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

COME NOW Defendants, Erskine College ("Erskine" or the "College") and David A. Norman ("Norman"), by and through their undersigned counsel, and move this Court pursuant to S.C.R.C.P. 56 for Summary Judgment on all claims stated against them in Plaintiff's Complaint. This Motion is made on the following grounds:

1. Plaintiff's first cause of action for wrongful discharge in violation of public policy alleges that Defendants violated public policy when they terminated his employment as a tenured professor without providing Plaintiff adequate due process required by both Erskine's policies and procedures, and "state law." Plaintiff's wrongful discharge claim fails because the alleged violations of Erskine's policies and procedures do not implicate the public policy of South Carolina; state law does not afford Plaintiff any due process rights, and even if it did, Erskine did not violate those rights; and because Plaintiff alleges no conduct falling within the public policy exception to at-will employment. In addition, Defendant Norman is not a proper party to this cause of action, since he was not Plaintiff's employer.

2. Plaintiff's second cause of action for breach of contract must fail because assuming without conceding that a contract existed between Plaintiff and Erskine, Erskine did not breach any provision of the contract. In addition, Defendant Norman is not a proper party to this cause of action since he was not a party to the contract.

3. Plaintiff's third cause of action for intentional infliction of emotional distress is based on the timing of his termination, which occurred after he had a single meeting with his advisees during freshman orientation. Plaintiff's claim must fail because the timing of his termination does not rise to the requisite level of extreme and outrageous conduct and because Plaintiff did not suffer severe emotional distress so severe that no reasonable person could be expected to endure it.

In support of this Motion, Defendants rely upon the Memorandum of Law filed contemporaneously herewith, the following Exhibits, and any and all pleadings before the Court as well as facts which are subject to judicial notice, such presumptions as would be available upon trial, and any other materials which would be admissible in evidence at trial. The Exhibits will be cited according to the designations indicated below:

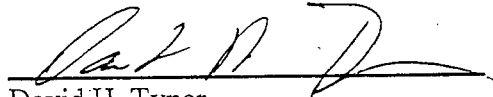
- Exhibit A: Plaintiff's Complaint ("Compl. ¶ __.")
- Exhibit B: Cited pages and exhibits from the Deposition of William Crenshaw on November 22, 2013 ("P. Dep. I __")
- Exhibit C: Cited pages and exhibits from the Deposition of William Crenshaw on December 6, 2013 ("P. Dep. II __")
- Exhibit D: Cited pages and exhibits from the Deposition of David A. Norman ("Norman Dep. __")
- Exhibit E: Cited pages and exhibits from the Affidavit of David A. Norman ("Norman Aff. __")
- Exhibit F: Cited pages and exhibits from the Affidavit of N. Bradley Christie ("Christie Aff. __")

Exhibit G: Unpublished Opinions

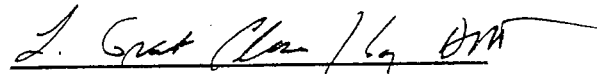
WHEREFORE, Defendants pray that the Court will grant this Motion and enter summary judgment in their favor, dismiss Plaintiff's Complaint in its entirety with prejudice, and award attorney fees, costs or other relief as the Court finds appropriate.

Dated this 26 day of March, 2014.

Respectfully submitted,



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Attorneys for Defendant

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

William Crenshaw,

Plaintiff,

vs.

Erskine College and David A. Norman,

Defendants.

C. A. No. 2012-CP-01-158

MEMORANDUM IN SUPPORT OF DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT

COME NOW Defendants, Erskine College ("Erskine" or the "College") and David A. Norman ("Norman"), by and through their undersigned counsel, and file this Memorandum in Support of their Motion for Summary Judgment.

I. INTRODUCTION

The Plaintiff, William Crenshaw ("Plaintiff" or "Crenshaw"), formerly an English professor at Erskine College, alleges three causes of action. The first claim is wrongful discharge in violation of public policy. This claim fails for the simple reason that alleged violations of a private college's termination procedures do not implicate public policy, and Plaintiff has alleged no other conduct recognized by the courts as falling within the public policy exception to at-will employment.

Plaintiff's second claim is for breach of contract. Assuming without conceding that a contract existed between Plaintiff and the College, the facts show that the College adhered scrupulously to the procedures for terminating a tenured faculty member. The first step in the

process requires the President to meet with the faculty member and attempt to resolve the matter through "mutual consent." Although Plaintiff claims that he was "rushed" through this process, there is no dispute that the parties never reached mutual agreement about resolving the matter.

The second step in the process requires the President to inform the faculty member of the grounds for his termination and his right to a hearing. The President did this. The faculty member is then required to reply, in writing, stating whether a hearing is desired. Plaintiff never did this; yet he alleges that the College violated procedures by not holding the hearing anyway. As will be shown below, Plaintiff's other claims for breach of contract are equally unavailing.

Finally, Plaintiff alleges intentional infliction of emotional distress based upon the timing of his termination, which occurred after he had had a single meeting with his advisees during freshmen orientation. Even when viewed in the light most favorable to Plaintiff, it is clear that the timing of his termination does not remotely approach the standard required for the tort of outrage – namely, conduct that is so outrageous that it exceeds all possible bounds of decency and is utterly intolerable in a civilized community.

Plaintiff was terminated for conduct that substantially impaired his fulfillment of his institutional responsibilities, including acts of blatant disloyalty to the College. Because Plaintiff's claims are unsupported by the facts or the law, they merit summary dismissal.

II. FACTS

Erskine College is a private liberal arts college founded by the Associate Reformed Presbyterian Church in 1839. (P. Dep. II, Ex. 26, p. I-3.) The mission of the College "is to equip students to flourish by providing an excellent liberal arts education in a Christ-centered environment where learning and biblical truth are integrated to develop the whole person." (P. Dep. II, Ex. 27, p. 1.)

Crenshaw began his teaching career at Erskine in 1976. (Compl. ¶ 5.)¹ He was granted tenure in 1983 and was named the Dorn-Reeder Professor of English in 1984. (Compl. ¶¶ 6 & 7.) On the morning of September 24, 2010, Crenshaw noticed that a female student athlete in his class seemed to be unwell; she appeared “disorientated and lethargic.” (Compl. ¶ 10.) Crenshaw contacted Dr. Robyn Agnew, Vice President for Student Services, who, after talking with Crenshaw, called Emergency Medical Services to request an ambulance. (Compl. ¶ 10.) The ambulance arrived on campus, and EMS personnel placed the student on a gurney and transported her to the ambulance. (P. Dep. I, pp. 26-27.)

Before the ambulance departed, a discussion arose about whether the student could or should refuse transport. (P. Dep. I, p. 38.) Around this time, Crenshaw arrived at the ambulance. Crenshaw knew the EMS personnel on the scene, having worked with them before. (P. Dep. I, p. 30-31.) According to Crenshaw, one of them asked him to climb into the ambulance, and he did so. (P. Dep. I, p. 33.) Crenshaw tried to convince the student to go to the hospital, although the student did not wish to do so. (P. Dep. I, p. 39.) Eventually the student was transported to the hospital.

Crenshaw’s conduct at the ambulance and afterwards gave rise to two grievances filed against him by members of the Erskine faculty. The first grievance was filed by Adam Weyer, Head Athletic Trainer, and Mark Peeler, Director of Athletics. (P. Dep. I, Ex. 9.) Peeler and Weyer allege that Crenshaw had violated protocols of the Athletic Training Department by injecting himself into the situation involving the student athlete. Peeler and Weyer also alleged that Crenshaw had slandered the Athletic Training Staff in e-mails sent to members of the Administration and in comments made in class and on blogs. A second grievance was filed by Dr. W. Gid Alston, Chairman of the Department of Health & Human Performance. (P. Dep. I,

¹ Citations to Plaintiff’s Complaint are indicated as “Compl.” followed by the appropriate paragraph number(s).

Ex. 10.) Alston's grievance focused solely on Crenshaw's conduct following the events of September 2010. He also complained that Crenshaw had slandered the faculty and staff of the Department of Health & Human Performance.

In accordance with College policy, the Dean of the College, Bradley Christie ("Christie") referred the grievances to the Grievance Committee, a standing committee of the College whose duties, among other responsibilities, included the following: "To act as a mediator in cases where misunderstanding or unjust criticism may adversely affect either the professional reputation of a faculty member or the academic standing of the institution." (P. Dep. II, Ex. 27, p. 61.)

The Committee, which consisted of seven faculty members, met for the first time on October 14, 2010. According to minutes of the meeting, Crenshaw made an opening statement in which he said that he had been authorized by his attorney to make certain statements, and that his attorney would appear at any future meetings. (P. Dep. I, Ex. 16.) The Committee decided that involving legal counsel prevented the Committee from arriving at a reconciliation. "We are here as colleagues to make reconciliation. Involving an attorney escalates it beyond the collegial level at which our Committee operates. Our charge is limited to bring about collegial mediation between peers; in our opinion the involvement of external legal counsel takes this above a peer negotiation that we would be able to attempt, and thus exceeds our role." (P. Dep. I, Ex. 16.) A motion to return the matter to the Dean's Office passed.

Christie now referred the matter to the President of Erskine, David Norman. (P. Dep. I, Ex. 18.) Norman, acting under a provision of the Employee Resource Handbook that allows the President to appoint committees to hear grievances and appeals (P. Dep. II, Ex. 26, p. E7), appointed a Special Faculty Grievance Committee to consider not only the grievances

themselves but Crenshaw's conduct in the aftermath of the September 10 incident, as well as his actions towards the original grievance committee. (P. Dep. I, Ex. 21; Norman Aff., Ex. A.)

This Committee met on December 15, 2010 to interview Crenshaw. The meeting was recorded.² Crenshaw read an opening statement stating that he found it unacceptable that this Committee, along with the previous grievance committee, formulated its own procedures. (P. Dep. I, Ex. 23, p. 2.) Crenshaw also made clear that he would not respond to the allegations in the grievances, only to the evidence supporting the allegations. (P. Dep. I, Ex. 23, pp. 5-6.)

Crenshaw also informed the Committee that this matter was going to court and that the Committee members "are putting yourselves in harm's way." (P. Dep. I, Ex. 23, p. 7.) After much discussion between the Committee and Crenshaw, the Committee decided to suspend its actions. (P. Dep. I, Ex. 23, p. 15.) *Nothing saying Crenshaw was the reason.*

After the Committee voted to suspend its proceedings, Professor Robert Elsner wrote a letter to Norman requesting that he be replaced on the Committee. "When a faculty member who is the 'defendant' in a grievance case begins opening remarks with personal threats of lawsuits against each and every member of a committee, it is not an acceptable environment." (P. Dep. II, Ex. 28.) Elsner added that, "I am very much a proponent of faculty self-governance and defending faculty rights, but the environment is so toxic, with pervasive bullying on the part of Dr. Crenshaw that I must recuse myself." (P. Dep. II, Ex. 28.)

On January 4, 2011, the Committee submitted its report to Norman. Referring to the Committee's interview with Crenshaw, the report stated: "From the beginning it became readily apparent that Dr. Crenshaw's interpretation of the Committee's role, what questions should be asked or answered and in what context, and what specific areas to which the questions should be

² Plaintiff had previously admitted the accuracy, with exceptions noted, of the transcript marked as Exhibit 23. (P. Dep. Ex. 25, p. 2.)

limited was very different from that of the Committee members.” (P. Dep. II, Ex. 29, p. 1; Norman Affidavit, Ex. B.) Consequently, “The Committee agreed that we would not be able to gather the information necessary to make an informed decision, and there were sufficient other concerns that we voted to suspend the actions of the Committee until further notice. (P. Dep. II, Ex. 29, p. 1.) The Committee concluded that “Faculty governments will not be successful in this case” and returned the matter to the President. (P. Dep. II, Ex. 29, p. 2.)

The spring semester of 2011 at Erskine was an especially busy one. There were two meetings of the Board of Trustees, the College By-Laws were revised, and there was a denominational meeting in June. (Norman Dep. p. 102.) Given the serious nature of the Crenshaw matter, Norman wanted ample time to consider the proper course of action; “it wasn’t the kind of thing that you can just kind of do between meetings.” (Norman Dep. p. 102.)

relevant to job as professor Because Crenshaw had been a lightening rod in controversies with the denomination, Norman did not want to consider the matter while also considering denominational issues. “They needed to be kept separate. And so my attention turned in earnest to this situation after the denominational meetings in June.” (Norman Dep. p. 103.)

y not meet w/ him re mtg. w/ student body had communication Crenshaw spent the summer at his vacation home in North Carolina, and Norman felt that summoning him to the campus for a meeting would not have been well received by Crenshaw. (Norman Dep. p. 107.) Since Crenshaw would be on campus for freshmen orientation, Norman *im, it he was in* decided to meet with him at that time. (Norman Dep. p. 101.) *West a good bit*

Norman and Crenshaw met on Saturday, August 6, 2011. (P. Dep. II, p. 47.) According to the procedures for terminating a tenured faculty member, as a first step, the President “will seek to resolve the matter with the tenured faculty member in private.” (P. Dep. II, Ex. 27, p. 35.) Hence the purpose of the August 6 meeting with Crenshaw. At the end of the meeting,

three options were on the table: (1) Crenshaw would agree to several conditions specified by Norman for remaining at the College, including apologies to the faculty and other individuals; (2) moving to Stage 2 of the termination process; and (3) early retirement, an option suggested *just, but then* by Crenshaw. (P. Dep. II, Ex. 31, p. 111.)³ Crenshaw agreed to let Norman know of his *some serious* decision by 5 p.m. on Monday. (P. Dep. II, Ex. 31, p. 112.) On Monday afternoon, Crenshaw sent Norman an e-mail stating that he and his attorney were willing “to discuss” the issue of his early retirement. (P. Dep. II, Ex. 32, p. 1.) Although the parties had other communications that week, no agreement was reached. (P. Dep. II, p. 106.) On Friday, August 12, 2011, Norman sent Crenshaw a letter noting that the attempt to privately resolve the matter by mutual consent had not been successful. “We must now proceed to the second phase of the formal process afforded to you as a tenured faculty member who is being terminated for cause.” (P. Dep. II, Ex. 34, p. 1.) The letter informed Crenshaw of his right to a hearing if he desired one. Crenshaw did not reply to the President in writing stating whether he desired a hearing. (P. Dep. II, p. 106.) *On days* On Wednesday, August 31, 2011, Norman sent a letter to Crenshaw’s attorney giving Crenshaw *a week* an extra week to decide whether to accept early retirement. (P. Dep. II, Ex. 35; Norman Aff. Ex. C.) When no agreement was reached, Crenshaw’s employment was terminated on September 7, 2011. (P. Dep. II, Ex. 36.)

III. LEGAL ARGUMENTS

A. Wrongful Discharge

1. Crenshaw’s Claim For Wrongful Discharge Based On Defendants’ Violation Of The Faculty Manual’s Procedures For Terminating Tenured Professors Must Be Dismissed Because Erskine Did Not Violate Its Procedures And Because Its Policies Do Not Implicate Public Policy

³ Plaintiff had previously admitted the accuracy, with exceptions noted, of the transcript marked as Exhibit 31. (P. Dep. Ex. 25, p. 1.)

"Where the retaliatory discharge of an at-will employee constitutes a violation of a clear mandate of public policy, a cause of action in tort for wrongful discharge arises." Ludwick, 337 S.E.2d at 216 (S.C. 1985). Crenshaw alleges that Erskine's and Dr. Norman's failure to follow Erskine's Faculty Manual procedures for termination of a tenured faculty member violated Crenshaw's due process rights provided by the Faculty Manual and by South Carolina law. (See Compl. ¶¶ 45-47.) Therefore, Crenshaw alleges that Defendants violated South Carolina public policy by: (1) terminating his employment without following the applicable provisions of Erskine's Faculty Manual, and (2) consequently depriving him of his tenureship right to due process under South Carolina law.⁴

As an initial matter, Plaintiff's wrongful discharge claim against Norman must be dismissed, since Norman was not Plaintiff's employer. "The public policy exception clearly applies in cases where either: (1) the employer requires the employee to violate the law, Ludwick, supra., or (2) the reason for the employee's termination itself is a violation of criminal law. Barron v. Labor Finders, 614 713 S.E.2d 634, 637 (2011) (citation omitted; underscoring added). As explained below in the portion of this Memorandum addressing the breach of contract claim (see pp. 14-15), Norman was not a party to the alleged contract between Plaintiff and Erskine College since he was not a party to the contract and hence was not Plaintiff's employer. For the same reasons, the wrongful discharge claim against Norman must be dismissed.

+ the spirit. Crenshaw's claim that Defendants violated public policy by failing to follow the provisions of its Faculty Manual is easily disposed of. First, Defendants followed to the letter the Faculty Manual's procedures for terminating a tenured faculty member. (See section III.B.2.

⁴ Crenshaw does not cite or even allege a legal basis for the right to due process arising out of his status as a tenured professor.

infra.) Crenshaw predicates his wrongful discharge claim on Defendants' failure to follow the Faculty Manual's procedure for his termination. (See Compl. ¶¶ 45-47.) Since Defendants did not violate any part of the procedure, Plaintiff's claim fails.

Second, assuming that Defendants did violate the Faculty Manual regarding termination of tenured faculty, which they deny, violation of a private college's policies does not support a claim for wrongful termination in violation of public policy. Walters v. Benedict College, 2006 U.S. Dist. LEXIS 13467, *23 (D.S.C. 2006) ("Benedict is a private (non-public) college and violations of its policies do not implicate 'public policy'") adopted by Walters v. Benedict College, 2006 U.S. Dist. LEXIS 13469 (D.S.C. 2006); see also Scarborough v. Lifepoint, Inc., 2011 U.S. Dist. LEXIS 144074, *25 (D.S.C. 2011) ("[Plaintiff] has . . . identified corporate policies, which do not reflect the sort of public concern contemplated by South Carolina courts for purposes of a wrongful discharge claim"). Erskine is unquestionably a private college. (See P. Dep. II, Ex. 26, p. I-3; S.C. Code Ann. §§ 59-101-10, 59-107-10, excluding Erskine from the list of State-supported colleges and "state institution[s]" respectively.) Therefore, Defendants are entitled to summary judgment on Crenshaw's claim that Erskine violated public policy by failing to terminate him in accordance with the Faculty Manual procedures.

2. Crenshaw's Claim For Wrongful Discharge Based On Violation Of His Due Process Rights Under "State Law" Fails Because Defendants Did Not Violate His Due Process Rights And Because No Court Has Recognized Such A Basis For Wrongful Termination In Violation Of Public Policy

a. Erskine's Compliance With Its Faculty Manual Procedures Forecloses Crenshaw's Claim Based On "State Law" Due Process

By pleading that the Faculty Manual's "right of due process concerning [tenured faculty's] employment status' . . . is consistent with South Carolina law, which recognizes a tenured professor's property right . . . protected by due process," Crenshaw predicates his "state law" due process claim on Defendants' violation of the Faculty Manual procedures. (See Compl.

¶ 42.) Indeed, Crenshaw makes no allegation of any additional due process required by state law that is not provided by Erskine's Faculty Manual. Since Crenshaw alleges that the Faculty Manual and "state law" provide "consistent" protection of his due process rights then Defendants' compliance with the Faculty Manual's due process procedures—which has been established *supra*—also dispenses with his claim for wrongful termination in violation of public policy due to interference with due process provided by state law.

b. "State Law" Does Not Afford Crenshaw Due Process Rights

Crenshaw fails to allege any specific "state law" providing for due process of tenured faculty of a private college because no such state law applicable to Crenshaw exists.⁵ Like the United States Constitution, Article I, Section 3 of the South Carolina Constitution requires due process for the deprivation of life, liberty, and property.⁶ S.C. National Bank v. Central Carolina Livestock Market, Inc. et al., 345 S.E.2d 485, 487 (S.C. 1986); State v. Gaster, 564 S.E.2d 87, 91 fn. 3 (S.C. 2002). However, Article I, Section 3 only provides due process in the face of government action. Hooper et al. v. Rockwell et al., 513 S.E.2d 358, 364 (S.C. 1999) ("Article I, Section 3 ensures the government may not abridge the privileges and immunities of its citizens without due process. . ."); see also Meteraud v. American Legion, Dept. of S.C. and Dellinger, 2007 U.S. Dist. LEXIS 44318, *7-8 (D.S.C. 2007) ("[u]nfortunately for plaintiff, however, there is one crucial distinction in the legion (pun intended) of federal cases that have considered due process suits – in every case he cites there was an alleged deprivation of an interest in life, liberty, or property as the result of state action"); Settles v. Pinkerton, Inc., 482 F. Supp. 461, 466

⁵ Although property rights through tenure clearly exist in public employment. See Perry v. Sindermann, 408 U.S. 593, 603 (1972) (to be entitled to due process a plaintiff must have "an enforceable expectation of continued public employment"); accord Board of Regents of State Colleges v. Roth, 408 U.S. 564, 577 (1972); Storror v. The University of S.C., 343 S.E.2d 664, 666 (Ct. App. 1986); Bane et al. v. City of Columbia, 480 F. Supp. 34, 37 (D.S.C. 1979).

⁶ Plaintiff's allegation of a "state law" violation forecloses any claim for due process under the Fourteenth Amendment to the United States Constitution.

(D.S.C. 1979) (dismissing claim for violation of due process under the Fourteenth Amendment for failure to allege state action). Crenshaw does not allege any state action, and cannot do so because Erskine is a private institution. (See P. Dep. II, Ex. 26, p. I-3; S.C. Code Ann. §§ 59-101-10, 59-107-10, excluding Erskine from the list of State-supported colleges and “state institution[s]” respectively.) Thus, contrary to Crenshaw’s allegation, there is no state law providing him due process, and therefore Defendants did not violate any state-provided due process right.

c. Erskine Did Not Violate Any Due Process Rights Crenshaw May Have Had

Furthermore, even if Crenshaw had due process rights, Defendants did not violate them. “The fundamental requirement of due process is the opportunity to be heard at a ‘meaningful time and in a meaningful manner.’” S.C. National Bank v. Central Carolina Livestock Market, Inc. et al., 345 S.E.2d 485, 488 (S.C. 1986) (citing Armstrong v. Manzo, 380 U.S. 545, 552 (1965)). “Due process does not mandate any particular form or procedure. Instead, due process is a flexible concept, and the requirements of due process in a particular case are dependant upon the importance of the interest involved and the circumstances under which the deprivation may occur.” Id. (internal citations omitted). Crenshaw does not dispute that Erskine’s procedures—which provide for the “circumstances under which the deprivation may occur”—for terminating tenured faculty conformed with these requirements. Moreover, Defendants afforded Crenshaw every opportunity to be heard in a meaningful manner under Erskine’s procedures. (See section III.B.2. *infra*.) Most noteworthy of Erskine’s procedures is provision of a hearing regarding termination. Norman scheduled the hearing, notified Crenshaw of the hearing in writing, notified Crenshaw that the hearing could be postponed if Crenshaw needed more time, and notified Crenshaw that he must state in writing by a particular date whether he wished to have

the hearing. (P. Dep. II, Ex. 34, p. 2.) However, Crenshaw never responded and in fact did not even read Norman's letter regarding the hearing. (P. Dep. II., p. 104.)

Additionally, Defendants afforded Crenshaw due process above and beyond that provided for in Erskine's termination procedures. Norman appointed the Special Faculty Grievance Committee as a second committee through which Crenshaw and those who filed the grievances against him could be heard and resolve their issues. (See section II. ¶¶ 7-11 *supra*.) Furthermore, Norman allowed, at Crenshaw's specific request, the early retirement option. (See section III.A.2. *supra*.) And, as added due process, Norman allowed Crenshaw additional time to consider his own early retirement proposal. (*Id.*) Starting with the foundation that Crenshaw failed to allege that Erskine's procedures did not afford due process, which included a scheduled hearing that Crenshaw waived, and then viewing the additional procedures Norman provided him, including his self-proposed early retirement option, Defendants could not as a matter of law be said to have violated any due process rights Crenshaw alleges to have had. See Sunrise Corp. of Myrtle Beach et al. v. The City of Myrtle Beach et al., 420 F.3d 322, 328 (4th Cir. 2005) (finding no violation of due process where the plaintiff received the very remedy sought).

d. Crenshaw's Claim Does Not State Any Public Policy of South Carolina or Fall Within Any Of Recognized Public Policy Exception

Wrongful termination in violation of public policy requires that there is a "clear mandate of public policy" of the State. Ludwick v. This Minute of Carolina, Inc., 337 S.E.2d 213, 216 (S.C. 1985). If the employer did not violate a clear mandate of public policy then the cause of action fails. What constitutes public policy is a question of law for the courts to decide. Barron, 713 S.E.2d at 638 (S.C. 2011). And while the state legislature primarily determines the existence of public policy, in the absence of legislation the courts may determine whether public policy exists. McNeil v. S.C. Dept. of Corrections et al., 743 S.E.2d 843, 846 (Ct. App. 2013).

To date the public policy exception has not been extended beyond situations where: (1) the employer terminates the employee for refusal to violate the law; and (2) the employee's termination violates criminal law, and it should not be extended for Crenshaw. Id. (citing Barron 713 S.E.2d at 637). The possibility of the public policy exception extending beyond these situations has twice been allowed by South Carolina courts, but in circumstances drastically different than the facts of this case. See Garner v. Morrison Knudsen Corp., 456 S.E.2d 907, 908 (S.C. 1995) (the Supreme Court allowed a wrongful termination claim to proceed beyond a Rule 12(b)(6) motion because the employee alleged termination in retaliation for reporting and testifying about radioactive contamination and unsafe working conditions at a nuclear facility); Keiger v. Citgo, Coastal Petroleum, Inc., 482 S.E.2d 792, 793 (Ct. App. 1997) (the Court of Appeals allowed a wrongful termination claim to proceed beyond a Rule 12(b)(6) motion because the employee alleged termination in retaliation for threatening to invoke her rights under the South Carolina Payment of Wages Act). Garner and Keiger both involved allegations of retaliation for specific conduct, Garner for reporting issues related to public safety, and Keiger for threatening use of a statutory protection.

Crenshaw's allegations do not fall under the public policy exceptions recognized to date and are a far cry from those in Garner and Keiger. Crenshaw admits that he was not terminated for refusing to violate the law and has no reason to believe his termination violated criminal law. (P. Dep. I, pp. 11-13.) Furthermore, Crenshaw's due process rights, if any, were limited to those granted by the Faculty Manual's termination procedures, which do not implicate public policy and which Defendants did not violate. Moreover, and fatal to Crenshaw's wrongful termination claim, there is no clear mandate of public policy at issue to support his claim. Crenshaw was not entitled to any state-mandated due process and therefore Defendants could not have denied him

due process. Thus, Defendants are entitled to summary judgment on all Crenshaw's wrongful termination theories.

B. Breach Of Contract

1. Plaintiff's Claim For Breach Of Contract Against David Norman Must Be Dismissed Since Norman Was Not A Party To The Contract

To prevail on a breach of contract claim, a plaintiff must prove the following elements:

"(1) A binding contract; (2) a breach of contract; and (3) damages approximately resulting from the breach." Manios v. Nelson, Mullins, 389 S.C. 126, 146, 697 S.E. 2d 644, 655 (Ct. App. 2010) (citation omitted). Plaintiff brings this cause of action against the individual Defendant, David Norman, as well as against Erskine College. (Compl. ¶ 13.) Without conceding that a contract existed between the Plaintiff and either Defendant, Plaintiff's claim against Norman must be dismissed, since Norman was not a party to the alleged contract and hence could not breach the contract. Plaintiff's Complaint concedes that the contract was between Plaintiff and the College: "The Plaintiff and Defendant Erskine College had an employment contract that guaranteed the Plaintiff 'the right of due process concerning [his] employment status' at a minimum based on his status as a tenured professor employed by Defendant Erskine College." (Compl. ¶ 49.) As this language indicates, the employment contract was between Plaintiff and Defendant Erskine College, and Erskine College was Plaintiff's employer. The Complaint also states that, "While in the past, the Plaintiff signed an annual contract with Defendant Erskine College, this formal practice terminated some years ago. The relationship thus became an ongoing contract between the Plaintiff and Defendant Erskine College governed by the College Faculty Handbook." (Compl. ¶ 50.) It is clear from the Complaint that the contract was between Plaintiff and his employer, Erskine College.

“An action for damages for breach of contract is predicated on the existence of the contract.” Tidewater Supply Co. v. Industrial Electric Co., 253 S.C. 483, 485, 171 S.E. 2d 607, 608 (1969). Since the alleged contract existed between Plaintiff and Erskine College, Norman was not a party to the contract and thus cannot be liable for an alleged breach of any contract that might have existed between Plaintiff and the College. “For ‘where an agent enters into a contract for a known principle, while acting within his authority as such agent, he is not personally liable on the result of the contract. The liability, if any, for a breach of such contract is that of the principle alone.’” Skinner & Ruddock, Inc. v. London Guarantee & Accident Co., 239 S.C. 614, 619, 124 S.E. 2d 178, 180 (1962) (citation omitted). See also Marley v. Univ. of South Carolina, No. 3:08-937, 2010 U.S. Dist. LEXIS 102013, at * 49-50 (D.S.C. Aug. 20, 2010) (holding that “To the extent that plaintiff asserts contract claims against the individual defendants, those claims fail. None of the individual defendants were plaintiff’s employer or parties to any contract with her.”) (citations omitted).

Based on the allegations of Plaintiff’s Complaint and the foregoing authority, Plaintiff’s breach of contract claim against Norman must be dismissed, since Norman was not Plaintiff’s employer and was not a party to any alleged contract.

2. Plaintiff’s Claims Against Erskine College For Breach Of Contract Must Be Dismissed Since The College Scrupulously Adhered To The Procedures For Terminating Tenured Faculty

In its College Faculty Manual (“Faculty Manual”), Erskine sets forth the grounds for termination of tenured faculty. The first ground for dismissal is “personal conduct which substantially impairs the individual’s fulfillment of institutional responsibilities.” (P. Dep. II, Ex. 27, pp. 35-36.) As will be discussed below, this is the basis upon which Crenshaw was terminated. Other grounds include conduct that violates established moral norms of the College,

demonstrated incompetence in teaching or research, manifest neglect of duties, and breach of appointment. (P. Dep. II, Ex. 27, p. 35.)

The Faculty Manual also states that, when terminating a tenured faculty member, the College “will ensure that both individual rights and its own institutional integrity are preserved through procedures that guarantee due process. If termination takes the form of dismissal for cause, the College will follow this procedure.” (P. Dep. II, Ex. 27, p. 35.) The Faculty Manual then sets forth the procedures which constitute due process in the termination of tenured faculty. This process consists of multiple steps. (P. Dep. II, Ex. 27, pp. 35-36.) Each step in the process is discussed below.

a. Stage 1: Preliminary Proceedings

The first stage in the termination process, described in the Faculty Manual as “Preliminary Proceedings,” reads as follows: “When questions about the fitness of a tenured faculty member arise, the President, in consultation with the appropriate Academic Vice President, will seek to resolve the matter with the tenured faculty member in private. If the matter is not resolved by mutual consent, the President will formulate a statement describing the grounds for dismissal.” (P. Dep. II, Ex. 27, pp. 35-36.)

The College complied with this requirement by arranging a private meeting between Norman and Crenshaw to discuss resolution of the outstanding issues involving Crenshaw’s conduct. In a letter dated August 5, 2011, Norman informed Crenshaw that “this letter shall commence the preliminary proceedings outlined in the Faculty Handbook for your dismissal for cause.” (Pl. Dep. Ex. 30.) After describing the requirements of the first stage of the termination process, Norman states that he “would now like to open a private discussion between the two of us to determine whether we might resolve this matter now by mutual consent. If, in our

discussion today, we are unable to resolve this matter by mutual consent, I will provide a statement describing the grounds for your dismissal.” (P. Dep. II, Ex. 30.)

The letter also recited the prior efforts made by the College to restore collegial relations between Crenshaw and his colleagues, including attempts by two committees to mediate or adjudicate the outstanding issues. These efforts were thwarted by Crenshaw’s lack of civility and disdain for the policies and procedures of the College, “personal conduct which substantially impairs your fulfillment of institutional responsibilities.” (P. Dep. II, Ex. 30.) As the letter states, these are not trivial matters. “To the contrary, they are grounds for your dismissal.” (P. Dep. II, Ex. 30.)

The meeting between Norman and Crenshaw took place on Saturday, August 6, and was recorded. Norman began the meeting by trying to read the letter dated August 5, 2011 described above. Norman was immediately met with obstructionist demands and threats of legal action. (P. Dep. II, Ex. 31, p. 2-3.) The same belligerent conduct by Crenshaw had prevented the Grievance Committee and the President’s Special Grievance Committee from resolving these issues. Eventually, Norman was able to read the letter and begin the discussion of what would be required for Crenshaw to stay employed at Erskine. (P. Dep. II, Ex. 31, p. 13.) Norman required three things in order for Crenshaw to remain at Erskine. First, Crenshaw must apologize to three groups of people: those who filed grievances against him; to the faculty; and third, to the Erskine community, defined as people who read disparaging remarks about the College posted by Crenshaw online. (P. Dep. II, Ex. 31, pp. 14-15, 16, 50-51, respectively.)

Second, in order to remain at Erskine, Crenshaw would be suspended, with pay, for one semester, to give him time to repair the strained relations with his colleagues. (P. Dep. II, Ex. 31, pp. 103-104.) The third condition was that Crenshaw refrain from public discussion of the

College. (P. Dep. II, Ex. 31, pp. 105-106.) Finally, any violation of these conditions would be grounds for immediate dismissal. (P. Dep. II, Ex. 31, p. 109.) The conditions outlined above constituted Norman's offer to resolve all outstanding issues and allow Crenshaw to remain at Erskine. (P. Dep. II, pp. 52-57.) As Norman's letter made clear, if the matter was not resolved by "mutual consent," the next step would be formal termination proceedings.

In the course of this discussion, Crenshaw suggested a third option: "Why don't you buy me off?" (P. Dep. II, Ex. 31, p. 106.) What followed was a brief discussion of this option, essentially an early retirement. (P. Dep. II, Ex. 31, pp. 106-108.)

Norman then explained that there were three options available to Crenshaw: one option consisted of the conditions outlined by Norman for remaining employed; the second option was proceeding to Stage 2 in the termination process, which involved commencement of formal proceedings; and the third option was the early retirement suggested by Crenshaw. (P. Dep. II, Ex. 31, p. 111.) Crenshaw agreed that these were the choices; "Okay. Good. I'm good with that. We'll do one of those three." (P. Dep. II, Ex. 31, p. 111.) Crenshaw agreed to let Norman know his decision by 5 p.m. on Monday, August 8. (P. Dep. II, Ex. 31, p. 112.)

On Monday afternoon, Crenshaw sent Norman an e-mail stating that he and his attorney "have agreed that we are willing to discuss the issue of my early retirement." (P. Dep. II, Ex. 32, p. 1.) A severance agreement was sent to Crenshaw the following day. (P. Dep. II, Ex. 33.)

On Wednesday, August 10, Norman sent Crenshaw a draft statement announcing Crenshaw's retirement from the College. (P. Dep. II, Ex. 32, p. 2.) Norman also asked Crenshaw to contact him as soon as possible if Crenshaw needed more time before signing the agreement, or if there were items he wished to discuss. (P. Dep. II, Ex. 32, p. 2.) In his response, Crenshaw wrote that plans to announce his retirement were premature and that the

* agreement allowed 21 days before signing. (P. Dep. II, Ex. 32, pp. 2-3.) The next morning, Thursday, August 11, Norman encouraged Crenshaw to use "any and all" of the 21-day period to consider the severance agreement. However, since Norman had already decided that Crenshaw would not be teaching that fall, he enclosed a draft announcement of that fact for Crenshaw's review. (P. Dep. Ex. II, 32, p. 3.)

u days In his response, Crenshaw stated that he had not agreed to either the early retirement nor to Norman's conditions for remaining employed at Erskine. (P. Dep. II, Ex. 32, p. 4.) He also objected to his suspension for the semester. It should be recalled that, during the conversation between Norman and Crenshaw the previous Saturday, Crenshaw was to inform Norman by 5 p.m. on Monday, August 8, which of the three options they discussed Crenshaw wished to accept. On Monday, Crenshaw had stated that he (and his attorney) were willing "to discuss" the option for early retirement. Now, on Thursday, Crenshaw makes clear that there has been no agreement to date, either to the early retirement option or to the conditions offered by Norman for Crenshaw to remain employed at Erskine. The deadline for reaching an agreement had clearly expired by this point.

The next morning, Friday, August 12, 2011, Crenshaw sent an e-mail to Norman asking for a written summary of the conditions for Crenshaw remaining employed at the College. (P. Dep. II, Ex. 32, p. 4.) He again objected to his suspension from teaching for the fall semester.

Later that morning, Norman reminded Crenshaw that the deadline for reaching an agreement under Stage 1 of the process for terminating tenured faculty had passed on the previous Monday. "It is now clearly beyond that deadline, and it does not appear that we have been able 'resolve the matter by mutual consent' (see pp. 35 ff of the Faculty Manual)." (P. Dep. II, Ex. 32, p. 6.) Norman reiterated that the early retirement option was still on the table and

would remain so for the full 21 days; however, "the deadline we set on Saturday for resolution before proceeding to Step 2 has now passed." (P. Dep. II, Ex. 32, p. 6.)

Although Norman and Crenshaw were unable to reach an agreement, the College satisfied Stage 1 of the process for terminating a tenured faculty by seeking "to resolve the matter with the tenured faculty member in private." (P. Dep. II, Ex. 27, p. 36.) It was now time to move to Stage 2 in the process.

b. Stage 2: Formal Proceedings

The second stage of the process for terminating tenured faculty, labeled "Formal Proceedings" in the Faculty Manual, requires the following additional steps by the President.

2. Formal Proceedings

The President will inform the tenured faculty member in writing of the dismissal and the grounds for it. The President will also advise the tenured faculty member of the right to a hearing before a faculty committee and will indicate the time and place of the hearing. In fixing the time and place of the hearing, the President will allow sufficient time for the tenured faculty member to prepare a defense. The President will inform the tenured faculty member of the procedural standards set forth here.

The tenured faculty member will reply in writing to the President stating whether a hearing is desired, and the reply shall be not less than two weeks before the date set for the hearing.

(P. Dep. II, Ex. 27, p. 37.)

President Norman complied with these Stage 2 requirements by presenting Crenshaw with a letter informing him of his dismissal and the grounds for his dismissal. In his e-mail to Crenshaw on August 12, Norman stated the following: "Attached, therefore, please find a statement describing the grounds for your dismissal. As you will see on page 2 of that letter, you have the right to a hearing before a faculty committee, which is scheduled for August 29 at 9 a.m." (P. Dep. II, Ex. 32, p. 6.) The letter begins by informing Crenshaw that "the attempt to privately resolve the question of your continued employment by mutual consent has not been

successful.” (P. Dep. II, Ex. 34, p. 1.) The letter then informs Crenshaw of the next step: “We must now proceed to the second phase of the formal process afforded to you as a tenured faculty member who is being terminated for cause.”

The letter also informed Crenshaw of each step in the formal proceedings, as well as his rights and duties thereunder;

You have a right under College policy to a full hearing before a faculty committee. Unless you waive your right to a hearing, it shall be held on August 29th at 9 AM on in the Chestnut Room. This schedule is subject to adjustment upon reasonable request. As also stated in the handbook, you will reply to this letter in writing, stating whether this hearing is desired. This reply shall not be less than two weeks before the date set for the hearing.

(P. Dep. II, Ex. 34, p. 2.)

In compliance with the termination procedures, the letter also summarizes, then discusses in detail, the grounds for Crenshaw’s dismissal. On the first page of the letter, Norman summarizes the three categories of allegations against Crenshaw that constitute the grounds for his termination: (1) the formal grievances growing out of Crenshaw’s behavior on and after September 24, 2010; (2) the way in which Crenshaw interacted with the Special Grievance Committee appointed by Norman to resolve those matters; and (3) statements Crenshaw made on the internet “that reflect negatively upon the College and its mission.” (P. Dep. II, Ex. 34, p. 1.) Norman then informs Crenshaw that, effective immediately, Crenshaw will be suspended with pay throughout the proceedings, and that the classes he was scheduled to teach that fall were being covered by other professors. The letter then notes that Crenshaw is being provided with all of the documents that Norman relied upon in making his preliminary decision and informs Crenshaw that, should he desire a full hearing before the Hearing Committee, both Norman and Crenshaw could present additional relevant evidence.

The remainder of Norman's letter discusses each category of allegations in detail. The Category I allegations concern the events of September 24 and their aftermath. (P. Dep. II, Ex. 34, p. 2.) Norman summarizes each allegation in this Category and attaches all documents relevant to each allegation. (P. Dep. II, Ex. 34, pp. 3-5.) Norman found probable cause to believe that each allegation was true. Category II allegations concern Crenshaw's interaction with the Special Grievance Committee appointed by Norman to adjudicate several issues involving Crenshaw's conduct. Norman found that Crenshaw had engaged in misconduct before this Committee. The Category III allegations were based on Crenshaw's post to a website in which he noted two things that he and others on the site were accomplishing: "People are encouraged to quit donating to Erskine and to quit sending their kids until all this is straightened up." (P. Dep. II, Ex. 34, p. 8.) Norman found this conduct to be blatant disloyalty to the College. "You apparently believe that you can engage in disloyal and disparaging activities against Erskine College and at the same time collect a paycheck from the College. I am confident that you are wrong. This is a terminable offense." (Pl. Dep. II, Ex. 34, p. 9.)

c. Plaintiff's Allegations

As the chronology above makes clear, the College scrupulously followed each step in the process for terminating tenured professors. Indeed, Plaintiff does not allege that the College neglected any step in the process. Rather, Crenshaw claims that the College violated the Faculty Manual when it "rushed the Plaintiff through Preliminary Proceedings by initially giving the Plaintiff twenty-one (21) days to respond to an offer and then escalating the process to formal proceedings just six days later." (Compl. ¶ 45(a); P. Dep. II, pp. 94-95.) This allegation misapprehends the requirements of Step 1 of the termination process. First, the Faculty Manual specifies no set time period for preliminary proceedings; it merely states that the President "will seek to resolve the matter with the tenured faculty member in private." Norman obviously

complied with this provision when he met with Crenshaw and outlined three possible options, one of which, early retirement, was suggested by Crenshaw. Although Crenshaw agreed to select one of these choices by 5 p.m. on the Monday following their Saturday conversation, he never did so, and merely stated that he and his attorney were willing “to discuss” early retirement. Crenshaw himself acknowledged in a Thursday e-mail that he had “not agreed” to any proposal. (P. Dep. II, Ex. 32, p. 4.) Not until Friday, August 12 – five days after the deadline for Crenshaw to decide which option he wanted – did Norman state that the deadline had passed for resolving all outstanding issues by “mutual consent” and stating that Stage 2 of the process for termination had begun.

Plaintiff also alleges that Norman gave Crenshaw 21 days “to respond to an offer” and then escalated the process to formal proceedings. Actually, Norman gave Crenshaw two days to consider three options: (1) the apologies and other conditions Norman outlined for Crenshaw to remain employed at Erskine; (2) Crenshaw’s proposal for early retirement; or (3) in the absence of any agreement, moving to Stage 2 of the process for termination of tenured faculty. When Crenshaw indicated a willingness “to discuss” early retirement, Norman sent Crenshaw a severance agreement. (P. Dep. II, Ex. 33.) Because Crenshaw was over 40 years of age, the Age Discrimination in Employment Act, as amended by the Older Workers Benefit Protection Act, required that Crenshaw be given 21 days to consider whether to waive his rights under the Age Discrimination in Employment Act. 29 U.S.C. § 626(f). The Act also provides a seven-day revocation period during which Crenshaw could revoke his acceptance. *Id.* Crenshaw was always encouraged to take the entire 21 days to consider the severance agreement. He was never given 21 days to consider any other option. Crenshaw admitted this in his deposition, when he

was asked if he was given 21 days to consider Norman's conditions for staying employed at Erskine, which included the apologies and other conditions.

Q. But did he [Norman] ever tell you had 21 days to consider that option?

A. No.

Q. At the end of the meeting on August the 6th, the transcript of which we've looked at, had you and Norman agreed on any option?

A. No.

(P. Dep. II, p. 96.)

Crenshaw never agreed to the early retirement or to the option Norman presented for remaining employed at the College. (P. Dep. II, p. 106.) In fact, even after the 21 days expired, Norman gave Crenshaw an extra week to consider the early retirement option. (P. Dep. II, Ex. 35.) Crenshaw never accepted the option for remaining employed at Erskine or the early retirement option, and he never signed the severance agreement. Clearly, there had been no agreement reached between Norman and Crenshaw to resolve the outstanding issues involving Crenshaw's conduct, and Crenshaw was never "rushed" through anything.

Crenshaw also alleges that Norman did not properly handle the formal proceedings since Crenshaw was only given three days to decide whether he wanted a formal hearing, after which the College then cancelled the hearing, although, according to Crenshaw, he had never waived his right to a hearing. (Compl. ¶ 52(b).)

The content of Norman's letter to Crenshaw, and the plain language of the procedures set forth in the Faculty Manual, show this allegation to be utterly without merit.

As required by College procedures, Norman's letter of Friday, August 12, 2011, informed Crenshaw of his right to a hearing before a Faculty Committee and indicated the date and time of

the hearing. (P. Dep. II, Ex. 34, p. 2.) The hearing was scheduled for August 29, 2011, and Norman informed Crenshaw that he could have additional time if needed: "This schedule is subject to adjustment upon reasonable request." (P. Dep. II, Ex. 34, p. 2.) Finally, the letter informed Crenshaw that, as required by the Faculty Manual, he was required to reply to the letter, in writing, indicating whether he wanted to proceed with the hearing. (P. Dep. II, Ex. 34, p. 2.)

According to the Faculty Manual, once the faculty member is informed of the hearing, "The tenured faculty member will reply in writing to the President stating whether a hearing is desired, and the reply shall be not less than two weeks before the date set for the hearing." (P. Dep. II, Ex. 27, p. 36) (emphasis added). Since the hearing was set for August 29, 2011, the date for Crenshaw to indicate, in writing, his desire to proceed with the hearing was Monday, August 15. As Crenshaw admitted in his deposition, he never did so. (P. Dep. II, p. 106.) Although Crenshaw complains that he was not given sufficient time to decide whether he wanted a hearing, he never accepted Norman's offer to adjust the schedule. (P. Dep. II, pp. 103-104.) In fact, Crenshaw admitted that he didn't even read all of Norman's letter: "Actually, I didn't even read the whole letter. I just saw we were in Stage Two, and I just tossed it aside." (P. Dep. II, p. 104.)

Crenshaw also claims that, despite the plain language in the Faculty Manual, he was not required to request a hearing. When asked why he didn't request additional time, Crenshaw said: "Two reasons. One, I don't have to ask for a hearing. I have a hearing unless I waive it." (P. Dep. II, p. 102.) Plaintiff also asserts that his failure to state whether he desired a hearing was not a waiver of the hearing.

Q. Well, you waived the hearing by not requesting, correct?

A. I disagree. That's not a waiver.

(P. Dep. II, p. 104.)

The pertinent provision of the Faculty Manual bears repeating: “The tenured faculty member will reply in writing to the President stating whether a hearing is desired, and the reply shall be not less than two weeks before the date set for the hearing.” (P. Dep. II, Ex. 27, p. 36 (emphasis added).) Despite the plain language of the Faculty Manual, Crenshaw maintains that he was not required to inform the President, in writing, whether he desired a hearing, and that the College violated the Faculty Manual by cancelling the hearing.

Crenshaw’s position is at war with the plain meaning of the language in the Faculty Manual requiring a written response from the faculty member “stating whether a hearing is desired.” If Crenshaw’s position were correct, the language quoted above would be unnecessary. In fact, Crenshaw’s position – that the hearing will take place unless the faculty member affirmatively waives it – is just the opposite of the language in the Faculty Manual. If Crenshaw had wanted a hearing, his failure to reply in writing requesting one is, in itself, a breach of his obligations under what he asserts is a contract between himself and the College. Moreover, by failing to request a hearing, Crenshaw also forfeited the opportunity to challenge before the Hearing Committee what he is now asserting is a violation of step one of the termination process. In short, Crenshaw failed to pursue all of the procedures available to him under College policies that he now alleges the College violated.

Crenshaw’s position is also at war with itself. He asserts that he was given only three days “to decide whether to go through with a hearing” (Compl. ¶ 52(b)); yet he also asserts that he was not required to decide whether he wanted a hearing, since the hearing should have taken place absent his explicit waiver. Crenshaw can’t have it both ways. Crenshaw’s position is

consistent, however, with his conduct throughout the events that gave rise to this litigation: Crenshaw will not cooperate with, or be bound by, any procedures with which he disagrees.

Next, Crenshaw alleges that “Norman had appointed so many faculty members to handle the case in various capacities on the committees described above that it would have been impossible to form a committee of seven faculty members not previously concerned with the case.” (Compl. ¶ 52(c).) This allegation is moot, since Crenshaw never requested a hearing and no hearing committee was ever appointed. The allegation is also both misleading and demonstrably false. First, Norman did not appoint any of the members of the original Grievance Committee. As a standing committee of the College, its members are elected by the faculty for two year terms. (P. Dep. II, Ex. 27, p. 61.) Similarly, the Faculty Executive Committee is composed of faculty members elected to other positions. (P. Dep. II, Ex. 27, p. 9.) The President did appoint six faculty members to the Special Faculty Committee. (P. Dep. II, Ex. 21.) These six members, when added to the seven members of the original Grievance Committee, along with the three faculty members who filed complaints against Crenshaw, totals 26 faculty members who were involved in one way or another in this matter.

During the 2011-2012 academic year, Erskine employed 47 faculty members. (Christie Aff.) Subtracting the 26 faculty members involved in the Crenshaw matter left 21 remaining faculty members who could have filled the 7 seats on the Hearing Committee, if Crenshaw had requested a hearing. Plaintiff’s allegation, therefore, is manifestly inaccurate.

Finally, Crenshaw alleges that Defendants violated the termination process by suspending him “based on the speculative fear that he was or would encourage people to quit donating to Erskine and to quit sending their kids to Erskine.” (Compl. ¶ 52(d).) Erskine’s concern in this regard was not speculative; it was based on Crenshaw’s previous conduct, namely, his post to a

Facebook site in which he explained the effect that his activities, and those of his allies, would have on the College: "I think this site does accomplish three things. First it spreads the word and the outrage. This is a means to an end. The end are [sic] the other two accomplishments: Second, people are encouraged to quit donating to Erskine and to quit sending their kids until all this is straightened up." (P. Dep. II, Ex. 34, pp. 8-9; P. Dep. II, p. 85.) No college could be expected to ignore such blatant disloyalty. While Crenshaw may not see immediate harm in urging alumni not to send their money or their children to Erskine, the College could hardly fail to see a threat to its fundraising and recruitment as posing immediate harm to the institution. In fact, based on conversations with donors, Norman believed that this post and similar ones were having a detrimental effect on fund raising. (Norman Dep., pp. 166-167.) In any case, the determination of what constitutes immediate harm to the College is left to the discretion of the institution, since the College Faculty Manual provides no defining criteria for "immediate harm," nor any process for challenging the College's determination.

Perhaps aware of the unpersuasive nature of this "speculative" argument, Crenshaw's fall back position is that, even if the concern of the College were justified, "it does not rise to the level of immediate harm to himself or others as required to suspend a professor who is in the termination process." (Compl. ¶ 52(d).) On the contrary, Crenshaw's blatantly disloyal conduct was, in itself, justification for his termination and his suspension. "It is implicit in any contract for employment that the employee shall remain faithful to the employer's interest throughout the term of employment. An employee has a duty of fidelity to his employer." Berry v. Goodyear Tire & Rubber Co., 270 S.C. 489 (1978) (citation omitted). The Supreme Court in Berry went on to note that disloyal conduct justifies termination. "Where an employee acts adversely to the interests of his employer, he is disloyal and his discharge is justified." Id. (citations omitted).

Conduct that justifies termination from employment indisputably justifies suspension from employment.

To engage in conduct with the goal of convincing alumni not to send their money or their children to Erskine is a flagrant breach of this duty of loyalty and poses immediate harm to the College. Hence, no reasonable jury could find that the College was acting unreasonably when it suspended Crenshaw.

The facts recited above demonstrate that the College complied with every step of the procedure for terminating tenured faculty members. Because there are no disputes over any of the material facts noted above, and because no reasonable jury could find that the College failed to comply with the procedures for terminating Crenshaw's employment, Defendants are entitled to summary judgment on Crenshaw's claim for breach of contract.

C. Intentional Infliction Of Emotional Distress

1. Plaintiff's Claim For Intentional Infliction Of Emotional Distress Must Fail Because Plaintiff Cannot Establish The Elements Of The Claim

To establish the tort of intentional infliction of emotional distress, also known as outrage, a plaintiff must establish the following: (1) the defendant intentionally or reckless inflicted severe emotional distress, or knew that distress would probably result from his conduct; (2) the defendant's conduct was so extreme and outrageous that it exceeded all possible bounds of decency and was furthermore atrocious, and utterly intolerable in a civilized community; (3) the actions of the defendant caused the plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure it.

~~Ford v. Hutson, 276 S.C. 157, 162, 276 S.E. 776, 778 (1981); Gattison v. S.C. State College, 318~~
S.C. 148, 151, 456 S.E. 2d 414, 416 (Ct. App. 1995). "Initially, the trial court determines whether the defendant's conduct was extreme and outrageous enough to permit recovery; the

judge should submit the issue to the jury only where reasonable persons might differ on this issue.” Gattison, 318 S.C. at 151-152, 456 S.E. 2d at 416.

Plaintiff’s outrage claim rests solely upon the timing of his termination meeting with Norman. On August 6, 2011, Plaintiff met for the first time with his freshman advisees for an hour during freshman orientation. (P. Dep. II, p. 108.) Formal classes began later that month. Prior to meeting with his students, Plaintiff was approached by Norman on campus. Norman said that he needed to meet with Plaintiff that day. (P. Dep. II, p. 109.) They agreed to meet at 11 a.m. after Plaintiff met with his advisees. (P. Dep. II, p. 109.) This was the meeting during which Norman explained the conditions required for Crenshaw to remain at Erskine. (This meeting is discussed in more detail at pp. 16-18 of this Memorandum.)

Even viewing the facts in the light most favorable to Plaintiff, the timing of Norman’s meeting with Plaintiff falls far short of conduct that was “so extreme and outrageous that it exceeded all possible bounds of decency and was furthermore atrocious, and utterly intolerable in a civilized community.” Gattison, 318 S.C. at 151, 456 S.E. 2d at 416. In Gattison, the Plaintiff was denied secretarial help, his office was moved to a staff lounge, he was taunted, threatened with termination, and humiliated at meetings. Id. at 155-156. Nonetheless, the court found that such facts do not meet the standard required for the tort of outrage, noting that “Gattison has shown no hostile or abusive encounters, or coercive or oppressive conduct.” Id. at 157, 456 S.E. 2d at 419. The court observed that, although the facts alleged by Gattison “may demonstrate unprofessional, inappropriate behavior, they fall short of conduct that exceeds all possible bounds of decency and is atrocious and utterly intolerable in a civilized society.” Id.

The cases collected by the Gattison court also illustrate the high threshold for establishing the tort of outrage. See e.g., Butts v. AVX Corp., 292 S.C. 256, 355 S.E. 2d 876 (Ct. App. 1987)

(no extreme or outrageous conduct where management continually denied plaintiff's medical excuses and willfully engaged him in verbal arguments knowing of his inability to talk because of vocal cord surgery); Holtzscheiter v. Thomson Newspapers, 306 S.C. 297, 411 S.E. 2d 664 (1991) (newspaper referring to plaintiff's murdered daughter as "a drifter" and high school dropout who "had no family to encourage her to continue her education" did not meet the "extreme standard required for outrage"); and Shipman v. Glenn, 314 S.C. 327, 443 S.E. 2d 921 (Ct. App. 1994) (finding that a supervisor's conduct in ridiculing the speech impediment of an employee with cerebral palsy and threatening to fire the employee "did not provide a sufficient basis for intentional infliction of emotional distress").

The cases above illustrate that the tort of outrage is confined to extreme and reprehensible conduct; it is not a "panacea for wounded feelings rather than reprehensible conduct." Gattison, 318 S.C. at 152, 456 S.E. 2d at 416 (citation omitted). Allowing Plaintiff to have one class meeting with his advisees during freshman orientation hardly constitutes conduct so outrageous and atrocious as to be intolerable in a civilized community.

2. Plaintiff Cannot Demonstrate As A Matter Of Law That He Suffered Severe Emotional Distress

Likewise, Plaintiff's claims for intentional infliction of emotional distress fails because he can not demonstrate that the emotional distress he suffered "was so severe that no reasonable person could be expected to endure it." Hansson, 374 S.C. 352, 356, 650 S.E. 2d at 70 (quoting Ford, 276 S.C. at 162, 276 S.E. 2d at 778). As stated by the Supreme Court in Hansson:

To permit a plaintiff to legitimately state a cause of action by simply alleging, 'I suffered emotional distress' would be irreconcilable with this Court's development of the law in this area. In the words of Chief Justice Littlejohn, the court must look for something 'more' – in the form of third party witness testimony and other corroborating evidence – in order to make a prima facie showing of 'severe' emotional distress.

Id. at 358, 650 S.E. 2d at 72. Consequently, allegations such as being embarrassed, hurt, surprised, shocked, aggravated, scared, emotionally upset, distressed or worried falls far short of the severe distress needed for an outrage action. See, e.g., Hansson, 374 S.C. at 359, 650 S.E. 2d at 72 (holding plaintiff's allegations of sleeplessness and teeth grinding insufficient to show severe emotional distress); Shipman v. Glenn, 314 S.C. 327, 328-29, 443 S.E. 2d 921, 922-23 (Ct. App. 1994) (holding plaintiff's emotionally upset, distressed and worried state of mind, combined with fear of harm to career and personal life not sufficient to demonstrate severe emotional distress); Talamantes v. Berkeley Cty. Sch. Dist., 340 F. Supp. 2d 684, 691 (D. S.C. 2004) (stating plaintiff's allegations of embarrassment not so severe as to constitute severe emotional distress).

Plaintiff's facts, taken together, are insufficient to demonstrate the requisite level of severe emotional distress needed to support an outrage claim. Here, when describing the emotional distress he suffered, Plaintiff describes himself as being humiliated, shocked, and feeling a sense of helplessness. (P. Dep. II, p. 112-113.) He further testified to having trouble sleeping and concentrating in his writing. (P. Dep. II, p. 112-113.)⁷ Yet Plaintiff has also testified that he did not receive any psychological or medical care—nor did he suffer depression—as a result Defendants' actions. (P. Dep. II, p. 115, 118-119.) He further admitted that sleeplessness is not as severe now. (P. Dep. II, p. 115.)

Accordingly, because Plaintiff will not be able to demonstrate that the emotional distress he allegedly suffered was so severe that no reasonable man could be expected to endure it, Defendants respectfully request that the Court enter summary judgment in their favor on Plaintiff's third cause of action.

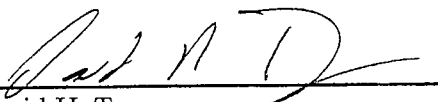
⁷ Plaintiff also testifies that he experienced weight loss, yet noted in his deposition that he did not feel that was a bad thing

IV. CONCLUSION

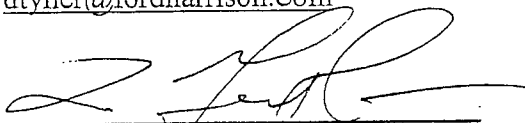
Based on the foregoing facts and authorities, Defendants' Motion for Summary Judgment must be granted and Plaintiff's Complaint must be dismissed in its entirety with prejudice. In addition, Defendants request their costs and attorneys' fees along with any other relief deemed appropriate by the Court.

Dated this 26 day of March, 2014.

Respectfully submitted,



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STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

William Crenshaw,

Plaintiff,

vs.

Erskine College and David A. Norman,

Defendants.

C. A. No. 2012-CP-01-158

DEFENDANTS' SECOND MOTION FOR SUMMARY JUDGMENT

COME NOW Defendants, Erskine College ("Erskine") and David A. Norman ("Norman") (collectively "Defendants"), by and through their undersigned counsel, and move this Court pursuant to S.C.R.C.P. 56 for Summary Judgment on Plaintiff's first cause of action for wrongful discharge in violation of public policy. This Motion is made on the following grounds:

PROCEDURAL HISTORY

1. Defendants previously filed a Motion for Summary Judgment on all three claims in Plaintiff's Complaint, (1) wrongful discharge in violation of public policy; (2) breach of contract; and (3) intentional infliction of emotional distress, which was denied by Judge Griffith in June 2014.

GROUND FOR SECOND MOTION FOR SUMMARY JUDGMENT

2. On January 28, 2015, the South Carolina Supreme Court answered a certified question from the United States District Court for the District of South Carolina in Taghivand v.

Rite Aid Corp., et al., 768 S.E.2d 385 (2015) which asked the Supreme Court “to delineate the parameters of the public policy exception to the doctrine of at-will employment.” Id. at 386.

3. This Motion is made because the South Carolina Supreme Court’s opinion in Taghivand provides guidance—which did not exist at the time of Defendants’ first Motion for Summary Judgment—mandating dismissal of Plaintiff’s wrongful discharge claim.

4. This Motion is proper. “The denial of a motion for summary judgment does not bar a party from making a later motion for summary judgment based on matters not involved in the decision on the first motion. If the first motion for summary judgment is unsuccessful the court has the power to permit a second motion for summary judgment prior to trial.” Crosswell Enterprises, Inc. v. Arnold, 422 S.E.2d 157, 159 (Ct. App. 1992) (internal citation omitted). See also Dorrell v. S. Carolina Dep’t of Transp., 605 S.E.2d 12, 18 (2004).

ARGUMENTS AND AUTHORITIES

5. Plaintiff’s claim for wrongful discharge in violation of public policy is based on the argument that Erskine violated public policy when it failed to provide Plaintiff the due process required by its own Faculty Manual and by Article I, Section 3 of the South Carolina Constitution. Plaintiff’s Memorandum in Opposition to Defendants’ Motion for Summary Judgment explicitly states his argument, “Crenshaw’s claim for wrongful discharge should be submitted to the jury because a genuine issue of material fact exists as to whether Erskine afforded him the due process required under its faculty handbook and South Carolina law.” (P’s Memo in Opp. MSJ sec. I, p. 7.)

6. Plaintiff misidentifies the issue. The issue is whether either Erskine’s Faculty Manual or Article I, Section 3 implicate public policy applicable to Plaintiff. The answer is **NO**.

7. Whether something is public policy applicable to a Plaintiff is an issue for the Court to decide, not a jury. Barron v. Labor Finders of South Carolina, 713 S.E.2d 634, 638 (2011) (“[t]he determination of what constitutes public policy is a question of law for the courts to decide”) (citing Citizens’ Bank v. Heyward, 133 S.E. 709, 713 (1925) (‘the primary source of the declaration of public policy of the state is the General Assembly; the courts assume this prerogative only in the absence of legislative declaration.’ It is not a function of the jury to determine questions of law such as what constitutes public policy’’)).

8. The Supreme Court held in Barron that the public policy exception is not limited to the only two situations in which a violation of public policy have to date been found: (1) where the employer requires the employee to violate the law; and (2) where the reason for the termination itself is a violation of criminal law. Id. at 637. However, in Taghivand, the Supreme Court gave explicit warning that “[w]hile we have made clear that the exception ‘is not limited to these [two] situations,’ we have specifically recognized no others. Taghivand v. Rite Aid Corp., et al., 768 S.E.2d 385, 387 (2015) (citing Barron 713 S.E.2d at 637). After Barron, the confusion about what constitutes public policy prompted the certified question to the Supreme Court in Taghivand.

9. While Taghivand addressed a specific question of public policy different from the one in this case, the Supreme Court took the opportunity “to delineate the parameters of the public policy exception to the doctrine of at-will employment” as follows:

- a. “We exercise restraint when undertaking the amorphous inquiry of what constitutes public policy. As the United States Supreme Court has recognized, ‘public policy embodies a doctrine of vague and variable quality, and, unless deducible in the given circumstances from constitutional or statutory provisions,

should be accepted as the basis of a judicial determination, if at all, *only with the utmost circumspection.*” (Patton v. United States, 281 U.S. 276, 306 (1930), *abrogated by Williams v. Florida*, 399 U.S. 78 (1970) (*emphasis added*)). Taghivand v. Rite Aid Corp., et al., 768 S.E.2d 385, 387 (2015).

b. “Moreover, the public policy of this state finds expression in our longstanding adherence to at-will employment; any exception to this doctrine, which is itself firmly rooted in the public policy of this state, should emanate from the General Assembly, and from this Court only when the legislature has not spoken.” Taghivand, 768 S.E.2d at 389.

c. For a statute to create public policy it must make a definite statement of public policy based on its plain language. Taghivand, 768 S.E.2d at 387 (“The thrust of Taghivand’s argument is not that [the statute] applies to him as a potential witness in the reported shoplifting, but rather, that a broad public policy favoring the reporting of crimes can be derived from the legislature’s decision to protect potential witnesses. We find the plain language of the statute does not support his assertions. . . . Without a more definite statement from the General Assembly that the reporting of crime should be protected, we refuse to read such a policy into this statute”).

d. In order for the common law to create public policy it must make a definite statement of public policy based on plain language. Id. at 388 (applying the same reasoning cited for public policy emanating from statute supra to public policy emanating from the common law).

e. There must be evidence of the Legislature's intent to apply the meaning of a law outside of its stated context, i.e. to create public policy in a situation other than that for which the law was created. Id. ("Thus, while the legislative intent section indicates the General Assembly recognizes the importance of the people's civic duty to cooperate with law enforcement, there is no indication the General Assembly intended this concept to extend outside the context of the ongoing criminal proceeding at the heart of this statute. Accordingly we also find this argument without merit").

10. Article I, Section 3 of the South Carolina constitution does not give due process rights to Plaintiff and therefore cannot be the basis of a public policy exception to Plaintiff's at-will employment. To hold that Article I, Section 3 gives Plaintiff due process rights would directly contradict the Supreme Court's holding that Article I, Section 3 only provides due process in the face of government action. Hooper v. Rockwell, et al., 513 S.E.2d 358, 364 (1999) ("Article 1, Section 3 ensures the government may not abridge the privileges and immunities of its citizens without due process . . ."). Erskine is a private college. See S.C. Code Ann. §§ 59-101-10, 59-107-10 (excluding Erskine from the list of State-supported colleges and "state institution[s]" respectively). No court of this State has ever held that Article I, Section 3 due process applies to tenured faculty of a private college. And, to hold otherwise now, would violate the parameters set by Taghivand: (1) that a statute must make a definite statement of public policy based on its plain language; and (2) there must be evidence of the Legislature's intent to apply the meaning of the law outside its stated context.

11. Plaintiff argues that "[a] tenured professor has a property interest in continued employment which is safeguarded by due process." Ross v. Medical Univ. of SC, 492 S.E.2d

62, 70 (1997) (internal citation omitted) (P's Memo in Opp. MSJ Sec. I, p. 7). Plaintiff's citation to Ross is inapposite because that case involved State action by the Medical University of South Carolina, which is a public institution. S.C. Code Ann. §§ 59-101-10.

12. Plaintiff's claim that Erskine's Faculty Manual implicates public policy likewise fails because Erskine's Faculty Manual does not create a public policy of the State. Plaintiff's claim that Erskine's Faculty Manual creates public policy is a claim for public policy based on the common law. As Taghivand instructs, the common law must make a definite statement of public policy based on clear language. Not only does the common law not make such a statement, it in fact, makes the opposite statement. As U.S. District Judge Joseph Anderson has held, a private college's policies do not implicate public policy. Walters v. Benedict College, 2006 WL 644442, *9 (2006) ("Benedict is a private (non-public) college and violations of its policies do not implicate 'public policy'"). Erskine too is a private college and its Faculty Manual does not implicate public policy. See S.C. Code Ann. §§ 59-101-10, 59-107-10. The failure of this claim is clear.

13. Given the lack of authority of any kind to support that Article I, Section 3 applies outside of government action, and authority directly contradicting Plaintiff's contention that Erskine's Faculty Manual can create public policy, there is no reason for this Court to create a new public policy to protect Plaintiff's claim.

14. This Court must decide whether in light of a complete lack of authority on the one hand and authority directly to the contrary on the other hand, it still wishes to create new public policy in the face of the Supreme Court's strong warning to do so only with the utmost circumspection. Taghivand v. Rite Aid Corp., et al., 768 S.E.2d 385, 387 (2015).

In support of this Motion, Defendants rely upon the following Exhibits, and any and all pleadings before the Court as well as facts which are subject to judicial notice, such presumptions as would be available upon trial, and any other materials which would be admissible in evidence at trial. The Exhibits will be cited according to the designations indicated below:

Exhibit A: Plaintiff's Memorandum in Opposition to Defendants' Motion for Summary (P's Memo in Opp. MSJ sec. __, p. __.)

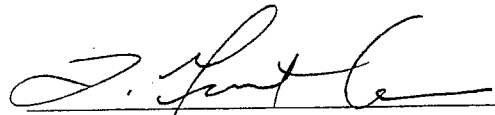
Exhibit B: Unpublished Opinion

WHEREFORE, Defendants pray that the Court will grant this Motion and enter summary judgment in their favor, dismiss Plaintiff's first cause of action for wrongful discharge in violation of public policy with prejudice, and award attorney fees, costs or other relief as the Court finds appropriate.

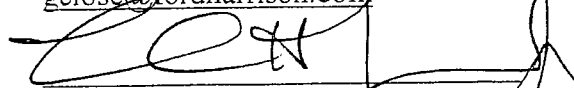
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Dated this 1st day of June, 2015.

Respectfully submitted,



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Attorneys for Defendants

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

William Crenshaw,

Plaintiff,

vs.

Erskine College and David A. Norman,

Defendants.

C. A. No. 2012-CP-01-158

DEFENDANT ERSKINE COLLEGE'S MOTION FOR JNOV
AND IN THE ALTERNATIVE FOR A NEW TRIAL

COMES NOW Defendant Erskine College, by and through its undersigned counsel pursuant to SCRCP 50 and 59, and files this its Motion for JNOV or in the Alternative for a New Trial and for Remittitur as follows:

I. INTRODUCTION

This case was tried in Abbeville County during the week of June 8, 2015, before the Honorable Judge Eugene C. Griffith, Jr. At the conclusion of Defendant's case, a Motion for Directed Verdict was made and judgment was granted in all claims other than a single breach of contract claim by the Plaintiff against Defendant Erskine College. Thereafter, the jury returned a verdict in favor of the Plaintiff in the amount of \$600,000.

II. JUDGMENT SHOULD BE ENTERED IN FAVOR OF DEFENDANT ERSKINE COLLEGE AS A MATTER OF LAW WITH REGARD TO PLAINTIFF'S BREACH OF CONTRACT ACTION AGAINST ERSKINE COLLEGE.

Defendant Erskine College moves for a Judgment Notwithstanding the Verdict and In the Alternative for a New Trial because Plaintiff failed to satisfy his obligations under the Faculty

Manual, which Plaintiff claims constitutes a contract between Plaintiff and Defendant Erskine College. Defendant Erskine College's argument with regard to this claim is straightforward. On pages 35 and 36 of the Erskine College Faculty Manual, there is a specific procedure which the College, College President, and tenured faculty member must follow in order to terminate a tenured faculty member for cause (D. Ex. 17).

There is no dispute that the parties engaged in preliminary proceedings as identified as Item 1 on page 35 of the Faculty Manual. The undisputed evidence is that President Norman and Professor Crenshaw met at length on August 6, 2011, in an effort to resolve the matter in private. The matter was not resolved by mutual consent, and therefore the President, as required by the Faculty Manual, formulated a statement describing the grounds for dismissal. If the matter cannot be resolved by mutual consent, the President has some additional obligations under the Faculty Manual. First, the President has to formulate a statement describing the grounds for dismissal. Under Section 2, Formal Proceedings, the President is required to provide the tenured faculty member, in writing, notice of the dismissal and the grounds for it. There is no dispute that President Norman provided this writing to Professor Crenshaw on August 12, 2011 (D. Ex. 16). The same section of the Faculty Manual requires that the President also advise the tenured faculty member of the right to a hearing before a faculty committee and must indicate the time and place of the hearing. In President Norman's August 12, 2011, letter at the top of page 2, he writes: "You have a right under College policy to a full hearing before a faculty committee. Unless you waive your right to a hearing, it shall be held on August 29 at 9:00 a.m. in the Chestnut Room. This schedule is subject to adjustment upon reasonable request." (D. Ex. 16.)

The tenured faculty member also has some obligations with regard to this provision of the Faculty Manual. The Faculty Manual, again under the section entitled "Formal Proceedings,"

has the following obligation: “The tenured faculty member will reply in writing to the President stating whether a hearing is desired, and the reply shall be not less than two weeks before the date set for the hearing.” (D. Ex. 17.) Turning again to the August 12, 2011, letter from President Norman to Professor Crenshaw at the top of the second page, the letter provides: “As also stated in the handbook, you will immediately reply to this letter in writing, stating whether this hearing is desired. This reply shall not be less than two weeks before the date set for the hearing.” President Norman further reiterated Plaintiff’s obligation to respond and deadline to do so in the cover e-mail for the August 12, 2011, letter (D. Ex. 42). The Faculty Manual clearly states that the purpose of the hearing is to review the President’s grounds for dismissal. It states in the last paragraph of Section 3 “Hearing Committee”: “When the committee has reached a decision on each of the causes for dismissal presented to it, the President and the tenured faculty member will be notified simultaneously in writing of that decision.” Furthermore, in Section 5, the Faculty Manual makes clear, as did President Norman’s testimony, that while the tenured faculty member may be suspended during the termination proceedings, he is not terminated unless and until the proceedings uphold the grounds for dismissal.

The undisputed testimony and other evidence is that Professor Crenshaw never made a request for a hearing, even up through the conclusion of the trial of this matter. Defendant Erskine College’s argument is straightforward. In order to allege and recover from a breach of contract claim, the allegedly aggrieved party, in this case Professor Crenshaw, is required to satisfy his obligations under the terms of the alleged contract. “Of course, all parties must be obligated under a contract in order for it to be enforceable.” Alala v. Peachtree Plantations, Inc., 292 S.C. 160, 167, 355 S.E.2d 286, 290 (S.C. Ct. App. 1987) (*internal citations omitted*). The Faculty Manual provides for a detailed process for the termination of a tenured faculty member.

In addition to the preliminary proceedings and formal proceedings discussed above, there are additional detailed provisions concerning a hearing committee, which include how a hearing shall be conducted, that counsel may represent either party, a process for securing the parties' witnesses, as well a requirement that a verbatim recording of the hearing be made and be made available to both the President and the tenured faculty member. There is also a provision to appeal any decision of the committee to the Board of Trustees (D. Ex. 17).

The undisputed evidence in this case is that Professor Crenshaw failed to comply with the terms of the contract and request a hearing. Therefore, Professor Crenshaw cannot avail himself of a claim for breach of contract when he himself has not fulfilled the obligations of the contract and thus has breached the contract upon which he attempts to make a claim. Based on this undisputed evidence, Defendant Erskine College requests the Court enter a judgment in favor of Defendant Erskine College on the breach of contract claim.

III. OTHER GROUNDS FOR JUDGMENT NOTWITHSTANDING THE VERDICT AND IN THE ALTERNATIVE FOR A NEW TRIAL.

Defendant Erskine College briefly asserts additional grounds for a Judgment Notwithstanding the Verdict.

A. The Erskine College Faculty Manual Does Not Constitute a Contract as a Matter of Law.

The Erskine College Faculty Manual provides on its cover, "The issuance of this manual, The Employee Resource Handbook and/or the policies and language contained therein do not create a contract of employment, express or implied, between Erskine and any employee. In the event that a mandatory language appears in this manual, the terms of this disclaimer shall take precedence over any such apparently mandatory language so that no contract is created." (D. Ex. 17.) In addition to this disclaimer language, at the bottom of each page of the Faculty Manual a

sentence appears separate and apart from the normal text of the Faculty Manual which provides, "This is not a contract of employment."

Based on the above undisputed evidence, Professor Crenshaw cannot claim that the Faculty Manual constitutes a contract. As specifically provided in the disclaimer, if there is any language which appears to be mandatory in the manual, the terms of this disclaimer takes precedence so that no contract is created. No reasonable juror could find, under the circumstances, that the Faculty Manual constitutes a contract. Therefore, judgment should be entered for Erskine College because Professor Crenshaw cannot establish a jury question as to whether a contract exists.

B. The Jury Failed to Follow the Court's Instructions and Rendered an Excessive Verdict which is Not Supported by the Law or the Evidence.

The Judge provided the standard instruction for breach of contract damages and mitigation of damages to the jury. Professor Crenshaw testified at trial that the longest he had planned to work was five years. Professor Crenshaw earned a salary of \$70,000 during his employment with Erskine College. On cross-examination, Professor Crenshaw admitted that he had not looked for work for the last two or three years. Two to three years prior to June 2015 would be June 2013 or June 2012. Professor Crenshaw's termination of employment was in September 2011. Based on Professor Crenshaw's own testimony, he only looked for work after his termination of employment for either eight months (three years prior to June 2015), or 20 months (two years prior to June 2015). Therefore, the maximum damages to which Professor Crenshaw was entitled was either \$46,000 or \$116,000, if he were to recover.

In addition, Professor Crenshaw admitted that he only looked for tenured, full professor positions and not the general category of college professor positions. Professor Crenshaw testified that he made only one post-termination inquiry for a position and that inquiry was an

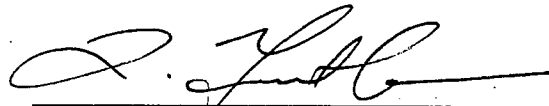
informal inquiry with a friend at Lander University. Professor Crenshaw testified that he made no formal inquiries for employment after termination and even testified that he had made one formal application for a position at Wofford College that was less than a full professorship years before his termination. Therefore, his limited job search was inadequate under the law.

The jury returned a question to the Court asking if they could articulate a verdict in the form of a mathematical formula which would consist of: (1) five years' pay at \$70,000, plus (2) social security, retirement benefits, taxes, and other monies, plus (3) attorney fees. The Court instructed the jury by reply note that it should award damages in accordance with the jury instructions provided by the Court. At this point, the jury had a copy of the Court's jury instructions. As mentioned above, the jury then returned a verdict in the amount of \$600,000. Clearly, the jury did not follow the Court's breach of contract damages and mitigation of damages jury instructions.

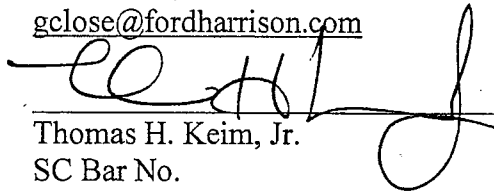
WHEREFORE, Defendant Erskine College respectfully requests in the absence of the entry of a Judgment Notwithstanding the Verdict, that a Remittitur be granted to substantially reduce the damages to those appropriate under the law. Since Professor Crenshaw admitted that he had not looked for work for as long as three years prior to the trial and made no formal application for employment, Defendant argues in the alternative to an entry of judgment that the verdict be reduced to \$46,000, or a new trial be granted.

Dated this 17th day of June, 2015.

Respectfully submitted,



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CERTIFICATE OF SERVICE

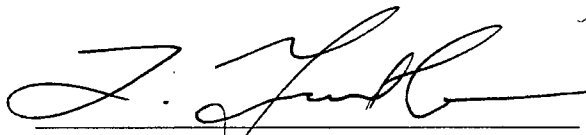
I hereby certify that a copy of the foregoing has been served upon the following person by placing a copy of same in the United States Mail with the correct amount of postage thereon and properly addressed to:

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and by electronic mail to:

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Dated this 17th day of June, 2015.



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COPY

STATE OF SOUTH CAROLINA)

COUNTY OF ABBEVILLE)

William Crenshaw,)

Plaintiff,)

vs.)

Erskine College and David A. Norman,)

Defendants.)

IN THE COURT OF COMMON PLEAS

EIGHTH JUDICIAL CIRCUIT

Case No.: 2012-CP-01-158

**PLAINTIFF'S RESPONSE TO
DEFENDANT ERSKINE COLLEGE'S
MOTION FOR JNOV AND IN THE
ALTERNATIVE FOR A NEW TRIAL**

TRUE COPY
BY *[Signature]*
ABBEVILLE COUNTY CLERK OF COURT

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2015 JUL -7 AM 9:03
EMILY Y MCMAHAN
CLERK OF COURT

I. INTRODUCTION

The Court should deny Defendant Erskine College's ("Erskine College") motions for JNOV, a new trial, and remittitur. It should enter judgment in favor of Plaintiff ("Crenshaw") for \$600,000.00 as the jury verdict awarded.

II. THE COURT SHOULD ENTER JUDGMENT IN FAVOR OF CRENSHAW AGAINST ERSKINE COLLEGE ON HIS BREACH OF CONTRACT/WRONGFUL TERMINATION CLAIM

The jury reasonably concluded that Crenshaw met all of his obligations to Erskine College and that Erskine College violated its obligations to Crenshaw under the parties' agreement.

When considering a motion for judgment notwithstanding the verdict, the trial judge cannot disturb the factual findings of a jury unless a review of the record discloses no evidence which reasonably supports them. Force v. Richland Memorial Hosp., 322 S.C. 283, 284, 471 S.E.2d 714, 715 (Ct. App. 1996) (citing Horry County v. Laychur, 315 S.C. 364, 434 S.E.2d 259 (1993)). In making this determination, the judge must view the evidence and all its inferences in the light most favorable to the nonmoving party. Id. Furthermore, if more than one reasonable inference exists, the jury verdict must stand. Id.

"In ruling on a motion for JNOV, the trial court must view the evidence and inferences in the light most favorable to the non-moving party and must deny the motion if either the evidence yields more than one reasonable inference or its inferences are in doubt. The verdict will be upheld if there is any evidence to sustain the factual findings implicit in the jury's verdict." Shupe v. Settle, 315 S.C. 510, 445 S.E.2d 651 (Ct. App. 1994) (citing Hilton Head Island Realty, Inc. v. Skull Creek Club, 287 S.C. 530, 339 S.E.2d 890 (Ct. App. 1986)).

Herein, the non-moving party, Crenshaw, met his required burden to the jury's satisfaction on his merged claims of breach of contract and wrongful termination.

The parties entered into the preliminary proceedings on Aug. 6, 2011, as called for by the College Faculty Manual. Crenshaw and Erskine College's president, David Norman, met and discussed possible resolutions to the matter. At that meeting, Norman informed Crenshaw that he would be suspended from teaching for the fall semester. The evidence at trial showed two possible outcomes to resolve the matter. First, Norman ordered Crenshaw to apologize to the original complainants, any member of the Erskine faculty offended by Crenshaw, and to the Erskine community. Norman testified this apology option would probably last until December 2011. A second option was for Crenshaw to retire early in exchange for Erskine paying his salary for a period of time. Crenshaw and Norman exchanged e-mails as part of this negotiation in the days following the meeting. (D. Ex. 41.) On Aug. 11, Norman confirmed in an e-mail that Crenshaw had twenty-one (21) days to consider the proposed agreement. (Id.)

Then on Friday, Aug. 12, Norman wrote a termination letter laying out the grounds for Crenshaw's termination. This action by Norman escalated the process into formal proceedings while the parties were still in preliminary proceedings. That letter stated:

Unless you waive your right to a hearing, it shall be held on August 29th at 9 AM on in the Chestnut Room. This schedule is subject to adjustment upon reasonable

request. As also stated in the handbook, you will reply to this letter in writing, stating whether this hearing is desired. This reply shall not be less than two weeks before the date set for the hearing.

(P. Ex. 17.) Norman also specified in that letter that Crenshaw was suspended for the upcoming semester. (Id.)

Crenshaw did not request or waive his right to a hearing. The deadline to reply to Norman's letter was not sufficient because Norman gave Crenshaw only a weekend to decide as the deadline was Monday, Aug. 15 at 9 a.m.

At trial, the Court's verdict form had two questions for the jury to answer. The first question asked whether Crenshaw breached any obligations to Erskine College under the agreement based upon Erskine College's request. The jury answered no. The second question asked whether Erskine College breached any obligations it owed to Crenshaw under the agreement. The jury answered yes.

Given that Norman escalated the procedure despite Crenshaw still having more than two (2) weeks to decide whether to accept early retirement, the jury was reasonable in concluding that Crenshaw did not breach his obligation to Erskine College. Also, the terms for requesting the hearing in Norman's letter were ambiguous as it required him to request a hearing that was already set and would occur unless Crenshaw waived his right to the hearing. The grounds laid out in the letter also do not give rise to the adequate cause required to terminate a tenured professor. Given these facts, the jury drew a reasonable inference that Crenshaw did not breach his obligations to Erskine College.

The Court should also deny Erskine College's motion for a new trial because Erskine College cannot show passion, caprice, prejudice, partiality, corruption, or some other outside influence. See Knoke v. South Carolina Dept. of Parks, Recreation, and Tourism, 324 S.C. 136,

478 S.E.2d 256 (1996) (citing McCourt v. Abernathy, 318 S.C. 301, 457 S.E.2d 603 (1995); Rush v. Blanchard, 310 S.C. 375, 426 S.E.2d 802 (1993)). "The jury's determination of damages is entitled to substantial deference." Id.

III. THE ERSKINE COLLEGE FACULTY MANUAL IS A CONTRACT

Erskine College did not comply with the statutory method of disclaiming a contract created by a handbook. Section 41-1-110 specifies that the disclaimer "must be in underlined capital letters on the first page of the document and signed by the employee." S.C. Code Ann. §41-1-110 (2004). Erskine College's faculty manual did not meet these requirements so the Court properly ruled as a matter of law that the attempted disclaimer was not conspicuous as a matter of law.

The question of the existence of a contract, thus, became one for the jury. The mandatory language in the faculty manual protecting tenured professors created a contractual agreement between Erskine College and tenured professors such as Crenshaw. Based on this language, the jury reasonably found that Erskine College owed Crenshaw contractual obligations that it violated. The Court should, therefore, enter judgment in favor of Crenshaw as determined by the jury.

IV. THE JURY VERDICT OF \$600,000.00 SHOULD NOT BE DISTURBED BECAUSE IT IS SUPPORTED BY THE EVIDENCE.

Crenshaw earned a \$70,000.00 salary as a tenured professor at Erskine College. He testified that he expected to teach for at least five (5) more years when he was terminated. His wife testified that he might teach into his seventies. Crenshaw was sixty-three (63) at the time of the termination. He also testified that he expected to earn raises and accrue retirement benefits during that time based off his thirty-five (35) years' experience at Erskine College. Based on this testimony, the jury's verdict of \$600,000.00 was supported by the evidence.

The Court properly charged the jury regarding the duty to mitigate damages. A party must use reasonable care and diligence to lessen his damages. The reasonableness of a party's efforts to mitigate damages is a question of fact for the jury when there is conflicting evidence. Cisson Constr., Inc. v. Reynolds & Assocs., Inc., 311 S.C. 499, 429 S.E.2d 817 (Ct. App. 1993). Crenshaw testified that he searched for jobs on web sites and inquired into a job specifically at Lander University. Crenshaw also testified to the difficulty older professors have in finding employment at four-year universities, which prefer to hire younger professors not yet tenured. It is not reasonable to expect Crenshaw to accept a non-tenured professor position after more than twenty-five years of being a tenured professor. Erskine College places emphasis on Crenshaw not actively seeking work after a couple years. The issue is whether Crenshaw's efforts were reasonable, which does not have a specific time requirement and is instead a factual question based on the case at bar. The jury, thus, had evidence to find that Crenshaw made reasonable efforts to find employment following his termination.

Remittitur is not appropriate where "the record contains adequate evidence to support the jury's verdict." V.E. Amick & Assocs. v. Palmetto Env'tl. Grp., 394 S.C. 538, 551, 716 S.E.2d 295, 302 (Ct. App. 2011). The jury could have reasonably determined that Crenshaw was going to teach for more than five (5) years and was therefore deprived of salary, retirement benefits, and raises that totaled \$600,000.00 by Erskine College's wrongful termination of him. It does not matter that the jury asked the Court whether they could award five years' pay and other incidentals including attorney's fees because the Court properly instructed it. The jury then engaged in further deliberations and issued an appropriate verdict. The Court should not grant remittitur in this case because the evidence supports the jury's verdict. Hawkins v. Greenwood Development Corp., 328 S.C. 585, 600, 493 S.E.2d 875, 883 (Ct. App. 1997), requires

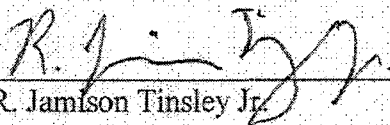
compelling reasons "to invade the jury's province in this manner." No such compelling reasons appear in this case to disturb the jury's verdict, which is supported by the evidence in the record.

V. CONCLUSION

The Court should deny all of Defendant's post-trial motions and enter judgment in favor of Crenshaw against Erskine College for \$600,000.00 in compliance with the jury verdict, which was supported by the evidence that Crenshaw was fired without "just cause."

Respectfully submitted,

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July 1, 2015

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

William Crenshaw,

Plaintiff,

vs.

Erskine College and David A. Norman,

Defendants.

C. A. No. 2012-CP-01-158

**MEMORANDUM OF LAW IN SUPPORT OF DEFENDANT ERSKINE COLLEGE'S
MOTION FOR JNOV AND IN THE ALTERNATIVE FOR A NEW TRIAL**

COMES NOW Defendant Erskine College, by and through its undersigned counsel pursuant to SCRPC 50 and 59, and submits this its Memorandum of Law in Support of its Motion for JNOV or in the Alternative for a New Trial and for Remittitur.

I. PLAINTIFF'S FAILURE TO FULFILL HIS OBLIGATIONS UNDER THE FACULTY MANUAL—THE ALLEGED CONTRACT—REQUIRE JUDGMENT FOR ERSKINE COLLEGE AS A MATTER OF LAW

Defendant Erskine College has moved for a Judgment Notwithstanding the Verdict and In the Alternative for a New Trial because Plaintiff failed to satisfy his obligations under the Faculty Manual, which Plaintiff claims constitutes a contract between Plaintiff and Defendant Erskine College. (D. Ex. 17, p. 35-36.) More precisely, Plaintiff failed to fulfill his sole obligation under the procedures for his dismissal—to request a hearing, in which his faculty peers could review and possibly overturn Erskine's "statement describing the grounds for dismissal." (D. Ex. 16, p. 1.) By not requesting the hearing, Plaintiff also missed an opportunity for an appeal to the Board of Trustees, in the event his peers, after a full hearing, upheld the

grounds for his dismissal. Plaintiff's own conduct, the failure to request the hearing, breached his obligation under the contract. This obligation was reiterated to Professor Crenshaw in President Norman's August 12, 2011 letter to Plaintiff. (D. Ex. 16, p. 2.)

The undisputed testimony and other evidence is that Professor Crenshaw never made a request for a hearing, even up through the conclusion of the trial of this matter. Defendant Erskine College's argument is straightforward. In order to allege and recover from a breach of contract claim, the allegedly aggrieved party, in this case Professor Crenshaw, is required to satisfy his obligations under the terms of the alleged contract. See Parks v. Lyons, 219 S.C. 40, 48, 64 S.E.2d 123, 126 (1951) ("It is an elementary principle that one who seeks to recover damages for the breach of a contract, to which he was a party, must show that the contract has been performed on his part, or at least that he was at the appropriate time able, ready and willing so to perform it" . . . "[t]he law is aptly and tersely stated in 27 Am.Jur. 753, as follows: 'An infant who asserts contractual rights is bound by reciprocal obligations'"); Swinton Creek Nursery v. Edisto Farm Credit, ACA, 334 S.C. 469, 486, 514 S.E.2d 126, 135 (1999) (citing Parks v. Lyons, 219 S.C. at 48 in holding that a plaintiff who has himself breached cannot recover on the implied covenant of good faith and fair dealing, which is implicit in every contract including those employment contracts that alter the at-will relationship¹, see Williams v. Riedman, 339 S.C. 251, 267, 529 S.E.2d 28, 36 (S.C. Ct. App. 2000)); Alala v. Peachtree Plantations, Inc., 292 S.C. 160, 167, 355 S.E.2d 286, 290 (S.C. Ct. App. 1987) ("Of course, all parties must be obligated under a contract in order for it to be enforceable") (*internal citations omitted*). As the South Carolina Supreme Court stated in Parks and cited in Swinton Creek

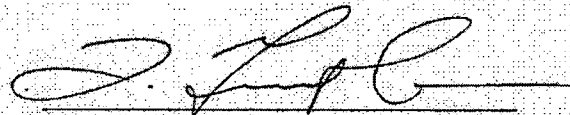
¹ The implied covenant of good faith and fair dealing, which exists in every contract, is not an independent cause of action separate from the claim for breach of contract, but is instead subsumed by the claim for breach of contract. RoTec Services, Inc. v. Encompass Services, Inc., 359 S.C. 467, 472-473, 597 S.E.2d 881, 884 (S.C. Ct. App. 2004).

Nursery, it is an "elementary" principle of contract law that a party who does not perform his obligation under a contract cannot recover damages under the same contract. Parks v. Lyons, 219 S.C. at 48; Swinton Creek Nursery, 334 S.C. at 486. This basic principle prevents Plaintiff from recovering under the Faculty Manual.

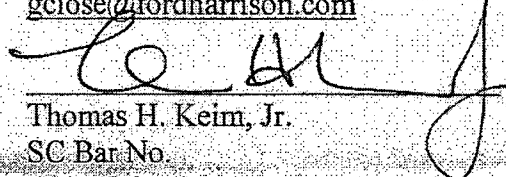
The undisputed evidence in this case is that Professor Crenshaw failed to comply with the terms of the contract and request a hearing. Therefore, Professor Crenshaw cannot avail himself of a claim for breach of contract when he himself has not fulfilled the obligations of the contract and thus has breached the contract upon which he attempts to make a claim. Based on this undisputed evidence, Defendant Erskine College requests the Court enter a judgment in favor of Defendant Erskine College on the breach of contract claim.

Dated this 3rd day of July, 2015.

Respectfully submitted,



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ROA 102

STATE OF SOUTH CAROLINA)

COUNTY OF ABBEVILLE)

William Crenshaw,)

Plaintiff,)

vs.)

Erskine College and David A. Norman,)

Defendants.)

IN THE COURT OF COMMON PLEAS

EIGHTH JUDICIAL CIRCUIT

Case No.: 2012-CP-01-158

**PLAINTIFF'S MOTION TO ALTER OR
AMEND ITS ORDER GRANTING
DEFENDANT ERSKINE COLLEGE
NEW TRIAL**

TRUE COPY

BY 
ABBEVILLE COUNTY CLERK OF COURT

FILED
STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE
2015 AUG 10 AM 9:07
EMILY Y. MCMAHAN
CLERK OF COURT

Pursuant to Rule 59 of the S.C. Rules of Civil Procedure, Plaintiff respectfully requests that the Court reconsider and amend its Order granting Defendant Erskine College a New Trial. The order was issued July 22, 2015; filed July 24; and received by Plaintiff's counsel on July 27. The Court erred in granting the losing party a new trial for the following reasons discussed herein.

The case was tried the week of June 8 in Abbeville Common Pleas court. The jury returned a verdict in favor of Crenshaw in the amount of \$600,000.00. The jury specifically made findings that Crenshaw did not breach his obligation under the agreement and that Erskine College breached its obligations under the agreement.

To be entitled to a new trial, a party must show passion, caprice, prejudice, partiality, corruption, or some other outside influence. See Knoke v. South Carolina Dept. of Parks, Recreation, and Tourism, 324 S.C. 136, 478 S.E.2d 256 (1996) (citing McCourt v. Abernathy, 318 S.C. 301, 457 S.E.2d 603 (1995); Rush v. Blanchard, 310 S.C. 375, 426 S.E.2d 802 (1993)). "The jury's determination of damages is entitled to substantial deference." Id.

Erskine College cannot make such a showing so it should not receive a new trial. The Court apparently granted Erskine College a new trial because it determined Crenshaw violated

his obligation under the agreement because he did not explicitly request a hearing regarding his termination. (Tr. p. 6, ll. 3-16.) The Court erred in making such a finding because the jury's finding that Crenshaw did not breach his obligations under the parties' agreement was supported by the evidence in the record unlike the Court's unsupported determination that Crenshaw breached his obligation. Therefore, the Court should reverse its decision to grant Erskine College a new trial and reinstate the jury's fair and unanimous award of \$600,000.00 to Crenshaw, the prevailing party.

The evidence from the trial led the jury to reach the only appropriate verdict – that Crenshaw had not breached his obligations under the agreement but Erskine College had. No factual record exists to support the Court's granting of Erskine College a new trial on the grounds that Crenshaw had not explicitly requested a hearing in front of the faculty committee. Such a hearing was not necessary as Crenshaw and Erskine College were still in negotiations pursuant to the first step of the termination procedure for a tenured faculty member when President David Norman improperly escalated the process into the hearing stage. Furthermore, a hearing was not required to save Crenshaw's job because Norman's allegations against him did not rise to the level of adequate cause necessary to fire a tenured professor on the face of the allegations. The jury recognized no adequate cause existed to terminate Crenshaw so it properly found in favor of Crenshaw. To require Crenshaw to request a hearing in such a case would require him to have a hearing to save his job no matter how petty the allegations against him by the president were – even if he was being terminated for something on the level of receiving a parking ticket. In granting Erskine College a new trial, the Court, therefore, did not have any factual support for its decision so it constituted an error of law.

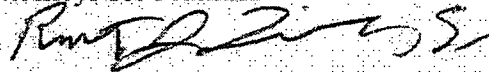
Because no facts in the record support the judge's finding, justice, equity, and the law require the Court to amend its order granting the losing party a new trial and enter judgment in compliance with the jury's verdict, which recognized Erskine College's violation of Crenshaw's rights.

Crenshaw, the victorious party at trial, hereby requests the Court to reverse the order granting a new trial and to enter judgment for \$600,000.00 in favor of Crenshaw.

Respectfully submitted,

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Attorneys for Plaintiff



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August 5, 2015

STATE OF SOUTH CAROLINA
COUNTY OF ABBEVILLE

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

William Crenshaw,

Plaintiff,

vs.

Erskine College and David A. Norman,

Defendants.

C. A. No. 2012-CP-01-158

MOTION TO ALTER OR AMEND PURSUANT TO RULE 59(e)

COMES NOW Defendant Erskine College ("Erskine"), by and through its undersigned counsel, pursuant to SCRPC 59(e), and respectfully submits this, its Motion to Alter or Amend, for the sole purpose of requesting clarification as to whether a ruling denying its Motion for JNOV has been made, and if not, then requesting that ruling be made for the purpose of properly preserving the issue for appeal.

After having earlier denied Erskine's directed verdict motion at the conclusion of Plaintiff's case-in-chief, on June 11, 2015, the Court denied Erskine's renewed motion for directed verdict on Plaintiff's breach of contract claim at the close of all evidence and sent only that claim to the jury. Later the same day the jury returned a verdict in the amount of \$600,000 for Plaintiff.

On June 17, 2015, Erskine filed its Motion for JNOV or in the Alternative for a New Trial and for Remittitur which requested, first and foremost, that the Court enter judgment in favor of Erskine notwithstanding the jury's verdict, or in the alternative, i.e. only if the Court

would not grant Erskine judgment as a matter of law, to grant a new trial absolute or a remittitur of the jury verdict. Erskine and Plaintiff filed memoranda on Erskine's post-trial motions.

On July 9, 2015, the Court held a hearing on Erskine's post-trial motions and orally granted Erskine's alternative Motion for a New Trial. At the hearing, Plaintiff's counsel indicated in open court that Plaintiff's appeal of the Court's ruling setting aside the jury verdict would be forthcoming.

On July 22, 2015, the Court signed an Order Granting Erskine's Motion for a New Trial, which the Clerk of Court filed on Friday, July 24, 2015, and which Erskine received on Monday, July 27, 2015. This Motion is timely filed pursuant to Rule 59(e) not later than 10 days after Erskine's receipt of written notice of the entry of the order.

To Erskine's knowledge, at the hearing on Erskine's post-trial motions the Court did not formally deny its Motion for JNOV—the primary relief requested—and, while perhaps implicit in the Court's order granting Erskine the secondary relief of a new trial, the Court's written order did not expressly deny Erskine's Motion for JNOV.

The South Carolina Supreme Court has held that a Rule 59(e) motion is appropriate, and possibly mandatory, where, as here, a party is unsure whether the Court has ruled on an issue, or in fact has not ruled on the issue. "A party *may* wish to file [a Rule 59(e)] motion when she believes the court . . . failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review." *Elam v. S.C. Dept. of Transp.*, 602 S.E.2d 772, 780 (2004) (emphasis supplied).

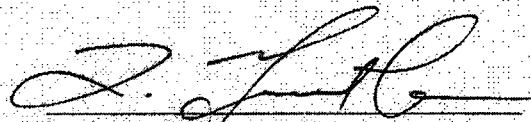
The South Carolina Supreme Court has held that the purpose of requiring a Rule 59(e) motion is due to the "long-established preservation requirement that the losing party generally

must both present his issues and arguments to the lower court and obtain a ruling before an appellate court will review those issues and arguments.” *Id.* (citing *I’On, L.L.C. v. Town of Mt. Pleasant*, 526 S.E.2d 716, 724 (2000)). In other words, “issues and arguments are preserved for appellate review only when they are raised to and ruled on by the lower court.” *Id.* (citing *Wilder Corp. v. Wilke*, 497 S.E.2d 731, 733 (1998)).

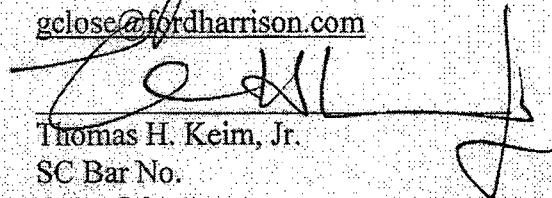
Erskine is unsure as to whether the Court has ruled on its Motion for JNOV, and, given that Plaintiff’s counsel has made it clear an appeal is forthcoming, Erskine therefore respectfully makes this Motion pursuant to the procedure outlined by the Supreme Court for clarifying or obtaining that express ruling in order to properly preserve the issue for appeal.

Dated this 5th day of August, 2015.

Respectfully submitted,



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State of South Carolina)
) Court of Common Pleas
County of Abbeville) 2012-CP-01-00158

William Crenshaw)
vs.) Transcript of Record
Erskine College and David A.)
Norman)
Defendant)

June 8, 2015
Abbeville, South Carolina

B E F O R E:

Honorable Eugene C. Griffith, Jr., Judge

A P P E A R A N C E S:

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Robert Tinsley, Esq.
Attorneys for the Plaintiff

Leland G. Close, Esq.
Thomas H. Keim, Jr., Esq.
Attorneys for the Defendants

Joy E. Holston
Official Court Reporter

I N D E X O F W I T N E S S E S

(IC) - Denotes In Camera
(DW) - Denotes Defense Witness
(PW) - Denotes Plaintiff's Witness

(PW) James Smith

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Cross-examination by Mr. Close: 49

(PW) Brooks Kuykendall

Direct examination by Mr. Jamison Tinsley: 51

Cross-examination by Mr. Close: 65

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(PW) John Showalter

Direct examination by Mr. Jamison Tinsley: 83

Cross-examination by Mr. Keim: 86

Redirect examination by Mr. Jamison Tinsley: 88

(PW) Diane Crenshaw

Direct examination by Mr. Jamison Tinsley: 89

Cross-examination by Mr. Keim: 99

Redirect examination by Mr. Jamison Tinsley: 101

1 (PW) William Crenshaw

2 Direct examination by Mr. Jamison Tinsley: 102

3 Cross-examination by Mr. Keim: 219

4 Redirect examination by Mr. Jamison Tinsley: 320

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6 (DW) Gregory Haselden

7 Direct examination by Mr. Close: 351

8 Cross-examination by Mr. Jamison Tinsley: 354

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10 (DW) Adam Weyer

11 Direct examination by Mr. Close: 356

12 Cross-examination by Mr. Jamison Tinsley: 382

13 Redirect examination by Mr. Close: 394

14

15 (DW) Mark Peeler

16 Direct examination by Mr. Close: 395

17 Cross-examination by Mr. Jamison Tinsley: 403

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19 (DW) Howard Thomas

20 Direct examination by Mr. Keim: 408

21 Cross-examination by Mr. Jamison Tinsley: 435

22

23 (DW) Al Mina

24 Direct examination by Mr. Close: 441

25 Cross-examination by Mr. Jamison Tinsley: 458

(DW) Robert Elsner

Direct examination by Mr. Close: 461

Cross-examination by Mr. Jamison Tinsley: 468

(DW) Brooks Kuyekendall

Direct examination by Mr. Keim: 470

Cross-examination by Mr. Jamison Tinsley: 475

(DW) David Norman

Direct examination by Mr. Close: 477

Cross-examination by Jamison Tinsley: 551

Redirect examination by Mr. Close: 579

(DW) Cynthia Grimley

Direct examination by Mr. Close: 582

Cross-examination by Mr. Robert Tinsley: 598

(DW) James Ballenger

Direct examination by Mr. Keim: 601

Cross-examination by Robert Tinsley: 624

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4	Letter 5/12/2011 Henry		X	65
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8	Email 9/24/10 Crenshaw		X	129
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10	Letter 9/27/10 Weyer		X	148
11	Letter 9/29/10 Spires		X	149
12	Letter 10/25/10 Christie		X	162
13	Letter 11/2/10 Norman		X	163
14	Letter 11/8/10 Norman		X	164
15	Letter 11/9/10 Norman		X	169
16	Letter 1/4/11 Findings on grievance		X	177
17	Letter 8/12/11 Erskine College		X	219
18	Letter 9/7/11 Norman		X	202
19	Email 8/10/11		X	204
20	Email 12/6/10 Gid Austin		X	206

E X H I B I T SDefendant's

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3	Email 9/24/10 Crenshaw	X		336
4	Erskine Letter Spires	X		336
5	Email 10/4/10 Crenshaw	X		336
6	Email 10/5/10 Crenshaw		X	415
7	Email 10/6/10 Crenshaw		X	72
8	Email 10/7/10 Thomas		X	420
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10	Recording of Conversation	X		336
11	Blog		X	245
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13	Request for special committee		X	257
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17	Faculty Manual		X	301
18	Letter 8/5/11		X	301
19	Letter to Tinsley		X	301
20	Progress Notes		X	336
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22	Progress Notes 8/28/12		X	336

E X H I B I T SDefendant's

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>	<u>PAGE#</u>
23	Faculty committee/Email		X	320
24	2010 Tax Return		X	353
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26	Email 10/13/10		X	382
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29	Email 10/6/10		X	415
30	Email 10/6/10		X	417
31	Email 10/8/10		X	426
32	Email 10/10/10		X	428
33	Email 10/10/10		X	429
34	Email 11/23/10		X	449
35	Statement 11/29/10		X	451
36	Statement 12/9/10	X		451
37	Letter 1/4/11		X	498
38	Letter 12/15/10		X	508
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40	Blog	X		508
41	Email 8/8/11		X	530
42	Grounds for Dismissal		X	531

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1	Jury Note Instructions	X		685
2	Jury Note Damages	X		686
3	Court's Note back to Jury	X		686
4	Jury Note-Verdict	X		686

1 THE COURT: What pretrial matters that we have to
2 deal with this morning? I am kind of flying blind without
3 a law clerk.

4 MR. KEIM: Your Honor, we have a second motion for
5 summary judgment. That is all I am aware of.

6 THE COURT: Can we hear that during that trial and
7 pick it up as directed verdict?

8 MR. CLOSE: Your Honor, part of the reason for the
9 motion is that since our first motion for summary judgment
10 there has been a Supreme Court case, Taghivand versus Rite
11 Aid that is very much on point for the wrongful discharge
12 in violation of public policy claim. And we feel that
13 part of our summary judgment motion is that the issue of
14 whether there has, in fact, been or there is a public
15 policy at issue in the case that needs to be decided prior
16 to trial. But it is so we can properly defend that cause
17 of action and so the jury can be instructed on whether or
18 not there is a public policy. And if so, what that public
19 policy is.

20 COURT REPORTER: Let me get y'all's name, please.

21 MR. KEIM: My name is Tom Keim, K-E-I-M.

22 MR. CLOSE: My name is Grant Close. So it is our
23 position that if the public policy claim is going to
24 remain that we at least need a ruling on what the public
25 policy of South Carolina at issue is so the case can be

1 properly tried on it.

2 THE COURT: What is that case?

3 MR. CLOSE: This is a case that came out in January,
4 Your Honor, it came out as a certified question from the
5 U.S. District Court, to the Supreme Court. And it
6 addressed a specific issue about whether or not some
7 criminal statutes could provide the basis for a public
8 policy claim. But the Courts specifically said that they
9 use that opportunity of the certified question to address
10 the parameters of the public policy claim in South
11 Carolina since it is somewhat up in the air. And I will
12 be happy to, I apologize, Your Honor, I don't have a clean
13 copy of the case. I can give you my copy and I can give
14 you a copy of our second summary judgment motion if you
15 would like.

16 THE COURT: I am going to ask a real dumb question.
17 Why did you file this motion the first of June, why didn't
18 you file it the first of May or sometime so I could have a
19 few minutes to read the case ahead of time.

20 MR. CLOSE: I understand your point, Your Honor. We
21 apologize for the timing of the filing. But to be
22 perfectly honest the issues are the same exact that we
23 claim in our answer and the same defenses we made in our
24 first motion for summary judgment. The only thing that is
25 changed is the cases have come out to further clarify the

1 law. And I am happy to go on if you would like, Your
2 Honor.

3 THE COURT: No. I would like to read the case. I
4 need to kind of start listening for, y'all don't have a
5 clean copy of the case?

6 MR. CLOSE: No, I don't have a clean copy, Your
7 Honor.

8 THE COURT: Tell me again, let's hear it again now
9 that I have read the case.

10 MR. CLOSE: Your Honor, the issue is, what public
11 policy of the State of South Carolina does the Plaintiff
12 claim as violated in this case. And according to
13 Plaintiff's complaint and Plaintiff's response to our
14 first motion of summary judgment, they say it was
15 Erskine's faculty handbook and Article I, Section III of
16 the South Carolina Constitution. There is no legal
17 authority out there that says that either of those things
18 create public policy that can support their wrongful
19 discharge claim. In fact there is a U.S. District Court,
20 granted it is unpublished but it is Judge Anderson saying
21 that the handbook of a private institution cannot create
22 public policy in the State of South Carolina and therefore
23 cannot support this wrongful discharge of violation of
24 public policy claim. I think the reason there is no
25 authority out there, Your Honor, discussing Article I,

1 Section III of the South Carolina Constitution which
2 provides for due process is because it is a given, I mean
3 it is a staple of constitution wall that that protects
4 from actions of the State. Erskine is a private
5 institution which is stated in statute. There is statutes
6 that say whether the public institution of South Carolina
7 and Erskine is not one of them. It is very clearly
8 private. So neither one of those things has been held up
9 to this point as creating public policy. And it is our
10 position that the Court should not allow the claim to go
11 forward because to do so would require a legal
12 determination that one of those two things does create
13 public policy. The Barron case of the Supreme Court of
14 2011 very clearly says that this is a question of law for
15 the Court to decide. So in order to send this claim to
16 the jury we have got to say this is the public policy of
17 South Carolina. Now you decide whether or not Erskine
18 violated it. And this Taghivand case--

19 THE COURT: I thought they were basing their claim on
20 not following the procedures outlined in the handbook, the
21 handbook provided something and that Erskine didn't follow
22 their own rules.

23 MR. CLOSE: That is one piece of it, Your Honor.

24 THE COURT: How does the argument fit to that?

25 MR. CLOSE: Well, Judge Anderson in the District

1 Court said the policy, the handbook policies of a private
2 institution do not create public policy. So, if--

3 THE COURT: I am trying to get your argument but you
4 keep on about public policy. Erskine has a handbook,
5 Erskine is private, he worked there, they violated their
6 handbook.

7 MR. CLOSE: That is the contract claim, Your Honor.

8 THE COURT: There, now, I just want to make sure. I
9 am very cold to this case, I don't have a law clerk.

10 MR. CLOSE: I understand, I apologize.

11 THE COURT: You drop this motion last Monday, sitting
12 on this case since January, bring dirty copies so I am a
13 little bit unhappy with you coming in here kind of half
14 prepared because now I am not prepared.

15 MR. CLOSE: I understand, Your Honor.

16 THE COURT: So, just go slow.

17 MR. CLOSE: Sure.

18 THE COURT: So the second cause of action--

19 MR. CLOSE: I am sorry, this is just one of their
20 claims, Your Honor. The wrongful discharge is one of
21 three claims. The other two are breach of contract which
22 is based on the handbook as well and intentional
23 infliction of emotional distress. So our motion is just
24 on one of the three claims.

25 THE COURT: We are talking about the first cause of

1 action.

2 MR. CLOSE: That's right.

3 THE COURT: And you are getting the public policy
4 argument on paragraph 47? I don't see it in here.

5 MR. CLOSE: 47, you are right. Initially they said
6 South Carolina law.

7 THE COURT: So why can they just live by the
8 pleadings? I understand what you are saying but I don't
9 really think they have asked for that.

10 MR. CLOSE: They specified in their response for the
11 first motion for summary judgment that the South Carolina
12 law that they are relying on--

13 THE COURT: That is not part of their pleadings.

14 MR. CLOSE: Then I think, the same argument though,
15 Your Honor, applies or we make the same argument that we
16 need to know what South Carolina law they are talking
17 about in order for us to defend the case.

18 THE COURT: What are y'all talking about?

19 MR. JAMISON TINSLEY: Your Honor, they have a, as
20 tenured Professor based off of that handbook he has a
21 secure property right. It is our position that the law
22 requires, they have the adequate cause as called for in
23 the handbook and the procedure be followed. That is
24 essentially what the wrongful terminate, wrongful
25 discharge claim.

1 THE COURT: That is not based on, that is just follow
2 your own rules.

3 MR. JAMISON TINSLEY: Yes, sir. And I guess the only
4 policy is, he had a secure property right and it required
5 that they follow their own rules. The contract and the
6 wrongful discharge claim--

7 THE COURT: The handbook, follow your own policies,
8 Erskine policies, property right, he works there.

9 MR. JAMISON TINSLEY: Right. He was deprived of that
10 property right when he was terminated.

11 THE COURT: Okay. I don't think they are asking
12 public policy.

13 MR. CLOSE: I think what Mr. Tinsley, as I understand
14 it, Your Honor, they are just making the contract claim,
15 they are not asking for public policy.

16 THE COURT: I don't think they asked for public
17 policy. I think, I don't think public policy is really an
18 issue here. Paragraph 47, due process by South Carolina
19 and I don't, I think that is a general comment that you
20 are working in South Carolina or you live in South
21 Carolina, you are guaranteed due process in South
22 Carolina. That doesn't create public policy.

23 MR. CLOSE: I agree with that, Your Honor.

24 THE COURT: And so, I don't really know what you are
25 asking for because I don't think they made a public policy

1 argument in their pleadings, in their complaint.

2 MR. CLOSE: Well, then if that is the case, Your
3 Honor, then wrongful discharge, we are going under the
4 assumption and as they plead it and as I understand it,
5 that they are talking about wrongful discharge and
6 violation of public policy.

7 THE COURT: I think you are misunderstanding that.
8 Maybe I am, Mr. Tinsley, did you make that cause of
9 action?

10 MR. JAMISON TINSLEY: I think the two dovetail pretty
11 closely as far as wrongful discharge and the contract
12 claim. And, you know, doing some research on--

13 THE COURT: Tell me, I mean, I want to quit using the
14 term, public policy. I think there is a guarantee that
15 everybody can be treated fairly under South Carolina and
16 the United States Constitution. Stick with that. Your
17 client was employed at Erskine, he was discharged, you
18 believe improperly. They have a handbook that you believe
19 delineated some rules and procedures and mandates
20 regarding his retention and/or dismissal. And your cause
21 of action is for a breach of that, for lack of a better
22 word, agreement he had with Erskine.

23 MR. JAMISON TINSLEY: That's correct. And, you know,
24 distinguishing from these cases they cite, they were all
25 at-will employees in those cases. We submit to the Court

1 that he had a property right based on his tenured status
2 as guarantee in that handbook.

3 THE COURT: Do you know of any public policy, other
4 than being treated fairly and being afforded the rights he
5 had at Erskine, his employment there, is there any public
6 policy that you are claiming a breach of?

7 MR. JAMISON TINSLEY: Well, I guess the only--

8 THE COURT: Well, you didn't plead for it.

9 MR. JAMISON TINSLEY: No. I mean, no, I don't think
10 it is really public, I mean, yeah, I don't know that it is
11 public policy other than, you know, it is our position the
12 law has to be followed.

13 THE COURT: I don't think there is a public policy
14 issue out here.

15 MR. JAMISON TINSLEY: And I will just further state
16 that in our request to charge we haven't, you know, we are
17 not asking for any charge regarding public policy.

18 THE COURT: I don't think there is a public policy
19 issue or cause of action for me to dismiss. It seems like
20 a contract and intentional infliction case to me.

21 MR. CLOSE: Well, Your Honor, that suits us fine.
22 Can we have a ruling that the first cause of action is
23 really just another way to state the breach of contract
24 claim.

25 THE COURT: My reading of it, that is what I read it

1 as. Because I don't identify that he plead a specific
2 public policy violation. I don't see it. So, I think you
3 are worried about something that is not there. I think I
4 would merge the two, they are the same cause of action.
5 Do you have any objection to that, submit two causes of
6 action, breach of the contract and the intentional
7 infliction.

8 MR. JAMISON TINSLEY: I really don't have an
9 objection because I think reading the request, wrongful
10 discharge--

11 THE COURT: Wrongful discharge is a way of saying
12 breach of employment contract.

13 MR. JAMISON TINSLEY: That's right, that's right.
14 And these public policy exceptions, I mean, for an at-will
15 employee who doesn't have a contract. So, I don't have an
16 objection. And I would just point out that, as you have
17 already pointed out, that Rule 56 does require ten days
18 before a hearing.

19 THE COURT: I don't see that there is a cause of
20 action for me to dismiss under summary judgment. It
21 doesn't appear to be a public policy claim. It is not
22 plead. You don't have any motion for me to grant really.
23 I think you are worried about something, Mr. Close, that
24 is not there. I understand your concern.

25 MR. CLOSE: Thank you, Your Honor. So does that mean

1 we are going to proceed under two causes of action, breach
2 of contract and intentional infliction of emotional
3 distress?

4 THE COURT: I think, yes and I don't think it would
5 be improper for Mr. Tinsley to call it wrongful discharge.
6 I think that is probably one in the same. I am not going
7 to prohibit him, I think it is two causes of action.
8 Wrongful termination under a contract and intentional
9 infliction. However you want to call it, breach of
10 contract or wrongful termination. Those are more or less
11 synonyms in an employment case of this type. Y'all can
12 call it whatever you want.

13 MR. CLOSE: Thank you, Your Honor.

14 THE COURT: To that extent they are going to kind of
15 merge together but I do not see that there has been an
16 allegation of a public policy exception. I don't see it,
17 there is not an allegation that is made of that so there
18 is nothing for me to dismiss to that end. It may be
19 something else but, all right. Can we let the jury start
20 coming in.

21 MR. JAMISON TINSLEY: I have a couple of housekeeping
22 matters. I told our first couple of witnesses to be here
23 about 2:00 o'clock, I figured we would be working all
24 morning in opening statements. And we have one witness, I
25 don't know if there is anything we can do to handle it but

1 he is, he was the EMT on the scene and he has since lost
2 his leg, lost one of his legs. He is not available until
3 Thursday in which I don't anticipate our case lasting
4 until Thursday with our other witnesses. I am not sure if
5 we can call rebuttal if necessary or what Your Honor would
6 impose.

7 THE COURT: So he is not available until Thursday?

8 MR. JAMISON TINSLEY: Until Thursday, yes sir.

9 THE COURT: I think Judge Hocker scheduled a TRO
10 hearing Thursday at 10:00. We have got two things
11 Thursday morning scheduled right now that shouldn't last
12 all morning but until late morning anyway. Mr. Tinsley,
13 do you think you will need him or is he just a potential
14 rebuttal witness for you?

15 MR. JAMISON TINSLEY: He is potential.

16 THE COURT: Why don't we see how it goes and then if
17 you need him we will consider it then. What do y'all
18 think y'all have got?

19 MR. KEIM: Your Honor, it depends on obviously what
20 the Plaintiff does but we have a possibility of up to 13
21 witnesses.

22 THE COURT: Okay.

23 MR. JAMISON TINSLEY: I have named a lot of potential
24 witnesses but I can tell Your Honor I don't anticipate
25 calling all of them.

1 THE COURT: Do y'all have voir dire for this jury?

2 MR. CLOSE: Yes, sir.

3 MR. JAMISON TINSLEY: Yes, sir.

4 (Whereupon, voir dire of jury and selection of the
5 jury for this trial. By request of Counsel, Mr.
6 Jamison Tinsley, this process is not transcribed.)

7 THE COURT: I am going to send y'all to lunch. Y'all
8 get to go to lunch where ever you like. I told you during
9 my voir dire questions everything y'all need to decide
10 this case you get in here. My instructions, the lawyers
11 arguments, the lawyer witnesses and the parties witnesses,
12 the evidence received into court. That is what you will
13 consider in determining and answer the questions of fact
14 that are going to be presented to you in the case. That
15 is what jury's do, they resolve questions of fact. This
16 involves an employee, employer relationship. A good
17 example for a question of fact in a criminal case is, did
18 they do it or not. A civil case, which this is, is not
19 like a criminal case. The burden of proof is different,
20 this is a civil case. Many times questions of fact
21 presented to jury's is, who had the green light, a car
22 wreck in the middle of an intersection. Both parties jump
23 out and tell the police, I had the green light. Well,
24 both of them didn't have the green light so that is a
25 question of fact, who had the green light. I tell you the

1 law, if you have the green light you proceed with caution
2 through the intersection. You have the red light you must
3 stop and yield the right-of-way. That is common sense,
4 that is called the rules of the road. That is what I do,
5 I instruct you on the law and y'all decide, listen to the
6 witnesses, depending on what you heard of who has the
7 green light. And that is how traffic accidents are
8 resolved in civil court. And whoever is at fault then
9 they get to pay the other damages to the car or the
10 injuries and that kind of thing. Well, this involves,
11 this case today involves employer/employee relationships.
12 And so y'all get to answer questions of fact regarding
13 that relationship. The lawyers will address that with
14 you. I don't know a whole lot about this case, I read the
15 file a little bit this morning. I have had some
16 preliminary instructions with the lawyers. I have asked
17 you the voir dire questions and so I have got a flavor of
18 what it is about. But just like you, will get to listen
19 to the testimony. The lawyers take turns, the Plaintiff
20 brings the case of a wrongful termination, breach of
21 contract, whichever way you wish to call it and
22 intentional infliction of distress against the Defendant.
23 And because of that the Plaintiff calls its witnesses
24 first. It is their case to prove. They call their
25 witnesses first just like in a criminal case the State

1 goes first. Y'all will hear testimony from the witness
2 stand about the parties will call their witnesses and
3 depend on which Mr. Tinsley ask the questions and one of
4 the lawyers representing the college will get an
5 opportunity to cross-examine, they take turns. Now, it is
6 important in a case, don't begin discussing the case ahead
7 of time because you may be jumping the gun. The last
8 witness may be the most important and help piece all the
9 pieces together for you. So it is important that you as a
10 group of 14 don't discuss the case, don't talk about the
11 witnesses, just listen. Now, as soon as you get back from
12 lunch I am going to let Ms. Bishop, I am going to
13 designate you be the one to help gather up the notepads
14 for anybody that wants one. I don't require note taking,
15 I don't suggest note taking, I don't discourage note
16 taking. We are going to hear a lot of witnesses, you are
17 going to hear instructions from me. Some people likes to
18 take notes, it gives them something to do. You are free
19 to take notes if you so like. At the end your notes will
20 be for your use and not to be, they are not going to be
21 graded, they are not going to be taken up by the Court.
22 And if somebody doesn't take notes, I take notes because I
23 have to as a Judge. I am a much better listener than I am
24 a note taker listener. That is just me. And so if
25 someone is a good listener and they remembered the

1 testimony of the third witness and he said the light was
2 green and I can remember because the sun was in my eyes
3 and I had to look around. If that witness is what you
4 remember and somebody takes notes that differ from that it
5 doesn't matter. Y'all are on equal footing as jurors as
6 the fact finders. Nobody, because they take notes gets a
7 bigger vote or two votes. It is twelve equal votes. Your
8 verdict will be unanimous one way or the other. Now, so
9 note taking is optional. Ms. Bishop, I will ask you if
10 you will kind of poll your group and see who wants them
11 and whoever wants the bailiff can help you with note pads
12 as y'all see fit. And each time or each time as we take a
13 break, normally I observe jurors kind of sit in the same
14 area. I generally select a foreperson and I let the
15 foreperson sit here. I have not selected a foreperson
16 yet, I am going to kind of get to know y'all a little bit
17 and I will figure it out who is going to be the
18 foreperson. I know my two alternates are here. But I
19 don't want y'all to have to sit there if you don't want
20 to. Some of the bigger guys, if y'all want to sit in
21 these chairs over here, y'all can sit where ever y'all
22 like. It won't be a problem. I have to confess, I don't
23 have a law clerk right now that helps me do research and
24 schedule things. And normally that person reminds me to
25 bring my candy box. I give out hard candy to my jurors

1 because I like to chew a piece of hard candy while I am
2 listening. And I let jurors do the same thing. I don't
3 have any candy to give you today but I will have it
4 tomorrow. I promise that. Now, also very important, you
5 can't discuss the case until I say. All right. You got
6 all the witnesses, you have got all the pieces you need
7 and you have got my instructions. Until that happens you
8 don't. Y'all's job as fact finders is a little different
9 than my job is, is the Judge of the law. Which means
10 something will happen during the trial and I can't tell
11 you when it will happen but something will happen and one
12 of the lawyers will stand up and say, Judge, I object,
13 that is not relevant. Judge, that is hearsay. Judge, I
14 have got a matter of law. That is code to me, Judge, we
15 don't think this testimony or something is either allowed
16 by the rules or should be allowed by the rules and even
17 relevant, maybe it is making the trial go on too long.
18 And so many times we stop the witness from answering a
19 question, well, I can't make a ruling until I hear the
20 answer and kind of find out where they are going with it.
21 And it is hard to give you a good example of that. But
22 only testimony and people that were there and around at
23 the time of this incident that know somebody about it
24 firsthand are really valid witnesses. So if somebody
25 heard something after the fact that such and such went on.

1 That is really not relevant, we don't have to be bothered
2 with that. So, if I have got a witness who is not really
3 relevant, well, I need to get a little preview of what
4 they were going to say. And if it is not relevant enough
5 I don't allow it. Now, when I am doing that I don't need
6 y'all in here because it is very hard, like I say, once
7 you ask a question about the \$100.00 dollar bills, you
8 can't get it out of your mind. So, if you hear somebody
9 say, well, thus and so and thus and so and it was pouring
10 down rain that day and it wasn't sun shining like they
11 said. Well, that just, it undone things that don't need
12 to be undone because I want you as a group to consider and
13 evaluate the relevance of sworn testimony and not
14 unnecessary testimony that has nothing to do with this
15 case. So, if the lawyers and the lawyers like to argue a
16 little more in depth with the law because my normal
17 instructions to the lawyers and those are appear in front
18 of me know this, Judge, objection, hearsay. I don't need
19 the lawyer to tell me, well, hearsay is an out-of-court
20 statement made by all of that. I have got that. I kind
21 of stop them but sometimes to make a complete record they
22 have got to say, Judge, I think this testimony, maybe not.
23 But what their witness is going to say is going to go into
24 hearsay and if it does then object to it. Because they
25 are going to talk about a document, well, I need to hear

1 that argument a little more in depth. And I want to make
2 a record of it, my court reporter. And so if I have got a
3 matter of law I excuse the jury, either sometime for lunch
4 or a break. And I am not trying to hide something from
5 you, it is just because I am trying to do my job fairly
6 for both sides. Because it would be hard for y'all to sit
7 here and listen to all of the arguments and lawyers and
8 still sort out the questions of fact. Okay. So, that is
9 why that happens. Don't do any independent research, look
10 up on the internet, any law. You don't need any Facebook,
11 MySpace, Instagram, Twitter, any of the above. Do not
12 look any of that stuff up. Do not put on any of those
13 social websites, I am a juror in this case. Because there
14 may be somebody that is curious about what you are doing
15 and what the case is about. And I don't want anybody
16 trying to influence your decision on this case except the
17 people in this room. What happens outside of here and
18 what somebody thinks or heard I really care not one iota
19 about. When you come in and from the Court House and park
20 and come in, Abbeville is a small county. You see
21 witnesses you know, maybe you do, maybe you don't. They
22 are not to try to influence you outside the courtroom,
23 outside the Court House. The lawyers may say good morning
24 as you are walking in and out during breaks. That is all
25 they can do, they know the rules. If they are standoffish

1 that is because that is the rule that require them to be
2 is, good morning, good afternoon. That is all about what
3 they are going to say to you. If anybody tries to talk to
4 you outside about anything that is happening in the case
5 let one of the bailiffs know and he will bring it to me,
6 he will bring it to me and I will deal with that. Okay.
7 That is about it. Let's go to lunch and be back in the
8 jury room at 1:30. Don't discuss the case.

9 (Whereupon, a lunch break was taken.)

10 (Whereupon, the jury came into open court at
11 approximately 1:30 p.m.)

12 THE COURT: All righty, folks. Y'all ready to get to
13 work. All right. Everybody got a notepad. I'm giving
14 y'all my preliminary instructions. The lawyers are going
15 to have their opportunities to opening comment or
16 summarize what they believe the case is going to tell or
17 not tell. And so the lawyers will make those comments.
18 As soon as we are done with that, then we will start
19 calling witnesses and I'll tell you if y'all need a break
20 or something, somebody get the attention of the bailiff or
21 let me know. If I don't kind of get the hint. I normally
22 go about an hour, an hour and 10 minutes sometimes, but I
23 like to break when the lawyers are changing over. So
24 either at the end of a witness or between direct
25 examination and cross-examination. Some there, time in

1 there when it's kind of at a good stopping point and those
2 generally come fairly easily. But if you need one before
3 that, get somebody's attention and we'll take a break,
4 because I want y'all's participation and service as jurors
5 to be minimally inconvenient to you understanding you
6 didn't come running in here volunteering to be on the
7 jury. I get that but I want y'all to be comfortable doing
8 your job and your civic duty here. So if y'all want to
9 stand, Ms. McMahon will place you under oath and we'll get
10 started.

11 (WHEREUPON, the jury was sworn at 1:35 p.m.)

12 THE COURT: Okay.

13 MR. JAMISON TINSLEY: May it please the court?

14 THE COURT: Yes, sir.

15 MR. JAMISON TINSLEY: Ladies and gentlemen of the
16 jury, my name is Jamison Tinsley and it is my honor to
17 represent Professor William Crenshaw in this case before
18 you along with my law partner and father, Robert Tinsley.
19 As the Judge explained to you earlier, this case is a
20 wrongful termination/breach of contract cause of action
21 that Dr. Crenshaw has filed against Erskine College and
22 David Norman. Essentially, we are alleging, he is
23 alleging and we will prove to you that Erskine College
24 violated its contract with Dr. Crenshaw when it terminated
25 him. Let me give you some background. In 1976 Dr.

1 Crenshaw was hired by Erskine College as a Professor when
2 he was straight out of grad school. He had just gotten
3 his Doctorate at Carolina, and he was hired as an English
4 Professor, so he began teaching. And he worked through
5 what they called the tenure-track and achieved tenured
6 status in 1984, meaning at that point, he was a, the
7 highest level. Now, you can go on and get a full
8 Professorship and an Endowed Chair which has some more
9 honors to it, which he did do in 1987 becoming the Dorn
10 Reader Professor of English. But in 1984, when he became
11 the tenured Professor, Erskine had certain obligations to
12 him that it had to follow under its handbook and contracts
13 with him. At that time, they were signing contracts, I
14 believe, and later on it just from year-to-year it rolled
15 over and was governed by the faculty handbook, the faculty
16 manual at Erskine. Dr. Crenshaw taught English for more
17 than 30 years, several acclaims and honors at Erskine. In
18 2010, he was named the teacher of the year, as voted on by
19 faculty and students. And then what we're here about
20 today began in 2010, September of 2010. It's the
21 proverbial Erskine and Dr. David Norman, who had just
22 become the president, turned a molehill into a mountain.
23 Dr. Crenshaw was teaching 8:00 o'clock English class on
24 September 24th, freshman course, and a student who he was
25 the adviser for, so he knew her inside the classroom as

1 teaching her as well as through the advisement process as
2 she came to Erskine. She was a lacrosse player and he was
3 informed at the beginning of the class that she had
4 suffered a head injury that morning at practice. And
5 everything was okay during the class. And then as he got
6 on with class, she became lethargic and kind of dazing
7 off. So at that point, Dr. Crenshaw, who had more than 20
8 years of experience as an EMT advancing all the way to the
9 level of paramedic, said, you know, we need to help this
10 girl. I've dealt with 400 head, closed head injuries
11 during my time as an EMT and this is nothing to play
12 around with. So what did he do, he followed the Erskine
13 manuals policy for contacting the Dean, Robin Agnew, and
14 letting her know, you know, you need to call an ambulance,
15 this is not good. Well, and that was, and that was how it
16 was left. He went, she called the ambulance, he went and
17 comforted the student. And then he sees that the
18 ambulance hasn't left several minutes later looking out
19 the window. So he went down to, you know, wish his
20 student well and just to see what was going on. When he
21 gets out there there is some disturbance with the athletic
22 trainers trying to get her to not, to not go to the
23 hospital, to instead just wait and see the team physician
24 and go under their care. Well, at that point, the
25 paramedic in charge who had many years of experience and

1 who had worked with Dr. Crenshaw in training, you know,
2 said, explained to him what was going on and said would
3 you please assist me. I'm having to deal with this
4 disturbance with these trainers and some lady who referred
5 to herself as the student's guardian who had no legal
6 right. So Dr. Crenshaw went into the back of the
7 ambulance at the paramedic's request. And then the crazy
8 allegation started that had no basis in fact that he had
9 pushed the lady, that he had disrespected, not respected
10 the authority of the paramedic in charge which is totally
11 false. He was doing what the paramedic had requested him
12 to do speaking with that student. And then when Dr. Brad
13 Christie who is an administrator at Erskine got into the
14 back of the truck, and then we got, Dr. Crenshaw got stern
15 with Dr. Christie and said, you know, what are you doing
16 here? This student, she needs to be transported to the
17 hospital because she's got a closed head injury. And, you
18 know, there's no way to know, in the field, there's no way
19 to know what the ramifications are for that. So she needs
20 to get to the hospital and get treatment. Dr. Christie
21 did not have the medical training that Dr. Crenshaw has as
22 an EMT. So then she got to the hospital. Everything
23 long-term turned out okay, I believe. But then the
24 athletic trainers started criticizing Bill, Dr. Crenshaw,
25 excuse me for calling him Bill, Dr. Crenshaw for

1 questioning their policy because he was at a loss because
2 they were angry that EMS was called. They said it needed
3 to be reported to the athletic trainer to what he
4 witnessed in his classroom. So he was just flabbergasted
5 and wanted an explanation and was critical of any kind of
6 different approach or different policy for students based
7 on whether they were an athlete or whether they weren't
8 because as you can imagine, that could cause many
9 problems. How would you know who's an athlete and who's
10 not off the top of your head when an emergency situation,
11 medical situation occurred. So, Dr. Crenshaw wound up
12 getting accused of various things by the athletic trainer
13 and athletic department and a Professor who oversees the
14 athletic trainers. So, Dr. Crenshaw, the next step was
15 after they filed this complaint internally at Erskine to
16 appoint a grievance committee. And this grievance
17 committee met, they were charged with trying to mediate
18 the dispute and Dr. Crenshaw participated, answered their
19 questions, explained to them that, you know, he wanted to
20 clear his name because none of these charges were true.
21 So at that point the grievance committee returned the
22 matter to the President's Office because it said, you
23 know, it was not equipped to handle, to judge the matter
24 and decide who's right or wrong. And then at that point,
25 Dr. Christie who was the Vice-President Administrator

1 offered to informally mediate the matter which Dr.
2 Crenshaw agreed to, but the complainant's did not. So at
3 this point Dr. Norman, the President of Erskine took over.
4 At this point, he appointed his own committee. But rather
5 than stick with the original complaints filed by the
6 athletic trainers and those associated in those two
7 complaints and the matter to them, he created his own
8 level of questions for this committee to determine that
9 had very little to do with the original complaints, which
10 is what, solely what Dr. Crenshaw was trying to do was
11 protect his rights to clear his name through Erskine and
12 their policies. But at this point Dr. Norman drops a
13 bunch of documents on this committee that Dr. Crenshaw has
14 never seen. And when Dr. Crenshaw went before them he
15 challenged their authority because it was something that
16 we will prove to you that was never done at Erskine, any
17 kind of committee of this sort when somebody's job is in
18 jeopardy. At that point that committee said, we can't go
19 forward and returned it to Dr. Norman. And this is all
20 happened, this happens in early January. The committee
21 met in December 2010, three months after the event. And
22 in January 2011 the committee returns the matter to Dr.
23 Norman. So from January until August nothing happens.
24 Dr. Crenshaw goes on teaching his courses and teaching his
25 classes. Then in August comes back for the Fall semester

1 to teach his freshman students, meets with them. And then
2 gets called into a meeting with Dr. Norman who is the
3 President of Erskine. At that point, I will point out to
4 you he had been alive for roughly the same time that Dr.
5 Crenshaw had been teaching at Erskine. And Dr. Norman
6 drops a bomb on him that he was beginning termination
7 procedure for a tenured Professor. So let me explain to
8 you what the protections of a tenured Professor are. They
9 can only, you hear a lot about South Carolina being an
10 at-will state that anybody can be fired at any time.
11 That's not true for somebody who is protected by a
12 contract. In this case a tenured Professor per Erskine's
13 own policies and I'm sure any college or university's
14 policies, is protected contractually. They can only be
15 terminated for adequate cause which they define as
16 behavior by a Professor who impedes their ability to
17 fulfill the institution's requirements and obligations.
18 So he begins these proceedings and they also, it just
19 can't be an arbitrary matter, it has to follow set
20 procedures, what we call due process. And here at this
21 point on August 6th when Dr. Crenshaw meets, after he's
22 met with the students for the first time, Dr. Norman drops
23 a bomb on him that he is suspended and won't be teaching
24 that semester. And Dr. Norman tells him, were entering
25 the termination process. Step one is negotiation to see

1 if the parties can reach a mutual understanding one way or
2 the other to resolve the situation. So they go through
3 that and there is an offer. There's potential for an
4 early retirement that Dr. Norman gave Dr. Crenshaw up to
5 21 days to accept. So he has till basically the end of
6 August to decide. Well, then just a few days later, while
7 he is still in this negotiation, Dr. Norman tells Dr.
8 Crenshaw, informs him, that he is being terminated and he
9 must request a hearing by August 15th at 9:00 o'clock.
10 Tells him this on August 12th. August 12th is a Friday.
11 August 15th is a Monday, at 9:00, he's got to request
12 that. And but he set the time for the hearing as August
13 29, but said he still had to request it. So meanwhile
14 we're still in stage one. I know this is confusing to all
15 of you. I still haven't figured it out and I've been
16 working on this case for a few years. So Dr. Norman then
17 proceeds to terminate Dr. Crenshaw on grounds that do not
18 constitute adequate cause as he was required, not to
19 mention it does not meet the procedural requirements.
20 Because as I have outlined to y'all, they're jumping in
21 between stages, stage one, a negotiation. And, stage two,
22 which is actually proceeding with the termination. He did
23 that while stage one negotiations were still going on.
24 And I will submit to you that we will prove that Dr.
25 Crenshaw acted appropriately on September 24th. He was

1 acting with his injured student's best interest in mind,
2 and you know, acting as a paramedic of over 20 years
3 experience, he was acting in doing what he should do. And
4 then the Erskine administration led by Dr. David Norman
5 who had been in office since June 2010, probably about the
6 same time Dr. Crenshaw was getting his most recent teacher
7 of the year award, they used that for termination. And
8 they accused him of not respecting these committees which
9 the evidence is going to show, all he was doing was
10 protecting his rights, protecting his 35 years of being a
11 Professor at Erskine and wanted to make sure that wasn't
12 arbitrarily taken away from him, which it was. With that
13 being said, I will just tell you what your job to do is to
14 listen to the evidence, make a determination. The
15 question is, did Erskine wrongfully discharge Dr. Crenshaw
16 or in other words, did they have adequate cause to
17 terminate him and did they procedurally follow these
18 rules. And the burden of proof is on us. And let me
19 explain what a burden in a civil case such as this is.
20 The best way to think about it is imagine Lady Justice,
21 blind Lady Justice, she's holding the scales, you know,
22 some evidence goes for us, put a pebble there. It tilts
23 that way. As they put some evidence that supports them,
24 put it there. It tilts the other way. All the Plaintiff,
25 we have to do, is prove beyond, by a preponderance of the

1 evidence which just means more likely than not. So just
2 has to simply tilt ever so slightly in Dr. Crenshaw's
3 favor for you to determine and find that Erskine
4 wrongfully terminated him. It's not like a criminal case
5 where you hear reasonable doubt which I'm sure we've all
6 heard. That requires the state to really tilt in its
7 favor to secure a conviction. Totally different standard
8 here. As a Plaintiff, we only have to just ever so
9 slightly tilt those scales in our favor. And so you will
10 be asked first to determine that. And then the second
11 cause of action we have alleged is intentional infliction
12 of emotional distress which is based on the way this was
13 handled. Let the man after 35 years of teaching at
14 Erskine, come meet with this freshman class to begin the
15 semester and then knowing all along that you were going to
16 suspend him and then let him do it and then pull the rug
17 out from under him. So you're going to have to answer,
18 was their behavior so outrageous as to shock the
19 conscience of a decent society. And we submit that the
20 evidence will show that it is. And then the next question
21 you have to answer, if you answer in the affirmatively
22 there, is the damages. When you are thinking about, what
23 did their, what did they cause, these actions? And we
24 will submit that the evidence will show Dr. Crenshaw was
25 making \$70,000.00 dollars a year at the time he was

1 terminated, he planned and anticipated to teach seven more
2 years. So you can multiply \$70,000.00 by 7 and come up
3 with \$490,000.00 but there other incidental damages that
4 come with that such as expected raises over that period of
5 time and retirement benefits that he would have accrued
6 had he not been terminated. And we would submit to you
7 that had, at this point when he's terminated after 30
8 something years, getting a college professorship, if you
9 don't start out early on in the game at a school it's very
10 hard to jump over and get another job. Dr. Crenshaw
11 inquired into things, looked around, and had no luck for a
12 man, the schools are not looking to hire a tenured,
13 already tenured Professors from another school that are
14 going to be a lot more expensive than hiring the
15 introductory level Professors and letting him work for
16 that school. And so I will submit to you the evidence
17 will show that the Plaintiff acted appropriately through
18 all stages. There was, not only was there not adequate
19 cause to terminate him, there was no cause. And when you
20 see that evidence you can determine and find in favor of
21 the Plaintiff on these causes of action. And I just ask
22 that you keep an open mind and open ears and listen to all
23 the evidence. Thank you.

24 THE COURT: Thank you, Mr. Tinsley. Mr. Keim.

25 MR. KEIM: Thank you, Your honor. May it please the

1 court?

2 THE COURT: Yes, sir.

3 MR. KEIM: Ladies and gentlemen of the jury, as I
4 introduced myself earlier, my name is Tom Keim and I
5 represent Dr. David Norman, Erskine College and joined
6 with me at the table is my law partner, Grant Close. This
7 is an employment case. It is a case brought against
8 Erskine College. And I want to tell you a little bit
9 about Erskine College, even though Erskine has been here
10 for a long time in Abbeville County, just to give you a
11 little better background. Erskine is a nonprofit
12 educational institution which was founded 176 years ago.
13 All the way back in 1839. It has an institutional mission
14 statement and that institutional mission statement is that
15 Erskine College exists to glorify God as a Christian
16 academic community where students are equipped to flourish
17 as whole persons for lives of service through the pursuit
18 of undergraduate, liberal arts, and graduate theological
19 education. With regard to the area in which Dr. Crenshaw
20 taught, there is also a mission, college mission for
21 undergraduate programs. And I want to provide that to you
22 as well. The mission of Erskine College is to equip
23 students to flourish by providing an excellent liberal
24 arts education in a Christ-centered environment where
25 learning and biblical truth are integrated to develop the

1 whole person. And as you have heard already, Dr. Crenshaw
2 was an English Professor at Erskine for a long period of
3 time. His employment was terminated by Erskine College in
4 2011. Throughout the time that these events transpired,
5 Dr. Norman was the president and any actions which he took
6 in regard to this he was taking in his capacity as
7 president; in other words, in his official role as
8 president. Now what you did not hear from Mr. Tinsley is
9 that the evidence is going to show that throughout the
10 relevant period from September 2010 through September 2011
11 was that Dr. Crenshaw engaged in a pattern of offenses,
12 hostile, aggressive, profane and even disloyal conduct.
13 Basically, it's going to show that Dr. Crenshaw was a
14 bully, okay, and overstepped any reasonable bounds that
15 anybody would be expected to continue the employment of
16 someone that behaved like that. There is an EMS event
17 where Dr. Crenshaw initiated calling of EMS personnel.
18 We'll provide plenty of evidence about that. There is
19 also some issues with regard to the initial faculty
20 grievance committee, which actually Dr. Crenshaw was a
21 part, who notified Dr. Crenshaw and others that its goal,
22 its purpose was to mediate between the parties over the
23 grievance filed by the athletic trainer. It said that was
24 its purpose. Dr. Crenshaw certainly did not allow that to
25 happen. There was a special grievance committee which was

1 appointed by Dr. Norman, again of faculty members, who
2 were going to attempt to reach a resolution with regard to
3 the grievance filed against Dr. Crenshaw. That was
4 unsuccessful again based on Dr. Crenshaw's behavior. Then
5 in the summer of 2011, there was a social media post made
6 by Dr. Crenshaw, that you'll hear a lot about from us.
7 You'll hear very little about it from Dr. Crenshaw. And
8 then finally, another event which you will hear about is a
9 recorded meeting, because Dr. Crenshaw likes to have
10 meetings recorded. So Dr. Norman decided that he would
11 record the meeting as well. You'll hear some details
12 about a recorded meeting in which essentially Dr. Crenshaw
13 engaged in a profane-laced tirade directed at ridiculing,
14 tearing down Erskine and in particular, Dr. Crenshaw. Now
15 back to the social media post. Now this was posted by Dr.
16 Crenshaw, a tenured Professor of Erskine College. And
17 I'll read it verbatim, the excerpt that I want you to
18 hear, but you'll eventually hear the whole thing. He
19 writes, I think this site, meaning this website, does
20 accomplish three things. First, it spreads the word and
21 the outrage. This is a means to an end, the end or the
22 failure to accomplishments. Second, people are encouraged
23 to quit donating to Erskine and to quit sending their kids
24 until all of this is straightened up. The power of the
25 purse is far more significant and successful than any

1 behind-the-scenes deal-cutting has been. And third, this
2 shines the light on the actions of the scented wing nuts
3 and the administration. In other words, it delivers a
4 healthy wallop of bad publicity to Erskine. And that was
5 in the summer in July right before the meeting with Dr.
6 Norman in early August, as soon as Dr. Crenshaw returned
7 to campus. Now, there are two claims in this case. The
8 first will be used to enter an action, wrongful discharge
9 and breach of contract. Okay. Did Erskine have a
10 contract with Dr. Crenshaw? That's the first question.
11 And the second, was there a breach of the contract? So
12 they obviously claim there was a contract and we were
13 obligated to follow it. It's based on the faculty
14 handbook. Eventually, you'll see this document and we'll
15 spend some time with it. And you'll see on the first page
16 and at the bottom of every single page a sentence appears
17 and that sentence is, this is not a contract of
18 employment. It's on every single page, every single page.
19 Okay. Dr. Crenshaw obviously has no difficulty
20 understanding English and communicating the language. He
21 is a PhD with 35 years of service. The other claim is a
22 claim for intentional infliction of emotional distress
23 which means we had to do something that would be utterly
24 intolerable in a civilized society. Okay, and we'll
25 present some evidence and that evidence is not going to

1 add up to that standard. But again, if the Judge charges
2 you with that claim, then you will have to make that
3 decision. Now, going back to the timeline at the end
4 which Mr. Tinsley talked about. There is a meeting with
5 Dr. Norman and Dr. Crenshaw. It's taped. You'll hear a
6 lot of the testimony from that verbatim transcript of that
7 tape. Dr. Crenshaw was going to notify Dr. Norman by
8 Monday by 5:00 o'clock what his decision was with regard
9 to potential early retirement. That didn't happen.
10 Thereafter, Dr. Norman provided an extensive written
11 documentation about the reasons that his employment may be
12 terminated. The next step was that Dr. Crenshaw, if he
13 wanted to have a hearing, based on that letter, if he
14 wanted to go before a third committee which would hear
15 this evidence, all he had to do was ask for a hearing
16 which he never did. Still to this day, he hasn't asked
17 for a hearing. So our position is, obviously, and I'll
18 just keep this, you know, we're not supposed to make
19 arguments in the session, but I want you to listen
20 carefully to the evidence, what was really going on. Was
21 there a pursuit of justice by Dr. Crenshaw or was he
22 trying to avoid it. Was he engaging in disloyal and
23 hostile acts toward his employer and toward Dr. Norman or
24 as they would have you believe, doing everything that any
25 reasonable person would do. I want to thank you all for

1 your service. Other than military service, you don't get
2 called upon very often to serve your community, your
3 county, your state or your nation and this is one of those
4 times that you get called upon to serve. And we certainly
5 thank you for doing that and we ask that you pay attention
6 and listen to the evidence. The judge will tell you what
7 the law is and then you all can make your decision. Thank
8 you very much. Thank you, Your Honor.

9 THE COURT: Okay. All right. Call your first
10 witness.

11 MR. JAMISON TINSLEY: The Plaintiff calls James Smith
12 to the stand.

13 THE COURT: Come forward, Mr. Smith.

14 JAMES SMITH, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 By Mr. Jamison Tinsley:

18 Q Would you state your name for the jury?

19 A James Smith.

20 Q Mr. Smith, where do you currently live?

21 A I live at 147 Hudson Circle in Anderson, South
22 Carolina.

23 Q Okay. What do you do for a living?

24 A I'm retired, but I work part-time with Bi-Lo.

25 Q Okay. And what are you retired from?

1 A Due West Police Department.

2 Q Okay. Can you give us a background of your history
3 in the Police Department?

4 A I started in law enforcement in 1975 with Greenwood
5 City. And I moved, resigned and I was hired with Due West
6 Police Department in 1995. And I was appointed the police
7 chief in 1999.

8 Q Okay. And how long did you serve as chief?

9 A 14 years.

10 Q Okay. So from '99 to '13, would that be right?

11 A 2012.

12 Q '12. Okay. All right. Are you familiar with an
13 incident that happened on September 24, 2010, on the
14 Erskine campus?

15 A Yes, sir.

16 Q Okay. How did you get involved in that?

17 A Myself and one of my officers was dispatched to
18 Washington Street in reference to an assault.

19 Q Okay. And what did you observe when you got on the
20 scene?

21 A Well, when I arrived on the scene, the EMS was there
22 and they was attending to a young lady in the back of the
23 EMS.

24 Q Okay. Did you have any interaction with any parties
25 on the scene?

1 A One of the parties on the scene was very irate which
2 we had to kind of calm her down.

3 Q And this was a female?

4 A Female.

5 Q Do you know her name?

6 A The only thing we knew she was, said she was the
7 guardian to one of the students.

8 Q Okay. But that she was involved with the injured
9 student?

10 A Yes.

11 Q Okay. How would you describe her behavior?

12 A Her behavior, she was irate, loud, very vociferous
13 and we tried to calm her down.

14 Q Okay. Was she interfering with the EMT's as they did
15 their job?

16 A Yeah, she wanted to get in the back of the ambulance
17 and she kept insisting that she needed to get into the
18 ambulance.

19 Q Okay. Did the EMT's allow her in the back?

20 A No sir, they did not.

21 Q Okay. And did you observe Professor William Crenshaw
22 on the scene?

23 A Yes sir; I did.

24 Q Okay. And how was his behavior?

25 A His behavior was normal. He was, kept trying to let

1 her know, the lady, telling her they needed to transport
2 her to the emergency room and to the hospital.

3 Q Okay. Did you see Dr. Crenshaw do anything out of
4 line that day?

5 A I did not.

6 Q Okay. All right. Did any, were any charges or
7 anything come of the incident?

8 A No, sir; it did not.

9 Q All right. Once y'all calmed the lady who was saying
10 she was the guardian, did the EMT's take the injured
11 student to the hospital?

12 A Yes.

13 Q Okay. Please answer any questions from the defense.

14 A Okay.

15 CROSS-EXAMINATION

16 By Mr. Close:

17 Q Good afternoon, Chief Smith.

18 A Good afternoon.

19 Q Chief Smith, when you arrived on the scene, there
20 were already things going on, is that correct?

21 A That's correct.

22 Q And so you weren't there from the beginning of this
23 incident, correct?

24 A No, we wasn't.

25 Q Did the lady in question, who you testified was

1 irate, do you know why she was irate?

2 A I can tell you what she said if that's admissible,
3 why she was irate.

4 Q Sure.

5 THE COURT: He can answer the question if y'all want
6 him to.

7 Q Go ahead and answer it.

8 A And she was insisting that she wanted to carry the
9 young lady to the doctor. She didn't want her transported
10 by the EMS.

11 Q Do you know what her relationship to the young lady
12 was?

13 A Only thing she said she was a friend of the family.

14 Q And do you think she was mad enough or irate enough
15 that perhaps she had been assaulted--

16 MR. JAMISON TINSLEY: Objection. That's calling for
17 speculation there.

18 THE COURT: I'm going to sustain it. Rephrase your
19 question.

20 MR. CLOSE: No further questions, Your Honor.

21 THE COURT: All right. Anything else, Mr. Tinsley?

22 MR. JAMISON TINSLEY: No sir, Your Honor. We would
23 just ask that Chief Smith be released from his subpoena.

24 THE COURT: He will be so released. You have a very
25 nice afternoon.

1 MR. SMITH: Thank you.

2 THE COURT: All right. Call your next witness.

3 MR. JAMISON TINSLEY: The Plaintiff calls Brooks
4 Kuykendall to the stand.

5 BROOKS KUYKENDALL, being
6 first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 By Mr. Jamison Tinsley:

9 Q Would you please state your name for the record?

10 A James Brooks Kuykendall.

11 Q Okay. And would you please spell your last name?

12 A K-U-Y-K-E-N-D-A-L-L.

13 Q Okay. Can you give us your educational background?

14 A I grew up in Due West. I went to Due West Elementary
15 School. I went to Dixie High School. I went to Erskine
16 College. I went from there to Cornell University and got
17 a PhD in Musicology. I taught for four years at Calvin
18 College and I've taught the last nine at Erskine.

19 Q Okay. And what's your position at Erskine?

20 A I'm a Professor of Music.

21 Q Okay. And so you are familiar with Dr. Crenshaw?

22 A I have known him my whole life.

23 Q Okay. All right. Did he teach you at Erskine?

24 A I did not study with him. I studied with his wife in
25 high school, but not with him.

1 Q Okay. But you served on various committees with him
2 through the years, is that accurate?

3 A Yes. We have both served on plenty of committees. I
4 can remember at least one that we were on together, the
5 grievance committee we were on together.

6 Q Okay. And were you on the grievance committee when
7 two complaints came before it against Dr. Crenshaw?

8 A Yes.

9 Q Okay. I'm going to hand you up what's been marked as
10 Plaintiff's Exhibit 1. It looks like a letter dated
11 October 1, 2010, to see if you are familiar with that
12 document.

13 A I don't think I've seen that document, but I
14 understand the content. The content is familiar.

15 Q Okay. All right. We won't move it at this time,
16 we'll move it later. Okay. But it's safe to say the
17 grievance committee became in early October, became
18 involved with the, with these complaints?

19 A That's right.

20 Q Okay. And I'm going to hand you the portion of the
21 faculty manual dealing with the grievance committee. And
22 first, are you familiar with the faculty manual at
23 Erskine?

24 A Yes, I'm familiar with a couple of versions of it.

25 Q Okay. How about the version revised August 31st,

1 2009?

2 A Yes.

3 Q And I'm going to hand you up what's been marked as
4 Plaintiff's Exhibit 2, page 61 that begins with faculty
5 committees.

6 A Yes, I know this well.

7 Q Okay. And what portion of these duties of the
8 committee were you charged with resolving this dispute by?

9 A As the grievance, the two grievances filed against
10 Dr. Crenshaw were both faculty versus faculty. It was
11 number one here to act as a mediator in cases where
12 misunderstanding or unjust criticism may adversely affect
13 either the professional reputation of a faculty member or
14 the academic standing of the institution. These cases may
15 be brought before the committee by an interested faculty
16 member, as these were, or by an administrator.

17 Q Okay. All right.

18 COURT REPORTER: You need to slow down.

19 THE COURT: Yeah. You can read faster than my court
20 reporter can type.

21 A You ready for it again?

22 COURT REPORTER: That'd be great.

23 A Okay. It's number one. To act as a mediator in
24 cases where misunderstanding or unjust criticism may
25 adversely affect either the professional reputation of a

1 faculty member or the academic standing of the
2 institution. These cases may be brought before the
3 committee by an interested faculty member or by an
4 administrator.

5 Q So would it be fair to say that you are not making
6 any judgment calls on this committee?

7 A That is correct. In these sorts of cases, there is
8 no investigation. It was just an attempt to mediate.

9 Q Okay. All right. And before you met, the committee
10 met on October 14th. I'm going to hand you what's been
11 marked as Plaintiff's Exhibit 3, titled Meeting of the
12 Grievance Committee Thursday, October 14, 2010; 11:00
13 DMSC221. Are you familiar with this document?

14 A Yes.

15 Q Would this be the minutes of your meeting?

16 A Yes, these are the minutes. And I was, acted as the
17 secretary for the meeting.

18 Q Okay. So you typed these up?

19 A Yes.

20 Q Okay.

21 A Pretty much in real-time. We did them right then.

22 Q Okay. All right. Can you explain to us what the
23 process the committee followed in this case was?

24 A This case was a little complicated because of there
25 had been a good bit of communication between Dr. Crenshaw

1 and Dr. Thomas and the other members of the committee
2 before our October 14th meeting. And so there was a good
3 bit of material in the meeting before we could really get
4 to, well, it's .8 in the Development of Mediation Plan.
5 Do you want me to go through the minutes point-by-point or
6 any particular point?

7 Q I mean, yeah. You can just describe to us what
8 happened at y'all's meeting and however is easiest.

9 A Okay. The beginning was rather a perfunctory call to
10 order, opening prayer, an adoption of the agenda which had
11 been circulated by the chair of the committee, Dr. Howard
12 Thomas. And with that, when he circulated that, we got
13 hard copies of the grievances filed against Dr. Crenshaw.
14 I should say that Dr. Crenshaw and I were both still on
15 that committee. So present at that meeting were Dr.
16 Crenshaw and myself and four other elected members of the
17 committee, Dr. George Fall, from the seminary, and three
18 Professors from the college: Dr. Dale Smith, Dr. John
19 Showalter, and Dr. Howard Thomas. Dr. Thomas had been
20 appointed as the chairman and so after an appointment of
21 the secretary which was me, he had a statement for us
22 which was basically what I read to you already.

23 .1, Of what our role was in this, with the committee
24 with this sort of case. What I read to you is just about
25 all we had in the 2009 version of the faculty manual, that

1 one point with no more procedure outlined there. So my
2 minutes say, Dr. Thomas read the relevant portion of the
3 charge of the grievance committee. He emphasized that our
4 task is to mediate between the parties. He proposed that
5 we formulate a mediation plan according to our charge and
6 if that doesn't work we would report to the academic
7 office, the office that would oversee the committee's
8 actions and withdraw. There would be nothing further to
9 do. He then opened the floor about any other statements
10 regarding this since we had had an exchange of emails.
11 And Dr. Crenshaw stated that he wanted his attorney,
12 Robert Tinsley, who was absent because of General Sessions
13 in Greenwood that morning. Robert Tinsley had authorized
14 Dr. Crenshaw to make the following statements and he had
15 these ready for us. In the incident that had happened in
16 the, I suppose previous month with the ambulance, he saw
17 an emergency situation. He had slandered no one. A copy
18 of the process of the minutes of our meeting should go to
19 his attorney. It is the intention of the attorney to
20 appear at any other, at our meetings should they continue.
21 We are to be aware that other documents may be subject to
22 subpoena. Dr. Showalter, that was the end of Dr.
23 Crenshaw's statement. Dr. Showalter, another faculty
24 representative, said, commented that it is frustrating to
25 have no institutional structure or instruction on how to

1 accomplish our task. As I said, there is just that one
2 paragraph in the old faculty manual. And Professor Smith
3 bemoaned that there is no immediate history of a similar
4 case to refer to. We did not have precedents that we knew
5 of that would exactly fit the situation. There was then
6 an opportunity for committee members to recuse themselves.
7 Dr. Crenshaw, of course, was on the committee. And so due
8 to a conflict of interest, he recused himself voluntarily.
9 Joan Little, who was another Professor of English in the
10 same department as Dr. Crenshaw had already recused
11 herself and had submitted an email to Dr. Thomas. She
12 does not believe that this is an issue that can be or
13 should be submitted for mediation by the grievance
14 committee. And Dr. Crenshaw who had requested Dr. Thomas
15 to recuse himself in an earlier email withdrew that
16 request. So it was just the two recusals, Dr. Crenshaw
17 and his colleague in the English department, Dr. Little.
18 Although my minutes do not say this, my recollection is at
19 that point that Dr. Crenshaw left the room. We worked
20 then, the remaining committee members worked to develop a
21 mediation plan. There was a discussion of, I would say 15
22 or 20 minutes, the highlights of which are recorded here.
23 We are here as colleagues to make reconciliation.
24 Involving an attorney in a faculty committee escalates it
25 beyond the collegial level in which our committee

1 operates. Our charge is limited to bring about college
2 mediation between peers, not to investigate. In our
3 opinion, the involvement of attorney/legal counsel takes
4 this above a peer negotiation that we would be able to
5 attempt unless it exceeds our role. So there was a
6 motion. As our discussions have failed to formulate a
7 workable mediation plan, that we return to the academic
8 office the grievances filed by Professor Weyer, Mr.
9 Peeler, and Dr. Alston. That motion passed and there
10 before we adjourned, we approved the minutes that I'm
11 reading from now at that meeting.

12 Q Okay.

13 MR. JAMISON TINSLEY: I will move at this time to
14 enter Plaintiff's 2 and 3 into evidence.

15 MR. CLOSE: No objection, Your Honor.

16 THE COURT: Will be admitted without objection.

17 (Whereupon, Plaintiff's Exhibits 2 and 3 were
18 admitted into evidence.)

19 Q Was Dr. Crenshaw in the room when the motion was made
20 and passed?

21 A My recollection is that he was not.

22 Q All right.

23 A But the minutes do not say that.

24 Q Okay. Did Dr. Crenshaw threaten the committee?

25 A In the discussion there was some expression that

1 involving an attorney in a faculty committee felt
2 threatening. There was no actual threat.

3 Q Okay. So no threat is your answer?

4 A No threat is my answer.

5 Q Okay. Did he do anything before that committee that
6 would be cause for his termination between the faculty?

7 MR. CLOSE: Object, Your Honor. Leading the witness.

8 THE COURT: Sustained as to leading. Rephrase your
9 question.

10 Q Well, and he never brought any lawyer to a faculty
11 meeting?

12 A Not that I'm aware of.

13 Q The grievance committee?

14 A No.

15 Q Okay. Did you ever feel bullied by Dr. Crenshaw?

16 MR. CLOSE: Object to the form, Your Honor. He's
17 leading the witness.

18 THE COURT: Yeah, rephrase that; sustained.

19 Q Did you personally witness any of the events on
20 September 24th that led to these complaints?

21 A No, I did not.

22 Q Okay. So you don't have any personal knowledge of
23 the complaints?

24 A No.

25 Q And as your position on the grievance committee, did

1 you ever have occasion to hear any grievance filed against
2 Dr. Norman?

3 A The previous year, yes. And Dr. Crenshaw and I were
4 both on the committee in that hearing.

5 Q Okay. I'm going to hand you what's been marked as
6 Plaintiff's Exhibit 4, a letter addressed to Dr. James
7 Hering dated May 12, 2011.

8 A Yes, I know this.

9 Q Okay. Can you briefly describe to the jury what the
10 nature of this complaint was and who the parties were?

11 A I can try. A seminary Professor, let me back up a
12 little bit. The college and the seminary, although we
13 refer to them independently are one institution, governed
14 by one Board of Trustees with one president. And by this
15 time, by the time of this case, with just one Dean,
16 academic Dean overseeing the faculty of both institutions.
17 And so the grievance committee of the college has a
18 seminary representative and would be the body to which
19 seminary grievances would be submitted. And so in the
20 Spring of 2011, we received a grievance from a Professor
21 at the seminary who was eligible for tenure who had
22 applied for tenure and whose tenure was denied.

23 Q Let me stop you real quick. Would that be Dr.
24 Hering?

25 A Yes, I'm sorry. Dr. James Hering.

1 Q Continue on.

2 A And denied, Dr. Hering felt under circumstances which
3 showed that his, the evaluation process had not proceeded
4 as it should have. And so the grievance committee would
5 have been acting on a different charge, number two, from
6 the faculty manual which is to hear appeals from
7 candidates for tenure who feel that proper procedure was
8 not followed in the evaluation process. The committee
9 will rule only on procedural matters and not on the
10 eligibility or qualifications of the candidate. So, in
11 other words, we were not there to say Dr. Hering should be
12 given tenure but whether the procedure for getting tenure
13 had been followed. That committee met over this grievance
14 for several months. This charge is a little different in
15 that it ask for an evaluation of the procedure. We did
16 have to investigate some in that we had to ask for some
17 more information from both Dr. Hering and the President's
18 office.

19 Q And you're talking about the charge to the grievance
20 committee laid out in the faculty manual?

21 A Yes. Yes. The committee asked for some information
22 from the President's Office. Since, ultimately, Dr.
23 Hering's tenure had been denied at that level, the
24 seminary tenure committee had recommended that he be given
25 tenure of the seminary. The administrative Dean had

1 recommended that he be given tenure. And it was only as
2 far as we could tell in the President's Office that his
3 tenure had been denied. Now, Dr. Norman had in a faculty
4 meeting of the seminary only attempted to conduct an
5 informal poll of the faculty about their feeling that the
6 promotion and tenure committee of the seminary represented
7 them as a whole. Dr. Hering felt this was a referendum,
8 well, in his complaint Dr. Hering expressed to us that
9 this was a referendum of, based on his tenure, basically,
10 putting it up for a vote. And so our committee over the
11 course of two, two or three months, two months I suppose,
12 would receive information from Dr. Norman. We would work
13 through it, we would ask for more information. The report
14 that we ultimately filed stated that we felt the procedure
15 had not been followed as it should have been.

16 Q By whom?

17 A By Dr. Norman. At least at the President's Office.
18 That if the procedure had been corrupted in one way or
19 another and if you want, I can get into those details.
20 I'd have to refresh my memory about the precise details.
21 But the tenure process had been corrupted. And we,
22 therefore, as a committee, filed our report both with Dr.
23 Hering and Dr. Norman and the Chairman of the Board of
24 Trustees, the Chair of the seminary tenure committee, the
25 Interim Vice-President of the seminary and the

1 Administrative Dean of the Seminary, hoping our committee,
2 well, I hoped anyway that we would see some
3 reconsideration of that case. As far as I know, nothing
4 came of our deliberations. But Dr. Crenshaw and I were on
5 the committee to get, put together this report.

6 Q Would you read on that page, the next to last page,
7 paragraph number five?

8 A Okay. This is in a list of descriptions of the
9 President's actions in the, during the tenure process.
10 Paragraph five: Following his, his would be Dr. Norman,
11 his inappropriate actions at the March seminary faculty
12 meeting, the President has subsequently shifted his
13 concern from an allegedly flawed seminary tenure process
14 to unspecified, in quotation marks, institutional factors.
15 The recording, this was an audio recording of the March
16 7th, 2011 seminary faculty meeting, however, gives no
17 indication of concern for the institutional factors to
18 which the President now refers. This change in the
19 President's argument gives weight to Dr. Hering's
20 grievance that his tenure application was wrongly
21 undermined.

22 Q If he would go flip to the last page and just read
23 the conclusion.

24 A The concerns of the grievance committee go well
25 beyond the immediate case affecting Dr. Hering. The

1 multiple violations of the tenure process in Dr. Hering's
2 case, if not addressed, will have a demoralizing effect on
3 current faculty and will impede the institution's ability
4 to attract new faculty. Moreover, the evidence we see can
5 only confirm SACS concerns, SACS is the Southern
6 Association of Colleges and Schools, S-A-C-S. SACS
7 concerns, our creditors that is, about undue external
8 influence in Erskine's governance. The grievance
9 committee asserts that the proper handling of tenure is a
10 preeminent institutional factor that characterizes the
11 integrity of Erskine College and Seminary.

12 Q All right. And Dr. Crenshaw was a member of this
13 committee that submitted this letter or report?

14 A Yes.

15 Q Okay. And was Dr. Norman, was he copied on this
16 report?

17 A Yes, he would have received this.

18 MR. JAMISON TINSLEY: I will move at this time to
19 enter that report as Plaintiff's exhibit, we are up to
20 now.

21 THE COURT: Plaintiff's 4.

22 REPORTER: Yes, sir.

23 MR. CLOSE: No objection, Your Honor.

24 THE COURT: No objection. Plaintiff's 4 is admitted.
25

1 (Whereupon, Plaintiff's Exhibit 4 was admitted into
2 evidence.)

3 MR. JAMISON TINSLEY: No further questions.

4 THE COURT: All right. Let's take a couple minutes
5 break. Do y'all need a break? So, Professor, you can
6 step down, but you can't discuss your testimony with
7 anybody. Y'all can step in the jury room. If y'all need
8 to step outside and check your cars, we'll take a long
9 enough break to do just that. So we'll take about ten or
10 twelve minutes, okay. You can't be discussing the case.

11 (Whereupon, the jury was excused from open court for
12 a break.)

13 THE COURT: We will take a break.

14 (Whereupon, a short break was taken.)

15 THE COURT: Let's bring the jury in, please.

16 (Whereupon, the jury came into open court at
17 approximately 2:50 p.m.)

18 THE COURT: Y'all are right back on the same seats
19 already. All right. You ready to continue the
20 cross-examination, Mr. Keim?

21 MR. CLOSE: Mr. Close.

22 THE COURT: Mr. Close. Okay.

23 MR. CLOSE: Thank you, Your Honor.

24 CROSS-EXAMINATION

25 By Mr. Close:

1 Q Good afternoon, Dr. Kuykendall.

2 A Good afternoon.

3 Q Dr. Kuykendall, if you will find for me Plaintiff's
4 Exhibit 2, please?

5 A I have it.

6 Q Okay. And I believe you testified that this is the
7 explanation or charge of the grievance committee, is that
8 right?

9 A Yes, as it was in the 2009 faculty handbook.

10 Q And which, again, which one of these items did the
11 grievances against Dr. Crenshaw fall under?

12 A They fell under number one about acting as a mediator
13 in cases between faculty members.

14 Q Did you feel like this particular case fell within
15 that charge to mediate between two faculty members?

16 A Yes. I think that's, it was a legitimate grievance
17 for the committee to hear, yes.

18 Q And that was your task to mediate or to work out
19 differences between colleagues; right?

20 A Yes.

21 Q And the process, what process did y'all use to do
22 that?

23 A In the Plaintiff's Exhibit 3, we were unable to
24 develop, this is .8. We were unable to develop a
25 mediation plan because every impression that, I suppose it

1 was an impression, that Dr. Crenshaw gave us when he was
2 in the meeting was that he was not willing to have any
3 mediation with those who had filed the grievance.

4 Q So then the reason you couldn't mediate was because
5 Dr. Crenshaw wouldn't participate, is that right?

6 A Yeah, that is what we understood, yes.

7 Q Dr. Kuykendall, prior to the meeting where Dr.
8 Crenshaw made his statement, I believe you testified that
9 there was, there was some communication before that time,
10 is that right?

11 A There were a number of emails, yes.

12 (Whereupon, Defendant's Exhibit number 7 was marked
13 for identification.)

14 Q Dr. Kuykendall, I'm going to show you what's been
15 marked as Defendant's Exhibit 7 and ask if you recognize
16 that document?

17 A Yes. This is part of that email exchange.

18 Q So this is one of the emails that was sent prior to
19 the grievance committee meeting, correct?

20 A Correct. The meeting was on the 14th of October,
21 this was on the 6th.

22 Q And who was this email from?

23 A This is an email from Dr. Crenshaw to the Chair of
24 the committee, Dr. Howard Thomas, and copied to the other
25 members of the committee and the Academic Dean, Dr. Brad

1 Christie, and the Faculty Chair, Dr. Sandra Chaney.

2 Q If you would, Dr. Kuykendall, look about three
3 quarters of the way down, there is a short paragraph that
4 starts, good intentions. Do you see that?

5 A Yes.

6 Q And just following that is the one when that starts,
7 it would be advisable. Do you see that?

8 A Yes. It would be advise, do you want me to read it?

9 Q I'd like, yeah, if you would read that paragraph,
10 please.

11 A And this is Dr. Crenshaw writing, It would be
12 advisable, therefore, for members of the grievance
13 committee to consider carefully the position that they are
14 putting themselves in if they go forward with the case
15 under the circumstances. Already the Chair has denied the
16 accused access to the accusation. The Chair has not
17 indicated what, if any, ideas he has regarding the details
18 of the procedure to be followed. Details which should as
19 I have said already be in place and should be set up not
20 by this committee, but by a committee designed to draw up
21 such a procedure, a committee that has access to legal
22 advice and counsel.

23 Q And with regard to that first sentence, what did you,
24 what did you think that meant?

25 MR. JAMISON TINSLEY: Objection.

1 THE COURT: I'll sustain that, it says what it says.

2 Q What did it mean to you, Dr. Kuykendall?

3 MR. JAMISON TINSLEY: Objection.

4 THE COURT: Sustained. That is not addressed to him,
5 is it?

6 A I was copied on it.

7 THE COURT: Okay.

8 Q If you would, Dr. Kuykendall, read the, will you read
9 the following paragraph please, Dr. Kuykendall?

10 A If this grievance committee does decide to proceed
11 with this case, I request that the Chair, that would be
12 Dr. Howard Thomas, recuse himself from the proceedings.
13 His unwillingness to furnish the accused with the bill of
14 particulars is, I think, a sufficient reason for the
15 request. But at a chance encounter this morning, the
16 Chair vents to hostility toward the accused which argues
17 that he cannot hear this case with the required
18 objectivity.

19 Q And what is he calling to have happen, calling for to
20 happen in that paragraph, Dr. Kuykendall?

21 A That Dr. Howard Thomas who had been appointed the
22 chair of the committee not be involved in any
23 deliberations in his case.

24 Q Do you know why he was asking for Dr. Thomas to
25 recuse himself?

1 A This email is a part of a series of emails, mainly if
2 not exclusively, between Dr. Crenshaw and Dr. Thomas. It
3 had to do with the procedure of the committee and Dr.
4 Crenshaw was asking for a hard, well, for the grievance as
5 filed to the curriculum committee to be given to him. Dr.
6 Thomas replied that this would be material circulated with
7 the agenda, when the agenda was circulated and the emails,
8 they're probably eight or ten or maybe a dozen emails back
9 and forth.

10 Q Do you have any impression from those emails?

11 A I did not look forward to the meeting.

12 Q Why did you not look forward to the meeting?

13 A The tone of the meeting had started more than a week,
14 the tone had become hostile more than a week before we
15 actually met.

16 Q So the tone was hostile before the committee actually
17 met?

18 A Yes.

19 (Whereupon, Defendant's Exhibit number 9 was marked
20 for identification.)

21 Q Dr. Kuykendall, I am showing you what has been marked
22 as Defendant's Exhibit number 9. Do you recognize that
23 document?

24 A This, yes, this is a later email in the same series.

25 Q And if you would, turn to the second page of the

1 document. But before I get there, I apologize, Dr.
2 Kuykendall, who is this email from?

3 A This is, again, from Dr. Crenshaw to Dr. Thomas and
4 copied to the same people.

5 MR. CLOSE: Your Honor, at this time I move that
6 Defendant's Exhibit 9 be admitted into evidence.

7 MR. JAMISON TINSLEY: I don't believe that Dr.
8 Kuykendall has laid the foundation. I'm sure they count
9 on the weight of the witness.

10 MR. CLOSE: Well, Your Honor, I apologize.

11 Q Dr. Kuykendall, were you copied on this email?

12 A Yes. Yes.

13 MR. CLOSE: And he recognizes it, Your Honor. He's a
14 recipient of the email in real-time.

15 THE COURT: All right. I want to talk to the lawyers
16 real quick.

17 (Whereupon, a bench conference was held in the
18 presence of the jury but out of the hearing of the
19 jury.)

20 THE COURT: I wanted to make certain I was clear with
21 the lawyers. All the exhibits coming in they are talking
22 about, y'all get them all back in the jury room. They're
23 reading them to you and you're hearing parts of them and
24 y'all will have them in your hand. Y'all will be able to
25 read them yourself. So any part of it, you want to know

1 what the third paragraph or they didn't read the second
2 one, y'all get to read them all, okay. All the ones that
3 come in, once Ms. Holston accepts them in the record, it
4 goes to the jury room so don't worry if you didn't hear or
5 read the whole thing. That's why I just wanted to make
6 sure that the lawyers are aware I'm going to tell you
7 that. All right. Exhibit 7 also offered?

8 MR. CLOSE: I'm sorry, Your Honor?

9 THE COURT: Exhibit 7, that was the first one?

10 MR. CLOSE: I believe I failed to request that 7 be
11 admitted.

12 THE COURT: You want it in?

13 MR. CLOSE: Yes, sir.

14 THE COURT: All right. 7 and 9 are in subject to
15 your objection that the foundation be laid further, so we
16 will move on.

17 (Whereupon, Defendant's Exhibit 7 and 9 were admitted
18 into evidence.)

19 Q So and to pick right back up, Dr. Kuykendall, this
20 Defendant's Exhibit number 9 is another email that you
21 testified you were, made you not look forward to the
22 grievance committee meeting, is that correct?

23 A That is correct.

24 Q So, Dr. Kuykendall, when the grievance committee met,
25 was it the Plaintiff's statement that he already had an

1 attorney at that time?

2 A Yes.

3 Q And did he read a prepared statement at that time?

4 A He read from something written. It was more like
5 bullet points than a prepared statement, but yes.

6 Q Did he make that statement prior to actually recusing
7 himself from the committee?

8 A Yes.

9 Q And he said that an attorney would appear with him in
10 future meetings and documents would be subject to
11 subpoena, is that right?

12 A That's right.

13 Q And, I believe you read the, from the minutes that
14 the involvement of expert or legal counsel took the
15 grievance out of the realm of the committee, is that
16 correct?

17 A That, that emerged in the committee's discussion and
18 that was our sense, yes.

19 Q Did involving an attorney feel threatening to you?

20 A Yes.

21 Q And you were part of this committee that heard the
22 grievance against Dr. Norman that was discussed earlier,
23 is that right?

24 A Yes. The committee membership had changed slightly
25 between years. Two people would have rotated off and two

1 more come on, but yes.

2 Q Okay. You were on that committee that heard the
3 grievance against Dr. Norman, correct?

4 A Yes.

5 Q Was it a grievance against Dr. Norman or just a
6 request for review of tenure?

7 A It was a grievance against Dr. Norman.

8 Q Okay. And was that a tough task for the grievance
9 committee to undertake?

10 A Yes.

11 Q But the grievance committee filed a report and made a
12 decision in that case, correct?

13 A Yes, after two and one-half months.

14 Q So you were able to accomplish your task?

15 A Yes.

16 Q You were not able to accomplish your task in the
17 grievances against Dr. Crenshaw, were you?

18 A Yes. Yes, we were not able to.

19 Q You were not able. Thank you. Why were you able to
20 complete your task in the difficult case against Dr.
21 Norman but not against Dr. Crenshaw?

22 A The charge to the committee for those cases, it's a
23 different charge for those sorts of cases. One, a tenure
24 review, a tenure process consideration and one between
25 faculty members and in that we were limited only to

1 mediating and one party at least was unwilling to mediate
2 in the Crenshaw grievance case, we could not do anything
3 with it. With the Norman case, we're empowered to
4 investigate and we did and came to our conclusions.

5 Q And I believe you said that, Doctor, you had
6 requested information directly from Dr. Norman even though
7 he was the subject of the grievance?

8 A That's, we requested information from a number of
9 parties including Dr. Norman and Dr. Hering who filed a
10 grievance.

11 Q And did Dr. Norman provide you everything you asked
12 for?

13 A Yes, we felt that what we were hearing was changing
14 with each iteration but he did provide information at each
15 time we asked.

16 Q Did he make a statement that he had an attorney and
17 the documents would be subject to subpoena?

18 A No such statement was made in my recollection.

19 Q Did he send any emails that made you not look forward
20 to any meetings with him?

21 A We never met with him, so no.

22 Q Let me direct your attention, Dr. Kuykendall, to
23 what's been marked as Plaintiff's Exhibit 4 which is your
24 findings in the grievance against Dr. Norman.

25 A Yes.

1 Q And, specifically to the last page. The grievance
2 committee signed this letter, correct?

3 A Yes, all of our names are there.

4 Q All the grievance committee's names. The first name
5 is Dr. Howard Thomas, Chair, correct?

6 A Correct.

7 Q Is he still employed at Erskine College?

8 A And to the best of my knowledge, yes.

9 Q All right. Your name is listed, correct?

10 A Yes.

11 Q Are you still employed by Erskine College?

12 A I think so, yes.

13 Q And Dr. Joan Little's name is there, correct?

14 A Yes.

15 Q Is she still employed by the Erskine College?

16 A Yes.

17 Q Reverend Dr. George Schwab is listed, correct?

18 A Yes.

19 Q Is he still employed by Erskine College?

20 A I believe so.

21 Q Professor Dale Smith is listed, correct?

22 A Yes.

23 Q Is she still employed by Erskine College?

24 A Yes.

25 Q There is one more name, Dr. John Showalter, the

1 Vice-Chair. Is he currently employed by Erskine College?

2 A He retired a couple of years ago, I guess, the end of
3 2012.

4 Q Thank you Dr. Kuykendall, I have nothing further.

5 REDIRECT EXAMINATION

6 BY MR. JAMISON TINSLEY:

7 Q Did the grievance committee make any finding against
8 Dr. Crenshaw?

9 A This is in October 2011?

10 Q That's correct.

11 A No.

12 Q Okay. And the recusal request against, by Dr.
13 Crenshaw regarding Dr. Thomas, he withdrew that request?

14 A He withdrew that at the meeting.

15 Q Okay. Did you ever look forward to going into
16 grievance meetings?

17 A No.

18 Q And you said you felt threatened by an attorney
19 getting involved. You're married to an attorney, correct?

20 A I am.

21 Q And the differences, would you categorize the
22 differences in the grievance against Dr. Norman and the
23 grievance against Dr. Crenshaw as being totally different
24 institutional procedures being in place?

25 A To the extent that there were institutional

1 procedures at all to follow, they are different, yes.

2 Q All right. To the extent there were institutional
3 procedures, was there thought among the grievance
4 committee in Dr. Crenshaw's case that there weren't--

5 MR. CLOSE: Object--

6 Q --institutional procedures?

7 MR. CLOSE: Excuse me. Objection to the form, Your
8 Honor. I apologize for talking over Counsel.

9 THE COURT: That's all right. Rephrase your
10 question.

11 MR. JAMISON TINSLEY: Okay.

12 Q Was there, did anybody, did the committee express any
13 concerns and what concerns did they request, did they
14 express regarding institutional procedures?

15 A From, I think it's Exhibit number 3, this is the
16 minutes of that meeting of October 14th. Something that I
17 read earlier is in paragraph 6. Other statements regarding
18 this proposal. After Dr. Crenshaw's prepared statement,
19 there was a statement by Dr. Showalter. Dr. Showalter
20 commented that it is frustrating to have no institutional
21 structure or instruction on how to accomplish our tasks.
22 And Professor Smith bemoaned that there is no immediate
23 history of a similar case to refer to. So, yes.

24 Q Okay. And later on after, in 2011, I guess, after
25 Dr. Crenshaw was terminated by Dr. Norman, you started on

1 the faculty executive committee?

2 A That's correct.

3 Q Okay. And in that committee's, what is that
4 committee's role?

5 A It's a committee elected by the faculty every year.
6 There's a faculty chair, a faculty secretary. At that
7 time, there were two representatives to the Board of
8 Trustees and a couple of members at-large. The
9 committee's main responsibility is setting the agenda of
10 the monthly faculty meetings. The faculty's involvement
11 in institutional government's is principally curriculum,
12 although it is involved in other things in other ways.
13 Curriculum meaning what goes on in the classroom, what the
14 educational programs of the college are. So a lot of what
15 the faculty executive committee is involved in is
16 curricular or extra-curricular activities of the college
17 and the monthly faculty meetings relate to decisions of
18 policy or procedure to that of curricular decisions
19 principally.

20 Q Okay. And at that time Gid Alston who was one of the
21 original complainants was on the faculty executive
22 committee?

23 A That is correct.

24 MR. KEIM: Your Honor, I'm going to object. I'm not
25 sure where we're going here. This is clearly beyond cross

1 and original direct and cross.

2 THE COURT: I sustain it.

3 MR. JAMISON TINSLEY: All right.

4 THE COURT: Move on.

5 Q Just one final question. Following the grievance
6 committee's involvement, did you ever discuss either these
7 original complaints or what the letter led to with Dr.
8 Crenshaw?

9 A What, when you say what the letter led to, what do
10 you mean?

11 Q The termination?

12 A I am aware--

13 MR. KEIM: And, again, Your Honor, I think this is
14 beyond the scope of the original line of questioning and
15 cross.

16 MR. JAMISON TINSLEY: I'm just trying to find what
17 his involvement with the case, where it went after the
18 grievance committee.

19 MR. KEIM: Your Honor, that's an entirely different
20 committee that came much later in time.

21 THE COURT: All right, y'all are double teaming him
22 now.

23 MR. JAMISON TINSLEY: My point is, I don't care about
24 committee. I'm talking about him in any roles at Erskine
25 on any committees.

1 THE COURT: All right. I'm going to let him answer
2 that question. But then I think you better tie his
3 testimony up. Go ahead, you can answer that question.

4 A Can you give me the question again?

5 Q Did you ever, after this grievance committee meeting,
6 discuss the matter with Dr. Crenshaw?

7 A There were, I think, three instances where I
8 initiate, two instances where I initiated contact with Dr.
9 Crenshaw and one where he initiated contact with me. As
10 the Chair of the Faculty in the following year, in the
11 year in which he was terminated, I was informed by the
12 Academic Dean that Dr. Crenshaw, the procedure for
13 termination had been started. This would have been in
14 August of 2011. I was just informed of what had happened
15 to that point. And I reviewed with Dr. Christie the
16 faculty manual about what the procedures were there for
17 termination.

18 Q Dr. Christie or Dr. Crenshaw?

19 A Dr. Christie. That afternoon when I got home, I sent
20 an email to Dr. Crenshaw to his personal account from my
21 personal account and said if there's anything I need to
22 know, please let me know. I heard nothing from that
23 email. In early September when Dr. Norman, that was the
24 first instance. The second incident where I initiated it
25 in early September when Dr. Norman sent out an email to

1 the Erskine community stating that Dr. Crenshaw was no
2 longer employed. I forwarded that text on as Faculty
3 Chair to Dr. Crenshaw feeling that my job as Faculty Chair
4 was to look out for the interest of faculty members. I
5 said this is the statement that has been announced.
6 Again, if there's anything I need to know, let me know.
7 Dr. Crenshaw did reply to that email. He said if there
8 was anything I wanted to know to ask. I didn't feel like
9 initiating anything at the beginning of the semester. I
10 was, it's a very busy time. But I did get a response. He
11 said also, save tomorrow's index journal for me. Four
12 months later on December the 13th, Dr. Crenshaw came into
13 the music building, came to my office door right before
14 exams, student exams, students were going by in the
15 hallway and berated me for no leadership as Faculty Chair.
16 Told me that he and Diane were disappointed in me and that
17 I had not done what I should do as Faculty Chair. In that
18 instance I did not respond, because I didn't think it
19 would be productive.

20 Q And this was after termination?

21 A That, this was, yes, after the termination.

22 MR. JAMISON TINSLEY: I have no further questions,
23 Your Honor.

24 THE COURT: Anything in recross?

25 MR. CLOSE: No, Your Honor. We reserve the right to

1 recall Dr. Kuykendall.

2 THE COURT: Certainly. All right. Doctor, you may
3 step down. He's free to go. If they need him, they can
4 call him. Y'all can find him, can't you?

5 MR. CLOSE: Yes, sir.

6 THE COURT: Okay. If you want to stay, you can stay.
7 If you want to go, you can go. If they need you, they'll
8 call you. All right. Call your next witness.

9 MR. JAMISON TINSLEY: We call John Showalter.

10 JOHN SHOWALTER, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. JAMISON TINSLEY:

14 Q Would you please state your name for the record?

15 A John Showalter.

16 Q Okay. Dr. Showalter, could you give us your
17 educational background?

18 A Undergraduate at Virginia Tech and Master's Degree
19 and PhD from Purdue University.

20 Q Okay. And what's that in?

21 A Psychology.

22 Q Okay. And when you graduated, what'd you do?

23 A Very first job was as a counselor with an inner city
24 program in Toledo, Ohio. During that summer, I got an
25 interview at Erskine College and took a job later that

1 summer and been there until I retired two years ago.

2 Q Okay. How long did you work at Erskine?

3 A 39 years.

4 Q Okay. I assume you were a tenured Professor there?

5 A Yes.

6 Q Okay. Did you know Dr. William Crenshaw?

7 A I did. I do.

8 Q Okay. Did y'all serve on committees together at
9 Erskine?

10 A Yes, from time to time.

11 Q Okay. All right. And were you on the grievance
12 committee in October of 2010 that received complaints
13 against him?

14 A Yes.

15 Q Okay. And I'm going to hand you what's been marked
16 as Plaintiff's Exhibit number 4, 3, excuse me. I
17 misspoke. These are the minutes of the committee, and
18 would you say that the committee's charge in that case was
19 to mediate, attempt to mediate?

20 A That was certainly my understanding of it. I
21 couldn't recite the official charge to the committee as
22 it's stated in the handbook.

23 Q Okay. Well, we've already been over that so we won't
24 bore the jury anymore. And what is your recollection
25 about that meeting in October of 2010?

1 A Well, that it was a number of years ago, so I have to
2 take that into account. But that it was relatively brief,
3 half-an-hour or so. We had some notion of what was coming
4 and I think it's reflected in the minutes that a couple of
5 us had some reservations about whether we really had the
6 authority to do anything about the situation. We
7 proceeded to have the meeting. It was all very civil and
8 proper as I recall. Came to the conclusion it was out of
9 our jurisdiction and sent a report to that effect.

10 Q Okay. Did you have concerns with the institutional
11 structure or procedure that was in place?

12 A Yes, and mentioned that at the time just as the
13 committee was about to get started with this business. As
14 I said, enough of us knew a little bit about what was
15 coming that we were thinking what would we be able to do
16 in this given the nature of the case that was coming.

17 Q Okay. And did you ever feel threatened during those
18 proceedings on that committee?

19 MR. KEIM: Object to the form, Your Honor.

20 MR. JAMISON TINSLEY: I don't think I suggested that
21 he answer with that.

22 THE COURT: I'm going to allow the question.

23 MR. KEIM: Okay.

24 A No, it never would have occurred to me.

25 Q All right. And the complaints, as far as you recall,

1 stem out of an accident that occurred on September 24th
2 where EMS was involved?

3 A Yes.

4 Q And did you witness any of that?

5 A No.

6 Q So you have no firsthand knowledge?

7 A No firsthand knowledge about it.

8 Q No further questions.

9 MR. KEIM: Just a couple, Your Honor.

10 THE COURT: All right.

11 CROSS-EXAMINATION

12 BY MR. KEIM:

13 Q Mr. or Dr. Showalter, my name is Tom Keim. I
14 represent Erskine College. If you would look, for me, at
15 the minutes that you have which I think are Plaintiff's
16 Exhibit 3.

17 THE COURT: He's having trouble hearing you.

18 Q Are you?

19 MR. KEIM: Okay. Is it all right if I approach, Your
20 Honor.

21 Q Yeah, just let me know if you can't hear.

22 A Yeah, I have hearing loss.

23 Q Okay. So if you would look at Plaintiff's Exhibit 3
24 in paragraph 5, it indicates that Dr. Thomas read the
25 relevant portion of the charge of the grievance committee,

1 is that what it says?

2 A That's what it says, yes.

3 Q All right. And do we have Plaintiff's 2 available?

4 All right. And I show you, Dr. Showalter, what's been
5 previously entered into evidence as Plaintiff's Exhibit 2,
6 which is a one-page exhibit and ask if you recognize
7 whether that is part of the faculty handbook?

8 A It looks familiar, yes.

9 Q All right. And then if you would look at Roman
10 numeral IA, number 1, the sentence starts, To act as a
11 mediator in cases where misunderstanding or unjust
12 criticism may adversely affect either the professional
13 reputation of a faculty member or the academic standing of
14 the institution. Did I read that correctly?

15 A Yes, sir.

16 Q And is that what the grievance committee's charge was
17 in this instance?

18 A Well, as I said a moment ago, I don't have explicit
19 recall of that but if this is from that year's faculty
20 handbook then, yes.

21 Q All right. And I think we've established and agreed
22 that that's the case. One more thing, if you would,
23 there's a sentence at the very bottom of that page which
24 is page 61 of the faculty handbook. Can you read that for
25 me, please?

1 A Below, tenure committee?

2 Q Yes, sir. The very bottom sentence.

3 A The College tenure committee shall consist of six--

4 Q Not that one. I'm sorry. I hate to interrupt you.
5 The one at the very bottom.

6 A Oh. Oh. This is not a contract of employment.

7 Q Yes. Thank you.

8 MR. KEIM: That's all the questions I have, Your
9 Honor.

10 THE COURT: And any redirect?

11 REDIRECT EXAMINATION

12 BY MR. JAMISON TINSLEY:

13 Q Well, what is your understanding that being a tenured
14 Professor means at Erskine?

15 MR. KEIM: I believe this is, again, beyond the scope
16 of direct examination.

17 MR. JAMISON TINSLEY: He asked about the contract
18 question.

19 THE COURT: All right. I think you opened the door,
20 but I don't--

21 MR. KEIM: Okay.

22 THE COURT: Just limited purpose.

23 A Could you repeat it, please?

24 Q What is your understanding that being a tenured
25 Professor means at Erskine?

1 A Again, I can't cite documentation but my recall is
2 that, basically, you were assured, it seems like this
3 changed over time. But, in the beginning, it certainly
4 seemed to me to mean that barring some kind of, I'm trying
5 to remember the term, financial exigency and not
6 committing some criminal act or something like that, you
7 were assured employment.

8 MR. JAMISON TINSLEY: No further questions.

9 THE COURT: All right. Any recross?

10 MR. KEIM: Nothing, Your Honor.

11 THE COURT: Dr. Showalter, you may step down. You
12 can be excused. If you need to be recalled, we can locate
13 you.

14 DR. SHOWALTER: Thank you, sir.

15 THE COURT: All right. Call your next witness.

16 MR. JAMISON TINSLEY: We call Diane Crenshaw to the
17 stand.

18 DIANE CRENSHAW, being
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. JAMISON TINSLEY:

22 Q Please state your name for the record.

23 A I am Diane Crenshaw.

24 Q Okay. And what relation are you to the Plaintiff,
25 William Crenshaw?

1 A I have been married to him for 42 years.

2 Q Okay. How did y'all meet?

3 A We met in graduate school. We were both at the
4 University of South Carolina studying English, learned to
5 teach.

6 Q Okay. And what did y'all do after graduating from
7 South Carolina?

8 A I actually graduated with my Master's Degree and went
9 to work for the University of South Carolina while Bill
10 finished his PhD there. So we lived in Columbia and then
11 the year he graduated and got his Doctorate, we moved to
12 Due West and he began his career at Erskine.

13 Q Okay. And what year was this?

14 A 1976 was when he started at Erskine.

15 Q All right. And what did you do when he started
16 teaching at Erskine?

17 A I was a stay-at-home mom for a number of years.

18 Q Okay. And what'd you do after--

19 A When I went back to work?

20 Q --you went back to work?

21 A And I taught as an adjunct at Erskine for
22 three-and-a-half years starting in 1980, I think. And
23 then in 1984, I went to work in the Public Information
24 Office at Piedmont Tech. Then, I was Publication Manager
25 at Clemson University for a year-and-a-half. And then I

1 started teaching at Dixie High School where I taught until
2 I retired in 2011.

3 Q Okay. What subjects did you teach?

4 A Well, Dixie is little, so I taught a lot. I taught
5 English. I taught all levels of English in every grade
6 except 10th grade. I taught the AP English classes. I
7 taught SAT preparation classes.

8 Q You said you were an adjunct at Erskine?

9 A Yes, I was.

10 Q And what'd you teach there?

11 A I taught English 101 and 102. And then I also taught
12 the literature classes for people who were, for education
13 majors who were getting certified in education.

14 Q Okay. And what's your understanding of the
15 differences between an adjunct Professor and a tenured
16 Professor at Erskine?

17 A Well, as an adjunct teacher you can be let go for any
18 reason. I mean, there's no requirement, as I understand
19 it, you know, for you to lose your employment. Whereas,
20 once you've achieved tenure, as long as you are an
21 effective teacher and don't do anything morally wrong or
22 as long as there is no financial difficulty that's been
23 established by the college, your employment is protected.

24 Q And did you and your husband become EMT's at some
25 point?

1 A We did in the early 1980's.

2 Q Okay. Can you describe that, what that means and
3 what y'all did?

4 A We took the, started off with a CPR class, and then
5 we took an EMT instruction that was offered through
6 Piedmont Tech and became certified at the end of that
7 course. We were, and that's a basic EMT level. Then at
8 that time, the State offered an intermediate level program
9 where you could do more than a basic but fewer skills were
10 required than for a paramedic. So we certified as
11 intermediates and then a few years after that we took the
12 full paramedic training and were certified as paramedics.

13 Q Okay. How much, tell me what exactly y'all did as
14 paramedics? How much you worked, et cetera?

15 A At that time, Abbeville County was all volunteer,
16 there was no paid squad. And so we were one of three
17 county squads that were staffed by volunteers. We had
18 rotating periods when we were to be called. We had young
19 children at that time. And, actually, I took the
20 training, because there hadn't been any women on the Due
21 West squad, maybe for the county and with so many girls at
22 Erskine, the ladies in the community felt that they wanted
23 somebody in the emergency system who could help the girl
24 college students. So they offered to take care of my
25 children if I had to be called out on an emergency call.

1 So we did everything that paid paramedics do. We had the
2 same training requirements that they did and we were
3 certified in the same skills that you would get on a paid
4 service. We saw many fewer calls than a paid service
5 would.

6 Q Okay. And do you have any estimate of how many calls
7 you would see in a month?

8 A Well, we nearly always saw at least three or four a
9 week.

10 Q And were you and Dr. Crenshaw on the same team making
11 answering calls together?

12 A At first we were not, because somebody stayed with
13 the children especially at night. But after our children
14 got older, then we could make, take the calls together.

15 Q Okay. Head injuries, did y'all have occasion to
16 respond to calls regarding those?

17 A Yes.

18 Q What's the kind of standard procedure when you see a
19 head injury?

20 A Well, you want to stabilize the patient and there is
21 a checklist that you look for indications of injury. But
22 because we don't have x-ray vision, the standard for any
23 closed head injury is to get the person to a medical
24 facility.

25 Q And do you have any estimate of how many head

1 injuries you and your husband dealt with over the years as
2 paramedics?

3 A I'm sorry, I do not. I do know that we saw a lot of
4 different ones. The sports injuries were often head
5 injuries. We, of course, saw a lot of car wrecks that had
6 head injuries.

7 Q And you, would it be fair to say more than a hundred?

8 A Oh, yeah.

9 Q All right. Now, the incident on September 24th,
10 2010, now you were not present?

11 A No.

12 Q Okay. You don't have any firsthand knowledge of what
13 occurred?

14 A No.

15 Q And about the aftermath of it, various committees,
16 were you present at any of those meetings?

17 A No.

18 Q Can you, when did you retire from teaching?

19 A It was 2011. I taught through that school year.

20 Q So June 2011?

21 A That's right.

22 Q What was your and Dr. Crenshaw's plan for life going
23 forward when you retired?

24 A I had a retired life planned out. Bill planned to
25 keep teaching, you know, for I don't know how many more

1 years really, but I would be at home. I had my volunteer
2 work at the Opera House. I was going to be the Wednesday
3 volunteer at the Opera House. And I had friends, when you
4 teach school, you know you don't get to eat lunch with
5 grown-ups. And so I had friends I was really looking
6 forward to having lunch with once a week or so and just,
7 just a retired life.

8 Q Okay. How did Dr. Crenshaw's termination at Erskine
9 affect these plans?

10 A Well, they just didn't happen. You know, it just
11 blew them apart.

12 Q Okay. During the termination stages and following,
13 can you describe what you witnessed in your husband?

14 A Yes. I guess the first thing I noticed started off
15 as something physical that, and it was sleep disorder. He
16 just, he couldn't sleep at night. And then during the
17 daytime he would be tired and unable to concentrate and to
18 get much done. I think from what I felt the two, there
19 were two really serious things and one of them had to do
20 with his writing. He's a teacher, but he's also a writer.
21 He's published almost 30 short stories. He's had a play
22 that he wrote that's been produced, actually two plays
23 that have been produced. And in recent years, he hasn't
24 published very much, but he's been working on a book and
25 he had just about every day a time to write. Well, once

1 he was fired and even leading up to that, it became very
2 hard for him to do anything creative. He felt like, it
3 just sort of dried up or he couldn't focus enough. He had
4 the characters from the story that he was working on. But
5 he just couldn't get it and still hasn't really gotten it
6 together to know what to do with them. So he's still
7 trying to work on his writing, but there has definitely
8 been a block to that process that he hasn't gotten over.

9 Q So you would say, you said sleep disturbance and
10 writer's block?

11 A Right.

12 Q Had you noticed either of these problems prior to the
13 Erskine termination?

14 A Not the writer's block. He has in the past suffered
15 from depression and the sleep disturbance was one of the
16 symptoms when he became depressed early on that the
17 doctors treated. So I looked at it as possibly that his,
18 even though he's been fine on medication, it was a fear
19 that his depression was resurfacing.

20 Q Okay. Anything other than sleep disturbance and
21 writer's block that you noticed at this time?

22 A Yeah. I think it had to do with the way we felt
23 about our home. Not just our house, but living in Due
24 West.

25 Q Okay. Where, let me stop.

1 A Okay.

2 Q Where is y'all's house in relation to Erskine
3 College?

4 A Well, it's right in the middle of Due West, which
5 means it's kind of right in the middle of Erskine College.

6 Q Okay. Continue on. I'm sorry.

7 A We've lived in that house since 1978 and across the
8 street is Erskine. We can't go to the post office without
9 walking through Erskine property. We can't go downtown
10 without walking or driving by Erskine. So when Dr. Norman
11 fired Bill, he banned him from walking or being on the
12 Erskine campus. He said he was going to be a danger. And
13 so we, we just, all of the sudden after living all these
14 years and raising our children in Due West we felt alien.
15 Our nextdoor neighbors are wonderful people. I don't mean
16 that they have been unkind to us. But to be in that house
17 and, you know, we sit on the porch and we can hear the
18 Erskine girls playing softball. We can, sometimes at
19 least in the old building, hear music students practicing.
20 And it hurt not to be able to be a part of that, not to be
21 able to get a cup of coffee at the coffee shop or to eat
22 breakfast in the dining hall. I mean our children learned
23 to ride their bikes on the Erskine Campus and checked out
24 books from the library. And all of the sudden, Bill was
25 shut out of all of that and it hurt me to see how much it

1 hurt him.

2 Q Okay. How much money was he making salary wise at
3 the time of his termination?

4 A I don't know exactly. I think it was around
5 \$70,000.00 dollars.

6 Q All right. Can you tell us about any contributions,
7 just in the general sense of the word, that Dr. Crenshaw,
8 your husband made to Erskine College over the years?

9 A Well, part of it had to do, you know, with the
10 paramedic stuff that he, and other faculty members who
11 were also on the rescue squad were the responders and the
12 medics who took care of injured students. He did a lot of
13 committee work. Was always available to do extra teaching
14 or, you know, extra assignments. There were some
15 financial contributions that he made.

16 Q Just to clear some things up. As a teacher you used
17 the term AP classes that you taught. What does that mean?

18 A Advanced Placement classes. They're classes where
19 high school students can take a course and they have a
20 test at the end of the class and depending on the score,
21 they can get college credits for that class.

22 Q Okay. And how many years were you, were you a
23 volunteer EMS?

24 A Well, I don't know exactly. We started in the early
25 '80's with the basic CPR and EMT course. I know we were

1 still taking calls on the squad through about the year
2 2000.

3 Q All right. And did y'all both stop at the same time?

4 A We did. You had to recertify and take the classes
5 and when the County began changing over to a paid
6 professional squad, we didn't recertify.

7 Q Okay. So all the years you did it, you were strictly
8 a volunteer?

9 A Yes.

10 Q Okay. What other volunteer work have you done?

11 A I was a volunteer at the Opera House a good bit. I
12 taught Sunday School at the ARP church for several years.
13 That's probably about it.

14 Q Okay. How about Bill, your husband?

15 A It would be the same, although he also served on the
16 hospital board for the county for a number of years. And
17 he served on the Abbeville County School Board for a
18 number of years.

19 MR. JAMISON TINSLEY: No further questions.

20 CROSS-EXAMINATION

21 BY MR. KEIM:

22 Q Just a few questions for you, Ms. Crenshaw. I just
23 want to be sure I'm clear on a few things. First, I
24 believe your testimony is, is that you and Dr. Crenshaw
25 ceased your paramedic or EMT work in approximately 2000,

1 is that correct?

2 A I think it was around that time.

3 Q All right. And how often were you required to be
4 certified or recertified?

5 A I believe it was every three years.

6 Q All right. I also want to be sure I understood that
7 you gave some testimony that Dr. Crenshaw had experienced
8 some depression prior to his termination of employment, is
9 that your testimony?

10 A That's correct.

11 Q All right. And then with regard to your residence,
12 did you and Dr. Crenshaw spend any time out of the
13 Abbeville area in the summers on a regular basis?

14 A Yes, we did.

15 Q All right. And was that at a second home in North
16 Carolina?

17 A Part of that was and then some of the summers, I
18 think four of those summers from 2000, we were traveling.
19 I was in a summer program that sent us various places.

20 Q All right. Do you recall in the summer of, say of
21 2011 whether you went to your vacation home in North
22 Carolina for the summer?

23 A We did.

24 Q All right. Thank you.

25 MR. KEIM: I don't have any further questions, Your

1 Honor.

2 THE COURT: And any redirect?

3 REDIRECT EXAMINATION

4 BY MR. JAMISON TINSLEY:

5 Q Do you know how long ago these previous bouts of
6 depression were?

7 A I do, he had not, Bill had not suffered any
8 depression since when our oldest son went away to college
9 in 1995, was the last time he had suffered depression.

10 MR. JAMISON TINSLEY: No further questions.

11 THE COURT: All right. You may step down, ma'am.

12 All right. Mr. Tinsley, call your next witness.

13 MR. JAMISON TINSLEY: I call William Crenshaw to the
14 stand.

15 THE COURT: All right. Let's take a short break and
16 get back together in just a few minutes.

17 (Whereupon, the jury was excused from open court for
18 break.)

19 (Whereupon, a short break was taken.)

20 THE COURT: Bring the jury back in.

21 (Whereupon, the jury came into open court at
22 approximately 4:00 p.m.)

23 THE COURT: Call your next witness, please.

24 MR. JAMISON TINSLEY: Okay. We would call William
25 Crenshaw to the stand.

1 WILLIAM CRENSHAW, being
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. JAMISON TINSLEY:

5 Q Please state your name for the record?

6 A William Crenshaw.

7 Q Okay. Dr. Crenshaw, where were you born?

8 A I was born in Atlanta, Georgia, when my father was in
9 seminary at Emory University.

10 Q Okay. And can you just kind of give us your
11 background growing up?

12 A My dad was a Methodist minister, so we moved all over
13 the State of South Carolina, everywhere but the far
14 eastern part. I graduated at Spartanburg High School.
15 That's where we were at the time. I graduated,
16 undergraduate degree from Wofford College; Masters and PhD
17 from USC.

18 Q Okay. And what were those degrees in?

19 A English.

20 Q And when you got out, graduated from USC what, what'd
21 you do then?

22 A With my Masters or the PhD?

23 Q Was there--

24 A Well, there's a gap. I got my Masters in '72 and I'd
25 been in ROTC. And I had a two-year deferment for

1 education. And but then I had to, I went into, back in
2 the Army training and went to Fort Sill, Oklahoma for
3 officers training school in field artillery.

4 Q Okay. And this was after--

5 A It's after my Masters.

6 Q After your Masters?

7 A Yes.

8 Q And then when you got done with that?

9 A When I got done with that, I was able to go back into
10 USC and finish my PhD because that was '72, that was the
11 year that, in that Fall and Winter and that was the year
12 that the United States started pulling out of Vietnam.
13 And so mine was the second artillery class not to go
14 straight over. And at that point, the Army had too many
15 people so I was able to go back to school.

16 Q Okay. And then when you graduated from USC, what'd
17 you do?

18 A Original plan was to stay on at Carolina and teach a
19 course. They had, I forget what they called it now, but
20 once you finished up you had, they offered to let you
21 teach at Carolina for a year as you look for a job. But
22 then a job came open at Erskine College so I applied for
23 it and I got it. So we went to, in the Fall of '76 we
24 went to Erskine.

25 Q Okay. And what was your position at Erskine?

1 A I started as an Assistant Professor of English.

2 Q Okay. And what does being an assistant Professor
3 mean?

4 A Reasonably, at colleges there are kind of three
5 ranks. When you're just starting out in teaching or
6 teaching research the rank is an assistant Professor and
7 that's kind of a period in which you are under
8 observation. You know, you're checked out. The college
9 is looking at you to see if they wanted to keep you
10 around. You look at the college to see if you want to
11 stay. And after four years or so, you're considered, I
12 think if I'm remembering the timing right, it's not hard
13 and fast. But in about four years, you're eligible to be
14 promoted to associate Professor. It was not necessarily a
15 salary increase with that, there wasn't at Erskine at the
16 time. That was just a change in title. And then after a
17 few more years you would be, it would be possible for you
18 to be appointed as a full Professor which is the last
19 rank.

20 Q Okay.

21 A Generally speaking between associate and full, you've
22 been there seven years and seven years is the time where
23 most people, and when most people apply for tenure and
24 that's a long application process. And if tenure is
25 granted, it means the college likes you and wants you to

1 stay. And if you like the college, you want to stay. And
2 tenure is, one reason tenure exists is to protect academic
3 freedom so that, that is the ability for, in colleges,
4 universities, it's a pretty standard thing in four-year
5 colleges, universities. The ability of the teaching staff
6 to be able to pursue ideas, free of political or other
7 influences. A basic tenet of academia is academic
8 freedom. So it's important in that part. And not only
9 job security, but also in a linking together of someone
10 the college wants to keep, someone who wants to stay at
11 the college or university.

12 Q And when did you achieve tenure at Erskine?

13 A I believe it was 1984, I think, if I'm remembering
14 right.

15 Q And did you eventually earn a title beyond a school
16 Professor?

17 A Yeah, I was fortunate enough to be appointed to what
18 was then, what was called the Dorn Reader Chair of
19 English. Before that, it had been, it was in the language
20 as the Dorn, the person who occupied the chair was John
21 Miller Grier, a Professor from Erskine, and he was the
22 Dorn Reader Professor of Modern Languages. When he
23 retired, the Chair came open and I was selected to fill
24 the Chair.

25 Q Okay.

1 (Whereupon, Plaintiff's Exhibit number 5 was marked
2 for identification.)

3 Q Can you explain what exactly that title, what that
4 professorship means?

5 A What a Chair is, it's something that's very good for
6 the college. And, ideally, and it wasn't true in this
7 case. But ideally, an outside donor or donors get enough
8 money together to give to the college with a stipulation
9 that it fund a Chair. And that money becomes principle
10 and the interest and/or growth of that principle then pays
11 the salary of the Professor which, of course, frees up
12 money in the school for other uses, other professorships,
13 whatever. Sometimes Chairs are not fully funded and that
14 was certainly the case at Erskine's but it was partially
15 funded. So it's an honor for the Professor, but it also
16 provides financial relief for the college because somebody
17 else is paying some of the bills.

18 Q I'm going to hand you what's been marked as
19 Plaintiff's Exhibit number 5.

20 A Now, these are my good glasses, I think. Yeah, I can
21 read this. Yes.

22 Q Are you familiar with that document?

23 A Yes, that is, that looks like you see a Xerox of a
24 scroll that was presented to me when I was appointed the
25 Chair.

1 Q And when is it dated?

2 A It is dated 30, November 1987.

3 Q Okay.

4 MR. JAMISON TINSLEY: And, Your Honor, I'd move that
5 that document be entered as Plaintiff's number 5.

6 MR. KEIM: The objection, Your Honor.

7 THE COURT: There's no objection. Exhibit 5 is
8 admitted.

9 (Whereupon, Plaintiff's Exhibit 5 was admitted into
10 evidence.)

11 Q Okay. What kind of professional organizations or
12 societies were you involved in while being a Professor at
13 Erskine?

14 A At various times on and off, I was a member of the
15 Modern Language Association which is kind of standard.
16 Often that is for people who are looking for jobs, because
17 they have all the language jobs listed in the, in the
18 country. I was in that sometimes, sometimes not. The
19 AAUP, the American Association of University Professors, I
20 was in for some time, especially late in my career. I was
21 a member of the Science Fiction Writers of America and a
22 member of the Mystery Writers of America.

23 Q Okay. Those last two organizations, what is that?

24 A They're professional organizations for writers who
25 have published short stories or novels or shorter works,

1 sometimes called novellas or novelettes in the field of
2 science fiction. Well, I published in both fields, so I
3 was able to be a member of both of those organizations.
4 And I'm still a member of the Mystery Writers of America.
5 I haven't published my science-fiction.

6 Q Did Erskine encourage you to publish?

7 A Erskine didn't encourage or discourage, really.
8 Erskine is, at a large university you would be expected to
9 publish. And the way you would publish would be in your
10 academic field or it could be in fiction or poetry too.
11 In general your teaching load is lighter at a university
12 that does that but you're also expected to publish.
13 Erskine and one reason I stayed at Erskine is it is a
14 teaching college. It's a college that emphasizes teaching
15 as opposed to research. And so most of your time is taken
16 up in the classroom. Now, so Erskine didn't give you time
17 off like a university would for, I mean, you could reduce
18 class load in a university. So we're teaching a full
19 load, but Erskine was glad for the publications,
20 obviously, and they didn't discourage it. There is no
21 active way to give anybody doing that kind of work at
22 Erskine extra time usually.

23 Q Did you ever receive any honors or awards based off
24 these publications?

25 A Yeah. I had several stories published in the Best

1 Anthologies. And I was able to, well, I was fortunate
2 enough to be awarded to Edgar awards from Mystery Writers
3 of America. One was for the best first short story and
4 one in 1984 was for the best short story.

5 Q Okay. How about any awards internally at Erskine?

6 A I received the Teacher of the Year award twice. I
7 don't remember the dates. One was, one was 2010 you've
8 already alluded to. I was chosen to represent Erskine in
9 a statewide, contest is not the right word. But a
10 statewide search for the Professor of the Year for the
11 State one time. I don't remember exactly what the term
12 was, I mean the name of program was.

13 Q Would 2010 have been the most recent year Teacher of
14 the Year?

15 A 2010 was, that's an award. Students nominate five,
16 students vote on Teacher of the Year. Top five nominees
17 are submitted to the faculty. The faculty picks, the
18 faculty votes one from the top five. And I received that
19 in 2010.

20 Q All right. How about community involvement in the
21 Abbeville or Due West area; what sort of things did you
22 do?

23 A Well, as Diane just said, we were both volunteer
24 EMT's for about 18 years with Due West Rescue Squad, which
25 was really, I mean we enjoyed that very much. It was a

1 different, it's a totally different kind of work than you
2 do when you're, as a teacher. In, I think, in the early
3 1990's or late 1980's, a vacancy came open on the hospital
4 board and at that point that was not an elected position,
5 that's an appointed position. And so I was appointed to
6 the Hospital Board of Trustees. That was very good
7 experience, too. While I was on the Board, we were able
8 to build the new, get the structure started for the new
9 medical center. I was invited back, I had to drop off
10 because I was also elected to the school board, and you
11 couldn't serve on two public boards like that. So I
12 dropped off just before we broke ground, but they invited
13 me back for the groundbreaking, which I appreciated. And
14 then I served on the school board for over 12 years.

15 Q And how long were you on the Abbeville Hospital
16 Board?

17 A About the same amount. Maybe 10 to 11, 11 and a
18 half. Because it was an exactly, it wasn't exactly an
19 election. So when they, when it became an elected
20 position and I was already on the school board, I did not
21 run so that would have been 2002. I left the hospital
22 board and I was on the, a little after that because I was
23 on them both for a while and then the law was pointed out
24 to me and I had to resign from the hospital board.

25 Q What kind of certification did you achieve as an EMT?

1 A You start as a basic, what's called an EMT B. And as
2 Diane said, that's totally noninvasive. You can't, you
3 can't administer drugs, you can administer oxygen, you
4 can't intubate a patient, you can't start an IV. Then
5 they began, and those are all paramedic skills. And then
6 because starting an IV is important in so many different
7 cases, they created, South Carolina created an EMT-I or
8 maybe it was National. It was certainly the National
9 curriculum. An EMT-I, that is an Intermediate between the
10 Basic and the paramedic and it allowed you to intubate a
11 patient with certain kinds of intubation tools, not the
12 ones that the paramedics use, but you could start IVs and
13 there were a couple of other skills that were normally
14 reserved for paramedics. And then we got our paramedic
15 certification and you, paramedic certification is a whole
16 new world of stuff you can do. You could administer all
17 sorts of drugs all under a doctor's supervision. I mean
18 if we wanted to administer a drug, for example, a D50 or a
19 Valium, depending on the situation was, we would radio
20 into the ER, tell them what we had, describe the patient's
21 signs and symptoms, request permission to give X and they
22 would grant us permission or not grant us permission. We
23 could intubate a patient, put on trousers, masked trousers
24 to keep blood pressure from bottoming out. A lot of
25 other, start IVs, decompress a tension pneumothorax in the

1 chest, a lot of other advanced procedures. So it's a much
2 more challenging level.

3 Q And is there anything above that in the EMT field?

4 A Not that I know. I mean, you can also take kind of
5 little sub-certifications within that, like you take a
6 PCLS, Pediatric Cardiac Life Support or Pediatric Trauma,
7 PTLS, Pediatric Trauma Life Support, Advanced Cardiac Life
8 Support. So you take these other courses which gives you
9 the certification at a certain level and that's greater
10 than before.

11 Q Okay.

12 A There is no other level above paramedic per se but
13 you can continue to develop your skills.

14 Q All right. And you've talked to us a little bit
15 earlier about generally what the, being tenured means.
16 I'm now going to show you the college faculty manual.

17 (Whereupon, Plaintiff's Exhibit number 6 was marked
18 for identification.)

19 Q I'm going to ask you to look at it, because it's been
20 marked as Plaintiff's Exhibit 6. Are you familiar with
21 that document?

22 A Well, it looks that I've seen it. It's not fun
23 reading, but yes. On page 33, is that what I'm looking
24 at?

25 Q That's correct.

1 A Okay.

2 Q 33 through 37.

3 A Okay. Yes, I am familiar with this.

4 Q Okay. And looking at 33, what is your understanding
5 that is required to terminate a tenured Professor?

6 A Let's see, I don't see termination on, as specified
7 below. Yeah, it's not on 33. So over on page 35 there is
8 a section called, "Termination of Tenured Faculty
9 Employments."

10 Q , Okay.

11 A My impression it would, and my impression is it is a
12 pretty high hurdle to jump.

13 Q Okay. And what, what specific, what are the specific
14 grounds required to terminate?

15 A Ground, I'll read it. I'm sorry.

16 Q That's fine.

17 A Grounds for the dismissal of a tenured faculty member
18 are personal conduct which substantially impairs the
19 individual's fulfillment of institution responsibilities;
20 personal conduct which violates moral standards which have
21 always been a part of the Erskine College community or
22 which demonstrated incompetence and dishonesty in teaching
23 and research; substantially and manifest neglect of duties
24 and breach of appointment. That's the list.

25 Q And what are the procedures required to, to go

1 through on top, on top of the actual substance that you
2 just read; what are the procedures required to fire a
3 tenured.

4 A There are, there is a list, a list of procedures for
5 tenured faculty only it says. And they fall under three
6 categories. One category is preliminary proceedings, the
7 second is formal proceedings, the third is a hearing
8 committee. Actually, there are five. The fourth is
9 appeals and the fifth is suspension.

10 Q Okay.

11 MR. JAMISON TINSLEY: I would move at this time to
12 enter number 6 into evidence.

13 MR. KEIM: No objection, Your Honor.

14 THE COURT: 6 is admitted without objection.

15 (Whereupon, Plaintiff's Exhibit 6 was admitted into
16 evidence.)

17 Q Let me backtrack. Have you ever signed any contracts
18 with Erskine?

19 A Yes, I have.

20 Q Will you explain the process and how that's evolved?

21 A And I'll just say I never signed the faculty handbook
22 because it was never offered to me to be signed. But we
23 had contracts, yearly contracts that came out for my first
24 long-term at Erskine. I don't remember when we stopped,
25 but they were what you'd expect. The normal contract came

1 out. It was a brief contract appointing you at this rank
2 with the salary for this year, whatever the year it was
3 written in. And we had to sign two copies and turn one
4 copy back in. We had a deadline for the signing. After
5 that, they, Erskine went to, I don't know exactly what it
6 was called, maybe a signing statement.. But it kind of was
7 the same thing for a while. And then they said, well, we
8 signed that general signing statement before. So you
9 don't need to do anything anymore. And then there was
10 nothing signed and probably for the last 10 or 15 years I
11 was there we didn't sign anything. I just, I can't give
12 you the exact dates.

13 Q Are you aware of any clause or any section in the
14 handbook that does not require the college to follow these
15 steps for tenured Professors?

16 A No, I do not.

17 Q All right. Okay. And let's go to the events of
18 September 24th, 2010.

19 A Okay.

20 Q What were you teaching at that time?

21 A I had two classes early in the morning back to back,
22 8:00 to 9:00 and they were both freshman classes. The
23 freshman, the freshman classes at that time were part of
24 what was called freshman seminar and all of us teaching
25 freshman, it was not just restricted to English, we tried

1 to make writing more across the whole school. And those
2 of us who agreed to teach freshman would come up with
3 specific courses that were, hopefully, more interesting
4 than say the old English 101 was. That, that was the
5 object to get them more engaged. We also had smaller
6 classes just for these classes. So we had more one-on-one
7 experience. So the classes were limited to 12 students
8 and I had two sections of that course, Critical Thinking
9 Course that Fall and 12 in each. And the incident
10 occurred in my 8:00 o'clock class.

11 Q And can you just tell us what you, what you actually
12 observed in that course?

13 A Sure. Class began as normal. And, at some point,
14 between 15 and 20 after, I think probably closer to 15
15 after, I was, I remember sitting on the left-hand side of
16 the class, I was probably showing something on the board,
17 and noticed that the student in particular who sat right
18 by the door on, it was a door to my right and she sat in
19 the desk right there. I noticed her nodding off which was
20 unusual, like she was going to sleep. And so I said
21 shhhh, let's don't wake up Liv. And the class laughed and
22 these, these, all these girls, I had all seven freshmen
23 who were lacrosse players, seven freshmen women who were
24 on the women's lacrosse team in that class. And so they
25 all just came directly from practice to the class. And

1 they, her teammates laughed and said, well, she whacked
2 her head today at practice. And I said, what do you mean.
3 And they told me that, so they described the incident to
4 me and said that she had been laying over here back on the
5 field for 10 or 15 minutes. And so I, I said, based on
6 what they had said which was she, her feet had flown out
7 from under her, she'd hit herself in the head with a
8 lacrosse bat or the lacrosse whatever those--

9 Q Stick, whatever it's called?

10 A Yes, stick. Yeah, right. That's it. And then fell
11 down and when she fell down, she fell down with her head
12 on the stick again. So you kind of got a double blow.
13 And so I just, I went over to her and just gave her the
14 standard orientation test that you give, an EMS, if you've
15 got a suspected head injury. You know, are they alert and
16 aware of time, place, person and events. She could
17 respond to all of those, but she was very, very slow and
18 her speech was abnormally slow for her. And so based on
19 what they had said and about what had happened to her at
20 6:30 that morning and it was about 8:15, maybe 8:20, I
21 said, well, I'm going to call an ambulance. And I didn't
22 want to leave the patient alone, but we couldn't get good
23 phone reception in the basement of Belk Hall. So I went,
24 I was about halfway up the long hall and out the long
25 doors to the South, the Abbeville side, and used my cell

1 phone to call the Dean, Dean Agnew, and asked her to call
2 an ambulance. And then I went back inside so the patient
3 would not be left alone because with a closed head injury,
4 you don't know whether they may sink into unconsciousness
5 again, but she was still conscious. And so I just stayed
6 with her and I didn't, I didn't want to stay outside
7 talking. I stayed with her till the ambulance showed up,
8 while the ambulance came in. The paramedic who came into
9 the classroom was a paramedic I knew when I had been with
10 my training years before. He had been one of my
11 supervisors for the training. So he asked me what I had
12 and I told him, I gave him a report like I would normally
13 do. He agreed and he gave her some tests. He agreed it
14 looked like a closed head injury, a symptomatic closed
15 head injury. And so they had the stretcher brought in
16 already, and so they just loaded her on the stretcher and
17 wheeled her to the ambulance to take her in for
18 examination which would probably include some kind of scan
19 to look beneath the skull.

20 Q Were you also an adviser at that time?

21 A She was my advisee. Yes, I was an adviser.

22 Q Okay. So you knew her, is it fair to say you knew
23 her not just inside the classroom but also in that
24 capacity?

25 A Right. That was one of the points of the Erskine

1 seminar. Instead of having your advisee as somebody who
2 might be a lot of other classes, your advisee, freshman
3 advisee, and the most vulnerable freshmen was in your
4 class three times a week. So you got to see your advisee
5 and they got to see their adviser three times a week, so
6 there's a lot of good contact.

7 Q Okay. Had you ever, had you ever seen her nod off in
8 class?

9 A No, no. That was very unusual, she had never done
10 it.

11 Q Okay. All right. So then once you gave your report
12 to the EMT, did he take over at that point?

13 A He did. And the patient was calm. And by that time
14 the halls were starting to fill up and some of them was,
15 some of the people out in the halls were athletic trainers
16 that had been notified that they had a student athlete
17 down or going, had an ambulance called and some were just
18 students because this is about class change time. And so
19 all the classrooms were letting out and the halls were
20 full. They rolled her out of the classroom and that's the
21 last I saw. My new students came in and one asked me, I
22 think it was about drop/add day where you can finally
23 drop, the last day you can drop or add classes, it was
24 close to that. And the student asked me a question I
25 couldn't answer and it was still early in the switching

1 period. And so I just ran upstairs to the Registrar's
2 Office to ask her the question so I could answer it for
3 the student.

4 Q Okay. And what'd you see from the Registrar's
5 Office?

6 A Well, her office fronts the street in which the
7 ambulance was parked. It was parked in front of Belk Hall
8 and I looked up and the ambulance was still there. And I
9 was surprised, because they should've been off-scene by
10 now. They'd had plenty of time to load and go. And so I
11 said, well, as long as they're still here, I'll go stick
12 my head in and see how she's doing and tell her goodbye
13 and good luck. So I left that office and there were, you
14 know, three of the Erskine employees were in there with
15 me. Left that office, went down the stairs and stuck my
16 head in the back of the ambulance to tell her goodbye and
17 the medic who was in charge whose name was Tiny said,
18 well, almost before I could say anything he said, Bill,
19 they're telling her she doesn't have to go. And so we
20 discussed that briefly and it is true that--

21 Q Who, hold on, who was they?

22 A They were, I didn't know at the time, but there were
23 a bunch of athletic trainers gathered around who had been
24 telling her that she didn't have to transfer, she did not
25 have to go to the ambulance if she did not want to. I

1 didn't hear them say that but that's what she said they
2 said.

3 Q Okay. You were testifying when I cut you off to ask
4 you who they were?

5 A You can't be transported against your will in an
6 ambulance. You can, you have the right to refuse. It's
7 usually called AMA, against medical advice. You do have
8 the right to refuse transport. Any time you transport a
9 patient, a consent has to either be given by the patient
10 or implied. Obviously, not all patients can give you
11 consent if they are unconscious from whatever reason, a
12 head injury, a stroke, heart attack, if they're under age.
13 They can't give you their consent, and so consent is
14 implied and certainly with a head injury, consent is
15 implied. The idea of being, the head injury may have
16 distorted her thinking process and she might refuse now
17 but, or he. But in a situation where they hadn't suffered
18 a head injury, they might agree to go. And so, basically,
19 we said I think, I was discussing it with Tiny, the
20 nickname of the EMT. And I said, well, isn't she a head
21 injury? You know, she doesn't have informed consent, she
22 can't give informed consent. And he agreed and he wanted
23 to call, what he wanted to do, well, he got out of the
24 ambulance. He asked me to step into the ambulance while
25 he got out. I assume because I knew her one, and she was

1 upset now. She wasn't upset before and helped try to calm
2 her down. To transport a student, and to transport a
3 patient, I mean basically, the paramedics on the scene has
4 an obligation to transport her now. I mean, if, if they
5 had let her go, signed a release form when she was a
6 victim of a closed head injury and later that head injury
7 went south like it did for Liam Neeson's wife that same
8 year and she died within three hours of just falling down
9 on a bunny slope. And what looked like a not nearly a
10 serious accident, that those paramedics could have been
11 liable.

12 Q How many, how many closed head injuries would you say
13 you've dealt with over the years as an EMT?

14 A I don't know. I mean every car wreck and probably
15 the most common call we went on were car wrecks and
16 1050's. And every car wreck is a potential head injury
17 and most of them are actual head injuries. Somebody in a
18 car wreck, in a car wreck your head is going to be banged.
19 And so you take head injury and spinal injury precautions
20 in every car wreck no matter how incidental it looks.

21 Q Okay. So would it be fair to say at least 100 over
22 the years?

23 A Oh, well, that will be three years maybe. We'd do a
24 hundred in three or four years, yeah.

25 Q Okay. And you were an EMT for 18 years?

1 A 18 years, yeah.

2 Q Who placed the actual call to EMS?

3 A Dean Agnew placed it. I called her and the reason I
4 didn't call EMS directly was because two weeks before
5 there had been a minor car accident from my house and I
6 called EMS. And the dispatcher wanted me to stay with the
7 patient while the ambulance approached, which was fine and
8 that was, the patient was right there at the intersection
9 and I could stay there and talk to the dispatch the whole
10 time. But this time I had to, my patient was back inside
11 and I didn't want to be put in the spot of having to
12 negotiate with the dispatcher about what I had to do. So
13 I just wanted to go back in and be with the patient, so I
14 asked Robin Agnew to call the ambulance.

15 Q Okay. What happened once the, what'd you do once you
16 were inside the ambulance at the request of the paramedic?

17 A The driver was back, in the back with me. And,
18 basically, I was talking to Liv trying to calm her down.
19 She was, like I said, she left my classroom calm and she
20 was, I don't think hysterical is the right
21 characterization but she was clearly upset. She wanted
22 to, she wanted not to be transported.

23 Q Okay.

24 A So I talked to her.

25 Q All right. And did anybody else get in the back of

1 ambulance while you were in it?

2 A The back of the ambulance door was open and Brad
3 Christie, the Dean, Academic Dean got in the back of the
4 ambulance.

5 Q Okay. What did he do?

6 A He began telling the patient that she didn't have to
7 be transported, that she had the right to refuse transport
8 which in my view was an inappropriate thing to say at the
9 time and was incorrect and was endangering her life and
10 certainly exacerbating her being upset, because I was
11 trying to convince everything was fine, she was going to
12 be transported. They need to get a CAT scan of your, of
13 your head and make sure you're okay. And then he was
14 telling her she didn't have to be transported. And so I
15 didn't even, I didn't even know why he was in there. Why
16 would the, I was in there because the paramedic asked me
17 to get in there. Why would he come in with no medical
18 training and doesn't know the student, and he came in to
19 tell her she didn't have to be transported and he'd been
20 talking to the athletic trainers but what they talked
21 about, I don't know.

22 Q And when you're saying that's incorrect, are you
23 basing that off the testimony you just gave regarding
24 closed head injuries?

25 A Yeah. You don't tell a closed head injury patient

1 she can refuse and you don't tell her no, you have to go.
2 You try to talk to her calmly and tell her this is going
3 to be best for you and we can get to the hospital quicker.

4 Q And did you have any interaction with a lady that was
5 claiming to be her guardian?

6 A I did before I got in the ambulance. She was at the
7 back of the ambulance talking, trying to talk to the
8 patient over the paramedic. And she wouldn't, she
9 wouldn't stop. And I was trying to talk to the paramedic
10 and the paramedic told her that she needed to be quiet or
11 he'd call the police in. And so I just reached over and
12 closed the ambulance door so that she couldn't talk into
13 the, talk into the ambulance anymore.

14 Q Did you make any physical contact with the lady?

15 A I did not.

16 Q Are you aware of what relation this lady was to the
17 injured student?

18 A Well, she claimed to be the guardian. I don't know
19 how one makes proof of that. The student was 18, and I
20 don't think you need a guardian when you're 18. I don't
21 know what her position was. She was a stranger on campus.
22 Nobody had seen her before and she just showed up at the
23 back of the ambulance and tried to drag the patient out of
24 the ambulance.

25 (Whereupon, Plaintiff's Exhibit number 7 was marked

1 for identification.)

2 Q I'm going to hand you what's been marked as
3 Plaintiff's Exhibit 7 which is page S-9 from the Employee
4 Resource Handbook. Are you familiar with that document?

5 A I am.

6 Q Okay. I will let you look at the serious injury or
7 illness section. Are you familiar with that?

8 A I am if for no other reason than at the first or
9 second faculty meeting after this incident, this section
10 was pulled out and put in big letters and handed out by
11 the faculty at the faculty meeting so that reminded us all
12 of where it was. But yes, I am familiar with it.

13 Q Okay. What does it call for in the case of serious
14 injury or illness on campus?

15 A In case of serious illness, sorry, injury or illness
16 on campus, phone the Abbeville Emergency Control Center at
17 911. When calling, specify the number of people injured
18 and their location. Stay at the scene until emergency
19 medical personnel and/or campus police or other law
20 enforcement personnel arrive.

21 Q Okay. And if you'll read the first sentence.

22 A If the sick or injured victim is enrolled as a
23 student at Erskine, the Vice-President for Student
24 Services should be notified whether the accident occurs on
25 or off campus.

1 MR. JAMISON TINSLEY: And I would move at this time
2 to enter this document into evidence.

3 THE COURT: Any objection?

4 MR. KEIM: No objection.

5 THE COURT: And no objection. It'll be admitted.

6 (Whereupon, Plaintiff's Exhibit 7 was admitted into
7 evidence.)

8 Q Did you notified the VP for Student Services?

9 A I did. I mean, that's who I called first.

10 Q That would be Robin Agnew?

11 A Robin Agnew, yeah, she was the first one I called and
12 she called the ambulance.

13 Q All right. And did you comply with this policy?

14 A As far as I can tell, I did, yeah.

15 (Whereupon, Plaintiff's Exhibit number 8 was marked
16 for identification.)

17 Q And, first of all, what was the end result after
18 these people, Dr. Christie and this lady claiming to be
19 the guardian, told her to refuse treatment; what happened?

20 A It then resulted is that the patient was found,
21 really an unpardonable delay on the scene, transported
22 Code 3 to Self Memorial Hospital.

23 Q Okay. What's Code 3 mean?

24 A Code 3 is an, the emergency code where there is
25 considered by the medics an immediate threat, potential

1 threat to life or limb.

2 Q And Self being the hospital in Greenwood?

3 A Self was a trauma center, I think a level two trauma
4 center at the time, so they would be better equipped to
5 handle it than say the Abbeville Hospital.

6 Q And after that incident, did you and one of the
7 athletic trainers, Adam Weyer, become engaged in
8 discussion?

9 A Yes, we did.

10 Q If you'll hold that thought.

11 A Okay.

12 Q I'll go ahead and hand you this marked as Plaintiff's
13 Exhibit 8 and see if this is an accurate representation of
14 the email discussion?

15 A This is the beginning of a long email discussion with
16 Adam, who was the head of the athletic trainers. I was
17 very upset that and, my advisee had been injured on the
18 field and gave evidence of a closed head injury almost two
19 hours before I saw her in my classroom. She should have
20 been transported to the hospital immediately when she gave
21 signs of change in level of consciousness. They should
22 have called EMS. That is what they should have done
23 actually. And then for them, they delayed, the athletic
24 trainers themselves delayed the transport. And we'd have
25 to pull the run report to see what the delay was. But I,

1 would guess at least 30 minutes after they got on-scene
2 before they got off again and that's a long time, because
3 they didn't need to be on the scene that long. And that's
4 every time sitting in the parking lot is the time that
5 you're not on the road to go to the ER. So I had told
6 Adam that I thought, and I'm not just telling Adam. I
7 copied this letter to the Dean, Brad Christie, to Robin
8 Agnew and to Dr. Norman, because I wanted to get a
9 discussion going about the policies and procedures of the
10 athletic training department that would allow this to
11 happened, because I thought it was endangering the life of
12 a student. So this was not just between me and Adam,
13 although he's the only one I ever heard of from this. I
14 heard nothing back from Dr. Christie, nothing back from
15 Dr. Norman, nothing back from Dr. Agnew. So the attempts
16 at least at this level to get a discussion going about the
17 procedures didn't work out.

18 MR. JAMISON TINSLEY: I will move at this time to
19 enter Plaintiff's 8.

20 THE COURT: All right.

21 MR. KEIM: No objection.

22 THE COURT: It will be so admitted.

23 (Whereupon, Plaintiff's Exhibit number 8 was admitted
24 into evidence.)

25 THE COURT: Let's break now. I have been looking at

1 the weather, there is a storm coming, I would like to get
2 everybody home before it gets here and I want to get home
3 before the storm gets here. We are going to adjourn for
4 the day on that reason. Y'all can't begin discussing the
5 case. Be back in the jury room at 9:15. See you here in
6 the morning.

7 (Whereupon, the jury was excused from open court for
8 the day.)

9 JUNE 9, 2015

10 THE COURT: All right. Bring in the jury. Mr.
11 Crenshaw, come back and have a seat if you like. And
12 y'all can stay seated when the jury comes in. That kind
13 of confuses them sometimes wondering why y'all are
14 standing up looking at them.

15 (Whereupon, the jury came into open court at
16 approximately 9:20 a.m.)

17 THE COURT: Folks, welcome back. We're ready to
18 begin. I told y'all I'd have my candy. Pass it around.
19 Y'all can pass it around and enjoy a piece. I hope y'all
20 got home before the rain dropped out. It was a pretty
21 good shower, I think. All right. We're ready to
22 continue. Dr. Crenshaw is still on the stand and still
23 under oath and Mr. Tinsley is still questioning him, so
24 we'll continue with that this morning.

25 CONTINUE DIRECT EXAMINATION

1 BY MR. JAMISON TINSLEY:

2 Q Dr. Crenshaw, I'm going to hand you back Plaintiff's
3 Exhibit 8 where we left off yesterday. I believe this,
4 you testified that you are familiar with this, correct?

5 A I'm sorry. Would you repeat that?

6 Q You're familiar, this is a set of emails between you
7 and Adam Weyer?

8 A Yes, I am.

9 Q Okay. And what is the conversation about in there?

10 A This is, begins a series of letters I exchange,
11 emails I exchanged with Adam Weyer copying several people
12 about the incident with the ambulance on September 24th.

13 Q Okay. And what was the purpose of the email
14 exchange?

15 A The purpose of the email was to alert Adam as head,
16 Mr. Weyer, head of the athletic trainers, of the potential
17 problem or an actual problem we had that could have
18 threatened the life of a student.

19 Q Okay. And what were your concerns?

20 A My concerns were that the athletic trainers were
21 attempting to get the student to refuse emergency
22 transportation and to go by car to a doctor in Anderson
23 who was the team physician.

24 Q Okay. And there was some discussion about protocol.
25 Can you enlighten us on that?

1 A Yes, it's a little confusing. The athletic trainers
2 had a protocol for what to do when one of their players
3 was injured. I mean, all of the coaches had this
4 protocol. The entire Athletic Department, is my
5 understanding, had this protocol. And what they were to
6 do was to call an athletic trainer who would then evaluate
7 the injury on the patient and determine what the next
8 action was. That certainly is the local protocol for the
9 people involved in the Athletic Department. The problem
10 was there had been, an assumption had apparently grown
11 over the years that this was a protocol that applied to
12 the entire school so that if any student was injured in
13 the entire school, whoever was witnessing that injury or
14 sickness was supposed to call the Athletic Department
15 first, the athletic trainers first. And that was clearly
16 never the intent of the protocol.

17 Q Okay. And who else did you copy on these emails?

18 A I copied Dr. Christie as Academic Dean; Dr. Agnew, as
19 Student Dean; and Dr. Norman, as President of the college.

20 Q Okay. And why did you copy them?

21 A Because I thought the issue was serious enough so it
22 deserved some attention through, from the administration,
23 especially the confusion about the protocol. I, myself,
24 as these indicate was confused. I asked Mr. Weyer several
25 times for copies of their protocol so I knew what he was

1 attacking me about. But he never gave me a copy.

2 Q So you never received any protocol?

3 A I never saw a protocol.

4 Q And you also exchanged emails with the faculty
5 executive committee about this point as well?

6 A That's correct.

7 (Whereupon, Plaintiff's Exhibit number 9 was marked
8 for identification.)

9 Q And I'm going to hand you what's been marked as
10 Plaintiff's Exhibit 9. It appears to be an email from you
11 to Sandy Chaney dated September 25th, 2010?

12 A It is. I recognize it, yes.

13 Q Okay. What is the purpose of this email?

14 A This, again, was to alert just as I sent letters to
15 the administration, Ms. Chaney, Dr. Chaney was the
16 Chairman of the faculty that year and so as such, she was
17 head of the FEC. So I wanted also to bring this issue to
18 the faculty's attention through the faculty executive
19 committee.

20 Q Okay.

21 MR. JAMISON TINSLEY: I'll move that Plaintiff's 9 be
22 admitted into evidence.

23 MR. KEIM: No objection.

24 THE COURT: All right, 9 admitted.
25

1 (Whereupon, Plaintiff's Exhibit 9 was admitted into
2 evidence.)

3 Q Did your concerns ever get answered?

4 A I beg your pardon?

5 Q Did you ever get any resolutions to your concerns
6 about the safety protocol?

7 A No, I never did.

8 Q Okay. Did it go anywhere beyond these emails?

9 A I don't know that, I don't know what the FEC, I don't
10 know that the FEC ever considered this. I did have
11 continuing conversations during the semester with Dr. Brad
12 Christie urging him to get this clarified and this
13 procedure clarified. The procedure was that all student
14 athletes thought that they had to always go, even if they
15 were sick, they always had to check in with the Athletic
16 Training Department first before they went to the
17 infirmary, say. And I, and the Athletic Department
18 insisted that this was a protocol that applied
19 school-wide. And I kept urging the administration to
20 clarify that because it didn't make sense to me especially
21 as a former paramedic for, if someone was injured to delay
22 treatment by referring them first to an athletic trainer
23 and then let the trainer call the ambulance. Obviously,
24 if a student got hurt on the field the first person you
25 were going to was the athletic trainer. The coach would

1 get the athletic trainer out there. But in a daily school
2 operations that didn't make any sense and I thought it was
3 potentially setting the school up for a lawsuit if a
4 student's treatment was delayed and further injury had
5 resulted because proper emergency help wasn't called right
6 away.

7 (Whereupon, Plaintiff's Exhibit number 10 was marked
8 for identification.)

9 Q I'm now handing you Plaintiff's Exhibit 10. It looks
10 like a letter from Adam Weyer to Tracy Spires dated
11 September 27, 2010. Are you familiar with this?

12 A I am.

13 Q And would you describe what this letter actually is?

14 A This letter is, as Mr. Weyer says in the first
15 sentence, is to file a grievance against me for my actions
16 on September 24th and that it continued through this date
17 which is three days later, September 27th.

18 Q Okay. And who was Tracy Spires?

19 A Tracy Spires was the Institutional Research Director
20 at Erskine. But she also served as a compliance officer
21 to enforce, enforce is not the right word, federal
22 regulations about sexual harassment. So sexual harassment
23 complaints would go to her, for example, and there is a
24 procedure set up for dealing with those. So that's what
25 it says.

1 Q All right. When did you first become aware of this
2 written complaint?

3 A I did not become aware of it until the following
4 Friday, which would have been, if I'm remembering right, a
5 week after the accident. And I became aware of it through
6 some email late Friday, not email, I beg your pardon, from
7 some documents I read from my campus box late Friday
8 before I left town.

9 Q Okay. What document, would it have been this
10 document?

11 A It was actually a document that's from Dr. Christie
12 that said that the, that Tracy Spires, the coordinator,
13 compliance officer, I beg your pardon, had not found any
14 basis to institute a set of procedures to hear the
15 complaint against me. And the word, sexual harassment,
16 appeared in that document. So what I gathered from that
17 was someone had accused me of sexual harassment and I had
18 not heard about it until she said there was no basis for
19 such a complaint.

20 Q Okay. And a sexual harassment complaint would have
21 been the type complaint, would that have been the type
22 complaint that Ms. Spires would have been over?

23 A It would be and I didn't know that at the time. But
24 she specifically mentioned I think it was sex, no basis
25 for a sexual harassment complaint or words to that effect

1 in the letter that I received. It was a copy of the
2 letter that she sent to Brad.

3 Q At that point you did not know the particulars of the
4 allegations?

5 A I did not.

6 Q Okay. When did you learn of those?

7 A Monday when school began again and I asked Dr.
8 Christie about it.

9 Q And what did he say?

10 A Dr. Christie said he was sorry he hadn't gotten me
11 information about this before.

12 Q And what are the particular allegations made by Mr.
13 Weyer. And, I believe, it's also cosigned by Athletic
14 Director, Mark Peeler?

15 A It was also cosigned by Director Mark Peeler, that's
16 correct. How much detail do you want me to go into?

17 Q Just tell us what the allegations against you were.

18 A He described the situation of the student slipping.
19 It says that the athletic trainer was informed and the
20 above steps follow our normal protocol regarding a
21 potential head injury sustained by one of our students.
22 And then his complaint begins, during the class, the
23 student athlete began to become, according to Dr.
24 Crenshaw, disoriented and lethargic. And I called the
25 ambulance.

1 Q Did you call the ambulance?

2 A I did. I called for an ambulance. I called Dr.

3 Agnew, who called the ambulance. And he says, this is

4 breach, the calling of the ambulance was a breach of our

5 protocol that we have in place and have reviewed with the

6 Office of Student Services in regards to take care of an

7 Erskine College athlete. Once the phone call was made,

8 Dr. Agnew who knows our protocols, to Dr. Agnew, Dr.

9 Crenshaw should have allowed proper personnel to take over
10 the situation.

11 Q Let me ask you, have you ever seen this protocol?

12 A I still have not seen the protocol.

13 Q Okay.

14 A The second section of complaint--

15 Q Well, let me ask you also before you go on to the
16 next section.

17 A I'm sorry.

18 Q Mr. Crenshaw should have allowed the proper personnel
19 to take over the situation. Did you interfere with EMS?

20 A I did not. I mean, that's why we called them. They
21 were the proper personnel and they took over the situation
22 and transported the student out of my classroom on the
23 stretcher to the ambulance.

24 Q Now, if you'll tell me the next allegation.

25 A The following is an account, and he says this, now

1 this is a following of the account according to Nicole
2 Matuseski, the athletic trainer who was a witness. She
3 said the guardian was advising the student that she had
4 the option to refuse treatment or remove herself from the
5 back of the ambulance. At the time the student stated,
6 and I paraphrase, that she wanted to leave the ambulance
7 and accompany her guardian to the office of our team
8 physician. Once this argument was made, Nicole Matuseski
9 began to initiate our protocol for a mild head injury and
10 called our team physician to apprise him of the situation
11 and was informed that we could take the student athlete
12 immediately to his office for further evaluation. The
13 EMT's would not allow the student athlete to refuse
14 treatment. And it is at this time that Dr. Crenshaw
15 placed himself in the incident. From what I understand,
16 Dr. Crenshaw and the guardian got involved in a
17 disagreement during which the guardian was physically
18 pushed aside by Dr. Crenshaw as he climbed in the back of
19 the ambulance with the student athlete. I was not witness
20 to this part of the morning because Dr. Agnew and I were
21 discussing the events in the middle of the hall. And
22 during our discussion, police cars arrived and I realized
23 that things were not taking place as planned. We walked
24 where the ambulance was still parked. When I arrived in
25 front of Belk Hall, Dr. Crenshaw was still in the back of

1 the ambulance.

2 THE COURT: Whoa, slow down.

3 A I'm sorry. I'm sorry. I'm sorry. Let me back up.
4 From what I understand, Dr. Crenshaw and the guardian got
5 involved in a disagreement during which the guardian was
6 physically pushed aside by Dr. Crenshaw as he climbed into
7 the back of the ambulance. Might I get some water?

8 MR. CRENSHAW: Thank you, Mr. Close.

9 MR. CLOSE: You're welcome, Dr. Crenshaw.

10 A I was not witness to this part of the morning,
11 because Dr. Agnew and I were discussing the events in the
12 middle of the hall while this was taking place in front of
13 Belk Hall. During our discussion, the police cars arrived
14 and I realized that things were not taking place as
15 planned. We began to walk to the front of Belk Hall where
16 the ambulance was still parked. When I arrived in front
17 of Belk Hall, Dr. Crenshaw was still in the back of the
18 ambulance advising the student athlete as to what she
19 needed to do. Meanwhile, her guardian was not granted
20 such privileges. After several more minutes of arguing
21 between the guardian and the EMT and Dr. Crenshaw, I
22 accompanied the student athlete in the ambulance to Self
23 Regional Hospital.

24 Q Okay. It states that you placed yourself back into
25 the incident. Why did you get back involved in the

1 incident?

2 A I think as I indicated yesterday, the incident took
3 place during class change and the new students coming into
4 the class, one of the new students coming into my class
5 had a question about dropping a course. And it was close
6 to the last day to do that and I didn't know the answer,
7 but the Registrar's Office was just upstairs. So I went
8 upstairs before the class started to talk to the Registrar
9 to find out the answer to the student's question. From
10 the Registrar's window, you can look out there and see the
11 place where the ambulance was parked. When I looked and
12 saw that the ambulance was still parked there, I was
13 surprised. I told the Registrar I was going to just jump,
14 stick my head into the ambulance and wish the student good
15 luck. And so I went down the stairs and stuck my head in
16 the back of the ambulance. The doors were opened. The
17 paramedic was there.

18 Q All right. And did you physically push, physically
19 push aside the student's guardian?

20 A At no time.

21 Q Okay. And were you ever charged with any crime,
22 assault and battery?

23 A No, I was not.

24 Q And was Chief Smith present on the scene?

25 A He was.

1 Q Okay. And was his version yesterday accurate?

2 MR. KEIM: Object to the form.

3 THE COURT: Rephrase.

4 MR. JAMISON TINSLEY: Okay.

5 Q The account, do you have any disagreement with the
6 account that he gave yesterday?

7 A I do not.

8 Q And why were you still in the back of the ambulance?

9 A The paramedic wanted to get out of the ambulance to
10 make a, I think to make a phone call to dispatch rather
11 than talk to, and his supervisor, rather than try to talk
12 over the radio. And so he asked me to get in the back of
13 the ambulance.

14 Q Okay. Did you have anything to do with the guardian
15 not being granted such privileges?

16 A No, I did not.

17 Q Okay. Who was in control of the situation?

18 A The EMT. The paramedic on-scene was in control of
19 the situation.

20 Q Okay. All right. Any other allegations made in
21 here?

22 A The next allegation is, when Dr. Crenshaw made the
23 initial phone call to Dr. Agnew, Dr. Agnew knew what the
24 next step was supposed to be and she did the appropriate
25 thing by calling me or a member of my staff. If Dr.

1 Crenshaw would have allowed the system to work, there
2 would have been no problems. Instead, he didn't like the
3 protocol that was established and decided to take matters
4 into his own hand.

5 Q Okay.

6 A By doing this, he created several losses that will
7 have to be absorbed by Erskine college and the Erskine
8 College Athletic Department. These losses include: time,
9 money for medical bills, and a possible retention issue
10 with the student athlete.

11 Q Okay. What did you do to take matters into your own
12 hands, if you did?

13 A I think what this says is I took matters into my own
14 hands when I called for an ambulance.

15 Q Which Dr. Agnew made that call?

16 A Dr. Agnew made the call, but I did request it.

17 Q Okay. Are you aware of any of Erskine College
18 absorbing these losses?

19 A No.

20 Q All right. Any other allegations?

21 A Now he says the second reason for the grievance is
22 that Dr. Crenshaw has continued to slander the Erskine
23 department, College Athletic Department training staff
24 through a series of emails that were sent to several
25 members of the administration including Dean Christie,

1 Dean Agnew and Dr. David Norman. In these emails, Dr.
2 Crenshaw insinuates that the athletic training staff is
3 not properly educated, trained, or otherwise prepared to
4 provide care for student athletes of Erskine. He asserts
5 that the policies and procedures we have in place endanger
6 our student athletes. He further claims that our protocol
7 causes more harms to our student athletes than help.
8 These remarks are very slanderous to the athletic training
9 staff and feel that better Crenshaw needs to be held
10 responsible for these remarks.

11 Q Did you make any personal attacks against any
12 athletic trainers?

13 A No. I don't think I made any personal attacks
14 against any athletic trainers. I did question the process
15 by which a student athlete had a head injury at 6:30 in
16 the morning and two hours later, she still had not been
17 seen by the appropriate medical authority.

18 Q Do you feel like that anything you said was slander?

19 A I did not and I was disturbed by that word since it
20 has legal implications.

21 Q Okay. Did you fear a potential lawsuit against you
22 on slander?

23 A I did.

24 Q All right. Any other allegations?

25 A A third reason for this grievance is that Dr.

1 Crenshaw has begun to make slanderous remarks both online
2 and in his classes regarding our abilities to treat
3 current student athletes. Several students have reported
4 that to members of the athletic training staff and coaches
5 that Dr. Crenshaw was questioning student athletes
6 regarding the reasons they got sent to athletic training
7 instead of going straight to a doctor when they are
8 injured or sick. By doing so, Dr. Crenshaw is creating a
9 situation of distrust between the athletic training staff
10 and the current student athletes. This could hinder our
11 ability to properly treat student athletes. He reportedly
12 has also been discussing Friday's incident in his English
13 class. In doing so, by doing so, Dr. Crenshaw is creating
14 a situation of distrust between the athletic staff and
15 current student athletes. This could hinder our ability
16 to properly treat student athletes. He reportedly has
17 also been discussing Friday's incident in his English
18 classes. In doing so, he has violated the student's
19 privacy by mentioning her name, details, etc. He has
20 also, he has begun to involve more people in this
21 situation showing regrettably bad judgment and creating
22 great potential to exacerbate the situation.

23 Q Okay. Can you tell us what kind of remarks were made
24 online or in class?

25 A My two classes, each of my classes has a blog site.

1 I set up a blog site so we can carry on discussions
2 outside of class. In the two classes that witness this
3 event, the two freshmen classes, in their blogs, I put up
4 a description explaining why I called the ambulance and
5 what the situation was. And those were the only classes
6 in which this incident was discussed because they actually
7 witnessed the incident and what they saw was just kind of
8 chaos and they all knew the student. I did not mention
9 her name, anyway. But they knew who it was and that,
10 those are the only classes I talked to about the incident.

11 Q And did you involve more people in the situation?

12 A I don't know what that sentence means.

13 Q Okay. Has anybody been involved other than the
14 people we talked about during your testimony?

15 A No.

16 Q All right. Are there any other specific allegations?

17 A Enclosing the actions of Dr. William Crenshaw that
18 began on the morning of Friday, September 24th and have
19 continued until this day are inappropriate. I don't see
20 any other allegations, particularly.

21 Q Okay. Based on your training, is it possible to
22 diagnose a closed head injury as minor on the site, on
23 site?

24 MR. KEIM: I object to the form, Your Honor. Leading
25 the witness.

1 THE COURT: Don't lead the witness.

2 MR. JAMISON TINSLEY: I just don't see where I
3 suggested an answer.

4 MR. KEIM: I'm going to object that he's capable of
5 entering that kind of opinion.

6 THE COURT: I sustained it as to the expertise.
7 Rephrase your question.

8 MR. JAMISON TINSLEY: Okay. I'll ask it like this.

9 Q Have you, in your EMT experience, have you ever
10 diagnosed or considered a closed head injury minor
11 on-scene?

12 A There is no such thing in my experience or training
13 as a closed, as a mild head injury until it's been
14 definitively examined through some scanning method like a
15 CAT scan. You can't see inside the skull, so you never
16 know if a closed head injury is serious or not serious
17 without that kind of definitive treatment. I didn't
18 phrase that very well but. Simply put, there is no such
19 thing as a minor closed head injury, certainly not in the
20 field.

21 Q Okay. Based upon your observation of the student,
22 was she capable of making an informed decision to refuse
23 medical care?

24 A No, she had signs and symptoms that were consistent
25 with a closed head injury that was affecting her level of

1 consciousness.

2 Q Okay. And did the EMT on-scene agree with your
3 assessment?

4 MR. KEIM: I'm going to object to the form. He can't
5 say.

6 THE COURT: Sustained.

7 Q Well, was she allowed to refuse medical treatment
8 on-scene?

9 A No.

10 THE COURT: What are you entering?

11 MR. JAMISON TINSLEY: We'll enter Plaintiff's 10 into
12 evidence.

13 MR. KEIM: No objection.

14 THE COURT: Plaintiff's 10 is admitted without
15 objection.

16 (Whereupon, Plaintiff's Exhibit 10 was admitted into
17 evidence.)

18 (Whereupon, Plaintiff's Exhibit number 11 was marked
19 for identification.)

20 Q I'm now handing you what's been marked as Plaintiff's
21 Exhibit number 11. This appears to be a letter to Tracy
22 Spires dated September 29, 2010 to Gid Alston.

23 A Yes.

24 Q Are you familiar with this document?

25 A I am.

1 Q Okay.

2 MR. JAMISON TINSLEY: Okay. We'll go ahead and enter
3 this into evidence.

4 MR. KEIM: No objection.

5 THE COURT: 11 is admitted without objection.

6 (Whereupon, Plaintiff's Exhibit 11 was admitted into
7 evidence.)

8 Q All right. And what is the nature of this letter?

9 A This is a second letter of complaint signed by Dr.
10 Gid Alston who was the Chairman of Health and Human
11 Performance Department.

12 Q Okay. What is the Department and Health and Human
13 Performance?

14 A It's basically the athletic department and he, the
15 degrees offered there, the athletic training falls under
16 that.

17 Q Okay. And are there any distinct or separate
18 different allegations in this letter compared to the one
19 we just went over?

20 A Yes. He says, I was truly shocked to find that Dr.
21 Crenshaw had repeatedly made slanderous and insulting
22 statements about his colleagues both in his classes and on
23 his public blog. These baseless statements were directed
24 toward a, toward specific athletic trainers as well as the
25 athletic, and the athletic profession in general. The

1 athletic trainers whom Dr. Crenshaw slandered are
2 experienced and highly respected and fully certified
3 allied health professionals and I can attest personally to
4 their expertise.

5 Q Did you make any comments on a public blog?

6 A I did not make comments on a public blog.

7 Q Okay. Did you make any comments naming any specific
8 athletic trainers?

9 A I named no particular individuals.

10 Q All right. Any other allegations that are different
11 from Mr. Weyer's complaint?

12 A This is Dr. Alston. It shows, let's see. In emails
13 to, and Dr. Alston also says in emails to Mr. Weyer. Dr.
14 Crenshaw states that the student athletes should see a
15 doctor for their injuries instead of anybody else, the
16 point of which is obviously that the athletic trainers are
17 not capable of providing care. The statements are, of
18 course, contrary to the views of the American Medical
19 Association, an organization fully, that fully supports
20 and endorses athletic training profession and the athletic
21 training education programs. By the way, the athletic
22 training critical practice is regulated by South Carolina
23 DHEC, the same agency that regulates the clinical practice
24 of EMT's.

25 Q Did you ever make any comment to, that would suggest

1 athletic trainers are not capable of providing care?

2 A No. I do not. Absolutely not.

3 Q Okay. Any other different allegations in this
4 letter?

5 A In his blog, Dr. Crenshaw claims that his training
6 and experience as a former EMT makes him more qualified
7 than a certified athletic trainer. Another opinion that
8 is contrary to the views of the American medical
9 Association. To make these matters worse, Dr. Crenshaw
10 has assigned students to respond to this blog, thereby
11 making a public spectacle of his personal issues with the
12 Athletic Department. In his insulting and unwarranted
13 emails to Mr. Weyer, Dr. Crenshaw inferred that athletic
14 trainers are inept, poorly educated, and inadequately
15 trained. The nature and tone of those emails makes it
16 clear that Dr. Crenshaw's issue are egocentric in nature
17 and not based on any real knowledge of the athletic
18 training profession.

19 Q Did you give students an assignment to respond to
20 this incident on the blog?

21 A Did not a particular assignment. When something is
22 up on the blog, the class is encouraged to discuss
23 whatever it is. So that's just a standing assignment and
24 this was put up on the student class blogs just for
25 clarification because they had been hearing a lot of

1 rumors about the situation and they had witnessed the
2 situation.

3 Q Okay. And so students were encouraged, let me make
4 sure I understand. Were students encouraged to post to
5 any posts you put on the blog?

6 A Yes, that was the nature of the blog for the
7 classroom. It allowed us to continue discussion outside
8 the 50 minute class period.

9 Q Did you ever tell anyone the athletic trainers are
10 inept, poorly educated, and inadequately trained?

11 A I did not.

12 Q None of the three?

13 A None of the three.

14 Q All right. Are there any other allegations in this
15 one that differ from the previous one?

16 A Dr. Crenshaw's actions and words are completely
17 unprofessional and could do great harm to the image of the
18 athletic training profession in the eyes of Erskine
19 College students and administrators. And this comes at a
20 time when enrollment in the Athletic Training Education
21 Department has increased due to the positive image,
22 dedicated efforts and proven excellence. Dr. Crenshaw's
23 derogatory remarks, both written and spoken have come
24 despite the fact that he has not spoken directly with any
25 of the athletic trainers he is attacking, people who take

1 their jobs, both as clinicians and as educators very
2 seriously. I find it incomprehensible that any Erskine
3 College Professor would air his personal issue in a
4 classroom or a public blog. I hereby request a full
5 investigation of the actions and words of Dr. William
6 Crenshaw. Please inform me of the process by which the
7 investigation will occur.

8 Q All right. Have you seen any evidence supporting
9 that, supporting the great harm to the image of the
10 athletic training profession?

11 A I have not.

12 Q Did you attack any athletic trainers?

13 A I did not.

14 Q Okay. Well, we've seen that, but you did speak with
15 Adam Weyer via email?

16 A I did, and Adam and I had an ongoing conversation
17 through email.

18 Q Did you have any personal issues with the athletic
19 trainers?

20 A I didn't know any individual athletic trainer except
21 Adam Weyer as the head of the department.

22 Q Okay.

23 A I had no personal issues with anybody on this.

24 Q Was Gid Alston present to witness any of the events
25 on September 24th?

1 A To my knowledge, he was not.

2 Q Okay. Did he ever come into your classroom and
3 listen to these discussions?

4 A I'm sorry, would you repeat the question.

5 Q Did he ever come into your classroom and listen to
6 these discussions?

7 A No, he did not.

8 Q How about Mark Peeler, was he present on September
9 24th?

10 A To my knowledge, he was not.

11 Q Okay. How about Adam Weyer?

12 A To my knowledge, I believe I did see him late in the
13 process on that day.

14 Q Okay. And he rode, was it he rode to the--

15 A I don't know, because I left, when the paramedic
16 asked me to exit the ambulance I left the scene.

17 Q All right.

18 MR. JAMISON TINSLEY: We'll move that 11 be
19 introduced.

20 THE COURT: You've already entered it.

21 MR. JAMISON TINSLEY: I'm sorry.

22 Q What was the next, after these complaints were filed
23 with Tracy Spires, what was the next step in the process?

24 A According to the letter that Ms. Spires sent out, the
25 complaints were returned to the office of Brad Christie,

1 the Dean of, the Academic Dean.

2 Q All right. And where did it go from there?

3 A I beg your pardon?

4 Q Where did the case go from there?

5 A The case from there was assigned to the grievance
6 committee by Dr. Christie.

7 Q And at this time were you on the grievance committee?

8 A I was.

9 Q What's the grievance committee's duty or charge in a
10 case like this?

11 A In a case like this, the duty that the grievance
12 committee has is to, well, it was submitted to the
13 grievance committee as a dispute between faculty members.
14 And under that submission the duty of the grievance
15 committee was to try to negotiate a discussion between the
16 parties and see if the issues could not be resolved.

17 Q Okay. Was the grievance committee an appropriate
18 body or committee to hear this case?

19 A It could have been, but not under that, in my opinion
20 not under that charge.

21 Q You're talking about the mediation charge?

22 A The mediation charge, right.

23 Q To your knowledge, what happened once the grievance
24 committee got the case?

25 A When the grievance committee got the case, let me ask

1 for clarification. Is this when the grievance committee
2 was sent the case or when the grievance committee actually
3 met?

4 Q First, I want to know what happened when they were
5 sent the case by Dr. Christie?

6 A They were sent the case and the case went to Howard
7 Thomas and Howard Thomas started sending out emails to
8 members of the committee to alert them that we are going
9 to have a meeting and that the general nature of what the
10 meeting was about, to hear a grievance against me is what
11 I think he said.

12 Q Okay. And was Howard Thomas the chair of the
13 committee?

14 A Howard Thomas was assigned to be the chair of the
15 committee, yes.

16 Q Okay. And we heard testimony yesterday about an
17 email exchange between you and Howard Thomas?

18 A There was an email exchange between Howard and
19 myself.

20 Q Can you tell us what that was about?

21 A Yes. I requested from the chairman of the committee
22 that I be given a copy of the grievances against me before
23 the meeting. I never received an official copy of the
24 grievances. I did have a copy, but I did not know if the
25 grievances that they were looking at were the same as the

1 grievances that I had seen that were filed, misfiled
2 originally with Tracy Spires. So I told Dr. Thomas in my
3 letters that I thought I had a right as the accused to
4 know what I was being accused of before I went into the
5 meeting. Since there were no procedures in place to
6 govern this, Howard was at a loss of what to do. And so I
7 continued to ask him to release the charges to me so I
8 could see them before the meeting. And he was then put in
9 the position of not really having any guidelines in the
10 faculty manual or in the formal workings of the committee
11 to know what to do.

12 Q Okay. And what did he end up doing?

13 A Ended up not giving me the grievances until the
14 meeting.

15 Q Okay. And at some point did you request that he
16 recuse himself?

17 A I did request that he recuse himself, because I
18 thought it was unfair to ask a person who had grievances
19 against him to come to a meeting without seeing the
20 grievances ahead of time.

21 Q Okay. Now let's get to the actual meeting which is,
22 I believe, in mid-October. Were you present at that
23 meeting?

24 A I was present.

25 Q Okay. Can you tell us what happened?

1 A I don't remember the general business of the
2 committee at first. I don't have any memory of that
3 particularly. When it came to the specifics of the case,
4 I first recused, I asked the committee to withdraw my
5 request for recusal, the recusal of Dr. Thomas. And then
6 I also recused myself as committee member because I should
7 not be able, I mean there's no requirement that I do that.
8 But I, and most people would do that and that you
9 shouldn't be able to vote on your own case. I then read a
10 statement that I prepared in conjunction with my lawyer
11 about my reasoning and the fact that I had gotten legal
12 representation because some of the claims against me were,
13 had legal implications and said that in future meetings my
14 lawyer would accompany me to the meetings if we had any to
15 protect my rights.

16 Q And what legal implications?

17 A Particularly, the slander and liable accusations
18 which have clearly legal implications.

19 Q Okay. And why did you notify the grievance committee
20 that you had retained a lawyer?

21 A Well, I thought it was the basic information they
22 needed to know.

23 Q What happened after you recused yourself?

24 A After that, then we discussed my case. That's when
25 we started discussing the case and I read the statement

1 from my lawyer, Robert Tinsley. And then they asked me to
2 be excused, and they asked me to excuse myself from the
3 room so they could discuss the issue.

4 Q Okay. I know you mentioned about the legal
5 representation. What else did your statement include?

6 A I don't have a clear memory of the details of that
7 statement.

8 Q All right. After you left the room for them to
9 discuss it, what was the next thing that happened?

10 A They called me back in and said that they felt, I
11 think their discussion then including a regret that there
12 was no protocol or no previous case they could use to
13 decide this one. And that since this involved legal
14 counsel, an external body, in essence, then they felt that
15 this was not a case for mediation under what, I think the
16 duty they were charged with. And the other, and which
17 reminds me, of the other information I put in there was
18 mediation, the problems with mediation, adjudication, I
19 did mention those issues. Since I had been accused of
20 very specific things, I wanted to confront each of those
21 accusations and be able to refute them. And the process
22 of mediation was not a place to allow that.

23 Q Okay. And what kind of threats did you make to any
24 of those members of that committee?

25 A None.

1 Q All right. And then after the committee issued its
2 resolution or edict, where did the case go next?

3 A The case went back to the academic office. The
4 academic, well under Brad Christie and the academic office
5 sent it to Dr. Norman as president.

6 (Whereupon, Plaintiff's Exhibit number 12 marked for
7 identification.)

8 Q Okay. I'm going to hand you what's been marked as
9 Plaintiff's Exhibit 12. It's that a letter to you and the
10 three complainants from Brad Christie dated October 25,
11 2010. Are you familiar with this document?

12 A I am.

13 Q Okay. What is this? What's Dr. Christie offering
14 here?

15 A First of all, he's informing us of the results of the
16 grievance committee which were that they failed to
17 formulate a workable mediation plan and that was the words
18 of the grievance committee. And second, because this is a
19 matter, this case is a matter of faculty self-governance,
20 he asked, let me just read it. I'm sorry. Let me just
21 read it. I have discussed with Dr. Norman the relevant
22 policy and the next step will be to forward the case to
23 the President's office for adjudication. Before
24 forwarding this case to the President, however, I'll offer
25 again to meet with all of you in an attempt, to attempt to

1 what the grievance committee could or would not do namely
2 to mediate this misunderstanding between colleagues. If
3 each of you agrees, I will gladly moderate the
4 conversation between any or all of you at your earliest
5 convenience. This could be a conversation among peers, no
6 electronic recordings, no lawyers, no other mediators but
7 me. Now please let me know if this arrangement suits you.

8 Q How did you respond to this mediation request?

9 A I responded positively. I told him I would be glad
10 to meet.

11 Q Okay. Did the mediation ever occur?

12 A It never did.

13 Q Why not?

14 A Because none of the complainant's would agree to
15 meet.

16 Q Okay. Why did you agree to this mediation attempt?

17 A Because this presented the opportunity to informally
18 meet with a member of the administration without the
19 legality of the accusations against me being at issue and
20 to see if we could sit together with him as a mediator and
21 work it out in an unofficial but maybe, therefore, more
22 effective way.

23 Q Okay. Did you view this as more or less formal than
24 the grievance committee meeting?

25 A This is much less formal.

1 MR. JAMISON TINSLEY: I would move to enter
2 Plaintiff's 12 into evidence.

3 MR. KEIM: No objection.

4 THE COURT: 12 is admitted without objection.

5 (Whereupon, Plaintiff's Exhibit 12 was admitted into
6 evidence.)

7 (Whereupon, Plaintiff's Exhibit number 13 was marked
8 for identification.)

9 Q I'm going to hand you now Plaintiff's Exhibit 13. It
10 appears to be a letter to Dr. Norman dated November 2,
11 2010. You appear to be copied along with a few others.
12 Are you familiar with this letter?

13 A I am.

14 Q Okay. What does this letter do?

15 A This letter informs, well it's very, as you know,
16 three faculty colleagues: Adam Weyer, Mark Peeler and Gid
17 Austin had filed formal grievances against a fellow
18 faculty member, Bill Crenshaw. The faculty grievance
19 committee met, failed to formulate a workable mediation
20 plan and returned these grievances to the academic office.
21 In accordance with this policy, I am now forwarding this
22 case to your office for adjudication. It's a letter from
23 Dr. Christie to Dr. Norman.

24 MR. JAMISON TINSLEY: I'll move Plaintiff's 13 for
25 the record.

1 MR. KEIM: No objection.

2 THE COURT: Without objection, it is submitted.

3 (Whereupon, Plaintiff's Exhibit 13 was admitted into
4 evidence.)

5 Q All right. So at this point, Dr. Norman is now over
6 the case?

7 A Yes, he is now, the case has been passed to Dr.
8 Norman.

9 Q Okay. What was the first, the first thing that he
10 did to your knowledge?

11 A And to my knowledge the first thing he did was to
12 create a new committee. I don't know what name it was.
13 It was an ad hoc committee or for the immediate purpose
14 committee to hear not the grievances per se but the five
15 questions that Dr. Norman raised.

16 Q Okay. Are you aware of any such committees been used
17 in a similar case in your years at Erskine?

18 A No.

19 Q Okay. Did Dr. Norman have the authority to appoint
20 such a committee?

21 A That would depend on how you read the employee
22 handbook and that particular section.

23 Q Okay. In your reading of it, does your case fall
24 into the parameters of giving him that authority?

25 A In my opinion, and it's a legal opinion obviously,

1 but it would be a stretch to include such a committee
2 under that, under the section that they cited.

3 Q Did any lawyer ever actually attend any meetings at
4 Erskine with you?

5 A I'm sorry?

6 Q Did any lawyer ever appear at any meeting with you at
7 Erskine?

8 A No.

9 (Whereupon, Plaintiff's Exhibit number 14 marked for
10 identification.)

11 Q I'm now going to hand you what's been marked as
12 Plaintiff's 14. It appears to be a letter from Dr. Norman
13 dated November 8, 2010 to Dr. Chrystal Bruce, Dr. Robert
14 Elsner, Dr. David Grier, Dr. Al Mina, Dr. Brad Parker, Dr.
15 Arthur Sparks. Are you familiar with this document?

16 A I am.

17 Q Okay.

18 MR. JAMISON TINSLEY: Go ahead and enter this as
19 Plaintiff's 14.

20 MR. KEIM: No objection.

21 (Whereupon, Plaintiff's Exhibit 14 was admitted into
22 evidence.)

23 Q Is this a document, well, first of all, who are the
24 six doctors whose names I mentioned?

25 A These are members of the Erskine College faculty who

1 were chosen by Dr. Norman to make up this new committee.

2 Q Okay. And at this point, he was adjudicating the
3 case was your understanding, was that your understanding?

4 A That is what the letter from Dr. Christie said to,
5 when he sent the case back to Dr. Norman, yes.

6 Q Okay. All right. To your knowledge were these, all
7 these six faculty members tenured members?

8 A I believe they all were except for Dr. Brad Parker
9 who was pretty new to campus. He'd been there one or two
10 years, I think, but I know he wasn't tenured.

11 Q All right. Are these the multiple choice questions
12 that you were referring to?

13 A They are.

14 Q Okay. And can you tell us what the multiple choice
15 questions and answers laid out by Dr. Norman were?

16 A The committee was to bring me back a report
17 addressing these five questions. Question number one,
18 handling of an emergency situation involving an injured
19 student athlete displaying abnormal behavior in class.
20 There are five choices and the same five are for every
21 statement, so I won't read them but once.

22 Q Okay.

23 A A) Commendable behavior; B) Compliant behavior; C)
24 Mishandled the situation; D) Grossly mishandled the
25 situation or E) Handled the situation in a way that

1 severely limits Erskine's ability to carry out its
2 mission. So that first question was handling an emergency
3 situation in the first statement. The second was the
4 treatment of emergency personnel including the student's
5 emergency contact with the same five answers. Number
6 three, professionalism and collegiality towards other
7 faculty at the point of crisis. Number 4, professionalism
8 and collegiality in the aftermath of the crisis. And
9 five, respect for the grievance committee and evidence of
10 respect for faculty governance and the policies and
11 procedures of Erskine College and Seminary.

12 Q Did these questions come from those two complaints
13 that we went over earlier?

14 MR. KEIM: Object to the form. Your Honor, I think
15 that document speaks for itself.

16 THE COURT: Well, since I haven't seen them, I think
17 he can answer the question.

18 MR. KEIM: All right.

19 A I don't see how, because these do not adjudicate or
20 mention the specific charges against me made in the
21 complaints.

22 Q Okay. Do you know where Dr. Norman came up with
23 these questions?

24 A I don't know. He did tell me that he had checked
25 them out with a lawyer.

1 Q Okay. When you first found out the case was going to
2 adjudication what was your reaction?

3 A I was glad. That's what I wanted.

4 Q Okay, why did you want it?

5 A I wanted the chance to have each individual charge on
6 those listed charges put on the table and for the people
7 who made the charges to offer evidence for the charges.
8 Then I will offer evidence to refute these charges. And
9 then we could make a decision about whether the charges
10 were valid or not.

11 Q Okay. When did you first find out about this letter
12 and these multiple choice questions?

13 A I think I was sent, probably sent a copy of this and
14 the other information on Dr. Norman sent out to the
15 committee on or about November 8, 2010.

16 Q Okay. And what was your reaction when you found out
17 about these questions?

18 A Well, I was very disappointed because even though I
19 believe this letter mentions adjudication itself, this was
20 in no way addressing the ongoing grievances that the
21 letter talks about. The ongoing grievances against me
22 were specific and detail and this doesn't allow me the
23 opportunity to refute those charges.

24 THE COURT: I believe this is a good time to take a
25 break.

1 MR. JAMISON TINSLEY: Yes, sir.

2 THE COURT: We've been going a little longer than an
3 hour. I'll be back on the bench at 25 minutes till 11:00,
4 all right? That will be my time back on the bench. When
5 y'all are at the break, you can't begin discussing the
6 case. You can step outside, do whatever you like, and
7 we'll will start back at 25 till.

8 (Whereupon, the jury was excused from open court for
9 a break.)

10 THE COURT: All right. Bring them in.

11 (Whereupon, the jury came into open court at
12 approximately 10:34 a.m.)

13 CONTINUE DIRECT EXAMINATION.

14 BY MR. JAMISON TINSLEY:

15 (Whereupon, Plaintiff's Exhibit number 15 was marked
16 for identification.)

17 Q Dr. Crenshaw, I'm going to hand you what has been
18 marked as Plaintiff's Exhibit 15. It appears to be a
19 letter to you and the three complainants dated November 9,
20 2010 from David Norman. Are you familiar with this
21 document?

22 A I am.

23 Q Okay. Is this a document that informed you of this
24 special committee?

25 A Yes, it is.

1 MR. JAMISON TINSLEY: I move that this document be
2 entered as Plaintiff's 15.

3 THE COURT: Any objection?

4 MR. KEIM: No objection, Your Honor.

5 THE COURT: All right. It's in.

6 (Whereupon, Plaintiff's Exhibit 15 was admitted into
7 evidence.)

8 THE COURT: Okay. Y'all have got some identical
9 exhibits, don't you?

10 MR. JAMISON TINSLEY: Yes, sir.

11 THE COURT: Ladies and gentlemen of the jury, just so
12 y'all understand what the lawyers are asking him is
13 they've both got the same letters, of course, some of them
14 have pre-numbered. There's no reason for y'all to take
15 Defendant's Exhibit 1 and Plaintiff's Exhibit 15 if it's
16 the same letter. You'll be seeing it one time. That's
17 why they're making certain they numbered them similarly.
18 All right. Continue on.

19 Q Okay. And what did this letter require of you for
20 the process?

21 A And this is addressed specifically to me because it's
22 addressed I guess,--

23 Q Well, I guess when I say you, I mean all you four.

24 A I would ask that you cooperate with the committee by
25 cooperation, I mean that you offer the influent they

1 request to refrain from offering unsolicited advice or
2 commentary. I would also ask that you respect the
3 sensitive nature of the proceeding and the dignity of the
4 faculty committee by not attempting to draw others into
5 this conflict. I do not believe we need to act in secret,
6 but I see no viable reason why anyone other than the
7 committee, the parties addressed by the--

8 COURT REPORTER: Wait.

9 A I'm sorry. I did it again. I got a little rest and
10 relaxation, so I'll back up. I beg your pardon. I would
11 ask that you respect the sensitive nature of this
12 proceeding and the dignity of the faculty committee by not
13 attempting to draw others into this conflict. I do not
14 believe that we need to act in secret, but I see no viable
15 reason why anyone other than the committee, the parties
16 addressed by this letter, the Dean, me, and all of our
17 confidential assistants, administrative and legal should
18 need to know about the proceedings of this case. If you
19 believe anyone else should be informed, please let me
20 know.

21 Q All right.

22 A End of that paragraph.

23 Q Okay. Did you follow these steps?

24 A I did. I talked to my lawyer about it.

25 Q Okay. And after you received this notification

1 letter, what happened next in the process with you?

2 A Nothing for, until the committee actually met.

3 Q And that would have been sometime in December?

4 A Sometime in December.

5 Q Okay. And when it met, what happened? Were you
6 called to the meeting?

7 A I was called to the meeting.

8 Q Okay. And why were you called to the meeting?

9 A I don't know if this was the first meeting or not but
10 this was the first meeting that I attended. I was called
11 to the meeting to deal with the ongoing grievances.

12 Q Okay. All right. Can you describe that meeting for
13 us?

14 A I opened by reading a prepared statement that I wrote
15 in conjunction with Robert Tinsley, my lawyer, explaining
16 the situation so far and what my concerns were. These
17 were, this is a group of people who had no personal, no
18 knowledge on the committee about the incidents that took
19 place.

20 Q Okay. And why did you get Robert Tinsley involved in
21 the writing?

22 A I wanted to, I wrote it and I wanted to check with
23 him to make sure that it was an appropriate letter to give
24 to the committee to open, to provide a context for my
25 testimony.

1 Q Okay. And do you remember any of the particulars
2 about the statement?

3 A Well, the statement emphasized the need for a
4 carefully laid out process that protected the rights of
5 all parties. It laid out my concern that we have an
6 actual adjudicatory process, I mean, whereby the
7 allegations on each side were judged. They had claims,
8 they were making claims that these statements were true.
9 And I wanted those statements to be adjudicated by this
10 Judge so we could see, like there was yesterday had the,
11 you had the scales up. And I wanted to put the
12 accusations and my responses and the scales and weigh
13 them. Now, that's what I wanted and that's, and I
14 certainly agreed to cooperate with the committee and
15 answer any and all specific questions they had about the
16 charges is what they're saying.

17 Q Okay. And why do you think you are entitled to this
18 adjudication?

19 A Well, first of all, I think the nature of the
20 situation. They said X, I said not X, and you don't
21 negotiate that, you have to offer evidence to prove your
22 point. Second, Dr. Christie said it was going to be
23 adjudicated when he sent the letter and kicked it back up
24 to the President. Third, the President's letter said it
25 was going to be adjudicated. And fourth, I thought that

1 was the fair thing to do was to have an adjudication.

2 Q Okay. And after you read this statement, what
3 transpired?

4 A The Chairman of the committee asked me a question.

5 Q And what did he ask you?

6 A He asked me to describe the events of the day.

7 Q Okay. And what was your response?

8 A My response was that I was here to have an
9 adjudication of the charges of this ongoing grievance that
10 is quoted in this letter by Dr. Norman. The ongoing
11 grievances and I wanted to address those issues, simply
12 describing the day would not do that. I would be glad to
13 answer any questions about the specific charges against
14 me. And I also at that point, I think, categorically
15 denied the validity of all those charges.

16 Q Okay. And did you notify this committee that you had
17 retained a lawyer?

18 A I had.

19 Q Okay. And why did you do that?

20 A Okay. Because I think it's something they needed to
21 know. Clearly, if you hire a lawyer that can be a serious
22 step and I hired a lawyer to make sure my rights were
23 protected. And, again, this committee had the same
24 situation as the other, that is this was a new committee
25 created out of thin air, no guidelines as how to proceed,

1 no process in place, no mechanisms to protect both the
2 people who were accusing me of things and me as the
3 accused. So that was a very disturbing situation.

4 Q Were you questioned about what, by the committee
5 about what procedures should be in place?

6 A Yes, one of the members asked me late in the process
7 what procedures should be employed.

8 Q Okay. And how did you respond?

9 A I referred him to the employee manual, Erskine's
10 employee manual. And I think to a section and pages P3
11 through P7 and it has to do with the sexual harassment
12 process that went, that would've been used by that
13 original committee. There are, for example, if my case
14 had been held under that process that was in our employee
15 handbook and available for emulation, copying, using,
16 modifying, I would of have no problem because it clearly
17 lays out a process whereby the rights of the accuser and
18 the accused are protected, describes a process where
19 evidence is presented from both sides. And it allows for
20 each side to have lawyers if they needed, if the case is
21 serious enough. So we already had on the books a process
22 that could have been used by all of these committees.

23 Q But to your knowledge, was it used anywhere, but the
24 sexual harassment?

25 A Right. Which hopefully, we've never had.

1 Q Okay. So just to get it straight. This committee or
2 no committee in this case used said procedures?

3 A Repeat that please, sir.

4 Q Did any of these committees in this case ever use
5 those procedures?

6 A Oh, absolutely not. There was no procedure.

7 Q All right. Did anything else happen at that meeting
8 other than what we've talked about?

9 A Well, there is discussion back and forth and during
10 which it became clear that the committee did not even
11 understand the charge they had. They said they were there
12 just to gather information. They weren't there to make
13 any judgments. But the letter informing the committee
14 clearly says that is to adjudicate grievances and that
15 they were not given any grievances to adjudicate.

16 Q And when that meeting ended, how did that meeting
17 end?

18 A They wanted to discuss it among themselves so they
19 excused me from the room. And then when I came back, Dr.
20 Mina, the Chairman of the committee told me that there was
21 a lot of disagreement apparently on the committee, too,
22 about what their role was. And so they were just
23 postponing action until they could clarify issues.

24 Q And what kind of threats did you make to this
25 committee?

1 A I made no threats.

2 Q When did you hear anything else about this committee?

3 A Actually, I didn't hear anything until January. We
4 had a meeting for different purposes in the Founder's Room
5 of Erskine College and all the Professors were divided up
6 into different tables for discussion about issues at
7 Erskine. And I happened to be at the same table as Dr.
8 Mina, the Chairman of the committee, and Dr. David Grier,
9 a member of the committee. And when Dr. Grier and I were
10 alone I asked Dr. Grier, well what's going on with the
11 committee, I hadn't heard anything from the committee yet.
12 He said oh, I think the committee has disbanded. And then
13 Dr. Mina came back and I asked him, you know, what's the
14 status of the committee, who was the Chairman. And he
15 said well, we're just on hold right now. And Dr. Grier
16 said I thought we were disbanded. And Dr. Mina said, no
17 we're not. So that was the only thing I had heard about
18 the committee since the meeting or from the committee.

19 Q So at that point, you weren't sure what the status
20 was?

21 A I had no idea what the status was.

22 Q Did this committee follow any rules of order that you
23 are aware of, Roberts Rules of order?

24 A There were, it was very informal in that sense. No,
25 there were no procedures or policies guiding anything

1 about the committee.

2 Q They didn't follow any federal and state laws that
3 you were aware of?

4 A No.

5 (Whereupon, Plaintiff's Exhibit number 16 was
6 marked for identification.)

7 Q Okay. I am going to hand you Plaintiff's exhibit
8 number 16. It appears to be a letter to David Norman
9 dated January 4, 2011, from the members of the committee.

10 A I'm familiar.

11 Q Okay.

12 MR. JAMISON TINSLEY: We'll move that it be entered
13 as Plaintiff's 16.

14 MR. KEIM: No objection.

15 THE COURT: Be admitted without objection.

16 (Whereupon, Plaintiff's Exhibit 16 was admitted into
17 evidence.)

18 Q And what does the committee tell Dr. Norman in this
19 letter?

20 A The committee tells Dr. Norman that the conclusion
21 is, at this time we believe there is no, nothing, I beg
22 your pardon. I can slow down. At this time, we believe
23 we can do no more to help resolve the situation. It is
24 our opinion that faculty governance will not be successful
25 in this case; therefore, we are turning the matter back

1 over to the President's office for further action. As per
2 our discussion, you absolve the committee and its members
3 of any responsibility or actions regarding this matter.

4 Q Okay. Did you request the committee to respond to
5 Dr. Norman in this way?

6 A No.

7 Q Okay. Well, what was your goal or your desire from
8 the committee?

9 A Well, I assumed what they were going to do was get
10 together and clarify in their own minds what the purpose
11 of the committee was, whether it was to adjudicate and
12 gather information. And then we would reconvene at some
13 point and the process would continue.

14 Q Okay. And did you ever tell anyone in the
15 administration or on the committee that you wouldn't
16 participate further?

17 A I did not.

18 Q Were you, in fact, willing to participate?

19 A Absolutely, and to adjudicate, yes.

20 Q And all six members of the committee signed this?

21 A That's correct.

22 Q And what kind of position would it, do you think it
23 put a non-tenured faculty member to be in on that
24 committee?

25 A In a committee, well, I think it would be unfair to

1 put a non-tenured faculty member on the committee because
2 tenured, the non-tenured member would be more likely to
3 feel pressure from the administration than a tenured
4 committee would, because a non-tenured committee does not
5 have job protection or as the tenured committee members
6 did.

7 Q Okay. Were you ever on any committees at Erskine
8 that didn't have any procedures set out to handle the task
9 at hand?

10 A I am trying to think if I was ever on a committee at
11 Erskine that did have procedures and I don't remember any.
12 You know, we were loose and informal. It was a small
13 school. So for most committee work, we could be loose and
14 informal. We're all friends. We all know each other, for
15 the most part. There's some we won't know. But there are
16 no formal procedures; however, some meetings require more
17 formal procedures than others, but all meetings were
18 pretty causal.

19 Q Okay. All right. So January 4th, when did you find
20 out about this resolution by the committee in this January
21 4th letter. When did you find out about this letter?

22 A I assume about, on or about January 4th. Well, no.
23 I beg your pardon. That's not true. I don't think I
24 found it out until the end of January.

25 Q How did you find out about it?

1 A I think I found this, a copy of this letter in my
2 mailbox at Erskine.

3 Q And so from January, when did you next hear anything
4 about the case on the original grievances?

5 A On August the 6th, 2011.

6 Q Okay. How did you hear about it then?

7 A Dr. Norman requested us, I was going to pick up my
8 freshman students from the auditorium. Dr. Norman caught
9 me outside of the Belk Hall and said he wanted to have a
10 meeting with me after I met my class.

11 Q Okay.

12 A So I met my class of 22 students. The first class of
13 the semester, and then I went to the meeting with Dr.
14 Norman and he said he was going to fire me.

15 Q Okay. And did you teach the entire Spring semester
16 in 2011?

17 A I did.

18 Q Okay. So how long were you on, when did you leave
19 Erskine campus for the summer?

20 A I probably left, well, it'd have to be after my term
21 ended at Dixie High School which would have been in June
22 sometime, I believe.

23 Q Okay.

24 A Well, we were, we also used to run up on some
25 weekends. And we ran back regularly from the mountains.

1 It was just a little over a two and a half hour drive.
2 And we always came back to check mail and, you know, we
3 had a lot of things we had to do in Due West too. So we
4 weren't ever gone an entire summer to that address.

5 Q All right. So let's go back to the August 6th
6 meeting. Give us the description of what went on that
7 day?

8 A Well, Dr. Norman, I told Dr. Norman at the very
9 beginning I was going to record the meeting. I had a
10 recorder in my hand. And he said he'd rather I didn't and
11 I said, it's been my, it had been my habit over several
12 years to record openly all conversations with
13 administrators and also my classes. And I said if we
14 can't record, I'm not going to have this meeting. And so
15 he had, he had his recorder with him. And he said, well,
16 I'll record it, too. I said, great, fine.

17 Q Why the need to record?

18 A To document the meeting. I did not want to be put in
19 a he-said/he-said situation where one of us said this
20 happened and another of us said this happened. I mean,
21 I'd been in that process for a year already. I am just
22 sorry we didn't record the ambulance incident.

23 Q All right. Now, once the meeting started, what was
24 the discussion about?

25 A All right. Dr. Norman had a letter that was saying

1 he was starting termination procedures against me that he
2 read through aloud slowly.

3 Q Okay.

4 A Yes.

5 Q Okay. And so what was the first step in this
6 proceeding?

7 A This was a formal process he was following as listed
8 in the faculty manual for tenured Professors. And so the
9 first stage one, I guess we could call it, I think it may
10 be called stage one, is what is called negotiation. And
11 he says that's where he's worked with the Dean. That
12 requires him to work actively with the Dean of Student, I
13 mean, the Dean of Academics, Dr. Christie. And we try to
14 negotiate in-private a resolution to the problems that are
15 the basis of the termination.

16 Q And what discussions did you have with Dr. Norman on
17 this front?

18 A Well, there was really no discussion because it
19 wasn't a negotiation. He had a series of requirements for
20 me in order to not lose my job. But, first of all, he
21 said that I was not teaching any classes in the upcoming
22 semester no matter what happened.

23 Q Okay. What were the reasons why you weren't going to
24 be teaching that semester?

25 A They were never stated.

1 Q Okay. What justification would Professor, would the
2 President have for taking a tenured Professor out of the,
3 what's the standard, I guess, of taking a tenured
4 Professor out of a classroom.

5 A I think even the faculty manual calls for some good
6 reason for doing that. I think the only thing he
7 mentioned was that I was a danger to myself and others.

8 Q Okay. Well, you said that he had requirements for
9 you to keep your job. What were the requirements.

10 A He required that I make three apologies.

11 Q Okay. Can you tell us what these apologies were?

12 A Yes. And one apology would be to the people who had
13 filed a grievance against me. And to be a successful
14 apology, they all had to sign the letter saying they
15 accepted my apology. The second apology was to the
16 faculty of Erskine and to be accepted, the faculty at
17 Erskine would have to vote two-thirds in favor to accept
18 the apology. The third apology was to the Erskine
19 community and these three things were written down on a
20 scrap--

21 Q -- what is the Erskine community?

22 A I asked Dr. Norman that, and I was not able to get a
23 very, ever able to get a clear answer.

24 Q Okay. All right. What were you to apologize for?

25 A That is a question probably that took up the next 30

1 or 40 minutes of the meeting. I kept asking Dr. Norman
2 what I was supposed to apologize for. I said I'd never
3 have trouble apologizing if I've done something wrong,
4 which I do a lot. And I always apologize and I needed to
5 know what I was apologizing for. At first I can't do the
6 whole conversation, but at first he said I'm not going to
7 tell you what to say. And then he said if you, haven't
8 you ever offended anybody. And I said, well, yes, I
9 probably do that every day. And if I know I've done it, I
10 apologize. And then finally he said, well, if you
11 apologize and then we'll know whether or not you needed to
12 apologize. And I said, are you saying that we'll find out
13 what I'm supposed to apologize for after I apologize and
14 when they react the apology. And he said, yes.

15 Q Okay. Do you feel you owe these people an apology?

16 A I don't think I owe the people who made the
17 accusations against me an apology. We were owed the
18 opportunity to sit down and go through those accusations
19 which that new committee did not do.

20 Q All right. As for the faculty, what was that
21 apology?

22 A We went through the same process. We would know what
23 I should have apologized for after I apologized and we saw
24 what their reaction was.

25 Q Was there any set reaction that the faculty would

1 have to have for Dr. Norman to accept?

2 A Yeah, the two-thirds would have to vote to accept the
3 apology.

4 Q Okay. In your time at Erskine, had you ever known a
5 Professor being mandated to apologize to a faculty?

6 A No.

7 Q Is it common for the faculty to agree on two-thirds
8 for items?

9 A No, simple majority. That's most things.

10 Q Okay. And was the process the same for the Erskine
11 community apology?

12 A Well, for the first two, we had specific people to
13 make the apology to, either the complainant's or the
14 faculty meeting and the meeting room. The Erskine
15 Community extended as far as the, I don't know, I still
16 don't know what that actually means.

17 Q What grounds did Dr. Norman have or express for you
18 being a threat to yourself?

19 A None that I know of.

20 Q Okay. How about to others?

21 A None that I know of.

22 Q Okay.

23 A Well, I beg your pardon. He did say I was a threat
24 to other students, because he was afraid I would
25 discourage them from coming to Erskine. That standard

1 about being a threat to yourself or others is from the
2 AAUP, American Association of University Professors. And
3 they specifically mean physical harm to yourself or
4 others. In fact, we got, I think through your offices,
5 maybe we got clarification of that from the AAUP. And
6 that's how that should be interpreted they said, but the
7 spokesman for Erskine College said, well, they disagreed
8 with that interpretation even though the AAUP had written
9 that.

10 Q Okay. And what effect did cumulative requirements
11 have on you as far as you perceived your rights to be?

12 A It was like a bomb had been dropped on me in that
13 meeting. I mean, I had just come out of a meeting with my
14 freshmen and that made the shock even worse in a sense
15 because, I mean, I was shocked. Nothing had been said
16 about anything since January. And suddenly I'm facing
17 losing a job that I've been in 30, for 30 something years,
18 35, 36 years, and so I'm in shock about that. And I have,
19 and the apologies, those didn't make sense to me and the
20 fact that these students had signed up in the summer for
21 my class and that we had already exchanged information. I
22 had set up blogs for students and sent them the links to
23 it so that we, they could talk to each other and introduce
24 each other before they got to campus. I had handouts for
25 them the first class. We did have our first class just

1 before I went to see Dr. Norman. I had full expectations
2 and they had full expectations of having me for that class
3 all semester. And not only them, but students in the
4 other classes I was teaching. And to me it was
5 unconscionable that any administrator would pull the rug
6 out from under not only the Professor but the students
7 like that. I mean, if Dr. Norman knew he was going to
8 fire me long before this, I mean, that could have been
9 with a simple letter, come see me, we need to talk at any
10 time. I never got an email from Dr. Norman. I never got
11 a phone call from Dr. Norman. Never in this whole process
12 from the ambulance incident on did Dr. Norman communicate
13 with me personally. So I honestly was at a loss. I was
14 in shock. I was angry. I was disbelieving all during
15 that meeting. It was a very stressful time.

16 Q So you would characterize yourself as angry during
17 that meeting?

18 A Outraged really, yeah. It seemed so ludicrous. I
19 mean, it seemed like I'd wandered into some kind of
20 fantasy land.

21 Q Okay. Did you have any notice before walking into
22 that meeting that termination was on the table?

23 A Absolutely none.

24 Q And how did you, I don't want you to tell us about
25 any specifics of any discussions regarding any

1 negotiations between y'all. But how did you, was there
2 any offer on the table at the end of that meeting?

3 A At one point in the meeting I got very frustrated
4 with the whole thing and said why don't you just buy me
5 out? Why don't you just make me an offer and buy me out?
6 You know, come up with something big or something like
7 that. And it was clear I was joking. And he said how
8 long and I said--

9 Q Don't tell us any length of time or any specific
10 amounts.

11 A Okay. And he answered how long do you want. And I
12 answered him. And but it was clear to me from the tone
13 that he, in fact, I think he already had a letter. But it
14 was clear to me from what he said that he already had an
15 offer in mind. And to me it seemed that this whole thing
16 had been a charade to try to get me to at least say that,
17 well, I'll take a negotiated exit. But I said in joking
18 and I was very surprised when he made an offer and that
19 was something of a relief compared to what I had been
20 hearing so far.

21 Q And was the offer still on the table at the end of
22 the meeting?

23 A Yes.

24 Q Okay. And what kind of timeframe was there for
25 making a decision on that offer?

1 A He wanted me to get back to him on Monday, I think,
2 by 5:00 o'clock, and I certainly was going to have to talk
3 to my lawyer about this. However, before that deadline,
4 I'm pretty sure this is accurate, I got a press release
5 from Dr. Norman to proofread about my retirement that he
6 wanted to release right away. And I said, oh, I said I
7 haven't, I wrote him back saying, well, I haven't really
8 decided to do this. This was in phase one and the other
9 thing that came out during phase one and before I left the
10 office was that I had 21 days in which to consider this
11 offer, and by, I think by South Carolina state law.

12 Q Okay. You had 21 days as, did y'all both have this
13 understanding as far as you knew?

14 A I beg your pardon.

15 Q Did y'all both understand this to be open for 21 days
16 as far as you knew?

17 A Yes. Yes, I didn't under, we may have still been
18 talking across purposes. Dr. Norman assumed, I think
19 that, Dr. Norman, I think assumed, must have assumed that
20 I had agreed to take this offer. And I had not agreed to
21 take this offer. I hadn't even talked to my attorney
22 about it at that point.

23 (Whereupon, Plaintiff's Exhibit number 17 was marked
24 for identification.)

25 Q Now, I'm going to hand you what's been marked as

1 Plaintiff's 17. It appears to be a letter addressed to
2 you by Norman dated August 12, 2011. Are you familiar
3 with this letter?

4 A I am familiar with this letter.

5 Q All right. And what is this letter?

6 A This is a termination letter which moves us from
7 phase one to phase two.

8 Q Okay. And what was your understanding for how long
9 phase one was?

10 A At least 21 days while I considered the offer. I
11 mean, I had that long according to law, State law, I
12 think.

13 Q Okay. All right. So he moves to stage two to
14 termination?

15 A That's correct.

16 Q And what grounds does he lay out for your dismissal
17 here?

18 A He has three categories of grounds that he lays out.

19 Q Okay. Can you kind of go over those, each of these
20 categories?

21 A Category one allegations, and I'm reading directly.
22 September 24th and thereafter, events and their aftermath.
23 So that's the ambulance incident. That's the, oh, he says
24 that he is not going to include the discussions with,
25 well, I'd like to point out the outset one aspect of your

1 conduct that I have decided to exclude from the discipline
2 process. In particular, after the September 24th
3 incident, you took it upon yourself to criticize the
4 personnel and operations of the Erskine College Athletic
5 Training Program and Department of Athletics. I have
6 decided to extend to you a broad degree of latitude when
7 it comes to expressing this, these questions, I'm sorry.
8 When it comes to the expressing of questions, concerns and
9 any criticism about safety issues. While those were the
10 grievances that he was excusing me, he was not going to
11 include in the charges, but the grievances were the basis
12 of everything else that went on. So that I didn't
13 understand. So here are the allegations for, that it
14 would happen on that day. That I climbed wrongfully into
15 an ambulance that contained a student. That I pushed
16 aside emergency contact and unofficial guardian. That I,
17 you have denied these allegations. I find cause to
18 believe these allegations are true and probable cause.
19 Allegation three, I took it upon myself to advise a
20 student in a medical matter when that student was in the
21 presence of personnel and Ms. Shamy all of whom had more
22 authority in the matter than you did.

23 Q What advice or did you advise the student?

24 A I advised her to go to the hospital in the ambulance.

25 Q Okay. And we don't want to discuss that.

1 A Okay. Then, there is a discussion of those
2 allegations. In category two allegations, the special
3 grievance committee, which was the December committee. He
4 goes through a chronology. The allegations are these.
5 You said you had a unilateral right to refuse to answer
6 questions that you deemed not in keeping with the
7 standards of fairness and due process. Two, you
8 threatened the special faculty grievance committee and he
9 quotes me saying, You people are putting yourselves in
10 harm's way. This is going to go to court. You don't want
11 it here. You're putting yourself in harm's way. That's
12 what I'm trying to tell you. And he said, he
13 characterizes those in number three as threats. Your
14 threats had the effect you desired. And he says that, he
15 cites that Dr. Elsner resigned from the committee.

16 Q Hold on. Did Dr. Elsner resign from the committee?

17 A It is my understanding he sent a letter of
18 resignation from the committee to the President, but he
19 did sign the report, so I don't know.

20 Q Okay. Continue on. I'm sorry.

21 A And number four is a larger portion of the December
22 15th hearing. Transcript is made up of instructions by
23 you to the committee on how they should do their job. So
24 that's one of the allegations. I think that is all on
25 category two.

1 Q All right. This comment that you read that you
2 quoted from him, the letter quoted you, for the special
3 faculty grievance committee. What was your purpose in
4 telling him to do that?

5 A Well, as I said elsewhere in that same meeting that
6 they didn't have a background and they didn't know what
7 was going on. And this committee was designed to get me
8 fired. And that what he, Dr. Norman was looking for was a
9 way to fire me and that he was drawing them into that by
10 letting them know. And, in fact, when I said you're
11 supposed to adjudicate, they said, no, we're not supposed
12 to make any judgments. And then at that point, I pulled
13 up the letter from Dr. Norman to the committee that formed
14 it and it says adjudication. And Dr. Norman said later
15 that my job was on the line as early as that committee
16 met. But they were totally uninformed of the significance
17 of what was going on. And I understood what was going on
18 which is why I retained a lawyer. And I tried to
19 emphasize to them that this committee was not what it
20 appeared to be. And that it was unfair to them, because
21 they were put in the position of doing things without
22 understanding what was going to be done to the things they
23 were doing and it's not fair to them.

24 Q All right. And any other?

25 A There's a category three allegations which is

1 disloyalty and disparagement of the college and its
2 mission. And it quotes an excerpt from a day's long, a
3 many day's long discussion from a Facebook site that was a
4 closed Facebook on that site.

5 Q Okay. What sort of site was this?

6 A Erskine had, the controversy had been going on at
7 Erskine for several years, probably beginning, well, in
8 what's called the Snow Synod. And I forget the exact date
9 but that probably goes back to 2008-2009. I don't know.
10 But the direction of Erskine was changing and a lot of
11 alumni were upset, and alumni formed a group on Facebook
12 called, Alumni for Erskine, where all of the alumni would
13 write in and get news about what was going on at Erskine
14 at the time. And they were trying to, in their words,
15 keep Erskine the way it had been when they were students
16 there. And then a group, it was a closed group, and then
17 a group from that group also created another site called
18 Alumni for an Independent Erskine. And they had the same
19 concerns. They just wanted to go one step farther and
20 separate Erskine from the denomination that had started at
21 the ARP church, like Furman separated itself from the
22 Baptist church back in the '80's.

23 Q All right. And this quote that he has in here what,
24 can you explain the context?

25 A Well, there had been an ongoing discussion on,

1 between several members about what would be an effective
2 way to influence the administration and all sorts of
3 things were offered. By this time, alumni were already
4 making their voices felt, you know, in all I think there
5 are 11,000 living graduates from Erskine College, 11,000
6 alumni. And so, obviously, not all of them were going to
7 be active. But there were about 1,400 on the first site
8 and about 400 on this site. The discussion about what was
9 the effect of what they were doing. What could the alumni
10 do. And at this point in the discussion I said, this is
11 what I think the site does. And it was an analysis of the
12 different things they had talked about and especially
13 regarding the site and what effect it might have. As I
14 said, this was a closed site. You had to be invited to
15 join.

16 Q And he accuses you of blatant disloyalty to Erskine
17 College?

18 A I would certainly disagree with that. I thought I
19 was very loyal to Erskine College, especially the Erskine
20 College I had known my entire career.

21 Q Which is how long?

22 A I came and started teaching in the Fall of 1976.

23 Q Okay.

24 A Now, I did have disagreements with the current
25 administration and the current direction the Board of

1 Trustees was taking the college which I thought was not in
2 keeping with the way the college had been. That's not
3 disloyalty to Erskine, that is criticism of current
4 administration which is certainly allowed by anybody,
5 especially anybody who had academic freedom to speak about
6 issues that are important.

7 Q Okay. And would you have that as a tenured
8 Professor? Your position, would your position be that you
9 had academic freedom as a tenured Professor?

10 A Oh, yeah. All Professors enjoy academic freedom,
11 it's just the tenured Professors are more protected.

12 Q Okay. And did you, yourself, donate money to
13 Erskine?

14 A Actually, I had donated money that year. Part of the
15 chair that I occupied allowed me up to \$3,000.00 dollars a
16 year to spend on research materials and materials for the
17 classroom. And this year, that year I did not. In that
18 particular year 2000, in fact, the tax year preceding, I
19 did not submit, well, for us it really ended in the
20 Spring, because that's when the June 1/January 1 was where
21 the budget ran then. But I did not submit that year my
22 expenses which had totaled \$3,000.00 dollars and above.
23 And so that money would automatically go back to Erskine
24 to be used in the general fund.

25 Q So you're saying that \$3,000.00 dollars is money you

1 spent out of your pocket that you were entitled to get
2 reimbursement for?

3 A Correct, I would be reimbursed for that out-of-pocket
4 money.

5 Q And why did you not seek the reimbursement?

6 A Honestly, I knew that Erskine was in trouble and
7 needed money.

8 Q Now, on page two, if you'll flip to that.

9 A Okay.

10 Q There is discussion about a full hearing before a
11 faculty committee on the top of the page.

12 A Oh, yeah. Yes, I see it.

13 Q Okay. And when did you receive this letter on August
14 12th?

15 A I received this as an email. I remember receiving it
16 on a Friday. I don't know that August 12th was a Friday.

17 MR. JAMISON TINSLEY: I would ask the Court to take
18 judicial notice that August 12th was a Friday.

19 THE COURT: Of '11?

20 MR. JAMISON TINSLEY: For 2011.

21 THE COURT: Can we look it up? All right. Well,
22 I'll have Ms. McMahon look that up. Until she determines
23 that, I will take such notice.

24 A So I got it on a Friday, an email, well, this packet.

25 Q Okay. And what was your understanding of this

1 hearing process and what was required to happen?

2 A I have a memory of, I don't know if I actually, I
3 think I sent a letter to Robert. It was like dropping a
4 second bomb, because my understanding was that phase one
5 was open for 21 days while consulted with my lawyer. And
6 then we had negotiations with Erskine, because I wasn't
7 going to accept any kind of offer which would be a thick
8 sheet of legal papers with requirements without going over
9 every requirement with my lawyer. We had so far been, we
10 didn't have that and had certainly hadn't had a time to
11 meet yet. But, suddenly, while I think we're in the
12 middle of, we are in the middle of phase one, phase two is
13 suddenly dropped into the process. And I thought, my
14 initial thought was here's Erskine again violating
15 procedures to get, you know, whatever it wants or here's
16 the administration of Erskine doing that.

17 Q Okay. And this letter states a time for a hearing,
18 right?

19 A The letter set the time for the hearing, it did,
20 August 29th at 9:00 a.m.

21 Q Okay. And when were you supposed to request this
22 hearing?

23 A By Monday, well, two full weeks in advance which
24 would have put it Monday, if August the 12th is Friday.
25 13th, 14th, August the 15th, Monday at 9:00 a.m.

1 Q And so the following Monday at 9:00 a.m.

2 A The following Monday at 9:00 a.m.

3 THE COURT: Friday the 12th is correct of 2011, take
4 judicial notice is now taken and that was actually a
5 Friday.

6 Q Have you ever been in a point in the process where a
7 hearing was set before you had to, before you requested
8 it?

9 A No, and actually, right, no. The statement also says
10 I have a right to a hearing unless I waive it and I never
11 waived my right to a hearing.

12 Q Are you aware of any other tenured Professors being
13 terminated during your time at Erskine?

14 A No.

15 Q Did your conduct substantially impair your
16 fulfillment of institutional responsibility?

17 A I don't know what particular conduct is being
18 referred to nor what it would have affected, so my answer
19 would be no.

20 Q Okay. Well, specifically, any conduct on September
21 24th?

22 A Absolutely not.

23 Q Any conduct before the grievance committee?

24 A Absolutely not.

25 Q What about any conduct before the second committee

1 meeting?

2 A Absolutely not.

3 Q What happened after you received this August 12th
4 letter?

5 A I had the same kind of reaction I had before. I was
6 in disbelief. I just threw the whole thing on the desk
7 and walked out of the room. I got in touch with my lawyer
8 as soon as I could. I don't remember all the particulars
9 of that immediate time right now.

10 Q Okay. What was your status as far as being allowed
11 on campus at Erskine at that time?

12 A I don't remember if this is the document that did it,
13 I'd have to review it, but I was banned from coming on the
14 Erskine campus.

15 Q And where was your house, where is your house?

16 A My house is basically on the Erskine campus.

17 Q Okay. And how long have you lived in that house?

18 A 32 years.

19 (Whereupon, Plaintiff's Exhibit number 18 was marked
20 for identification.)

21 Q I'm now going to hand you what's been marked
22 Plaintiff's 18, a letter dated September 7th, 2011
23 addressed to you from David Norman. Are you familiar with
24 this document?

25 A I am.

1 Q And what is it?

2 A It is a letter making the termination, making my
3 firing formal or executing my firing.

4 Q Okay. And how long did he give you to retrieve your
5 property that was still on campus?

6 A It should be completed no later than by 5:00 p.m. on
7 Friday, September 6, 2011.

8 Q Okay. And what were the parameters around when you
9 could retrieve these items?

10 A I could only come in after 6:00 o'clock or 7:00
11 o'clock. I don't know 6:00 o'clock, probably, unless I
12 encounter any students. I don't remember whether they
13 wanted somebody there with me or not. They did want
14 somebody with me there is my impression. So somebody had
15 to there with me. Somebody had to agree to come back
16 after work and be with me. And I had to, it could be only
17 in the evening.

18 Q Okay. You had accumulated items over your 30-plus
19 years at Erskine?

20 A I had an office jammed, I had a large office, and it
21 was jammed with items, mostly books, thousands of books,
22 but a lot of other things, too.

23 MR. JAMISON TINSLEY: I'd move to introduce this
24 letter as Plaintiff's 18.

25 MR. KEIM: No objection.

1 THE COURT: And no objection to Plaintiff's 18.

2 (Whereupon, Plaintiff's Exhibit 18 was admitted into
3 evidence.)

4 THE COURT: Let's take a break. We have been going a
5 little over an hour. Don't talk about the case.

6 (Whereupon, the jury was excused from open court for
7 a break.)

8 THE COURT: We will take a break.

9 (Whereupon, a short break was taken.)

10 THE COURT: All right. If they're there, go get
11 them.

12 (Whereupon, the jury came into open court at
13 approximately 11:45 a.m.)

14 (Whereupon, Plaintiff's Exhibit number 19 was marked
15 for identification.)

16 CONTINUE DIRECT EXAMINATION

17 BY MR. JAMISON TINSLEY:

18 Q Dr. Crenshaw, I'm going to hand you Plaintiff's 19
19 which appears to be an email from Dr. Norman to you and
20 copying Robert Tinsley, dated August 10th. You familiar
21 with this?

22 A I am.

23 Q Is this the proposed announcement that you referred
24 to earlier?

25 A I don't know. There was more than one. It may be,

1 but there were a sequence of about three. So this is
2 probably, this could be the first one. It's just a little
3 later than I thought. But, yes, I'm familiar with it and
4 it is a premature press release.

5 Q Okay. Could you just read the first paragraph to us,
6 please?

7 A The very first paragraph?

8 Q Yeah.

9 A I want to inform you that Dr. Crenshaw and I have
10 mutually agreed to arrange his retirement from the faculty
11 of Erskine College. While the specific terms of our
12 arrangement will remain private, we agree that it
13 appropriately reflects Dr. Crenshaw's long service to
14 Erskine and enables us both to part ways in good
15 conscience.

16 Q Okay. And Dr. Norman drafted this agreement as far
17 as you know?

18 A As far as I know, but he asked me to look over it and
19 see if there is anything I want to add or take out.

20 Q And I said agreement, I believe, it's actually a
21 proposed release?

22 A Correct. Yes. Correct.

23 Q Were you already suspended at this point?

24 A I think I was suspended for the year. I think I'd
25 been told that in the meeting that I was not going to

1 teach during the Fall semester in any case.

2 Q Are you talking about the meeting on August 6th?

3 A Yes.

4 MR. JAMISON TINSLEY: I move to enter Plaintiff's 19
5 into evidence.

6 MR. KEIM: No objection.

7 THE COURT: Without objection 19 is entered.

8 (Whereupon, Plaintiff's Exhibit 19 was admitted into
9 evidence.)

10 Q And from those early conversations or emails with
11 Adam Weyer, after that did you ever have any contact with
12 any of the original complainants?

13 A Yes, I did. I had contact with Gid Austin and I
14 think he's the only one.

15 (Whereupon, Plaintiff's Exhibit number 20 marked for
16 identification.)

17 Q I'm going to hand you what's been marked as
18 Plaintiff's 20. There is an email correspondence on
19 December 16th between you Gid Austin?

20 A That's correct.

21 Q Are you familiar with this?

22 A Yes, I am.

23 Q Okay. What is, you know, what's the purpose of this
24 conversation?

25 A This to me was sent because when I went to the

1 meeting of the special committee, Gid's complaints against
2 me weren't there, weren't presented. And so what I tell
3 Gid is, yesterday I met with the special committee that
4 President Norman set up to deal with the grievances. I
5 thought you ought to know that your grievance wasn't sent
6 to the committee, only Adam's and Mark's was. I'm
7 assuming that you wanted them to consider your grievance
8 also. And now don't get me wrong, I'd rather not, let me
9 slow down. I'm sorry, I got my accelerator going again.
10 Now, don't get me wrong, I'd rather not have to deal with
11 any grievance, but yours were in the pipeline. And,
12 frankly, I want the opportunity to be able to refute them.
13 As I said, I'm assuming that you still want yours to be
14 heard. I just thought you ought to know what the
15 situation is. And signed it, Bill.

16 And he replies, Thanks, Bill. I haven't given the
17 issue much thought since I sent in the grievance. I'll
18 ask about it, but I'm pretty sick of the whole thing.
19 Signed, Gid.

20 Q Okay. Is this the only contact you had with any of
21 those complainants?

22 A That's correct.

23 Q Okay.

24 MR. JAMISON TINSLEY: I move to enter Plaintiff's 20.

25 MR. KEIM: No objection.

1 THE COURT: And no objection to 20.

2 (Whereupon, Plaintiff's Exhibit 20 was admitted into
3 evidence.)

4 Q Was there ever any kind of determination made to your
5 knowledge regarding those original complainants?

6 A There was never any determination made about those
7 accusations, no.

8 Q Now, can you describe to us what effect this
9 termination had on you?

10 A Well, it certainly changed everything. I mean, my
11 wife had just retired that year and we had plans laid out
12 for what the next few years might bring, including working
13 on the house in Due West to be able to sell it when I did
14 retire. And then we would be able to put money into the
15 summer house at, summer cabin to make it into a full-time
16 residence after that. Diane had particular plans about
17 what she was going to do with friends and family. I
18 certainly expected to be teaching several more years. My
19 colleague, Joan Little, who came the same year I did and
20 who is about five years older than I am is still teaching
21 there. I don't know that I would have taught until I was
22 in my 70's, but certainly I would have taught longer than
23 I did. I spent all of my time trying to gather
24 information and material trying to under, about what had
25 gone on the last year trying to, sending letters to my

1 lawyer. When we initiated the lawsuit, I hoped that the
2 lawsuit would be heard quickly, but it will be four years
3 this August the 6th when this process all started. And
4 you can describe it as basically a life in turmoil.

5 Q Okay. What effect did it have on your writing?

6 A I haven't, writing has been an important part of my
7 life, and I've not been able to do any really since that
8 time.

9 Q And what do you attribute that to? What do you
10 attribute your inability to write to?

11 A Well, even when I was an active paramedic and
12 teaching a full load at Erskine, I was able to write, so
13 it's not for lack of time. I had a lot more time I could
14 write now, but I think it was getting fired and
15 everything. Everything was now focused on getting fired
16 and having to deal with living in a very small town like
17 Due West which, essentially, I couldn't even walk across
18 because I was on one edge and my house was one part of
19 campus. And the rest of the town is on the other part.
20 Feeling like I was some sort of felon at the school I had
21 taught at for over 30 years and not even allowed to set
22 foot on campus. All relationships with students was cut
23 off. You know, at Erskine, that's a big part of things is
24 you concentrate on students. What I think is whatever
25 writer's block I got, I got because of this. It didn't,

1 it didn't exist before this.

2 Q And you have made a claim for intentional infliction
3 of emotional distress. What conduct on Erskine's behalf
4 do you base that claim on?

5 A I can't imagine any other reason for calling me back
6 and firing me when I've just taught a class of students on
7 the first day. And, essentially, the first day of my
8 school with freshmen and that would be another week or two
9 before the actual two weeks before the other students came
10 back and had full classes. But this is, I was already in
11 the process. I had courses laid out. I can't think of
12 any reason to delay it until after I had taught that class
13 except to be extraordinarily hurtful, except to try to
14 upset me as much as they possibly could and that was
15 effective. I was upset.

16 Q How specifically did it affect you?

17 A Well, I had the meeting with Dr. Norman was outraged
18 and angry the whole time. I was outraged for the
19 student's sake that they had had their plans ripped out
20 from under them. I was upset for the English Department's
21 sake because I knew no plans had been made to cover my
22 classes. They hadn't been. Again, I can't think of a
23 legitimate reason to set me up like that, to meet me as I
24 go to meet my students and then to say after I've met my
25 students you're fired when a simple phone call, a simple

1 letter. We're in Due West back and forth all the time
2 from the mountains. There was nothing to prevent me from
3 driving two and a half hours down to Due West. I did it
4 for meetings any way. I had done it that day. I had done
5 it that Saturday to drive down and meet my students. So
6 there was no other reason that they did this that I can
7 see was to intentionally shake me up. I think it's a way
8 to shake me up and make the meeting go more in the
9 direction they wanted it to go. We could have talked
10 about all this. We never did. Now, as I said, Dr. Norman
11 never communicated with me about any of this except in the
12 formal letters you have introduced until August 6th.

13 Q Okay. And how much money were you making at Erskine
14 at the time of your termination?

15 A About \$70,000.00 dollars a year.

16 Q And how many years do you, are you claiming that this
17 termination deprived you of?

18 A I was thinking of teaching at least five more years.

19 Q Okay.

20 A I mean, that would give us an ample time to pay off
21 some debts, to put some money into the house in Due West
22 prior to selling it and maybe to start putting money into
23 the house that we wanted to move into eventually.

24 Q Okay. And were you earning retirement benefits at
25 Erskine?

1 A I did have, I was with Erskine retirement benefits
2 with TIAA, Teachers Insurance and Annuity Association and
3 I had been on that plan since I had been there. So, yes,
4 Erskine did make contributions to my retirement every
5 month.

6 Q How much were these contributions?

7 A Well, they weren't much and I don't remember exactly.
8 But they, over the years, they were supposed to build up
9 enough so that I would have something besides Social
10 Security to draw on.

11 Q Can you ball-park it for us how much you were drawing
12 each year in retirement benefits?

13 A I don't know. I really can't. I'm sorry. I can dig
14 out an old paystub and we can see what it is.

15 Q Okay.

16 A I was also putting away a chunk of my salary, about
17 \$300.00 dollars of my salary every month to go into this.
18 I had to withdraw a lot of that immediately after being
19 fired just to cover living expenses.

20 Q Did they give raises at Erskine, what was that, for
21 instance?

22 A Not often. In fact, three different times that I
23 have been there, salaries had been frozen for about five
24 years and we were in a period like that now. So my salary
25 had been about that for several years.

1 Q Okay. Did you anticipate that that freeze would be
2 lifted?

3 A Well, it had been about five years, so I had hoped
4 that this would be the year that it would be lifted, yeah.
5 That would be the year.

6 Q Okay. And how much did you, how much were you making
7 at Erskine when you started teaching there?

8 A I think \$14,000.00 dollars maybe.

9 Q Okay.

10 A That was the initial salary.

11 Q All right. What steps did you take after being
12 terminated or what'd you do for income?

13 A Well, we withdrew about \$50,000.00 dollars from my
14 retirement which, of course, then stopped earning anymore
15 interest, just to cover living expenses. I just put it in
16 an IRA account so I could draw it down and then deposit it
17 in the bank as we needed it. I went on Social Security
18 and those payments, I went early on Social Security which
19 we had not planned to do. My wife had, was retired, so
20 she got a retirement check from the State. She's a
21 retired high school teacher, so she got those benefits and
22 then when she was eligible she went on Social Security
23 also.

24 Q Explain to the jury what going on Social Security
25 earlier, what that does to your benefits?

1 A If you take, wait till you 65, my understanding is,
2 you know, it's confusing as anything to me. But my
3 understanding is if you wait till you're 65 to take your
4 Social Security, you'll get highly month, you'll get
5 higher monthly benefits from Social Security than you will
6 if you take it at 63.

7 Q Okay.

8 A We didn't have really the luxury of waiting at that
9 point.

10 Q Did you take any steps to, what steps did you take to
11 find other employment?

12 A Well, I knew employment was going to be very limited.
13 But there was always a chance, and I started exploring the
14 local communities, local areas for employment
15 opportunities. Looking at websites, going specifically to
16 college pages where they would each have a, jobs page
17 where it showed which faculty positions were available.
18 And I put out feelers to friends at other colleges that if
19 something opened up at their college to please let me
20 know. There was really nothing available and the other
21 problem is I'm a 63 or I forget, well 2011, 62-year-old
22 college Professor, a 63-year-old college Professor, a full
23 Professor, tenured in a faculty chair. My specific area
24 of expertise was English Literature before 1660, although
25 I had done a lot more teaching in areas besides that.

1 Those were my technical qualifications. And if you look
2 for a job that wants somebody like that, you're not going
3 to find it. If a college had an opportunity to get
4 somebody in my field, at that point, they're going to hire
5 me and then have to pay me basically equivalent to what I
6 was earning at Erskine which would be less than what that
7 college was probably anyway. Or they could hire a new
8 assistant Professor who's fresh out of school for
9 significantly less. Plus the idea that that assistant
10 Professor was a potential candidate to stay at that school
11 for a long time, whereas, I as a 63-year-old candidate was
12 unlikely to commit to the college for very long. So the
13 job market really doesn't exist for people in their 60's
14 moving between colleges unless, I mean, if you were famous
15 enough or specialized enough so you'd get invited to guest
16 lectureships across the country. That's different and
17 that wasn't me. I wasn't that type.

18 Q You didn't get any invitations. You mentioned
19 putting out inquiries to people at other colleges. Can
20 you give us any example of any college?

21 A Lander; I have a friend teaching in the English
22 Department at Lander and Professors and administrators had
23 left Erskine to go to Lander. Wofford; I graduated from
24 Wofford. Several Erskine faculty members had left Erskine
25 to go to Wofford. Those are the two primary ones that I

1 had friends at. S.C. Spartanburg, it's not Spartanburg
2 anymore, it's the Upstate Carolina I think is what it's
3 called.

4 Q USC Upstate?

5 A Yeah. Right. And then certainly I looked at all of
6 the colleges in South Carolina, Georgia, North Carolina,
7 that area.

8 Q What particular responses did you get from Wofford
9 and from Lander?

10 A Well, the, nothing came out. I mean, the idea if I
11 know somebody in an English Department like at Wofford or
12 Lander which I did, they will know before it hits the
13 presses, so to speak, they'll know of an upcoming vacancy
14 that they could give me a heads up on it. And there were
15 none. Also in the Fall of 2011, I mean, yeah, Fall of
16 2011, all the jobs are filled by then. The hiring for
17 that academic year went on the previous year. So even if
18 I had found a job, it'd have been a year before I got it
19 and certainly there was no way we could afford to pick up
20 and move to another city under these circumstances, no
21 salary, having a house that needed work before we could
22 sell, that sort of thing.

23 Q What about your writing, did you try, I know you've
24 testified about writer's block. Is that a realistic way
25 for you to earn income?

1 A No. My writing has been short stories. I've
2 published 25 or 30. I get paid at least on a good day
3 about a nickel a word, so the most I ever made from a
4 short story is about \$1,400.00 dollars. I have not
5 attempted, I mean, I've written a play and a screenplay.
6 But those were just for kind of practicing the, plays did
7 get locally produced. I have not written a novel. That's
8 where the money is and that's rare anyway because most
9 novelist don't sell their novels and certainly at first.
10 But one thing I wanted to do in retirement was try to try,
11 was to try the longer form. But right now, I'm still
12 working on short stories that I can't, I mean, I'll try to
13 start up again and they go nowhere. So it's not like I
14 don't write, it's just that I don't complete.

15 Q Could you just give us, for our record, what your
16 date-of-birth is?

17 A I beg your pardon?

18 Q Could you just give us, for the record, your
19 date-of-birth?

20 A Date-of-birth, March the 7th, 1948.

21 Q Okay. And how long have you been a resident of
22 Abbeville County?

23 A Since 1976. Since the Fall of 1976.

24 Q And there was, yesterday I went over your background.
25 I think I might not of clarified what the, what your

1 military background is.

2 A I was in ROTC at Wofford. I was at the Air Force
3 Academy for two years first, and then I transferred to
4 Wofford because the Academy didn't offer the major in the
5 field I wanted to. And so at Wofford, I switched from the
6 Air Force. They didn't have an Air Force ROTC, so and
7 they had Army. So I joined the Army ROTC and our
8 graduation was assigned to field artillery. I'd had an
9 application in for a Masters, so I had a two-year
10 deferment for a Master's Degree. And in the Fall of 1972,
11 that deferment was over and so I signed up to go to Fort
12 Sill, Oklahoma for officers training in field artillery.

13 Q And did any of your actions constitute adequate cause
14 for termination?

15 A No, in my opinion, absolutely not.

16 Q And what was your final rank in the military?

17 A Final rank was a First Lieutenant. You know, when
18 you are commissioned at the, when you're in ROTC, you're
19 made a Second Lieutenant automatically. And I, the time I
20 had spent in deferment was enough so that while I was at
21 Fort Sill I was promoted to First Lieutenant.

22 Q Okay. And what was your status when you--

23 A -- still 1st Lieutenant. It would have been, the
24 next rank would have been Captain. And had I remained in
25 the military at that time that would have been the next

1 rank and would probably be another three years before
2 Captain.

3 Q What was your discharge, Honorable?

4 A Honorable Discharge.

5 MR. JAMISON TINSLEY: No further questions, Your
6 Honor.

7 MR. KEIM: Your Honor, I'm not sure that Exhibit 17
8 was offered into evidence? I had an objection to it.

9 THE COURT: Well, I'll tell you what we'll do. Why
10 don't we break for lunch for the jury and hear that real
11 quick. And then we'll have y'all back in the jury room at
12 1:00, by 1:30. That way we'll start back at 1:30
13 promptly. So you can't begin discussing the case and
14 y'all can go ahead and go to lunch and we'll take up this.

15 (Whereupon, the jury was excused from open court for
16 a lunch break.)

17 THE COURT: All right. Joy, make sure I'm right.
18 17, 18, 19, are any of those in?

19 COURT REPORTER: 17 has not been put in, but 18, 19,
20 we are at 1-20. 1 and 17 have not been put in.

21 THE COURT: All right. And 17 was the long letter
22 for termination.

23 MR. KEIM: Right.

24 THE COURT: With several of the categories?

25 MR. KEIM: And simply it's just that it's the letter

1 and not, there's 16 attachments. I mean, as long as
2 that's the, we're in agreement that it's just the 9 pages
3 of the letter and not the 16 exhibits, then I have no
4 objection to its admission.

5 THE COURT: Okay. The nine-page letter is in.

6 MR. JAMISON TINSLEY: Yeah, I'm in agreement with
7 that. Also I don't think number 1 went in.

8 THE COURT: And y'all have been very, very agreeable
9 to letting everything in, so is 1 in?

10 MR. KEIM: I don't even remember what 1 is.

11 THE COURT: 1 was just 9 pages of 17.

12 MR. JAMISON TINSLEY: One was the letter--

13 MR. KEIM: Right. As long as I'm, yeah, I mean, I'll
14 put the rest of it in.

15 MR. JAMISON TINSLEY: 1 was the letter from Brad
16 Christie to Adam, Mark and, Gid returning the matter to
17 them after it had been returned by Tracy Spires.

18 MR. KEIM: Okay. No objection to 1 coming in.

19 THE COURT: Okay.

20 MR. KEIM: And what was the other one?

21 THE COURT: Everything is in?

22 MR. KEIM: No, sir.

23 COURT REPORTER: 17.

24 MR. KEIM: Okay. But we got, we got 17 already.

25 THE COURT: 17 is just a 9-page letter without the

1 attachments.

2 MR. KEIM: All right.

3 THE COURT: Okay. We're good. All right. See y'all
4 back here shortly.

5 (Whereupon, Plaintiff's Exhibits 1 and 17 were
6 admitted into evidence.)

7 (Whereupon, a lunch break was taken.)

8 THE COURT: Bring them in.

9 (Whereupon, the jury came into open court at
10 approximately 1:30 p.m.)

11 THE COURT: All right. Hope y'all enjoyed lunch.
12 It's time to continue. Mr. Keim.

13 MR. KEIM: Thank you, Your Honor.

14 THE COURT: Oh and hang on a minute, Mr. Keim, real
15 quick. We had an issue on some of those exhibits, and we
16 were all in agreement they're all in, 1 through 20. We
17 just hadn't formally said it on the record. So everything
18 that the lawyers have discussed, they've agreed on all the
19 exhibits thus far.

20 MR. KEIM: Thank you, Your Honor.

21 THE COURT: You're welcome.

22 CROSS-EXAMINATION

23 By MR. KEIM:

24 Q Dr. Crenshaw, on direct examination you gave some
25 lengthy testimony about your experience as an EMT, do you

1 recall that?

2 A I am sorry. Could you repeat that, please?

3 Q I said on direct examination you gave some lengthy
4 testimony about your experience as an EMT, do you recall
5 that?

6 A I do.

7 Q You don't recall that?

8 A I said I do recall that.

9 Q Oh, you do. Okay. All right. Let me know if you
10 have any trouble hearing me and I'll speak up.

11 A Okay. Thanks.

12 Q All right. What was the year that you ceased being
13 an active EMT?

14 A 1982. Well, did you say begin?

15 Q When did it end?

16 A End? My last paramedic certification thing ran out
17 in 2000.

18 Q All right. And did you take any EMT-related courses
19 after the year of 2000?

20 A No.

21 Q During the time that you're an EMT from 1982 until
22 2000, was there any occasion where your recertification
23 training resulted in learning new techniques for treating
24 injuries?

25 A I would say every recertification taught new

1 techniques.

2 Q So there would be, that would be on an ongoing basis?

3 A Yes.

4 Q Are you aware that the person who's been referred to
5 as Olivia's guardian was, in fact, her emergency contact
6 at the school?

7 A Am I aware of that?

8 Q Yeah, were you aware of that?

9 A Was I aware of that? No, I was not aware of that.

10 Q Olivia made it clear she wanted to see the team
11 trainer and go to the team physician, didn't she?

12 A I'm sorry. Could you repeat any of the first part of
13 the question?

14 Q I said did Olivia make it clear to you that she
15 wanted to see the athletic trainer and go visit the team
16 physician?

17 A No.

18 Q She didn't make that clear to you?

19 A No.

20 Q And what about in the back of the ambulance, did she
21 not make that clear to you?

22 A No.

23 Q Did she say that to you?

24 A I couldn't say exactly what she was saying, because
25 she was crying. I know that's what the athletic trainers

1 were saying. And I know that's what her unofficial
2 guardian was saying. But I can't swear as to what the
3 patient was saying.

4 Q During the time that the EMT's were in your
5 classroom, did anyone from the athletic training
6 department arrive at your classroom?

7 A No one entered the classroom to my recollection.

8 Q What time did the 8:00 o'clock class end that
9 morning?

10 A At 8:50.

11 Q All right. And after Olivia was removed from the
12 class did you continue to teach for the remaining time of
13 your class?

14 A She actually wasn't removed from the class until
15 class change.

16 Q Okay. And then I believe you gave some testimony
17 that this is the last day to drop or add some classes
18 subject--

19 A I think it, I'm sorry, I didn't mean to interrupt.

20 Q Well, let me finish if you don't mind. Therefore,
21 there was an issue which necessitated your going to the
22 Registrar's Office, is that correct?

23 A A student had a question and the quickest way for me
24 to answer it was to go up to the Registrar's Office, yes.

25 Q All right. And so you went to the Registrar's

1 Office?

2 A I did.

3 Q I believe your testimony is you observed through a
4 window that the ambulance was still outside of Belk Hall,
5 is that correct?

6 A It was.

7 Q All right. And did you get an answer to your
8 question at the Registrar's Office?

9 A No. We broke off the conversation and I ducked
10 outside.

11 Q All right. So as soon as you saw that, would it be
12 fair to say that you immediately went outside to see what
13 was going on?

14 A Well, we had a little conversation with the Registrar
15 and the Assistant Registrar and the Dean's assistant
16 before I went out. I didn't see the ambulance and run
17 out, no.

18 Q All right. So you saw the ambulance, you had a
19 conversation and then you left?

20 A I'm sorry. Repeat that?

21 Q I said you saw the ambulance out the window?

22 A I saw the ambulance, yes.

23 Q You had a conversation?

24 A A brief conversation.

25 Q With the people you identified, and then you went

1 outside?

2 A That's correct.

3 Q Why did you, why did you wait to go outside?

4 A Why did I wait to go outside?

5 Q Yeah. Yes, sir.

6 A There was no emergency reason for me to hurry to go
7 outside.

8 Q Now, once you arrived at the scene and what I mean by
9 the scene is the area in proximity to the ambulance.

10 A Okay.

11 Q So do we agree on that?

12 A Yes, true.

13 Q All right. And once you arrived there, you
14 interjected yourself into whether or not Olivia was going
15 to be transported to the hospital, didn't you?

16 A No.

17 Q You had a conversation with Brad Christie about that,
18 didn't you?

19 A That was later.

20 Q But the ambulance is still there when you had that
21 conversation, right?

22 A Yes, right.

23 Q And didn't you indicate to Mr. Christie that he had
24 no business there?

25 A I'm not following your time sequence here. This was

1 late in the, late in the sequence at the, as you describe
2 it, the scene. That did not happen right away. You asked
3 if I ran down and interjected me into the process and I
4 said no, because I did not.

5 Q Right. Well, my question is, is that at some point
6 did you have a conversation with Mr. Brad Christie in
7 which you told him he had no business there?

8 A I did.

9 Q All right. And that was still while the ambulance
10 was there?

11 A It was, in fact, in the ambulance.

12 Q Okay. Now, I believe you testified that Adam Weyer
13 was present at some point at the ambulance, is that
14 correct?

15 A I said I believed he was. I could not swear to that.

16 Q Okay. Are you aware of whether Mr. Weyer rode with
17 Olivia in the rear of the ambulance?

18 A I am not.

19 Q All right. Following this event, you exchanged
20 emails with Mr. Weyer and others regarding the ambulance
21 incident, correct?

22 A I exchanged emails with Mr. Weyer, and I sent copies
23 to others. I don't believe there was an exchange with
24 anybody else in that, about that incident except for a
25 letter sent later to the chairman of the faculty in, about

1 more general concerns than just that incident.

2 Q All right. And if you would your counsel had you
3 testify about this exhibit on your direct examination and
4 it's Plaintiff's Exhibit 8. If you'd take a look at
5 Plaintiff's Exhibit 8, I'd appreciate it.

6 A Okay.

7 MR. KEIM: May I approach the witness, Your Honor?

8 THE COURT: Sure.

9 Q Dr. Crenshaw, I show you what's been previous,
10 previously marked as Plaintiff's Exhibit 8, which is an 8
11 page exhibit. The first page has an email from you
12 regarding the subject matter of Olivia Lawnick dated
13 September 24, 2010 at 5:13 p.m. Do you see that?

14 A I do.

15 Q All right. And is this an email that you sent to Mr.
16 Adam Weyer?

17 A That's correct.

18 Q All right. And you copied a number of other folks,
19 didn't you?

20 A I did.

21 Q All right. And who are the other people that you
22 copied?

23 A The Academic Dean, Brad Christie; the Student Dean,
24 Robin Agnew; and the President, David Norman.

25 Q All right. And the first line of your email to Mr.

1 Weyer indicates, and I'll just read it into the record and
2 then you indicate whether I read it accurately. And it
3 says, Liv almost fell through the cracks today. Did I
4 read that correctly?

5 A You did.

6 Q All right. And then the third sentence you're
7 suggesting that the administration or to the
8 administration that your protocol program come under
9 serious medical and legal scrutiny. Is that correct?

10 A That's correct.

11 Q And you indicated, your protocol, correct? Isn't
12 that what it says?

13 A That's correct.

14 Q All right. And you're addressing this to Mr. Adam?

15 A Mr. Weyer, correct.

16 Q Mr. Weyer. Okay. So you're indicating that his
17 protocol needs to be, needs to come under scrutiny,
18 correct?

19 A That is correct.

20 Q All right. And if you would turn for me to the
21 fourth page, well, actually, let's start on the fifth
22 page, please.

23 A Okay.

24 Q All right. And this is the email referring to at the
25 bottom of the page that says that on September 25, 2010 at

1 12:10 a.m., are you at the right place?

2 A No, I don't think so.

3 MR. KEIM: May I approach the witness, Your Honor?

4 THE COURT: Sure.

5 A Yeah, please. This page?

6 Q Yes, sir. I'm reading right there.

7 A Right here. Okay.

8 Q It says that, On September 25, 2010 at 12:10 a.m.,
9 Weyer at erskine.edu wrote, do you see where I'm reading
10 from?

11 A I do.

12 Q All right. Now, this is an email that Mr. Weyer
13 wrote to you, correct?

14 A That is correct.

15 Q All right. And this was in response to your email to
16 him, correct?

17 A That is correct.

18 Q All right. Now, in this Mr. Weyer indicates at the
19 next to last sentence to you that the protocol that the,
20 Mr. Weyer and his department uses is exactly what the NCAA
21 wants in regard to concussion protocols. Is that what it
22 says?

23 A That's what it says.

24 Q All right. And were you familiar with the NCAA
25 concussion protocols in 2010?

1 A No, I wasn't.

2 Q All right. And you responded to him, did you not?
3 If you'd turn back to the prior page.

4 A Go ahead and turn to the next page?

5 Q No, no, page 4.

6 A I responded, I couldn't respond on page 4, because
7 that precedes this letter.

8 Q Well, that's what I'm indicating is that you have,
9 look at the time, on September 25th, 2010 at 12:01 a.m.
10 Do you see that at the bottom of page 5?

11 A Yeah, that's Adam's, that's the time Adam sent me
12 this letter.

13 Q Okay. So if you back up one page.

14 A Right.

15 Q And this exhibit was introduced in your
16 case-in-chief. This is your exhibit, okay?

17 A That's correct.

18 Q All right. So if you look at the top of page 4 it
19 says, from Bill Crenshaw regarding Olivia Lawnick and
20 there is a date there, correct?

21 A That's correct.

22 Q And it's September 25, 2010 at 10:19 a.m.

23 A That's correct.

24 Q So that would have been after Mr. Weyer sent his
25 email to you?

1 A It's out of sequence if it is. This says 12:10, I
2 see what you're saying. It says 12:10 a.m. here. Okay.
3 I'm fine. I'm following you now. I was looking at the
4 sequence wrong.

5 THE COURT: This is a email chain printed that shows
6 reverse--

7 MR. KEIM: That was put in; yes, sir.

8 THE COURT: Reverse chronological communications?

9 MR. KEIM: Yes, sir.

10 THE COURT: Okay. So it's an email chain that prints
11 up in backwards order, with most recent the first and the
12 last and the initial one last?

13 MR. KEIM: Right.

14 THE COURT: I'm with you.

15 MR. KEIM: I'm just trying to be sure that we're
16 clear on, on the sequence here.

17 Q Now, is this an email that you wrote to Adam Weyer on
18 September 25th at 10:19 a.m.?

19 A It is.

20 Q All right. And you copied, who did you copy on that
21 email?

22 A The same group: the Dean of students, the Dean of
23 Academics and the President.

24 Q All right. And in the second paragraph there you
25 indicate to Mr. Weyer that you're not talking to him as an

1 English teacher, don't you?

2 A I do that and there's something missing from this
3 sequence, because that's a direct response to something he
4 said. And the letter that I'm responding to does not
5 appear in this stack. So this sequence is incomplete.

6 Q Well, this is a exhibit that your counsel put into
7 evidence. Are you telling me something is missing from
8 this?

9 A Well, if you look at the first paragraph it says, you
10 say, I don't tell you what to teach in English or teach or
11 not teach in your English class. And I'd appreciate you
12 telling me not how, me how to, I'm sorry, I would
13 appreciate you not telling me how to do my job. So he is
14 quoting, I am quoting from a letter that he sent me in
15 which he said those words.

16 Q All right.

17 A So this is a response--

18 Q And I don't want this to get too tedious but I want
19 to, but I want to be sure we're not missing something.

20 A The point is for me that without the entire sequence,
21 I don't know what the relationship of these other two
22 letters are.

23 Q I'm going to help you. I'm going to try to help you,
24 okay?

25 A Well, you didn't know that was missing.

1 Q Well, now this, if you'll turn back to the next page
2 of Plaintiff's Exhibit, and you will read the third to the
3 last sentence of Mr. Weyer's email to you into the record,
4 please, it begins, I don't tell you what to teach. You
5 see that sentence?

6 A And what, what page are we looking at?

7 Q At the bottom of page 5.

8 A Oh, there is the, okay. Yes, I see it. I beg your
9 pardon and that does show I was responding to this letter.
10 Thank you.

11 Q Just would you read it into the record so it's clear
12 that it's in there?

13 A Yeah, sure. I don't tell you what to teach or not
14 teach in your English class and I would appreciate it if
15 you would not tell me how to do my job.

16 Q All right. So if we turn back to your email in
17 response to Mr. Weyer in that second paragraph, you
18 indicate that you're speaking to Mr. Weyer as a paramedic
19 with over 18 years of experience. Is that correct?

20 A That's correct.

21 Q The last experience coming 10 years prior to this
22 date?

23 A That's correct.

24 Q Now, this was on, the event transpired on Friday,
25 September 24, correct?

1 A That's correct.

2 Q All right. And this email exchange is on Saturday,
3 September 25th?

4 A That's correct.

5 Q Is that right?

6 A That's correct.

7 Q Okay.

8 (Whereupon, Defendant's Exhibit 11 was marked for
9 identification.)

10 MR. KEIM: Approach the witness, Your Honor?

11 THE COURT: Yes, sir.

12 Q All right. Dr. Crenshaw, I show what's been
13 previously marked as Defendant's Exhibit 11 which is a six
14 page exhibit and ask if you recognize that document?

15 A Yes, I do.

16 Q All right. And what is this document?

17 A This document is a posting I put up to the two
18 classes who were involved in this, in this situation who
19 witnessed the transport.

20 Q This is a blog posting? Is that fair to call it a
21 blog posting?

22 A No, well, it is a specific blog posting. That is
23 these are blogs, they were posted in, notice that this
24 says, it was two specific blogs. And this is the second
25 class. Two specific blogs for one section of class at

1 8:00 o'clock and one section of class at 9:00 o'clock.

2 Q All right. And what's the heading of the blog?

3 A A Reintroduction.

4 Q All right. And what's it say above that at the top
5 of the page on Defendant's Exhibit 11?

6 A Page one of six?

7 Q The top of the very first page?

8 A Hot Topics. Cool Heads. B.

9 Q And the letter B?

10 A Yeah.

11 Q All right. Who would have, who would have written
12 that?

13 A I wrote that.

14 Q You wrote that.

15 A Well, that's actually the name of the blog.

16 Q Okay.

17 A And B means it's the 9:00 o'clock class, not the 8:00
18 o'clock class. The name of the class is Hot Topics. Cool
19 Heads.

20 Q Okay. All right. And then when was this posting
21 made?

22 A The post was made on the 25th of September, 2010.

23 Q All right. So that's the Saturday after the EMT
24 event?

25 A That is correct.

1 Q All right. And if you would start on the third page
2 of the exhibit, there's a lengthy description there of
3 your EMS experience, is that correct?

4 A That's correct.

5 Q All right. And there is a, on the next page which is
6 the fourth page it indicates in there, I want to be sure I
7 understand this. Third from the last paragraph starts, it
8 says, So that you will know that if I call an ambulance
9 for a student, I do so based on extensive training and
10 extensive experience on the street in emergency medical
11 situations. Is that what it says?

12 A It does.

13 Q All right. And I think it's clear now you said you
14 didn't call EMS?

15 A I beg your pardon?

16 Q You didn't call EMS on the event concerning Olivia,
17 did you?

18 A I did, indeed. I called for EMS. I called the Dean
19 and asked her to call EMS.

20 Q Right. Right. But what I'm saying is you didn't
21 dial 911?

22 A I did not dial 911.

23 Q Okay. All right. And then the next paragraph
24 indicates the same, when I call for an ambulance. That's
25 the same answer, right? You called the Dean to have her

1 call the ambulance?

2 A I called for an ambulance. I called the Dean to ask
3 her to call for an ambulance, that's true.

4 Q Okay. Are you aware of whether or not Dr. Weyer, I
5 mean Adam Weyer or any of the other athletic trainers were
6 aware of this blog at the time that they wrote their
7 grievance letters?

8 A If they were aware of it, it was because someone gave
9 them the password.

10 Q Okay. You don't know whether they were aware or not?

11 A No.

12 Q But they could have gotten access to this
13 information?

14 A They could've gotten access to this information.

15 Q So at the time that the grievance letters were
16 written, it's entirely, I mean it's possible that they had
17 that information?

18 A It's possible.

19 Q All right. And you wrote the entirety of the first
20 four pages of Defendant's Exhibit 11, is that correct?

21 A Yes, I did. I'd written the first two pages some
22 weeks before when I first got my list of students. I put
23 those blogs up then. The students were given the blog
24 page so we could start talking that far ahead before the
25 semester began.

1 Q All right. So the first four pages, though, are in
2 your writing?

3 A All of it's in my writing.

4 Q Well, let's look at the last two pages.

5 A Okay.

6 Q Is it true that the last two pages are not your
7 writing?

8 A Well, sir, you're confusing two things. You asked
9 about the blog. I did write the blog. These are comments
10 made on the blog.

11 Q Right. I asked about the first four pages of the
12 exhibit.

13 A Which was the blog and which I did write.

14 Q Okay.

15 A I never claimed to have written the comments.
16 They're clearly from students.

17 Q Right. Well, I was getting ready to ask you about
18 the last two. That's why I only asked about the first
19 four.

20 A Well, have I answered the question?

21 Q Yeah. You indicate you wrote the first four pages,
22 right?

23 A Okay. Yes, I did. Let me make sure.

24 Q And the last two are written by students?

25 A The last two are, well, they are written by students.

1 They're student comments. They are not blogs if that
2 makes sense.

3 Q That makes sense.

4 A Okay.

5 Q And is there an educational requirement for Hot
6 Topics, Cool Heads, that the students review this blog and
7 leave comments?

8 A They generally, they are encouraged to leave comments
9 and, certainly, not all of them did as you can see. Only
10 one, two, three, four, five, six. The class is a class of
11 12, so half of them left comments.

12 Q That would have been at the time that this was going
13 on?

14 A I assume so, and there is no indication as to when
15 that was.

16 Q Well, the last comment on there is September 27th at
17 8:20 p.m., correct?

18 A That's correct. So there could have been more after
19 that.

20 Q Now, your counsel has introduced the grievance letter
21 filed by Mr. Weyer and Mr. Peeler, correct?

22 A Yes.

23 Q Do you remember seeing that during your direct
24 testimony?

25 A I do.

1 Q All right. And wasn't there a concern that they had
2 with the fact that you had indicated that their actions
3 had endangered the students?

4 A I told that to Mr. Weyer directly that his actions
5 had endangered students in a letter you've already
6 presented.

7 Q When you told him directly, do you mean you
8 communicated that directly in writing?

9 A Yes, sir. You already handed me the exhibit that
10 said that.

11 Q All right. And that was going back to Plaintiff's
12 Exhibit 8, is that right?

13 A I don't have it anymore.

14 Q Okay. I'll hand it right back to you.

15 A On the bottom of page four. Your normal protocol as
16 you call it is certainly different from the nationwide
17 emergency medical protocols for blunt closed head trauma.
18 What is that. Indeed, your protocols, as I understand
19 them, potentially endanger students through unnecessary
20 delay of reporting to trainers before seeing doctors.

21 Q That's all. That's what I wanted you to say. You
22 used the word, endanger.

23 A I did, indeed.

24 Q And in that you used the word, your, meaning Adam
25 Weyer, correct?

1 A Yeah, your protocols, because they were different
2 from, he was applying them differently than was
3 recommended by the, certainly the agency that wrote them.

4 Q What agency?

5 A Whatever he quoted, the national, these were the
6 protocols of the intercollegiate, you know that you, we
7 quoted a second ago. I don't know the name of the group
8 but the NCAA. But Adam's mistake was he didn't realize
9 his protocols did not apply to all of Erskine College.
10 They applied to athletic trainers, but he thought that he
11 was applying this, these protocols to all athletic, all of
12 Erskine College. So if I saw a student fall down the
13 stairs and it was an athlete, I was supposed to call, the
14 protocol as Adam understood it was I was supposed to call
15 the ambulance, I mean I beg your pardon, an athletic
16 trainer before I called 911. That was not the official
17 Erskine protocol that was in the handbook and that was not
18 an official protocol of the NCAA. That was Adam Weyer's
19 misunderstanding and that's why that protocol could
20 endanger students because he insisted that no matter
21 whether the athlete was sick or injured, the athlete could
22 not check herself, for example, into an infirmary if she
23 woke up with a sore throat. She had to first see an
24 athletic trainer and he would approve whether or not she
25 could go to the infirmary. That's the problem with the

1 protocol. It is not nothing to do with the, what the
2 protocol says in itself. It has to do with Adam's
3 application of the protocol and Dean Agnew.

4 Q All right. So this was a criticism of Adam?

5 A I'm criticizing a protocol--

6 Q --and the department?

7 A I beg your pardon. Go ahead. I'm sorry.

8 Q No, this was a criticism of Adam and the Athletic
9 Training Department?

10 A Right, but I was legitimately criticizing any
11 procedure that delayed emergency care being delivered to a
12 patient. I don't think that's unreasonable.

13 Q Well, I wasn't asking you whether it was
14 unreasonable. I asked you whether it was a criticism of
15 Adam and the other members of the Athletic Training
16 Department. I think you answered that yes.

17 A I said your protocol. I don't say Adam. I say your
18 protocol. I say your protocol.

19 Q Well, is that a yes?

20 A That's a no. I didn't say Adam. I say your
21 protocol.

22 Q Who'd you write it to, Dr. Crenshaw?

23 A I beg your pardon?

24 Q Who'd you write the email to, Dr. Crenshaw?

25 A I wrote it to Adam.

1 Q Okay.

2 A Adam wasn't out on the scene.

3 Q Now, I think your testimony is that you were on the
4 grievance committee when the grievances were filed against
5 you, is that correct?

6 A That is correct.

7 Q All right. And isn't it true that prior to the time
8 you heard from Dr. Thomas about the grievance that you
9 already had copies of the grievance letters?

10 A I had copies of initial grievance letters. I had no
11 idea if they were the same letters or not. I had no idea
12 whether they had been modified.

13 Q All right. You had copies of the letter from Adam
14 Weyer and you had the copies of the letter from Gid, is
15 that right?

16 A I did.

17 Q Okay. And then Dr. Thomas sent you an email that
18 said, hey, Dr. Crenshaw, there's been a grievance filed
19 against you, will you recuse yourself from the grievance
20 committee. Isn't that what he did?

21 A Yes, he did.

22 Q All right. And did you respond to that?

23 A I am sure I had several responses to that.

24 (Whereupon, Defendant's Exhibit number 12 marked for
25 identification.)

1 Q Dr. Crenshaw, I show you what's been previously
2 marked as Defendant's Exhibit 12 which is a two-page
3 exhibit and ask if you recognize that document?

4 A Yes, I do.

5 Q All right. And what are these documents, are these
6 emails?

7 A Yes, this is a series of emails between myself and
8 Dr. Howard Thomas.

9 Q Okay. All right. And if you turn to the second page
10 which is the first email, again, as was the case with the
11 prior email string, there's an email indicated from Howard
12 Thomas who refers to himself in this email as, where he
13 says, Bill, we've gotten an email or we've gotten a
14 grievance that involves you, would you agree to recuse
15 yourself?

16 A I see that.

17 Q All right. And what was your response?

18 A My response was, let me see where it is. Howard,
19 would you send me the particulars of the complaint.

20 Q All right. And then did he have a response?

21 A His response is, I am confident that the committee
22 will ask for your input soon. Now I'm getting the
23 committee together. To do that I need you to agree to
24 recuse yourself from the committee deliberations.

25 Q All right. And that's still on October 4th, right?

1 A That is on October 4th.

2 Q All right. This is the first time that Dr. Thomas
3 has notified you that there was a grievance concerning
4 you, correct?

5 A That is correct.

6 Q All right. And then what's the next thing it looks
7 like that transpires is you email him back, correct?

8 A I did. Excuse me, I did.

9 Q Still on October 4th?

10 A Yes.

11 Q All right. And what was your response?

12 A I said, Howard, I am not asking for input. I am
13 asking for the particulars of the complaint. Before I
14 agree to anything, I must be furnished with a copy of
15 everything you've received. You have no authority to keep
16 any information from me. There is nothing in the
17 committee's charge that gives you such authority. Please
18 have a copy of all relevant information in my box
19 tomorrow. Bill.

20 Q All right.

21 MR. KEIM: And I don't know for sure if I did so with
22 regard to Defendant's 11, but with both Defendant's 11 and
23 12, I'd offer them into evidence, Your Honor.

24 THE COURT: Any objection?

25 MR. JAMISON TINSLEY: No objection.

1 THE COURT: They're admitted without objection.

2 MR. KEIM: Thank you.

3 (Whereupon, Defendant's Exhibits 11 and 12 were
4 admitted into evidence.)

5 Q And I'll show you what's been previously marked as
6 Defendant's Exhibit 7 which is a one page exhibit and I
7 ask if you recognize that document?

8 A I do.

9 Q All right. And what is this?

10 A Let's see, this is a letter I sent to Dr. Thomas and
11 I copied all of the members of the grievance committee
12 plus Dean Christie and Sandy Chaney, the Chairman of the
13 Faculty.

14 Q All right. And isn't it true that at this point you
15 were advising the grievance committee that they should
16 carefully consider the position they're putting themselves
17 in if they go forward with this matter?

18 A Is there a particular part?

19 Q If you'll look at the second to last paragraph, the
20 first sentence.

21 A Good intentions do not justify, the next paragraph.
22 Okay. It would be advisable, therefore, for members of
23 the grievance committee to consider carefully the position
24 they are putting themselves in if they go forward with the
25 case under these circumstances. The Chair has denied the

1 accused access to the accusation. The Chair is not
2 indicated what, if any, ideas he has regarding the details
3 of the procedure to be followed. Details which should, as
4 I have said, already be in place and should not be set up
5 by this committee but by a committee designed to draw up
6 such a procedure, a committee that has access to legal
7 advice and counsel.

8 Q Aren't you telling the grievance committee that they
9 should carefully consider the position they're putting
10 themselves in if they go forward?

11 A I'm telling the grievance committee that since there
12 are no procedures in place that, and since the issue
13 involves potential legal questions, that this is a
14 complicated matter and they should consider their position
15 in this matter, exactly.

16 Q So are you agreeing with my question?

17 A Rephrase your question or tell me your question
18 again.

19 Q Isn't it true that you were notifying the members of
20 the grievance committee to carefully consider the position
21 that they were putting themselves in if they go forward?

22 A I agree and the position is defined in the part of
23 the letter we have not read yet.

24 Q All right. Now, you could explain, I just would like
25 for you to answer my questions and then you can give

1 whatever explanation you want.

2 A Well, let me--

3 Q Well,--

4 COURT REPORTER: Wait. Talking over each other.

5 A I'm sorry.

6 MR. KEIM: I'm sorry.

7 A Let me make it shorter then. There is a --

8 THE COURT: Now, let's go back to ask the question,
9 then Dr. Crenshaw you give an answer.

10 MR. CRENSHAW: Yes.

11 THE COURT: All right.

12 Q Isn't it true, Dr. Crenshaw, that you are telling the
13 members of the grievance committee that they should
14 consider carefully the position that they are putting
15 themselves in if they go forward with this case?

16 A In the context of the letter that you have left out,
17 yes.

18 Q All right. What context is that?

19 A Do you want me to read the whole letter?

20 Q No. I'm just asking you, let me ask it this way.

21 A The jury will have the opportunity to read the whole
22 letter and so I'm content to leave it with that.

23 Q Okay. I am as well, but I want you, let's do it this
24 way and then we will move on. I apologize that this is
25 taking so long. But if you would look at that sentence.

1 I'm going to read it, okay, and I want you to tell me
2 whether I read it correctly.

3 A I'll be glad to tell you if you read it correctly.

4 Q All right. It would be advisable, therefore, for
5 members of the grievance committee to consider carefully
6 the position that they are putting themselves in if they
7 go forward with the case under these circumstances. Did I
8 read that correctly?

9 A Even including the, under these circumstances, yes
10 you did.

11 Q Okay. If you go to the next paragraph, you're asking
12 Dr. Thomas to recuse himself, correct?

13 A I am.

14 Q And you're accusing him of evincing a hostility
15 towards you, correct?

16 A Again, that's part of it, yes.

17 Q All right. And so you're saying that Dr. Thomas
18 engaged in some type of hostile act toward you?

19 A Yes.

20 Q All right. And what hostile act is that?

21 A That was an encounter we had on the campus that day
22 and it could have been a misinterpretation. But it was an
23 encounter when I, it seemed to me that he was exhibiting a
24 hostile response to a question I asked him. I don't
25 remember the question.

1 Q You don't remember the question?

2 A No. And also as you look at it, it was the
3 unwillingness to provide the accused with a bill of
4 particulars is the main reason.

5 Q All right. And this is on Wednesday, two days after
6 you first became aware of the grievance?

7 A That's correct.

8 Q All right. Dr. Crenshaw, I show you a three page
9 exhibit which has been previously marked as Defendant's
10 Exhibit 9 and ask if you recognize that document?

11 A October 8th. Yes, I do. There's also, yes, I
12 recognize it.

13 Q All right. And this is an email from you to Dr.
14 Thomas on it, is that correct?

15 A That is correct.

16 Q All right. And you indicate in the first line, I
17 believe, that you're criticizing the process and not the
18 persons, is that correct?

19 A That's correct.

20 Q And that person would be Dr. Thomas?

21 A It would be any person.

22 Q Okay. Now, if you would turn to the next page and
23 follow down the left-hand margin until you get to the
24 word, bill?

25 A Okay.

1 Q All right. And what I want to do is ask you about
2 the last two sentences of this. It says, and follow along
3 while I read it. It says, unfortunately, you find
4 yourself in a crossfire that is not new. Truly there is
5 nothing personal here, that won't, however, stop the
6 bullets from flying. Did I read that correctly?

7 A You did.

8 Q And was this a threat to the proceedings of the
9 grievance committee?

10 A Absolutely not. And I can't even tell you exactly
11 what it means unless you allow me to read the letter above
12 it.

13 Q Well, the jury will have an opportunity to read all
14 that.

15 A I agree.

16 MR. KEIM: And I would offer Defendant's 7 and 9 into
17 evidence.

18 COURT REPORTER: I have already got these.

19 MR. KEIM: Oh, I'm sorry. I didn't know if we agreed
20 they would be admitted. Okay, my fault.

21 THE COURT: So thus far, 10, 11, 7 and 9?

22 COURT REPORTER: Yes, sir.

23 MR. KEIM: Okay.

24 COURT REPORTER: I am sorry. 7, 9, 11 and 12.

25 Q Okay. Now, on this Friday you received the

1 documentation from Dr. Thomas concerning the grievances,
2 correct?

3 A Possibly. I don't remember the date exactly. Did I
4 indicate that in the letter?

5 Q Well, I believe it's in another letter which I can
6 provide to you.

7 A I'll be glad to take your word for it. I just don't
8 remember the date but if you say that's what the letter
9 says, that's fine.

10 Q Did you receive any additional information regarding
11 the grievance, initial grievance meeting other than what
12 you had already received, the two grievance letters?

13 A I don't remember any.

14 Q Now, I think you testified that you did attend the
15 grievance committee meeting?

16 A I did.

17 Q And you had a prepared statement that you read?

18 A I did.

19 Q All right. And prior to the time that the prepared
20 statement was read that Dr. Thomas made it clear what the
21 charge was of the grievance committee, isn't that true?

22 A And as far as I can remember, yes.

23 Q All right. And that was at the grievance committee's
24 role was to mediate the matter?

25 A That's correct.

1 Q All right. And mediate meant trying to reach some
2 amicable resolution to the matter, correct?

3 A That is correct.

4 Q Now, with regard to the grievance committee, isn't it
5 true that the grievance committee did not do anything that
6 violated any of the terms of the faculty handbook?

7 A No. I mean it is true, I'm sorry.

8 Q Okay. So they didn't do anything that you allege
9 violated the terms of the faculty handbook?

10 A Well, as far as I know, that's true.

11 Q I'll refer you, Dr. Crenshaw, to Plaintiff's Exhibit
12 14 which has already been entered into evidence. And I
13 believe you've already testified that you recognize that
14 document?

15 A Yeah, I've seen this, yes.

16 Q All right. Now, this letter, we went over the five
17 questions that the letter, and this is the November 8,
18 2010 letter that Dr. Norman sent, what I'm going to call
19 the second or special grievance committee, is that fair?

20 A I'll accept that description, sure.

21 Q All right. Now there were five questions that Dr.
22 Norman included in the letter, correct?

23 A That's correct.

24 Q All right. And there were five identical answers to
25 each of those questions?

1 A That's correct.

2 Q All right. And the first answer was commendable
3 behavior, is that correct?

4 A That's correct.

5 Q And so it would have been possible, a possible answer
6 to the question, handling of an emergency situation
7 involving an injured student athlete displaying abnormal
8 behavior in the classroom. A possible answer to that
9 would've been commendable behavior, correct?

10 A That's correct.

11 Q All right. And then the second answer was compliant
12 behavior, the third answer was mishandled the situation,
13 the fourth was grossly mishandled the situation, and the
14 fifth was handled the situation in a way that severely
15 limits Erskine's ability to carry on its mission. Were
16 those the answers?

17 A That's correct. As I indicated during direct
18 examination.

19 Q Right. And so the first question has to do with the
20 emergency situation involving Olivia, correct?

21 A It's not a question.

22 Q Okay. Well, the statement.

23 A That's correct.

24 Q The statement concerns Olivia?

25 A No. It does not name her as it shouldn't.

1 Q Okay. The injured student athlete, is that referring
2 to Olivia?

3 A That's referring to the injured student athlete.

4 Q All right. Are you aware of whether there was
5 another injured student athlete about which this may be
6 perceived?

7 A No. But as part of my paramedic understanding of
8 legal implications of HIPPA laws, I do not state the names
9 of patients.

10 Q Well, okay. And we aren't going to talk about what
11 the exceptions as far as the HIPPA, because then we'll
12 really get sideways here. But the second question,
13 statement is treatment of emergency personnel including
14 student's emergency contact. Is that correct?

15 A That's correct.

16 Q All right. And were both one and two issues that
17 were included within the grievance letters that had been
18 previously submitted by Adam Weyer and Gid?

19 A No, they weren't.

20 Q Excuse me?

21 A They were not.

22 Q They were not?

23 A They were not.

24 Q There was no comment in there about the treatment of
25 Ms. Chaney?

1 A The accusations made in the grievances were specific
2 and concrete. These are general descriptions that don't
3 have very much relationship to the particular grievances
4 that we were talking about. The President himself in this
5 letter says that we need to adjudicate the ongoing
6 grievances. And adjudication requires specificity that
7 this lacks. The game has changed with this letter. This
8 is not the same process anymore.

9 Q You said the game has changed?

10 A I beg your pardon?

11 Q You said the game has changed?

12 A Well, game speaking metaphorically. What has changed
13 is we have ongoing grievances that are not yet resolved as
14 the President's other letter indicated to the committee.
15 And now the ongoing grievances which I wanted to be
16 addressed the entire time had disappeared. They are not
17 listed in this committee, and this committee is totally
18 unfamiliar with everything that's gone on. They're not
19 listed in this committee's as a charge. And, in fact,
20 half of the grievances, Gid Austin's, were not even
21 submitted to this committee. So yes, I think that marks a
22 change.

23 Q What was the first request that was made by the
24 special grievance committee to you?

25 A They requested that I tell them what happened that

1 day.

2 Q How did they do that?

3 A They said tell me what happened that day.

4 Q Did they not write to you and say will you please
5 provide a written statement concerning what transpired on
6 September 24?

7 A I don't remember. They may have, but I don't recall
8 that.

9 Q And, Dr. Crenshaw, I'll show you what's been
10 previously marked as Defendant's Exhibit 13 which is a
11 three page exhibit. And ask you if you recognize this
12 document?

13 A Let's see, I do recognize the document and it is not
14 from the committee.

15 Q Okay. Who is it from?

16 A It is from Amanda McCombs.

17 Q And what is Ms. McCombs asking?

18 A You want me to read the letter?

19 Q Well, if you need to.

20 A I do. The appointed special committee recently held
21 its first meeting and reviewed the materials provided in
22 order to adequately and effectively respond. The
23 committee has requested additional information. The
24 committee would like for you to provide a statement
25 addressing the events of Friday, Saturday, September 24.

1 If you have copies of or links to any information posted
2 online or any information about the student conversations
3 related to the case, the committee would like to receive
4 that information as well. Please submit your statement
5 and any additional information to Amanda McCombs by
6 Thursday, December 9th so the matter can be settled as
7 quickly as possible. Thank you for your cooperation.

8 Q All right.

9 MR. KEIM: And I'd like to offer number 13 into
10 evidence.

11 MR. JAMISON TINSLEY: No objection.

12 THE COURT: Without objection. 13 is in evidence.

13 (Whereupon, Defendant's Exhibit 13 was admitted into
14 evidence.)

15 Q All right. Now, did you provide a written statement
16 to the special grievance committee?

17 A I say here that due to time constraints I would be
18 unable to.

19 Q All right. So the answer to that would be no?

20 A I believe that's right.

21 Q All right. Did you ever provide a written statement
22 of the events which transpired on September 24, 2010, to
23 any committee or to any official at Erskine College?

24 A The second part I can't answer, because I don't know
25 how you define that. The first part, no, I did not

1 provide it to this committee.

2 Q Did you provide it to the original grievance
3 committee?

4 A That was not their charge. I would have if it had
5 been their charge. They have been charged with the
6 second, the same thing they were charged with Dr. Norman's
7 case, we could have had that adjudicated there. But the
8 administration is the one that dictated mediation, not
9 adjudication with the grievance committee.

10 Q I'm just asking the question.

11 A No, I'm providing--

12 Q You can answer, and then give the explanation.

13 A I'm answering your questions. I'm sorry if you find
14 my answers inappropriate.

15 Q Did you provide a copy of a written statement of the
16 events of September 24th, 2010 to the grievance committee?

17 A No.

18 Q Did you provide a copy of the events of September
19 24th, 2010 to Dr. Norman?

20 A No. He did not request one.

21 Q What about to Dr. Christie?

22 A He did not request one.

23 Q So the answer would be no?

24 A Well, yes, but there is a context.

25 Q That's fine. I don't mind you giving a context, I

1 just want you to answer the question.

2 A Well, I'm sorry it wasn't clear.

3 Q All right. You were asked to, you said due to time
4 constraints, I can't write a statement. Is that correct?

5 A That's correct.

6 Q However, you said, stated that you would gladly
7 appear before the committee without your attorney to
8 answer any related questions. Is that correct?

9 A That is correct.

10 Q All right. And, I believe, your earlier testimony
11 was not that you were there to answer questions?

12 A In fact, it was that I was there to answer questions.

13 Q I think your testimony earlier was that you were
14 there for adjudication?

15 A Well, you can't have an adjudication without
16 answering questions.

17 Q Well, they just simply asked for a statement,
18 correct?

19 A Well, I'm sorry you got to go back a couple of
20 questions here. What are you asking me exactly?

21 Q They asked for you to provide a statement and you
22 offered to appear without having prepared a statement due
23 to time constraints.

24 A Yes.

25 Q All right. And then when you appeared, you did not

1 answer questions?

2 A No, that's not correct. I did answer several
3 questions as the transcript shows.

4 Q Isn't it true that you refused to answer questions
5 that you found were not, I guess, that you in your
6 judgment weren't worthy of an answer?

7 A No. I refused to answer questions that asked for
8 long, rambling narrative answers.

9 Q So if they said what happened with regard to the
10 ambulance incident, you wouldn't respond to that?

11 A I responded according to the opening statement I read
12 you from my law, from me and approved by my lawyer. I
13 would answer any questions about the specific charges made
14 to me in those grievances.

15 Q For example?

16 A For example, as one of the committee members said and
17 it's in this transcript, did you call the ambulance. And
18 I said, thank you, no. I did not call the ambulance. I
19 called for the ambulance by calling Dr. Robin Agnew. That
20 was a specific question that related to a specific charge
21 in the grievances.

22 Q All right.

23 A And they also asked me, do you deny the charges
24 against you in these grievances. And I said, I
25 categorically deny all the charges in the grievances. So

1 I did answer questions.

2 Q Did you give an explanation for any of the actions
3 you took that day?

4 A They didn't ask me about the actions I took that day,
5 so no. I wanted them to ask me about the actions I took
6 that day. I wanted them to say, did you get into the
7 ambulance when you weren't supposed to like you're accused
8 of. And I can say no, the paramedic asked me to get into
9 the ambulance. They never asked me.

10 Q Did you indicate to them that's the type of question
11 you wanted them to ask you?

12 A I'm sorry?

13 Q Did you indicate to them that's the type of question
14 you wanted them to ask you?

15 A If you'll read the opening statement I made that I
16 also provided written copy to the committee, it says
17 exactly that. That I'm there to answer specific
18 questions--

19 MR. ROBERT TINSLEY: Objection to that question, Your
20 Honor. It's improper, I think, and it's not his job to
21 ask their questions.

22 THE COURT: I'll allow Mr. Keim to rephrase his
23 question.

24 MR. KEIM: I think he answered it, Your Honor.

25 THE COURT: Okay. I thought he did, too.

1 MR. KEIM: Thank you.

2 THE COURT: It seemed to be a, several committee
3 meetings where there was some banter back and forth among
4 members.

5 MR. KEIM: Yes, Your Honor.

6 Q Now, like you said, I think you indicated this
7 meeting was taped. Is that correct?

8 A I think it was taped by three people. I taped it
9 myself, and I believe it was taped, I saw two other
10 recorders running.

11 Q All right. And that tape was transcribed?

12 A Dr. Norman had the tape transcribed initially by one
13 of the workers at Erskine, and it was a very bad
14 transcription. I think better but not perfect
15 transcription was later made by a professional
16 transcriber, I believe.

17 Q And did you have an opportunity to comment on what
18 you disagreed with?

19 A I did, I did not go back and compare the written
20 transcription to the actual recording. And so I did agree
21 with everything I had reservations that there might still
22 be errors in the transcript.

23 Q Okay. Did you make any comments to the committee
24 that they were putting themselves in harm's way?

25 A Yes, I did.

1 Q All right. And did you tell them that this was going
2 to go to court?

3 A I did tell them it was going to go to court.

4 Q Did you tell them you didn't want, that they didn't
5 want to be there?

6 A I wouldn't want to be there either.

7 Q But did you tell them?

8 A I did.

9 Q Okay. Did you tell them that now they were screwing
10 up so bad, that they were violating your due process and
11 as the accused you had the right to see everything?

12 A I would appreciate seeing that to confirm that. I
13 don't have it before me.

14 Q Okay. I'll show it to you.

15 A Okay.

16 Q And it's right here on page 20, lines 5 through 8.
17 If you'd just review that?

18 A Now, will the jury have this whole document or will
19 they only have your yellow highlights?

20 Q No, we'll enter a clean copy.

21 A Okay. Good. Yes, I did say that.

22 THE COURT: Y'all want to take a short break? We've
23 been going about an hour. We'll take a few minutes.

24 Y'all step in the jury room. Don't discuss the case.

25 (Whereupon, the jury was excused from open court for

1 a break.)

2 THE COURT: We will take a break.

3 (Whereupon, a short break was taken.)

4 MR. KEIM: I guess for purposes to expedite the
5 process to stipulate two exhibits in.

6 THE COURT: Okay.

7 MR. KEIM: If we can have those marked and stipulate
8 those in. That will speed us up.

9 MR. ROBERT TINSELY: We discussed with our client,
10 Your Honor, and not anything about his testimony or
11 anything, about what this means and he is in agreement in
12 the expeditated process.

13 THE COURT: Let Joy mark this.

14 MR. KEIM: 14 is a transcript of special grievance
15 committee meeting. 15 is a transcript.

16 THE COURT: Go get them.

17 (Whereupon, the jury came into open court at
18 approximately 2:51 p.m.)

19 THE COURT: All right. Folks, while y'all were on
20 break we talked about several things, but the transcripts
21 from two hearings have been discussed at length. Both of
22 those transcripts were agreed upon by the parties.
23 They're quite lengthy. They're several inches thick each.
24 They're number 14 and 15 and they agree they're in
25 evidence.

1 (Whereupon, Defendant's Exhibits 14 and 15 were
2 admitted into evidence.)

3 MR. KEIM: Right. I'm going to clarify for the
4 record what they are.

5 THE COURT: All right.

6 MR. KEIM: May I approach the witness?

7 THE COURT: Yes, you may.

8 Q All right. Dr. Crenshaw, I show you what's been
9 previously entered into evidence as the Defendant's
10 Exhibit 14 and ask you whether you recognize that document
11 as a transcript of the meeting you attended with the
12 special grievance committee?

13 A Just one second, please. It is.

14 Q All right. And then, Dr. Crenshaw, I show you what's
15 been previously entered into evidence as Defendant's
16 Exhibit 15 and ask you whether you recognize that document
17 as a transcript of the meeting held between you and Dr.
18 Norman on August 6th, 2011?

19 A I do.

20 Q All right. Thank you.

21 (Whereupon, Defendant's Exhibit number 16 marked for
22 identification.)

23 Q All right. Dr. Crenshaw, I show you what's been
24 previously marked for identification as Defendant's
25 Exhibit 16 which is a letter from Dr. Norman to you and

1 ask if you recognize this document?

2 A I do recognize it.

3 Q All right. And is this, part of this was entered
4 into evidence during your direct testimony, is that
5 correct?

6 A I believe that's correct, yes.

7 Q All right. And then this copy has, if you'll look, a
8 number of exhibits attached to it, 16, I believe if you
9 look to the very end.

10 A Yes, I see that.

11 Q Okay. Now, if you would look at, actually, the last
12 exhibit, Exhibit 16, I have a few questions for you about
13 that.

14 A Okay.

15 Q All right. And Exhibit 16 at the top of the page has
16 some language that says, from David Norman, August 3,
17 2011, to David Norman. Do you see that?

18 A I do.

19 Q Okay. And below that there is in all bold letters
20 something that is entitled, William Crenshaw, is that
21 correct?

22 A Yes, I see that.

23 Q All right. And if you would review from there until
24 the end of this exhibit which is three pages, and then let
25 me know once you've had an opportunity to complete that

1 review?

2 A I'm familiar with it.

3 Q You are familiar with it?

4 A I am.

5 Q Okay. And is this information something that you
6 wrote?

7 A It is.

8 Q All right. And was this posted somewhere on social
9 media?

10 A It is a private chat room on Facebook.

11 Q So it's a Facebook private chat room?

12 A That's correct.

13 Q And so you have to have some type of pass code or
14 being invited to see it?

15 A I don't think you have to have a password. I think
16 you have to get permission from the sites. You have to be
17 invited and the site manager lets your information, it
18 identifies your information and lets you in.

19 Q All right. And then once you are allowed in, are you
20 able to export any of the writings or information that's
21 contained therein?

22 A You may be asking a question beyond my paygrade. I
23 assume you can cut and paste stuff. I just don't know
24 enough about it to know if you can export.

25 Q Okay. Is there a title to this page?

1 A There is a title to the site. Yeah, it is Alumni for
2 an Independent Erskine.

3 Q All right.

4 A I believe that's where this came from. There is
5 another site that is Alumni for Erskine. And I'm pretty
6 sure this came from the second site. I mean, the first
7 site, the Alumni for an Independent Erskine.

8 Q Okay. And you're writing about Erskine in this blog,
9 are you not?

10 A Well, this is a part of a long conversation among
11 Alumni mostly. And I'm there, too, adding to it; yes,
12 that's correct.

13 Q Okay. And then you're giving some guidance in this
14 post, aren't you?

15 A I'm sorry. I think I missed the keyword. I'm sorry.

16 Q Oh, I'm sorry. Guidance. You're giving some
17 recommended action in this, aren't you?

18 A I would disagree. I'm commenting on things that have
19 already been said and done. And this is more in the way
20 of analysis and comment than recommending any action.

21 Q All right. Well, if you turn to the top of the
22 second page I'm going to read this and I just want you to
23 follow along and see if I read it correct. The first
24 sentence. The end or the other two accomplishes. Second,
25 people are encouraged to quit donating to Erskine and to

1 quit sending their kids until all this is straightened up.

2 Did I read that correctly?

3 A You did.

4 Q Did you type that?

5 A Yes, I must have.

6 Q All right. And do you recall where you were located,

7 I mean, geographic location when you posted this?

8 A No.

9 Q All right. Do you recall when you did?

10 A Well, it should be dated. But you'd have to probably
11 go back to the whole posting in that sequence to see what
12 that date was. I think those things are time stamped, but
13 I don't know. This is in sometime in 2000, I don't know,
14 honestly.

15 Q 2011?

16 A Well, it could have been 2011.

17 Q The summer of 2011?

18 A It could have been, yeah, sure.

19 Q All right. And then the next sentence it continues,

20 I'll read it and I want to you to follow along. It says,

21 The power of the purse is far more significant and

22 successful than any behind the scenes deal cutting has

23 been. Did I read that correctly?

24 A You did.

25 Q All right. And that's indicating that you are trying

1 to reduce the purse of Erskine, correct?

2 A No. I'm commenting on actions that have been taken
3 by members of the alumni who are on this board. They have
4 already stopped giving to Erskine. I'm just saying this
5 is what will probably, this would probably work that
6 you've done this. I'm not advocating this. I'm not
7 saying you should go out and do this. I'm commenting on
8 what the discussion has been about.

9 Q All right. Well, if you'll turn back to the first
10 sentence of the post you're indicating there that behind
11 the scenes work is a waste of time. Isn't that true?

12 A I am indicating that the kind of behind the scenes
13 stuff they've been talking about on the Board is a waste
14 of time, that is true.

15 Q All right. And so isn't this, in fact, a call to
16 action for something that's not behind the scenes?

17 A No, it's not a call to action. I would disagree with
18 that.

19 Q All right. But you wrote, people are encouraged to
20 quit donating to Erskine, correct?

21 A I wrote, I think this site accomplishes three things.
22 That's what the site does. So that's the first sentence
23 of that paragraph and this is ongoing. I'm saying I think
24 what this site is doing is these three things. I'm not
25 saying what this site should do is these three things.

1 I'm saying this is what you're doing.

2 Q All right. Let's look at that paragraph then. The
3 second thing, like you referenced there, is quit donating
4 and quit sending their kids until all this is straightened
5 up.

6 A I don't say quit donating. I say, second, people are
7 encouraged to quit donating by the site is what they've
8 been doing.

9 Q All right. And the third point is that a healthy
10 wallop of bad publicity is delivered to Erskine. Did you
11 write that?

12 A Again, that's part of a sentence. And third, this
13 shines the light on the actions of Synod, wingnuts in the
14 administration. In other words, it delivers a healthy
15 wallop of bad publicity to Erskine which means they have
16 to spend. Yes, I wrote that.

17 Q The last paragraph of that exhibit of your letter.

18 A The last paragraph?

19 Q Yes, sir.

20 A I'm there.

21 Q You indicate this is a non-issue and you're wasting
22 your time with it. Is that correct?

23 A I do say that.

24 Q And that's referring to some editorials that have
25 been posted there on the site?

1 A No, that's referring to a editorial posted on, as an
2 op-ed in the Greenville News by a Board member and a
3 graduate.

4 Q Right. And you thought that was a waste of time?

5 A Well, yes.

6 Q And then your closing comments is, Rome is burning.
7 Stop fiddling around.

8 A That's true.

9 MR. KEIM: And I would offer Exhibit 16 into
10 evidence.

11 THE COURT: Any objection?

12 MR. KEIM: Defendant's 16.

13 MR. JAMISON TINSLEY: No objection. I would just
14 like to point out to the Court that there is a transcript
15 different regarding the special grievance committee,
16 different from the one we've stipulated to as the
17 transcript.

18 THE COURT: Well, if y'all want to see that one
19 later, we'll look at that one later.

20 MR. KEIM: Yeah. I mean, it was part of the
21 original.

22 THE COURT: Yes.

23 MR. KEIM: Okay.

24 THE COURT: Okay.

25 MR. JAMISON TINSLEY: Sir, that's all. No objection.

1 THE COURT: All right. 16 is in without objection.

2 (Whereupon, Defendant's Exhibit 16 was admitted into
3 evidence.)

4 Q All right. Dr. Crenshaw, I want to draw your
5 attention to the meeting you had on August 6th with Dr.
6 Norman. Do you recall that meeting?

7 A Yes, I do.

8 Q All right. Now, in your meeting with Dr. Norman, was
9 he acting in his capacity as President of Erskine, Erskine
10 College?

11 A Yes, he was.

12 Q All right.

13 A I assume so.

14 Q And throughout your interactions with him, during his
15 employment he was acting within the scope of his official
16 capacity in every situation, correct?

17 A I'm not sure what the question means. I'm not trying
18 to be obtuse. I just don't know what you mean by that.

19 Q Okay. When you all were communicating with each
20 other verbally, in writing regarding your job and your
21 continued employment or your lack of continued employment,
22 was he representing to you that he was the President of
23 Erskine College and that he was acting in that capacity?

24 A Yes.

25 Q All right. Now, I believe your testimony on direct

1 exam is that you were angry and I believe at one point you
2 said outraged during this meeting?

3 A Yes.

4 Q All right. Now, you made a number of very accusatory
5 statements to Dr. Norman, didn't you?

6 A Yes.

7 Q All right. Isn't it true you've called him a liar?

8 A Yes, I did. I'd have to reread it, but I don't have
9 any reason to doubt what you're saying.

10 Q All right. And then you tell him that he was not
11 honest?

12 A Yes.

13 Q Okay. Isn't it true you told him he was not a
14 Christian?

15 A Yes.

16 Q And didn't you ridicule him based on his belief that
17 Satan exists?

18 MR. JAMISON TINSLEY: Objection, Your Honor.

19 MR. KEIM: It's in this, it's in the record.

20 MR. JAMISON TINSLEY: The record says what it says.

21 THE COURT: The record does say what it says. He can
22 answer the question. You can answer the question.

23 A Yes.

24 Q You did?

25 A Well, I, it depends on how you interpret ridicule but

1 yes, I did comment on that.

2 Q I just want to make sure we get this point clear.

3 All right. So we'll just start at the top of the page
4 where it says, By Dr. Norman. And I'll read Dr. Norman's
5 part. Do you see where he says, No, I, and then there is
6 a pause?

7 A I do.

8 Q You read the, what you said.

9 A You expect me to care what you think.

10 Q And Dr. Norman says, I expect you to think critically
11 and reasonably.

12 A And I answered, Oh, I'm thinking critically and I
13 see, I see big bucks. I'm thinking critically. You don't
14 think critically. You assume the devil is real.

15 Q All right. You can hold onto that.

16 A Okay.

17 Q Now, this meeting was supposed to be step one of the
18 termination process for tenured faculty, correct?

19 A Let me run this back through my head first, because I
20 want to know exactly when step one began. I don't know if
21 this is before or after he laid out the apologies. After
22 he laid out the apologies, which is supposed to be a
23 negotiation, it would be in step one. So it probably is
24 within step one now. Unless that initial, that comes
25 later, but it's virtually the same thing.

1 Q All right. Virtually the same thing if not the same
2 thing?

3 A Well, it's all part of that same process.

4 Q Okay. All right. And what he wanted you to do, I
5 think you testified earlier, was to apologize to the three
6 people who had filed grievances, correct?

7 A That's correct.

8 Q And he was going to give you until December 1 to do
9 that and receive some response that it was accepted?

10 A I believe I had to receive a written response from
11 all three that it was, the apology was accepted.

12 Q By December 1?

13 A I don't know whether I had to apologize by December 1
14 or it had to be received.

15 Q And second he wanted you to apologize to the faculty
16 and receive a two-thirds essentially acceptance of that?

17 A Right, and it had to be a vote on my apology and
18 two-thirds had to agree to accept it.

19 Q And then the third thing he wanted you to do is to
20 apologize to the Erskine community at-large, correct?

21 A That's correct.

22 Q And, specifically, he wanted you to apologize for
23 your social media postings to not make donations to
24 Erskine and not to send your children there. Isn't that
25 true?

1 A I'd have to check the record to be sure. If you're
2 reading from the record, I don't have any doubt that
3 that's what he said.

4 Q All right. Isn't it true that he informed you that
5 he had had a meeting and conversation with your counsel
6 about you repairing your relationships with your
7 colleagues?

8 A If he did he certainly gave me no details about the
9 nature of that meeting. I mean, I don't have any, if
10 you're reading it again, I don't have any doubt he did it.
11 But I don't remember any conversation about specifics.
12 Certainly, when I asked Dr. Norman about specifics, he
13 couldn't give any.

14 Q Did you discuss or mention to Dr. Norman that you
15 intended to sue the college and him individually?

16 A I told him that if he fired me I would sue him and
17 the college.

18 Q Did you tell him that you wanted to see him blow up?

19 A Oh, yeah. When you're being fired you say a lot of
20 things.

21 Q Well, this is in August 6th, 2011 meeting.

22 A It's the termination process. That's what you said
23 in the beginning.

24 Q Okay.

25 A This is a process to fire.

1 Q This is in the meeting?

2 A This is in a meeting. A process to fire and it's
3 already indicated that the process had begun in bad faith,
4 because there was no negotiation. He laid down a demand.

5 Q Did he again ask you to agree to no public, no
6 further public discussion of Erskine and you refused that,
7 didn't you?

8 A He said that's what he wanted me to do and I said I
9 didn't want to do that. I didn't see I could do that.

10 Q All right.

11 A Again, there's no negotiation.

12 Q There was some discussion you've testified about on
13 direct exam about some type of early retirement agreement,
14 is that correct? Didn't you testify about that on direct
15 exam?

16 A I did, yes.

17 Q All right. And this was on a Saturday, correct?

18 A That is correct.

19 Q And you had driven in from somewhere that morning, I
20 think you had indicated?

21 A Yes, I had.

22 Q Okay. And this was from North Carolina?

23 A Yes, it was.

24 Q All right. And in that discussion, you indicated to
25 Dr. Norman that you'd let him know by 5:00 o'clock on

1 Monday if you are interested, right?

2 A If you say that's what it says, yes. I think that's
3 what I said.

4 Q Okay. And after that for whatever reason and I'll,
5 let me strike that. Then you returned and made some
6 additional personal attacks, didn't you?

7 A At that point, they weren't attacks. It was all, all
8 of that was said in a totally different tone from the rest
9 of the meeting as the recording itself will indicate.

10 Q All right. Well, you called him, you referred to him
11 as a boy after that, didn't you?

12 A A what?

13 Q A boy.

14 A A boy?

15 Q Yes.

16 A I accept what you're saying.

17 Q You called him a despicable person again, didn't you?

18 A Probably.

19 Q And a son-of-a-bitch?

20 A A nice son-of-a-bitch.

21 Q And isn't it true that you told him that you hope he
22 f'd up bad?

23 A I said he was President Icarus and that he was going
24 to F up bad.

25 Q And you told him that you hope he f'd up so bad it

1 was unbelievable?

2 A I did and it did.

3 Q All right. And wouldn't you agree this is
4 unprofessional and inappropriate conduct?

5 A Given the context, I would not agree with that at
6 all. And I think the recording will indicate that. I
7 think the tone of the recording, as we say, that will
8 indicate that. Dr. Norman said, well, I'm glad you left
9 nice in there. And I said, well, you are nice, you're a
10 nice son-of-a-bitch. So it was not, these were not
11 screaming. These were, these were told more in banners.
12 Also at this time I told him that I'd left, I'd given
13 \$3,000.00 dollars to Erskine that year. And he said that
14 was a very generous thing to do. That's all in the same
15 conversation. So your characterization is not true.

16 Q Are you saying you were saying all these things and
17 were joking?

18 A I'm saying the tone was more of a joking tone at that
19 time as the voice recording will indicate.

20 Q I believe you've already indicated this in your
21 answer to that question, in the prior question, isn't it
22 true that Dr. Norman maintained his cool and treated you
23 with dignity and respect during this meeting?

24 A He did maintain his cool during this meeting.

25 Q Did he treat you with dignity and respect?

1 A I would say so.

2 Q All right.

3 A He wasn't being fired.

4 (Whereupon, Defendant's Exhibit number 17 was marked
5 for identification.)

6 Q All right. Dr. Crenshaw, I show you an exhibit which
7 has been previously marked as Defendant's Exhibit 17 for
8 identification which is entitled, The College Faculty
9 Manual. I ask if you recognize this document?

10 A I do.

11 Q All right. And if you'll look through it, does this
12 appear to be a full copy?

13 A I have no reason to think it isn't.

14 Q All right. And this is the document which you are,
15 constitutes a binding contractual relationship between you
16 and Erskine?

17 A Yes, it lays out guidelines that I assume are to be
18 followed. And so if they're not to be followed, then they
19 have no effect. So yes, I think that's right.

20 Q All right. And now if you would look at the
21 paragraph, first of all it says it's been revised August
22 31, 2009, correct?

23 A Correct.

24 Q All right. And at the bottom, there is a paragraph.
25 Do you see that in the first page?

1 A I do.

2 Q All right. And I want to draw your attention to the
3 middle of that paragraph and a sentence which begins, the
4 issuance. Do you see that sentence? It starts about
5 maybe one line further than halfway down. It says, the
6 issuance of this manual.

7 MR. ROBERT TINSLEY: Judge?

8 A Yeah, I got it.

9 THE COURT: What?

10 MR. ROBERT TINSLEY: I think we're getting in matters
11 of a disclaimer, which is a matter for the Court, a Judge
12 to determine under the law is my understanding.

13 THE COURT: Well, I don't really have the question
14 yet. What's the question?

15 Q Well, the question is, well, first of all let me ask,
16 are you familiar with the faculty handbook?

17 A Generally speaking, yeah.

18 Q Okay. And are you aware of whether or not the
19 language on the front page of this faculty handbook says
20 that it is not a contract of employment?

21 A I have no reason to doubt it says that. I'm sure I
22 read that before.

23 Q All right. Well, let me ask you this and since this
24 starts, the issuance. Does it say, the issuance of this
25 manual, the employee resource handbook and/or the policies

1 and language contained therein do not create a contract of
2 employment expressed or implied between Erskine and any
3 employee. Did I read that correctly?

4 A You did.

5 Q All right. And then the next sentence says, in the
6 event that any mandatory language appears in this manual
7 the terms of this disclaimer shall take precedence over
8 any apparently mandatory language so that no contract is
9 created.

10 A I see that. I'm not sure I understand it, but I do
11 see that sentence.

12 Q Why are you not sure you understand that?

13 A Well, if I'm reading that right, then all the rules--

14 THE COURT: Stop now.

15 DR. CRENSHAW: I'm sorry.

16 THE COURT: I think that was the nature of his
17 objection is, are you asking him a question for a legal
18 conclusion or not.

19 MR. KEIM: No, I'm not asking a legal conclusion.
20 I'm just asking him whether he understands what that says.

21 MR. JAMISON TINSLEY: I think the whole matter of
22 this is for the Judge to determine.

23 THE COURT: Let's let the jury step out for a minute.
24 I want to hear a few more things about that. Y'all take a
25 break and either go to the jury room or go outside. But

1 I'll ask you to come back in either way, okay? You can't
2 begin discussing the case.

3 (Whereupon, the jury was excused from open court for
4 a break.)

5 THE COURT: Now, isn't that what every employment
6 case is about, is whether or not a contract is created and
7 a disclaimer. Isn't that kind of a tricky question any
8 way he answers it? Hadn't the Supreme Court discussed in
9 great length and maybe disagree to that. That is what you
10 are asking him.

11 MR. KEIM: No, what I'm saying is, is as far as clear
12 is for the Court to decide if it's conspicuous as a matter
13 of law. And it says July 1 of 2005, the Court has said or
14 the State Legislature said it has to be in all caps and
15 underlined to constitute a conspicuous disclaimer as a
16 matter of law. So that, it doesn't. It's not in all caps
17 and it's not underlined.

18 THE COURT: And it's in small print? I'm not sure I
19 could read it with my regular glasses because it's so
20 small. Yeah. I mean, I'd have difficulty with it.

21 MR. KEIM: Right. So the question then is, is
22 whether there's mandatory language in the contract versus
23 the other language in the contract, the jury decides
24 whether it is a contract or not.

25 THE COURT: That's a jury question?

1 MR. KEIM: Right. The Court decides, yeah, I know.
2 I know what I'm saying, Your Honor.

3 THE COURT: Okay.

4 MR. KEIM: Okay. But what the question about whether
5 it's conspicuous or not under the statute is a question
6 for the Court.

7 THE COURT: And you've already answered in the
8 negative.

9 MR. KEIM: What you saying is it's not. I mean, it
10 doesn't meet the State statute.

11 THE COURT: So why are we dealing with it?

12 MR. KEIM: Because it can still be, then you go in to
13 analyze it under the 305 cases which where the jury
14 decides if it's not conspicuous, whether it constitutes a
15 contract. It still may not constitute a contract. It's
16 just it a decision for the jury.

17 THE COURT: All right. But isn't, isn't your
18 question did you see it and have you read. You've already
19 answered that in the affirmative?

20 MR. KEIM: What's that?

21 THE COURT: He's already answered that in the
22 affirmative. He, he read, read it.

23 MR. KEIM: Yeah, I think he read it. Then I was
24 going to ask him if he understood it. That was what my
25 question was, did he understand what that language was.

1 THE COURT: Okay. I think you asked a little more
2 than that.

3 MR. KEIM: Okay.

4 THE COURT: I mean, I think that's a proper question,
5 but you asked him a little, a few more qualifications on
6 the rest of it.

7 MR. KEIM: Okay. All right.

8 THE COURT: And that's been going on with an English
9 professor.

10 MR. KEIM: Right. I got it.

11 THE COURT: Okay. He's good at what he does.

12 MR. KEIM: That's why I like our chances.

13 THE COURT: Yeah. All right. Let's take a couple of
14 minutes. I understand. So you can ask him did he
15 understand the disclaimer.

16 MR. KEIM: Right.

17 THE COURT: And then move onto something else.

18 MR. KEIM: Right. And let, that's exactly what I
19 plan to do.

20 THE COURT: Okay.

21 MR. KEIM: I did a good job of arguing for them,
22 didn't I?

23 THE COURT: Sure.

24 MR. ROBERT TINSLEY: A long delineation of
25 determination of tenured faculty appointments.

1 THE COURT: Oh, yeah, which usually happens. He
2 wanted that disclaimer language read and comprehended and
3 he got that answer in the affirmative and that's where he
4 stopped. The next question will be, did you understand
5 the question, and then move on.

6 MR. ROBERT TINSLEY: Thank you, Judge.

7 (Whereupon, a short break was taken.)

8 THE COURT: Let's bring them in.

9 (Whereupon, the jury came into open court at
10 approximately 3:28 p.m.)

11 THE COURT: All right. Mr. Keim, go ahead.

12 MR. KEIM: All right. Thank you.

13 CONTINUE CROSS-EXAMINATION

14 BY MR. KEIM:

15 Q And I believe where we left off, Dr. Crenshaw, is we
16 were looking at the two sentences on the front page of the
17 handbook and my question was whether you understood those
18 sentences?

19 A I understand the words, but that's clearly legal
20 language and I don't understand the implications for some
21 of the material in the handbook.

22 Q All right. And if you would for me, please, flip
23 through the handbook. Just flip through pages quickly and
24 what I'm asking you is whether or not there is a sentence
25 at the bottom of the pages that says this is not a

1 contract of employment?

2 A I see that, yes.

3 Q You do see that?

4 A Yes.

5 Q What's your understanding of that sentence?

6 A That the college faculty manual is not a contract of
7 employment.

8 Q All right. And if you turn to page 35 and we've
9 already spent some time on this previously. But I want to
10 ask you at this time to initially turn yourself to or draw
11 your attention to the procedures section near the bottom
12 where it says, Procedures (Tenured-Faculty Only). Do you
13 see that?

14 A I see that.

15 Q Okay. Now, with regard to what are called
16 preliminary proceedings which is item one, and do you see
17 that section?

18 A I do.

19 Q All right. That section says and I'm going to just
20 read it into the record and I'll ask you a couple of
21 questions about it.

22 A Okay.

23 Q Questions about the fitness of a tenured faculty
24 member arise, the President in consultation with the
25 appropriate academic Vice-President will seek to resolve

1 the matter with the tenured faculty member in private. If
2 the matter is not resolved by mutual consent, the
3 President will formulate a statement describing the
4 grounds for dismissal. Did I read that correctly?

5 A You did.

6 Q Okay. Now, did you have any preliminary proceedings
7 with Dr. Norman?

8 A Well, if you could call this meetings preliminary
9 proceedings, yes, proceedings, yes.

10 Q All right. So is the meeting that you had with him,
11 which we've already entered the transcript into evidence,
12 was that part of the preliminary proceedings?

13 A There was no attempt to resolve the matter by mutual
14 consent. But that was supposed to be part of the
15 proceeding, yes.

16 Q Well, and that, in that preliminary proceeding, I
17 believe your testimony is is that Dr. Norman outlined
18 three apologies he wanted you to make?

19 A Right, that's not a negotiation. That's a demand.
20 Unless you're saying by this is not a contract of
21 employment that he is not bound by these, this document?

22 Q Well, no I'm not, what I'm asking you is whether or
23 not he offers you an opportunity to remain employed during
24 the preliminary proceedings?

25 A Well, he had a certain, it was not, yes, he did. But

1 it was not a matter resolved by mutual consent. The
2 consent was I either agreed to what he said or I was
3 fired. That's not mutual consent.

4 Q Well, isn't it true that he discussed your ability to
5 make the apologies in various different ways?

6 A He never could identify to me what I was to apologize
7 for.

8 Q But isn't it true he said, he offered several
9 different ways and even some language that he suggested
10 that you could use in the apologies?

11 A I wish you'd point that out to me.

12 Q We'll do that in just a second. Did you also receive
13 a copy of a letter at this meeting?

14 A Dr. Norman read a letter to me and gave me a copy,
15 yes.

16 (Whereupon, Defendant's Exhibit number 18 marked for
17 identification.)

18 Q Dr. Crenshaw, I'll show you a one page exhibit which
19 has been marked for identification as Exhibit 18 and ask
20 you if you recognize that document?

21 A I do.

22 Q And did you receive this document?

23 A From Dr. Norman's hand in this meeting, yes.

24 Q Okay. And the third paragraph of the letter
25 indicates that this is to commence the preliminary

1 proceedings outlined in the faculty handbook for your
2 dismissal for cause, is that correct?

3 A That is correct.

4 Q And then he indicates in this first stage what is
5 called, for what is called for me, excuse me, what is
6 called for is for me in consultation with the academic
7 Vice-President to seek to resolve the matter with you in
8 private. Is that what he said?

9 A That is what it says.

10 Q All right. And did he read this letter on the tape
11 at this outset of the meeting?

12 A He did.

13 Q And he's indicating that what he wants to do is have
14 a private discussion to determine whether you might be
15 able to resolve this by mutual consent?

16 A Yes, that's the same language from the handbook.

17 Q Okay. And that if you're unable to agree by mutual
18 resolve and mutual consent that he would provide a
19 statement describing the grounds for your dismissal.

20 A That's correct.

21 Q Is that correct?

22 A That is correct.

23 Q Now, I think we already covered some testimony that
24 you were to give a response to Dr. Norman by 5:00 o'clock
25 on that Monday, is that correct?

1 A That's correct.

2 Q All right. And you did not provide a definitive
3 response one way or the other that you would accept any
4 type of early retirement arrangement?

5 A I had 21 days to accept that.

6 Q Is it your testimony that you had received some type
7 of documentation allowing you that period of time by then?

8 A It was Dr. Norman himself told me that that was, the
9 law required them to give me 21 days and that would
10 certainly give me time to consult with my lawyer.

11 Q 21 days for what?

12 A To consider whether or not I would accept the offer.

13 Q Wasn't that 21 days about whether or not to actually
14 execute--

15 A No, I don't believe so.

16 Q --an agreement?

17 A No. No, I don't think so. But even if it was,
18 that's an execution of the agreement. I'm not going to
19 agree to something that I don't go over thoroughly with my
20 lawyer. So, clearly, I was going to go, I would be in
21 negotiations or I mean, discussion with my lawyer to
22 discuss the, what Dr. Norman's offer was.

23 Q Did you read the letter dated August 12, 2011 from
24 Dr. Norman?

25 A I'm sorry?

1 Q I'll give, I'll hand you a copy. We just put it into
2 evidence, the full copy. What number is that for the
3 record?

4 A 16.

5 Q Okay.

6 A Yes, I think so.

7 Q Did you read that letter?

8 A Dear Dr. Crenshaw, the delivery of this letter to you
9 means that the--

10 Q No, I'm sorry. That wasn't my question. I need to
11 interrupt you.

12 A I'm sorry.

13 Q Did you read it?

14 A I thought you said, will you read it.

15 Q No, no, no.

16 A I beg your pardon. Yes, I did read it.

17 Q All right. And were you aware of the time limit you
18 had in which to request a hearing?

19 A Well, in fact, Dr. Norman and I had had several
20 exchanges of correspondence between this, before this
21 letter and after the 6th. So this is part, this is the
22 tail end of an ongoing conversation.

23 Q All right. And this is telling you that there is a
24 timeline within which you need to request a hearing,
25 correct?

1 A Yes, he is saying there is a timeline, I need to
2 request a hearing. Yes, I see what you're saying. Yes.

3 Q All right. And that, that deadline was going to be
4 the 15th at 9:00 a.m.?

5 A The deadline was going to be the 15th at 9:00 a.m.
6 This was a Friday. The 15th was a Monday at 9:00 a.m.

7 Q Right. And if you'll look at the top of page two, he
8 indicates to you that the schedule is subject to
9 adjustment upon reasonable request, doesn't it?

10 A Yes, it does.

11 Q And did you make a request?

12 A I did not, nor did I waive my right to the hearing.

13 Q Well, you didn't request one?

14 A Unless you waive your right to the hearing, it shall
15 be held on August 29th. I never, and to this day, have
16 not waived my right to a hearing.

17 Q All right. But you didn't request one?

18 A No, I didn't.

19 Q And it says you have to request one two weeks before
20 the hearing, is that correct?

21 A But I'm guaranteed a hearing unless I waive the right
22 to the hearing. And I did not waive that right.

23 Q All right. And you're saying that that is in the
24 procedures?

25 A Yes, that is.

1 Q All right.

2 A And it's in the letter.

3 Q It's in which letter?

4 A The letter I just, I'm reading from page 2, top of
5 the page, second line. Unless you waive the right, your
6 right to a hearing. I have a right to a hearing that I
7 have to waive it. I don't get it. I'm allowed to get it.

8 Q Well, okay. So your position is you could have a
9 hearing at any point in the future unless you waive it
10 regardless of the requirement that you notify Dr. Norman
11 that you want one?

12 A It seems to be contradictory. Those two items seem
13 to be contradictory. But I have to waive my right to the
14 hearing. That's correct.

15 Q Have you ever requested a hearing?

16 A I have not.

17 Q Is it your, is it your testimony then that you could
18 wait indefinitely to request a hearing?

19 A That's not my testimony. I'm saying I had a right to
20 the hearing, to waive a hearing and I did not do it.

21 Q You didn't waive it?

22 A I did not waive it.

23 Q But you didn't ask for it?

24 A If you have to waive a right, it's not a right.

25 Q You didn't want a hearing, did you?

1 A I wanted a fair hearing.

2 Q Well, there's a procedure for a fair hearing in the
3 handbook, isn't there?

4 A No.

5 Q There's not?

6 A No.

7 Q Isn't there a form?

8 A There is a procedure for a fair hearing and the
9 employee handbook, employment book, but not in the faculty
10 manual:

11 Q Well, isn't there a proceeding, a process in the
12 faculty handbook where faculty members, seven faculty
13 members will be elected?

14 A There is a process, but you asked me if there was a
15 fair procedure--

16 Q Right.

17 A --outlined. And I said no, there's not a fair
18 procedure outlined.

19 Q Well, is there a procedure in place where seven
20 members of the faculty will comprise the hearing
21 committee?

22 A There is.

23 Q And doesn't it give that committee the power to
24 decide whether the public, it will be open to the public
25 or it will not be?

1 A That's right. And I was never informed of the
2 members of the committee.

3 Q Well, you didn't request a hearing, did you?

4 A Well, he said the hearing was going to be on August
5 29th and well, who's going to be on the hearing and he
6 didn't tell me who's going to be on the hearing.

7 Q Did you ask him that?

8 A No, it's information he should have provided.

9 Q It says, the committee will determine the order of
10 witnesses and the admissibility of evidence, correct?

11 A Correct.

12 Q And that it may retain legal counsel at the expense
13 of the college to assist in its work.

14 A I'm sorry, where are you reading from?

15 Q From the hearing committee section.

16 A In the faculty manual?

17 Q Yes, sir. Page 36.

18 A Okay. Thanks. I'll just look for that then. All
19 right.

20 Q Section 3, hearing committee.

21 A Okay.

22 Q Let me know when you get to that page.

23 A Yes, I'm there.

24 Q Okay. All right. The next, the second paragraph
25 indicates as part of the process that the President or the

1 President's representatives may attend the hearing and may
2 be assisted by counsel in developing the case. Is that
3 what it says?

4 A That's what it says.

5 Q And the President will be given ample opportunity to
6 argue the case and to question any witnesses?

7 A That's true.

8 Q And the burden of proof will be on the
9 administration, meaning the college, correct?

10 A That's correct.

11 Q And then it says the tenured faculty member may also
12 be represented by Counsel and will be afforded ample
13 opportunity for a defense and for questioning witnesses.
14 Is that correct?

15 A That's correct.

16 Q And that the committee will use its full influence to
17 assist all parties in securing the presence of witnesses,
18 does it say that?

19 A Yes.

20 Q It also says that a verbatim record of the hearing
21 will be kept and typewritten copies will be made available
22 to both the President and the members, meaning the tenured
23 faculty members. Does it say that?

24 A Yes.

25 Q And then when the committee has reached a decision on

1 each of the causes for dismissal presented to it, the
2 President and the tenured faculty member will be notified
3 simultaneously in writing of that decision?

4 A Yes.

5 Q Okay. So that is the process that is outlined in the
6 termination of tenured faculty appointment section of the
7 handbook?

8 A That's correct.

9 Q All right. And there's also a section entitled,
10 appeals, where appeals may be made by the President or the
11 tenured faculty member directly to the board of directors
12 or board of trustees, is that correct?

13 A That is correct.

14 Q Now, are you aware of whether there was any
15 communication between your counsel and President Norman
16 regarding your 21-day period?

17 A I think there was some, yes.

18 Q And was the purpose of that correspondence to extend
19 the time under which you could consider the option?

20 A What option, sir?

21 Q The early retirement option?

22 A Termination procedures had already begun. How was I
23 able to, that's what it said. But termination procedures
24 had been, and that's what was confusing about this.
25 Termination procedures had begun yet I was still, had a

1 retirement option which I never understood.

2 (Whereupon, Defendant's Exhibit number 18 was marked
3 for identification.)

4 Q Dr. Crenshaw, I show you a two-page exhibit which has
5 been previously marked for identification as Defendant's
6 Exhibit 19 or is it 18, excuse me. I ask if you recognize
7 that document?

8 A Yes, I do.

9 Q All right. And is this correspondence from Dr.
10 Norman to Mr. Tinsley?

11 A It is.

12 Q And is it extending the early retirement option for
13 an additional six days?

14 A Well, let me look. Let's see. I believe that is the
15 second point that he's making, yes.

16 Q Through September 5th, 2011?

17 A Right.

18 MR. KEIM: All right. This is, I think, housekeeping
19 matter, Your Honor. I need to offer 16, 17, and 18, the
20 full version of the letter from Dr. Norman to Dr.
21 Crenshaw. The August 2005 letter from Dr. Norman to Dr.
22 Crenshaw and this latest exhibit into evidence.

23 THE COURT: Any objection?

24 MR. JAMISON TINSLEY: No objection.

25 THE COURT: All of them are in.

1 (Whereupon, Defendant's Exhibit 16, 17, 18 and 19
2 were admitted into evidence.)

3 Q All right. Dr. Crenshaw, there was no response by
4 September 5, 2011 concerning the subject matter of
5 Defendant's 19, correct?

6 A No.

7 Q All right. And so on Wednesday, September 17th Dr.
8 Crenshaw, I mean, Dr. Norman informs you, Dr. Crenshaw,
9 that since you haven't made a timely demand for a hearing
10 that your employment is terminated effective September 7,
11 2011, is that correct?

12 A That is correct.

13 Q And at the same time he notified the Erskine faculty?

14 A I have no idea when he notified the Erskine Faculty.

15 Q Okay. Are you aware that at some point early the
16 next week that you received correspondence from a member
17 of the faculty executive committee that they had reviewed
18 the procedures related to your termination of employment?

19 A I did receive such a letter.

20 Q All right. And was that from a member of that
21 committee?

22 A I don't remember.

23 Q Okay. And did that communication indicate to you
24 that the faculty executive committee had reviewed the
25 processes used by the college and they were in agreement

1 that they had met their requirements?

2 A Could you ask me that question again, please?

3 Q Did the email that you received from the faculty
4 executive committee indicate to you that the committee
5 concluded that the college followed the procedures
6 required?

7 A They had done so without asking my opinion of what
8 had happened. They did not gather any information from
9 me. So I considered their conclusions bogus at best.

10 Q I'm just asking what communications.

11 A And I'm just explaining my situation.

12 Q All right. Let me shift gears just for a minute
13 here, Dr. Crenshaw. I think that it's a fair
14 characterization of your testimony that you disagreed with
15 some of the decisions that were made by the administration
16 of the college, is that fair to say?

17 A I missed the first part of your question, but I think
18 I got gist from the second. Yes, that is fair to say.

19 Q All right. In light of your disagreement with those
20 decisions, though, you would agree with me that you were
21 treated professionally throughout this process, correct?

22 A No, absolutely not.

23 Q No one physically harmed you throughout this process,
24 did they?

25 A I didn't know that was even a possibility.

1 Q Okay. So the answer to that is, no?

2 A That's a ridiculous question. I don't know what that
3 means.

4 Q Look just, I mean, a simple answer, yes or no?

5 A Then, I would say okay, no.

6 Q Okay. No one made any physical threats against you
7 during this process, did they?

8 A No.

9 Q Nobody made any angry gesture such as a clinched fist
10 at you, did they?

11 A No.

12 Q All right. No one cornered you in a room and refused
13 to let you leave, did they?

14 A No.

15 Q No one used profanity towards you, did they?

16 A Well, I can't swear to that.

17 Q Do you recall any?

18 A Not offhand.

19 Q The freshmen that you met on the morning of August
20 6th, 2011, they were in an orientation period, correct?

21 A They were in an orientation period and would have
22 their first class. All freshmen had their first class
23 that day.

24 Q All right. And their second class would be some
25 three weeks later, is that correct?

1 A That would be approximately correct.

2 Q Is there a traditional first day of class for
3 students at Erskine?

4 A I'm sorry. I missed the first of the question.

5 Q Is there a traditional first day of class that is the
6 same like Labor Day every year or the second Tuesday.

7 A Except for freshmen. Freshmen had a first day of
8 class at that orientation session. That was intentional
9 to get them started early in the process.

10 Q All right. And then was there a time where the rest
11 of the school cranked up?

12 A Yes, that's right.

13 Q All right. And what was that?

14 A It was about three weeks later. Like you said, I
15 don't remember the exact date.

16 Q All right. So you would not have met with these
17 freshmen for the next three weeks, is that correct?

18 A That's correct.

19 Q With regard to your search for other employment, you
20 didn't formally apply for any position, did you?

21 A No, I didn't.

22 Q Your qualifications based on your educational status
23 and teaching experience qualified you for a number of
24 jobs, didn't it?

25 A No.

1 Q It didn't?

2 A No.

3 Q Could you have taught English in a secondary school?

4 A If they had a opening. Probably not.

5 Q You couldn't have taught high school English?

6 A I could have, but high school English department, if
7 they need to hire a person, if they hired me with a PhD,
8 they'd have to pay me a lot more than they'd have to pay a
9 new student who just got their certification. Not only
10 that, I would be clearly not someone who would stay at the
11 high school. But someone who would be retiring within a
12 few years, whereas the new teacher could be somebody who
13 would be taken onto the faculty and remain there. Those
14 jobs wouldn't even come open for the next year. My goal
15 was to get my job at Erskine back.

16 Q I understand that, but you under, do you understand
17 that you have an obligation to look for other employment?

18 A I did look for other employment.

19 Q You didn't formally apply for any work, correct?

20 A There was no job that fit, that I saw, that fit my,
21 my description, my qualification description.

22 Q Can you walk from your Due West home to Dixie High
23 School?

24 A Yes.

25 Q All right. And could you teach English to high

1 school students?

2 A Well, there was no job available at Dixie High
3 School.

4 MR. ROBERT TINSLEY: Objection, Your Honor.

5 Q Did you look?

6 MR. ROBERT TINSLEY: Asked and answered.

7 A Yes. My wife taught--

8 THE COURT: Wait, hang on. He answered your
9 question, but it's been asked twice. Next question.

10 Q All right. Was there a vacancy at Dixie High School?

11 A No.

12 Q Did you ask?

13 A My wife taught English at Dixie High School. I think
14 I would have known.

15 Q What about at Abbeville High School?

16 A I was on the Board of Trustees of the school. I would
17 have known if there was any job available in the county.

18 Q Were there any teaching jobs available?

19 A Not for a 63-year-old PhD, no.

20 Q What about were there any English positions
21 available?

22 A Not that I know of, no. And you're asking available
23 in October of 2011?

24 Q Well, anytime since September 7th of 2011?

25 A There have been no, well, I have not been looking for

1 the last year, two years. But certainly there were none
2 there.

3 Q Right. So when you quit looking was about a year or
4 two years ago?

5 A It was two or three years ago.

6 Q Two or three years ago?

7 A Yeah. Right. I had other obligations by then.
8 Things change.

9 Q All right. With regard to the medical information
10 and some testimony you gave previously, do you recall that
11 you saw a primary care physician on somewhat of a regular
12 basis prior to June of 2011?

13 A If you're asking did I have a family doctor with whom
14 I had regular checkups, the answer is yes.

15 Q Okay. And were your checkups prior to the, let's say
16 prior to August 1 of 2011, do you recall whether you had
17 any reports of high stress or difficulty concentrating?

18 A I can't recall that. You have the medical records.
19 You know better than I do what's there. Why don't you
20 tell me?

21 (Whereupon, Defendant's Exhibit number 20 was marked
22 for identification.)

23 Q All right. Dr. Crenshaw, I show you what's been
24 marked for identification. It's Defendant's Exhibit 20,
25 which is a three page exhibit. And I ask if you recognize

1 that document?

2 A This is not a document I've ever seen from my
3 physician. This is apparently the document that he sent
4 in response to your request.

5 Q All right. And on the left-hand, well, let's start
6 on the right-hand margin. It says, Crenshaw, William B.,
7 is that correct?

8 A Yes.

9 Q All right. And then if you'll look on the left-hand
10 side it says May 26, 2011. Is that correct?

11 A Yes.

12 Q All right. We're not going to spend much time going
13 through this. I just wanted to go to where it says,
14 History of Present Illness. Do you see that in the, look
15 at the very top in the middle column. It says, Reason for
16 Appointment.

17 MR. KEIM: May I approach the witness, Your Honor?

18 A I see it. Yeah, I got it.

19 Q Oh, you see it? Okay.

20 A I'm sorry. I do see it now, yes.

21 Q All right. And there's a, History of Present
22 Illness. Do you see that?

23 A I do see that.

24 Q Okay. All right. It indicates under, Psychology, it
25 says, C/O, which I think means, complains of high stress.

1 Does it say that?

2 A Yes.

3 Q And then C/O, complains of concentration changes.

4 Has problems getting focused. Do you see that?

5 A I do.

6 Q All right. And this is before, this is two months

7 before July of 2011?

8 A Yes.

9 Q Okay. And then it also says that you deny some

10 things. Do you see that right under there?

11 A Yes.

12 Q Denies sleep disturbances, depressed mood, anxiety,

13 irritable.

14 A Yes.

15 Q Is that what it says?

16 A Yes.

17 Q Okay.

18 MR. KEIM: I'd offer number 20 into evidence.

19 MR. JAMISON TINSLEY: I don't think the foundation
20 has been laid. He testified he'd never seen it before and
21 wasn't aware of the document.

22 THE COURT: Well, I want to hear a little more about
23 it. Let's take a break. It's about 4:00 o'clock. Y'all
24 step either in the jury room or outside. You can't begin
25 discussing the case.

1 (Whereupon, the jury was excused from open court for
2 a break.)

3 THE COURT: All right. Mr. Keim, I didn't hear Dr.
4 Crenshaw say that he'd seen it before. He read along with
5 you.

6 MR. KEIM: We have a medical records custodian
7 affidavit.

8 THE COURT: I have a lot more information with just
9 those couple of questions you asked.

10 MR. KEIM: I'm fine with redacting it.

11 THE COURT: Okay. We'll do that.

12 MR. KEIM: Does that work, I mean?

13 THE COURT: Yeah, that'll work.

14 MR. KEIM: I have no, I mean, I didn't even want to
15 put it in at all except to his, you know, he couldn't
16 testify to that. But I'd be happy to redact everything
17 except for--

18 THE COURT: I thought his wife testified to exactly
19 these things.

20 MR. KEIM: What's that?

21 THE COURT: I thought his wife testified to some of
22 these things.

23 MR. KEIM: Well, there's some, well, I've got two
24 more. There's both, one that comes right after it and one
25 September 15 and one the next August. So I think it's,

1 and, you know, my whole point is they are consistent.
2 It's not a change in condition and that's why I want to
3 put them in.

4 THE COURT: Did this not happen in the Fall of '10?

5 MR. KEIM: No. No. That's when the ambulance
6 incident started and this all happened when he left. The
7 termination was in September of '11.

8 MR. JAMISON TINSLEY: It's stretched from the Fall of
9 '10 with the ambulance incident.

10 MR. KEIM: Yeah.

11 THE COURT: A whole year?

12 MR. JAMISON TINSLEY: And then there was, there was
13 nothing that happened from January until August of '11.

14 THE COURT: All right. Whatever.

15 MR. KEIM: I mean, I'll agree to redacting copies
16 before the jury gets it if that's okay?

17 THE COURT: Y'all agree to what to redact, because he
18 didn't testify to all those things.

19 MR. KEIM: No. No. I'm not going to ask him about
20 all that stuff.

21 THE COURT: There's more in there.

22 MR. KEIM: Right.

23 THE COURT: Give it back to Mr. Keim. He's marked it
24 as 20, and they can redact it because it's not been
25 admitted yet. If they can agree to redactions, then we'll

1 admit it.

2 MR. KEIM: Okay. So it'll be same for 21 and 22.
3 We'll just do the same.

4 THE COURT: Y'all figure it out.

5 MR. KEIM: And I'm not trying to put anything in
6 there except that, that psychology section.

7 MR. ROBERT TINSLEY: Your Honor, I think we're
8 getting awful close here into a HIPPA matter. Granted
9 we've claimed emotional infliction and emotional distress,
10 but these are things that Dr. Crenshaw hadn't even seen.
11 And on those grounds, I think they should be excluded
12 entirely.

13 MR. KEIM: Well, there is an exact on-point exemption
14 from the HIPPA requirements for documents that are
15 introduced at litigation. They're not subject to the
16 restrictions.

17 THE COURT: I think that the documents can be
18 redacted for the purposes of the issues before the jury
19 and that's what I want done.

20 MR. KEIM: We will.

21 THE COURT: Y'all figure it out. We'll take a couple
22 of minutes while the jury is out. I want to run them back
23 in here. Dr. Crenshaw, you can stretch your legs if you
24 like.

25 MR. KEIM: Okay. But we're not going to enter until

1 I redact them.

2 THE COURT: 1 through 6?

3 COURT REPORTER: Judge, I don't have 1 through 6.

4 THE COURT: Defense?

5 COURT REPORTER: 1 through 6 on Defendant's, number
6 8 and number 10.

7 THE COURT: Mr. Tinsley, you and Mr. Keim have agreed
8 to them, as to those, are y'all going to object to them?
9 The ones Ms. Holston just outlined? 1 through 6.

10 COURT REPORTER: 1 through 6 and 8 and 10 are emails
11 and number 10 is the recording of the conversation.

12 MR. JAMISON TINSLEY: Yeah. I mean, we're certainly
13 not posting the recording.

14 THE COURT: Let's leave them alone for right now.
15 She wants an answer in the morning first thing, you are
16 going to want them in or out.

17 MR. JAMISON TINSLEY: Yeah, I mean, I know for sure
18 that 1 I called in. I just don't know what's the other
19 documents.

20 THE COURT: Yeah, they're yours and he's got to
21 consent to them and then they'll come in. I mean, unless
22 you want them in. I assume you do. And you might not
23 want them in. I assume you do.

24 MR. CLOSE: We started with Defense exhibit 7, right?
25 Yeah, because we had premarked them and the exhibits being

1 7 and 9, premarked.

2 THE COURT: All right. Y'all decide whether y'all
3 want them in.

4 COURT REPORTER: Them in or not.

5 MR. KEIM: These are the ones we premarked and I'll
6 look, but I think every one of them has been admitted by
7 the Plaintiff.

8 MR. JAMISON TINSLEY: They're probably in through
9 mine, yeah.

10 MR. KEIM: So we'll get you that answer first thing
11 in the morning.

12 THE COURT: All right. Got us a little homework.
13 All right. So we're ready to proceed on with the jury?

14 MR. KEIM: I am, Your Honor.

15 THE COURT: Bring them in, please.

16 (Whereupon, the jury came into open court at
17 approximately 4:16 p.m.)

18 THE COURT: All right, continue, Mr. Keim.

19 CONTINUE CROSS-EXAMINATION

20 BY MR. KEIM:

21 Q Now, Dr. Crenshaw, I'll show you what's been
22 previously marked as Defendant's Exhibit 21 for
23 identification, which is a two page exhibit and ask if you
24 recognize this document?

25 MR. ROBERT TINSLEY: While he's looking at that, Your

1 Honor, could I go back to the sequestration issue we had
2 earlier?

3 THE COURT: Yeah, we'll tell the jury what we're
4 talking about. You want to request sequestration?

5 MR. ROBERT TINSLEY: Yes.

6 THE COURT: I'll tell you what we'll do. Who's in
7 here that hasn't been called. If they been called, they
8 get to stay and I'm going to explain to the jury what I'm
9 talking about. What that means, ladies and gentlemen,
10 witnesses in many times and many cases except for the
11 parties are allowed to sit in the courtroom and listen to
12 everybody's testimony. And that way you get to hear their
13 testimony, not something they have heard or repeated from
14 someone else. And so by happenstance, we've conducted
15 this trial fairly without sequestration. But it's been
16 sequestered because the witnesses hadn't been in here
17 watching and one of the lawyers pointed it out. And I
18 said, well, let's just continue to do it that way. And so
19 I forgot to ask the witnesses who haven't testified yet to
20 go ahead and leave. If they've testified, they get to
21 keep listening. They can stay in here so that's what
22 they're talking about. And so y'all getting the true
23 firsthand testimony from the witnesses to their
24 recollections and not their over hearings. All right.
25 Continue on.

1 MR. KEIM: Thank you.

2 Q Dr. Crenshaw, the question was whether you recognize
3 this document?

4 A I recognize it as the similar document and the one
5 you gave me before but.

6 Q Okay. And then if you'll recall from what was marked
7 as Defendant's Exhibit 20, I zeroed in on a particular
8 section of that report under the, History of Present
9 Illness. Do you recall that?

10 A I do.

11 Q All right. And I would like to draw your attention
12 to this report which is for September 15, 2011, correct?

13 A That's correct.

14 Q All right. And so under, psychology, it says,
15 complains of high stress and complains of concentration
16 changes, has problems getting focused. Correct?

17 A Correct.

18 Q All right. And under, denies, it says, sleep
19 disturbances, depressed mood, anxiety, irritable, meaning
20 you were denying you had those. Correct?

21 A That's what it says.

22 Q All right. Then also under that, Psychology section
23 it says, energy fair, mood is fair, varies. He just lost
24 his job at EC and is going to fight it. So currently
25 newly retired and some extra associated, is the

1 abbreviation, stress. Is that what it says?

2 A It is.

3 Q All right. Let me show you what's been marked
4 previously as Defendant's Exhibit 22 for identification
5 which is a three page exhibit and ask you the same
6 question, whether you recognize this document?

7 A It is the same type of document you just showed me,
8 yes.

9 Q All right. And is it for you?

10 A Yes, it is.

11 Q All right. And the date is August 28, 2012, is that
12 correct?

13 A That is correct.

14 Q So close to a year after your termination of
15 employment?

16 A That's correct.

17 Q All right. And again to the same section under the
18 History of Present Illness, Psychology section, do you see
19 that?

20 A Going down, yes.

21 Q It's a little further down?

22 A Yes, I see it this time around.

23 Q All right. And just follow along. I want to be sure
24 I read this correctly. It says, complains of
25 concentration changes, has problems getting focused. Does

1 it say that?

2 A Yes, it does.

3 Q And then it says, denies high stress, sleep
4 disturbances, depressed mood, anxiety, irritable. So
5 that's indicating that you deny you have those, is that
6 correct?

7 A Yes, that is correct, yes.

8 Q And then it also says, mood is fair, stable on meds.
9 Is that correct?

10 A Yes.

11 Q All right. Now, in your previous testimony, I
12 believe on direct exam, you indicated that you applied for
13 a position at Wofford College. Is that correct?

14 A That was several years ago.

15 Q But that was before your termination of employment?

16 A Yes, it was.

17 Q Okay.

18 (Whereupon, Defendant's Exhibit number 23 was marked
19 for identification.)

20 Q Dr. Crenshaw, I show you a one page exhibit which has
21 been marked as Defendant's Exhibit 23 for identification
22 and ask if you recognize this document?

23 A Yes. Well, no. I beg your pardon. Now, hang on a
24 second. Yes, I do. Yes, I do.

25 Q All right. And what is this document?

1 A I'm really not sure. It appears to be, I don't
2 understand why the name, Brad Christie, is across the top,
3 because it appears to be a, an email from Brooks
4 Kuykendall presenting me a statement that you've already
5 read, I think, from the FEC.

6 Q All right. And the FEC is the faculty executive
7 committee?

8 A That's correct, and I think indicated to you I did
9 remember who sent it to me, now, I do. I mean, this is
10 it.

11 Q All right. So this is a communication regarding the
12 faculty executive committee's review of the, of whether
13 the termination procedures were followed. Is that
14 correct?

15 A That is correct.

16 Q And that your testimony was you didn't provide any
17 input into that?

18 A I'm sorry. I didn't hear.

19 Q Your testimony was that you didn't provide any input
20 or weren't asked for any input from that committee?

21 A I was not asked for any input from the faculty, yeah,
22 that's correct.

23 MR. KEIM: All right. If I could have just one
24 second.

25 Q All right. Just two more questions, Dr. Crenshaw.

1 Dr. Kuykendall testified yesterday. Your attorneys called
2 him as a witness, correct?

3 A He did.

4 Q All right. And the Wofford application that you,
5 you're talking about that was years before your employment
6 with Erskine was terminated, what position were you
7 applying for?

8 A I was applying for a position in Medieval Literature
9 at Wofford. I was applying for, unfortunately and this is
10 the problem that I face now or faced right after I was
11 fired. I don't remember whether it was an Assistant
12 Professorship or an Associate Professorship, and I was
13 applying for that position. But since I was a full
14 professorship, they did not, they rejected my application,
15 because I was a full Professor.

16 (Whereupon, Defendant's Exhibit 23 was admitted into
17 evidence.)

18 MR. KEIM: All right. That's all the questions I
19 have of you.

20 THE COURT: All right.

21 REDIRECT EXAMINATION

22 BY MR. JAMISON TINSLEY:

23 Q Can you explain to the jury the distinction between
24 criticism and a personal attack?

25 A For me criticism, if I was critical of procedures as

1 I was, there are procedures in place or a lack of
2 procedures. I felt my rights were not protected by the
3 procedures that were in place or were missing, so I was
4 criticizing the procedures. So when I wrote Howard and I
5 said, I'm criticizing procedures, not person, I was not
6 blaming Howard for the lack of the procedures that he was
7 facing. But I was trying to make a point that there were
8 no procedures by asking him for, you know, it's not quite
9 habeas corpus but having the charges that I'm being kind
10 of arraigned on presented to me. I did not blame the
11 special committee and we called it a special grievance
12 committee, I was highly critical of the procedures and
13 there were procedures available we could have followed
14 like the one that this Council just presented for faculty
15 firing with tenure. If that had been followed all the way
16 down for those other things, that would've been fine or
17 another procedure that exist in the manual. So there were
18 not, there were not existing procedures and place for
19 those committees that would protect both the rights of the
20 complainer and the rights of the complained against. And
21 so I was critical about the lack of procedures. I was not
22 criticizing any individual. Now, I would say I did, I did
23 criticize some of Dr. Norman's particular interpretations
24 of these things, but he was still nice. Does that answer
25 your question, Mr. Jamison?

1 Q Yes, sir. And there was testimony or questions about
2 time constraints being the reason you didn't give a
3 written response to that special grievance committee.

4 When was that special grievance committee, when were they?

5 A I think they met on, I believe it's, number 16, I
6 think. And that would have been after exams at that
7 point. Well, it was leading up to the exams. It was the
8 end of the semester. I mean the time constraints where
9 the end of the semester and exams coming up and papers to
10 be graded. End of the, and papers being graded, all that
11 sort of stuff, yeah. That was my first priority.

12 Q Is that a Professor, generally, a Professor's busiest
13 time of year?

14 A Yeah, it depends on which department you're in. If
15 you're in the English department, you get a lot of writing
16 coming in and that takes a long time to grade. If you're
17 in another department, you might be able to give
18 multiple-choice tests or something that are a little bit
19 easier to grade. But it, and so it depends on what you're
20 teaching. It was a heavy grading load for us in English
21 because we do, you know, foreign languages and history,
22 all that heavy load.

23 Q Okay. And when the, this blog about quit donating to
24 Erskine, were you donating any money at the time to
25 Erskine?

1 A Within, let's see, that was in, yeah, within two
2 months of that, I did donate, you know, through that
3 Chair, as I said, \$3,000.00 dollars.

4 Q Do you think, as a tenured Professor, you owed
5 loyalty to Dr. Norman's administration?

6 A I owed loyalty to Erskine College. Different
7 administrations perform more or less effectively and the
8 loyalty should be to the continuance of the college and
9 not to any individual administration. Hopefully, the
10 faculty administration work together to extend the life of
11 the college and to make the college stronger. In this
12 period of Erskine's history, that wasn't happening and it
13 precedes Dr. Norman's presence on campus. Again, not the
14 criticism is in the process going on at the college. It
15 was going on before Dr. Norman is on campus. And it was,
16 it's still going on today after Dr. Norman has left. And
17 he's just, he found himself in the middle.

18 Q Why did you call Dr. Norman a liar?

19 A I have to go back and look at the transcript, but it
20 was because he told, he said things that weren't true.

21 Q Okay. Were these things in the relation to your job
22 status?

23 A I would have to go back and read the transcript to
24 see exactly what I was talking about. Because, you know,
25 I don't want to make a general statement. I've been a

1 victim of that. I want to be specific and precise.

2 Q When you made the comment about wishing him to blow
3 up, was that literally or metaphorically?

4 A No, metaphorically. Dr. Norman had taken actions
5 during his tenure which I felt would eventually come back
6 to haunt him. And I fear, and I felt there would be a
7 time when he would find himself in my position and within
8 18 months he did.

9 Q Do you feel like he treated you with dignity and
10 respect in the manner in which he called the meeting?

11 A In the matter in which he called the meeting; no,
12 that was not. That was as unprofessional an act as I've
13 ever seen. Within the meeting itself, he was courteous
14 and calm. I was not quite as courteous and calm as he
15 was.

16 Q And why do you say it was as unprofessional an act as
17 you'd ever seen?

18 A I just can't imagine a scene in which you let a
19 Professor teach the class to incoming freshmen and when
20 you could have done this weeks ago. I mean he could've
21 talked to me about this anytime during the summer or
22 before that in the Fall. And, you know, went through the
23 whole Spring semester but to wait until after, he could
24 have stopped me going in to get my freshmen and say, no,
25 you don't do that today. We need to talk first and have

1 somebody already going to take my class. But no, he let
2 me go into the building, get my students, take them down
3 to the classroom building, teach the class, introduce my,
4 reintroduce myself because we'd already met online and get
5 to know them, pass out the handouts, give them their first
6 homework assignment and then fire me. I mean, they were
7 in that class because they chose the class from a list of
8 classes, freshmen classes and he didn't think about them.
9 He didn't think about their parents. I just thought

10 that's, you don't treat students and parents like that.

11 Q Are you aware of any difficulties Erskine had with
12 filling your role that semester?

13 A I know there were difficulties. I don't even know if
14 one of the courses was taught. I mean, usually we have
15 specific specialties that we gain in graduate school and
16 I'd have to go back and look at what I was teaching. But
17 I'm sure one of the courses was one that nobody else on
18 the faculty had taught. But, you know, when I left that
19 reduced the faculty about twenty-five percent. So you
20 can't just dump new work on them. You got to get somebody
21 else to come and I have no idea what happened. I was
22 banned from the campus by that time. I had no contact
23 with campus.

24 Q When you say reduced by twenty-five percent, are you
25 talking about within the English Department?

1 A Within the English Department. We're a four-member
2 department and so when I left, that was twenty-five
3 percent of the teachers gone.

4 Q Okay. Prior to the termination, was your tenured
5 status ever revoked?

6 A No.

7 Q Would you ever work at a school where a tenured
8 Professor could be fired at any time?

9 A Ask me that question again.

10 Q Would you ever work at a school where a tenured
11 Professor could be fired at any time?

12 A Generally speaking, a tenured Professor can only be
13 fired anywhere for good cause. That's what tenure means.
14 There is controversy going on in Wisconsin right now
15 because the governor is trying to wipe out tenure at all
16 state-supported colleges and universities. And that's a
17 big controversy. But no, I mean, I wouldn't know of such
18 a place, really, but I wouldn't work there if there were
19 such a place.

20 Q I'm handing you what's been marked as Defendant's 17
21 which is the college faculty manual.

22 A Okay.

23 Q Would you turn to page 33, please?

24 A Okay.

25 Q Would you go down to section entitled, tenure.

1 A I see it.

2 Q And would you read the first paragraph of the first
3 sentence of the second paragraph?

4 A Yes. Academic tenure provides for continuous
5 appointment of a faculty member to be a, to a designated
6 teaching position. Except for retirement, resignation, or
7 disability, the service of the faculty member with tenure,
8 the service, services, I'm sorry, of a faculty member with
9 tenure are to be terminated only for adequate cause as
10 specified below in the termination of tenured faculty
11 appointments or upon the discontinuation of a program or
12 department or because of bona fide financial distress of
13 the college. Tenure through its guarantee of reasonable
14 employment security helps to ensure academic freedom to
15 the faculty, both individually and collectively.

16 Q Did you understand that language to apply to your
17 position at Erskine?

18 A Yes.

19 Q Now, I'm handing you what's been previously marked
20 Defendants Exhibit 18, a letter from Dr. Norman to you
21 dated August 5th, 2011?

22 A Okay.

23 Q Would you please read the footnote for us?

24 A A footnote says, while I do not condone the actions
25 you took on Friday, September 24th, I am convinced that

1 your actions were motivated by your sincere and passionate
2 interest in the health of one of her students, which is in
3 my mind a commendable motivation.

4 Q Are you aware of Dr. Norman ever appointing a
5 termination hearing committee in your case?

6 A No.

7 Q Okay. Did you have concerns with fairness of any
8 potential committee?

9 MR. KEIM: I want to object. I think it's beyond the
10 scope of my cross.

11 MR. JAMISON TINSLEY: He crossed him pretty hard on
12 that committee.

13 THE COURT: I think that's fair cross.

14 MR. KEIM: All right.

15 THE COURT: We named everybody and we've had emails
16 that named everybody.

17 DR. CRENSHAW: I may answer the question?

18 THE COURT: You may answer the question.

19 A Yes, I did have concerns. The only committee that
20 could be called together quickly that I knew of would be
21 the faculty executive committee because we were still
22 three weeks away from classes beginning. They might have
23 been on campus around and the faculty executive committee
24 contained at least one of the complainants of the five
25 original grievances. And I have to look and see it, the

1 list. But yeah, I did have concerns about the fairness of
2 such a committee.

3 Q All right. And on the faculty executive committee
4 were you ever contacted by them?

5 A I beg your pardon?

6 Q Were you ever contacted by them?

7 A I was never contacted by the faculty executive
8 committee until the letter from Brooks saying they had met
9 with the President.

10 Q Do you still have Defendant's 23 up there with you?

11 A Yes, I do.

12 Q Okay. That's the letter from the faculty executive
13 committee?

14 A It is.

15 Q And Gid Austin is one of the names that signed it?

16 A Yes, he is.

17 Q Okay. And was he one of the original complainants
18 that started the whole matter?

19 A Yes, he was. And Brad Parker, I see signed it, too,
20 and he was on the special grievance committee.

21 Q Do you know of any Professors going from being
22 tenured Professors to high school teachers?

23 A I'm sorry, say it again.

24 Q Do, you, are you aware of any tenured Professors
25 going from a Professorship to being a high school teacher?

1 A No.

2 Q Okay.

3 A No, I don't know of any, actually in my life.

4 Q Do you think that would have been a logical and
5 reasonable next step in your employment career?

6 A It would have been, well, knowing how public schools
7 work, unless I was in a public school system that have
8 buckets of money, I wouldn't hire a full Professor because
9 with that extra degree, you have to pay them by state law
10 extra money. And I would want to be hiring somebody who's
11 younger and fresher and he would commit to the school for
12 a long period of time. It would not have been, I mean
13 theoretically, you could say these jobs were out there but
14 in actual real terms, real-world terms, they wouldn't be.

15 Q Okay. Did you have any experience teaching high
16 school?

17 A I'm sorry, say it again.

18 Q Did you have any experience teaching high school?

19 A No, I've never taught high school. I've taught,
20 obviously, freshmen who were just out of high school.

21 Q There were questions about some doctor's visits and
22 the first one was mentioned was May 26th, 2011?

23 A Okay. Yeah. I think, I had a regular three-month
24 appointment.

25 Q That would have been eight months after the ambulance

1 incident?

2 A Right. Yeah.

3 Q All right. There was testimony on cross about
4 applying at Wofford?

5 A Yeah, I had applied to Wofford. I don't remember how
6 many years earlier because Wofford has a graduate, Wofford
7 life, Wofford came up with, came up with in my field of
8 specialty which is Medieval Literature. And so it was an
9 opportunity to go to a place I really liked and teach in
10 my field. Erskine, there was only four people in the
11 department. You become more generalist and teach a
12 variety of things. So it was an attractive position
13 because of that.

14 Q Okay. Had the new students been introduced to the
15 blog that you've described for us earlier?

16 A Yes, they had already been introduced to it. I got
17 their names and email addresses when they signed up. They
18 signed up before I actually met them, obviously, and the
19 Registrar sent us all their names and email addresses and
20 encouraged us to get in touch with them. I'd created a
21 blog site for those two classes, one each and I encouraged
22 them to just sign on. I had an introductory paragraph
23 describing who I, saying who I was and what the course was
24 about and encourage them all to just sign on the blog and
25 say hello to each other and get to know each other before

1 they got to campus. You know, and the intent was to ease
2 their transition.

3 Q In all these blogs, what was your expectation of
4 their privacy?

5 A Well, I wanted them to feel free to discuss. That's
6 why we had a password-protected blog so that only, it was
7 just like a classroom conversation. You know, if you're
8 not in a class you generally don't come in, and ease to
9 the conversation. And I wanted them to feel free to
10 discuss freely with each other and so we had it
11 password-protected. Obviously that's not foolproof.
12 Anybody can give the password out. But, you know, that
13 was one thing we could do and we just hope, it's not like
14 we're saying anything you shouldn't hear. But I wanted
15 them to have a sense that this was their blog, not the
16 world's blog.

17 Q Was that, did you have similar expectations regarding
18 the blog that you were cross-examined about earlier, the
19 Erskine blog?

20 A I'm sorry, which Erskine blog? Are you talking
21 about?

22 Q The one with the posts that you were questioned about
23 earlier?

24 A Oh, that was just the Facebook kind of chat room. I
25 was not in control of that. I was just a member.

1 Q What were your expectations of the privacy on there?

2 A Again, the same. I mean, clearly, the privacy can be
3 given out. But this was a discussion started by alumni
4 and continued by alumni and other people joined in. Other
5 faculty members joined in, too. We're all concerned about
6 the direction Erskine was going and it was an ongoing
7 conversation in the electronic world, because we can all
8 get together physically.

9 Q Who do you read these, the contract disclaimer that
10 you were questioned about, who do you read those as
11 applying to?

12 A The disclaimer that this is not a contract?

13 Q Yes.

14 A I have no idea. I really don't. Although, it looks
15 like it's saying this faculty manual is full of all of
16 these procedures and policies and rules. But none of them
17 count. Nobody typically goes by them because this is not
18 a contract.

19 (Whereupon, loud disturbance in Court created by
20 microphones.)

21 THE COURT: Ask your question again, because I'm not
22 sure I heard it.

23 MR. JAMISON TINSLEY: I don't know that I remember
24 it.

25 Q The only question I have left is, do you feel as if

1 you fulfilled the duty of loyalty that you described to us
2 that you owed Erskine College?

3 A I do. Yes. I wanted to stay there and retire there.
4 I looked forward to that.

5 Q Okay. Thank you.

6 MR. JAMISON TINSLEY: No further questions.

7 THE COURT: Any recross?

8 MR. KEIM: No recross, Your Honor.

9 THE COURT: All right. Dr. Crenshaw, you may step
10 down.

11 DR. CRENSHAW: Thank you very much.

12 THE COURT: All right. Folks, if y'all got any
13 objection that's the end of the day. All right. We'll
14 start back in the morning at 9:15. Don't discuss the
15 case.

16 (Whereupon, the jury was excused from open court for
17 the day.)

18 JUNE 10, 2015

19 THE COURT: Anything before we get going and as Ms.
20 McMahon comes in? All right. Y'all ready to bring them
21 in?

22 COURT REPORTER: What about the exhibits.

23 THE COURT: Oh, yeah.

24 MR. KEIM: We did have the three redacted exhibits
25 which we have provided copies to Plaintiff's counsel and

1 to the Court Reporter. We might need to decide whether
2 that redaction is satisfactory.

3 THE COURT: Okay. Those medical records, Mr.
4 Tinsley, how do you, what do you think of their
5 redactions?

6 MR. JAMISON TINSLEY: I mean, it's consistent with
7 what he said yesterday. And he's redacted everything
8 except for the name, the date.

9 THE COURT: And I think that would be appropriate
10 considering the testimony. Okay. We'll admit them
11 redacted.

12 MR. JAMISON TINSLEY: Thank you, Your Honor.

13 THE COURT: All right.

14 COURT REPORTER: That's 20, 21 and 22.

15 THE COURT: The Exhibits 1 through 6 and 10 and there
16 was something else.

17 MR. KEIM: Has 8 been entered as other numbered
18 exhibits.

19 THE COURT: Okay. You don't want these redacted?

20 MR. KEIM: Exactly, so that's, that's exactly right,
21 1 through 5.

22 THE COURT: Okay. So, 1 through 5 and 10 are not
23 coming in.

24 MR. KEIM: Right.

25

1 (Whereupon, Defendant's Exhibits 1, 2, 3, 4, 5 and 10
2 were marked for identification only.)

3 THE COURT: They're already in through Plaintiff's
4 exhibits.

5 MR. KEIM: Or we missed some numbers, put some in.

6 THE COURT: Okay. Fair enough. All right. Good.
7 And I'm going to tell the jury that. Bring them in.
8 That'll make sense that we've talked about that to have
9 the, no reason to have the same email in three different
10 times.

11 MR. KEIM: Right.

12 (Whereupon, Defendant's Exhibits 20, 21 and 22 were
13 admitted into evidence.)

14 (Whereupon, the jury came into open court at
15 approximately 9:19 a.m.)

16 THE COURT: All right. Folks, good morning. We'll
17 continue on. The lawyers and I spoke, as well as Ms.
18 Holston yesterday afternoon and this morning. We had
19 three medical exhibits about going to the doctor and kind
20 of a summary. We have redacted or blacked out the
21 portions that weren't discussed in the testimony because
22 they're needless to put, and not because we don't want you
23 to see them, but once they're entered into evidence, they
24 stay in the Court's file from now on. And they become
25 public but private information that anybody can come look

1 at and that's just no need. So, therefore, they're
2 redacted for the benefit of the doctor and for Dr.
3 Crenshaw. So not hiding anything. It's just only the
4 portion they testified to is what we're going to leave in
5 the Court's record for everybody else to have a look at
6 next year or 10 years from now, whenever. Additionally,
7 there were some, we premarked some exhibits and some
8 didn't, the Defense, and we were talking about Exhibits 1
9 through 5 and 10 and different numbers. Unbeknownst to
10 me, the Plaintiff put them in as other exhibits. It's the
11 same email. They've got some of the same documents, but
12 y'all don't need to see Defendant's Exhibit 2 is the same
13 as Plaintiff's Exhibit 8. And that may or may not be, the
14 lawyers understand that the letters, emails or whatever
15 they discussed all in evidence now. And so there is no
16 need to put both side's same exhibit in under different
17 numbers for y'all to see the same email two different
18 ways. Is that a correct summary, lawyers?

19 MR. KEIM: Yes, Your Honor.

20 THE COURT: Okay. Fair enough. So, Mr. Tinsley,
21 call your witness.

22 MR. JAMISON TINSLEY: At this time the Plaintiff
23 respectfully rests.

24 THE COURT: Very good. All right. I got to put
25 something on the record. I didn't know he wasn't going to

1 call witnesses this morning first thing. But I need to
2 put something on the record and I don't need y'all in here
3 for it, so if y'all will let me do my job for a few
4 minutes, I'll have y'all right back out here. So y'all
5 step back in the jury room.

6 (Whereupon, the jury was excused from open court.)

7 THE COURT: All right. Mr. Keim, you got motions?

8 MR. KEIM: Yes, Your Honor, and Mr. Close is going to
9 handle this for us.

10 THE COURT: All right.

11 MR. KEIM: Thank you, Your Honor.

12 MR. CLOSE: May it please the Court. Your Honor, at
13 this time we would like to move for a directed verdict on
14 all remaining claims against both defendants. And I'll
15 argue those claims one at a time if it suits the Court.

16 THE COURT: That'll be fine.

17 MR. CLOSE: Now, Your Honor, with regard to the
18 breach of contract claim. The standard of this case or in
19 this instance is whether or not the handbook can admit on
20 more than one inference about whether it is a contract and
21 what a reasonable person would believe in terms of whether
22 or not it is a contract. Plaintiff clearly is not the
23 average person. He's a 34-year tenured English Professor
24 with a PhD and can very clearly understand the language
25 both on the front of the handbook that it's not a contract

1 and the language on every single page of the handbook,
2 including the pages that discuss the procedures for
3 termination of a tenured employee. So, we think it's no
4 reasonable jury could find or juror could find that
5 Plaintiff could reasonably believe the handbook was a
6 contract. But even if the handbook is a contract, Your
7 Honor, the testimony thus far from Plaintiff is that
8 Erskine followed the procedures. And what's important to
9 note is that the termination of a tenured Professor is a
10 process starting with the preliminary procedure and that's
11 the procedure that Dr. Norman called Plaintiff to his
12 office to discuss on August the 6th. It was not to
13 terminate him. It was to start the discussion to try to
14 resolve a problem by mutual consent. That's what the,
15 that's what the handbook requires and that's what Dr.
16 Norman was doing. He was starting the process, the first
17 piece of which was to come to mutual consent. There is in
18 the admitted transcript of that meeting a line where Dr.
19 Norman says, specifically, I am trying to help you keep
20 your job. So, clearly, at that point, he was not
21 terminating the Plaintiff. He was trying to work it out
22 as he was required to do. However, when they weren't able
23 to do that, Dr. Norman sent the Plaintiff the statement of
24 the grounds for his dismissal. And that brings them into
25 the second stage of the termination process. And in the

1. second paragraph, excuse me, up at the top of the second
2 page, this is also in evidence, of the grounds for
3 dismissal. Dr. Norman says this, you have a right under
4 college policy to a full hearing before a faculty
5 committee. Unless you waive your right to a hearing, it
6 shall be held on August 29th at 9:00 a.m. in the Chestnut
7 Room. This schedule is subject to adjustment upon
8 reasonable request as also stated in the handbook.

9 THE COURT: Well, you don't have to read all that, I
10 mean.

11 MR. CLOSE: So the point, Your Honor, is that it
12 clearly says in the next sentence that you will, you must
13 reply in writing. And that's taken almost verbatim out of
14 the policy itself which says you must reply in writing
15 about whether you want the hearing. Dr. Crenshaw's
16 testimony is that he didn't do that and he said he didn't
17 have to do it because of the first sentence which says you
18 have a right to the hearing unless you waive it. But he
19 just ignores the following sentence, completely ignores
20 the qualifying sentence that the faculty member will reply
21 in writing to the President stating whether a hearing is
22 desired and the reply had a time limit on it. So Dr.
23 Crenshaw himself didn't make use of all of the procedures
24 available to him under the policy. It gives him the right
25 to a hearing and if he doesn't like the hearing, the

1 decision from the hearing, it gives him the right to
2 appeal that to the Board of Trustees and it's all right
3 there in the policy. So it's our position not only that
4 Dr. Crenshaw could understand that the handbook is not a
5 contract, but even if it is, that he did not make use of
6 the provisions afforded him to get full due process, which
7 is what he demands under the contract. Now, with regard
8 to the Defendant Norman as an individual under the breach
9 of contract claim, Your Honor, both Plaintiff's complaint
10 and his testimony specifically say that Dr. Norman was at
11 all times acting within the course and scope of his
12 employment with Erskine College, that he never acted
13 outside of that. All these actions taken were his duties
14 as President or within his responsibilities as President
15 of the college and, therefore, there is no contract
16 between Dr. Norman and Dr. Crenshaw. Dr. Norman is not a
17 party to the handbook if that's the contract, and there is
18 no other contract between Dr. Norman and Dr. Crenshaw. So
19 those are the breach of contract claim arguments, Your
20 Honor.

21 THE COURT: All right. Let's stop there. Mr.
22 Tinsley, tell me about Defendant Norman individually; what
23 you got on that? What did he do individually? He did a
24 lot, there was a lot of testimony as President. But give
25 me a specific fact or instance or circumstance with the

1 acting individual.

2 MR. JAMISON TINSLEY: I believe the contract claim
3 against him individually is based off the fact that he
4 intentionally took these steps. I mean, I don't have, you
5 know, he was the Erskine President throughout. We don't
6 dispute that and that he intentionally ended this
7 termination through not proper grounds.

8 THE COURT: All right.

9 MR. JAMISON TINSLEY: He didn't, you know, we just
10 don't feel he followed through the processes he was
11 required to by the manual as well.

12 THE COURT: On the breach of contract action as him
13 acting President, I tend to agree with you. But him
14 acting individually, I don't see, I don't see him acting
15 outside of being the President. I mean, he acted as
16 President. Perhaps he followed this procedure and not
17 that one or close to this one. But a lot of testimony
18 over the board on your case as to the actions of both, the
19 transmission of emails, his letters and conversations,
20 hearings. I can't find or recollect an instance where Dr.
21 Norman acted individually that you put up. And, I mean,
22 correct me if I'm wrong. The breach of contract with
23 Erskine with him as President, I'm clear with that. I was
24 listening for it the whole time.

25 MR. JAMISON TINSLEY: Yeah, I mean, all I can say is,

1 just say we just don't feel like he followed the contract
2 as he's required to within his duties as President.

3 THE COURT: All right. I'm going to grant directed
4 verdict as to him individually. And on the breach of
5 contract action, I believe there's facts in dispute.
6 There was little guidance in some areas of the faculty
7 handbook, the employment handbook. There was a new
8 committee formed. There was all sort of things on the
9 board as to who was following which procedure and if there
10 was a procedure and if there were rules or if there were
11 steps or if there were requests and is it a right. There
12 is questions of fact there for me on the breach of
13 contract action as to the college and Dr. Norman as the
14 college President. So, respectfully, I would decline to
15 grant the motion for a directed verdict on the breach of
16 contract action.

17 MR. CLOSE: Yes, Your Honor.

18 THE COURT: The next one.

19 MR. CLOSE: The intentional infliction of emotional
20 distress claim, Your Honor. And I'm getting into it more
21 specifically. But very basically, there's a lot of
22 authority in the State and I have some here or like it
23 that says that this just is not, does not rise to the
24 level of extreme and outrageous conduct that exceeds all
25 bounds of decency which is what, what's required. And the

1 Courts say that that is a question in order to be a
2 gatekeeper for these claims, going to juries that whether
3 intent is extreme and outrageous, sufficiently extreme and
4 outrageous is a question for the Court. And that's the
5 first inquiry. The second one, Your Honor, is whether or
6 not the conduct is so severe that a reasonable person
7 could be expected to endure it. Plaintiff's claim
8 basically is that the timing of this August 6th meeting,
9 the fact that it was held after the Plaintiff met with his
10 first class, supports that Dr. Norman intentionally
11 inflicted emotional distress on him by allowing him to
12 meet with some students for approximately an hour and
13 that's simply just not enough. The first reason is, this
14 meeting was not, again, it wasn't a termination meeting.
15 It was the first step in the process where Dr. Norman was
16 just trying to provide Plaintiff with some options of ways
17 to stay employed. And he even said I'm trying to keep you
18 employed. So in that way, it's not the termination
19 itself, it's not even close. His termination wasn't until
20 a month later. Then we get into the actual legal standard
21 for extreme and outrageous conduct. Dr. Crenshaw
22 testified he wasn't physically threatened. He wasn't
23 physically harmed. He wasn't cornered in an office and
24 kept there. He wasn't, none of these things that might
25 possibly establish intentional infliction of emotional

1 distress happened to him. And there are in cases in the
2 employment context where, even where a supervisor's
3 conduct ridiculing the speech impediment of and
4 threatening to fire an employee who had cerebral palsy did
5 not provide a sufficient basis for intentional infliction
6 of emotional distress. There is a, this case that I have
7 just cited holds that an employee who was actually
8 threatened with his job was given a bunch of extra duties,
9 had his office taken away, was basically made to fail, set
10 up for failure and threatened with his job, still did not
11 support an intentional infliction of emotional distress
12 claim. And in our case and another employment context, we
13 don't have any of those things. And even if Dr. Crenshaw
14 said he was being threatened with his job which, again, is
15 not true as of that August 6th meeting, none of the other
16 things exist. It was a conversation and the termination
17 happened one month later. And then the next element, Your
18 Honor, is the actual level of emotional distress that Dr.
19 Crenshaw had. In his medical records introduced into
20 evidence, showed that just before or in May, a couple of
21 months before his termination, he already had some stress.
22 And then just two weeks after his termination at his next
23 doctor's visit, he essentially had the same level of
24 stress with a note that he has some related stress to his
25 termination. But all the other factors of Dr. Crenshaw's

1 psychological state were the same from the doctor's visit
2 before and the doctor's visit after his termination. So
3 even if he had some related stress, it's not even remotely
4 close to the standard which is so severe that no
5 reasonable person could be expected to endure it.

6 THE COURT: Well, I mean, and what about the argument
7 that Dr. Crenshaw is an English Professor, extended
8 training and so he was able to tolerate it better. What
9 about that?

10 MR. CLOSE: I'm sorry, Your Honor, I didn't catch the
11 second part?

12 THE COURT: He's an English Professor. The President
13 of the college at the time is a PhD in some facet that I'm
14 not aware of that doctor versus doctor. And maybe his
15 ability to handle what was going on was different. When
16 you're talking about a reasonable person or a regular
17 person, how does that fit with Dr. Crenshaw being, Dr.
18 Crenshaw versus the guy working down at the local Walmart
19 stocking shelves? They're different. What's a reasonable
20 person?

21 MR. CLOSE: Well, I don't, Your Honor, I just don't
22 see how Dr. Crenshaw is, under the standard is anything
23 other than a reasonable person. I mean, I don't think
24 that the fact that he had, he had a long tenure and was
25 maybe respected in his field. I don't think that that

1 increases his ability to handle stressors. And I'm not
2 aware, although I don't know this for certain, Your Honor,
3 but I'm just not aware of any authority that says that,
4 you know, that that is taken into consideration, although
5 it may be.

6 THE COURT: Okay. What else you got?

7 MR. CLOSE: Well, on the intentional infliction of
8 emotional distress claim, Your Honor, as it relates to Dr.
9 Norman. Again, Dr. Norman was acting within the course
10 and the scope of his employment, first of all. And then
11 secondly, again, their argument is that the timing of this
12 meeting, the allowance of Dr. Crenshaw to meet with the
13 students is what supports their claim. Well, it's clear
14 that Dr. Crenshaw was going to be on campus that day. And
15 so it makes sense that Dr. Norman would have a meeting
16 with him when he was going to be on campus. But even if
17 Dr. Norman acted intentionally in scheduling the meeting
18 after Dr. Crenshaw met with his class, that doesn't equate
19 or is not the same thing as saying that Dr. Norman acted
20 intentionally to cause him emotional distress.

21 THE COURT: All right. Mr. Tinsley, what you got on
22 this?

23 MR. JAMISON TINSLEY: Okay. Your Honor, the way we
24 see this it was an ambush meeting. Dr. Crenshaw's
25 reaction at the meeting which they went into on his

1 cross-examination shows the stress that he was, that he
2 was feeling by this ambush. And they're using his
3 subjective medical records produced by, you know, written
4 by a general physician, not a psychiatrist or
5 psychologist. And still saying he's the reasonable man,
6 yet saying that his subjective evidence shows that he
7 wasn't, he wasn't emotionally distressed. And we feel
8 like Dr. Crenshaw, I mean Dr. Norman here did
9 intentionally do this. It's an intentional act. So at
10 that point, he could be individually liable with the
11 college. It'd already been determined Dr. Crenshaw was
12 suspended and he lets him meet these people who he had
13 already, these students who he'd already introduced
14 himself to and had some blog interaction with. And this
15 thing, they let it linger. The last meeting, they went
16 from September 2010 to January 2011, really December but
17 January from the report, from the last grievance committee
18 came out. And then nothing happens that entire semester.
19 Dr. Norman doesn't bring it up at the end of the semester
20 which you would think would be the time. Once he comes to
21 the beginning of a new semester, then they ambush him with
22 this. It's, you know, it's outrageous, unprofessional
23 behavior. And they're saying that this meeting was to
24 save his job. Well, they are making a factual
25 determination that Dr. Norman and everything he said was

1 true and pure in there which we believe is the jury's
2 determination to make. Obviously, we have a different
3 interpretation of that. And these other cases I, you
4 know, I haven't heard, you know, while the meeting was
5 private, the way he was yanked out publicly with no word.
6 I mean, on top of this just adds to it.

7 THE COURT: All right. Anything else?

8 MR. CLOSE: Yes, sir. Just that, you know, if Dr.
9 Crenshaw's own testimony was that he was not treated with
10 outrageous conduct. And he said that, I believe he said
11 the meeting was civil. Of course, he disagreed with Dr.
12 Norman's, what Dr. Norman was doing. But he stated he
13 treated him civilly. He never lost his cool with him and
14 he wasn't, Dr. Norman did not bully Dr. Crenshaw, didn't
15 physically threaten him, didn't verbally threaten him with
16 any type of harm. And so, you know, I think those are the
17 things that are the most relevant to whether or not this
18 is extreme and outrageous conduct. It's just a, even if
19 it is termination, it's a first step. Well, let's just
20 say it's a termination, a simple termination of employment
21 is not extreme and outrageous conduct and that's clear
22 from case law.

23 THE COURT: I think it's a factual question for the
24 jury. Individually, Dr. Norman, I don't believe acted
25 individually. If he did anything, he did it as the

1 President. But I think it's a factual question. And I
2 think you got to consider the behavior in light of their
3 positions and their occupations, and their professions and
4 you just do. I don't think you can apply mechanics
5 standard of outrageous conduct of what a mechanic would do
6 with a customer or another coworker versus what college
7 Professors do with each other. I think it's all, it goes
8 into, because it's not outrageous conduct in the eyes of
9 the doer. It's in the receiver. They got to prove that.
10 But it's something for the jury to consider, is it
11 outrageous conduct. But I think it's a factual question
12 and that issue will go to the jury on, as to the college
13 and Dr. Norman as the President but not individually. So
14 as to the individual claim for intentional infliction of
15 emotional distress, I'll grant your motion.

16 MR. CLOSE: Thank you, Your Honor. That's all I
17 have.

18 THE COURT: All right. I want to refill my coffee
19 cup. Do y'all need to do that because we, we've been in
20 here 30 minutes and they've been back there. But I'm
21 going to need a break in 25 minutes, and I don't want to
22 send the jury out again. So anyway, we'll stand down for
23 a couple of minutes.

24 (Whereupon, a short break was taken.)

25 THE COURT: Mr. Tinsley, where's Mr. Tinsley, Sr.?

1 MR. JAMISON TINSLEY: He must be gone to the
2 bathroom.

3 THE COURT: All right. We'll get them back. Y'all
4 ready. We'll let him slide in. Go get the jury for me.

5 (Whereupon, the jury came into open court at
6 approximately 9:48 a.m.)

7 THE COURT: All right. Ladies and gentlemen, so
8 y'all know what's going on. The Plaintiff has presented
9 its witnesses that it intends to present. They may call
10 some back in rebuttal, but they are going to make, they'll
11 make that decision then. It's now the opportunity for
12 the, Mr. Keim and Close to call the witnesses they deem
13 appropriate for this case. And, Mr. Keim, it's all yours.
14 Mr. Close, call your witness.

15 MR. CLOSE: Thank you, Your Honor. We call Mr. Greg
16 Haselden.

17 GREGORY HASELDEN, being
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. CLOSE:

21 Q Good morning, Mr. Haselden?

22 A Good morning.

23 Q Mr. Haselden, can you tell me what your position at
24 Erskine College is?

25 A Yes. Senior Vice-President for Finance and

1 Operations.

2 Q And how long have you held that position?

3 A I have been at that position or similar position as
4 Vice-President for a little over 11 years.

5 Q What are some of your responsibilities in that
6 position?

7 A Overseeing the finances of the institution and the
8 general operations of the college facilities, dining
9 services, IT, financial aid and so forth.

10 Q Are you responsible for the school's tax returns?

11 A Yes.

12 (Whereupon, Defendant's Exhibit number 24 marked for
13 identification.)

14 Q Mr. Haselden, I'm going to show you what's been
15 marked as Defendant's Exhibit 24. If you'll take a look
16 at that and let me know whether you recognize it?

17 A I do.

18 Q What is that, Mr. Haselden?

19 A That's the Erskine College and Theological Seminary's
20 Form 990 Tax Return for the fiscal year beginning 7/1/2010
21 through 6/30/2011.

22 Q Is this the form that's filed by Erskine College with
23 the IRS?

24 A Yes.

25 Q And if you would look at the box numbered, Roman

1 Numeral I, I believe sort of at the top second, the lower
2 end. Do you see there it says, tax exempt status?

3 A Yes.

4 Q What is checked as the tax exempt status?

5 A 501C3.

6 Q And is that the IRS status of Erskine College?

7 A Yes.

8 MR. CLOSE: Now, Your Honor, I move that the
9 Defendant's Exhibit 24 be admitted into evidence.

10 THE COURT: Any objection?

11 MR. JAMISON TINSLEY: No objection.

12 (Whereupon, Defendant's Exhibit number 24 was
13 admitted into evidence.)

14 Q Mr. Haselden, I'm showing you what's been marked as
15 Defendant's Exhibit 25. If you'll please take a look at
16 that and let me know if you recognize it?

17 A I do.

18 Q And what is that document, Mr. Haselden?

19 A That's again Form 990, our Tax Return for the fiscal
20 year beginning 7/1/2011 through 6/30/2012.

21 Q And, again, what is the tax exempt status checked in
22 this form?

23 A 501C3.

24 Q And, Mr. Haselden, did you sign both of these forms?

25 A Yes.

1 Q And by signing, do you affirm that that is correct
2 tax exempt status of the college?

3 A Yes.

4 (Whereupon, Defendant's Exhibit 25 was admitted into
5 evidence.)

6 MR. CLOSE: Nothing further from the Defense, Your
7 Honor. And, Mr. Haselden, if you'll answer any questions
8 Mr. Tinsley may have.

9 CROSS-EXAMINATION

10 By Mr. Jamison Tinsley:

11 Q You've been at Erskine 11 years?

12 A Yes.

13 Q And Dr. Crenshaw spent three times longer than that
14 at the school?

15 A I don't know exactly the date he started.

16 Q Okay. 34 years, do you have any reason to dispute
17 that?

18 A No.

19 Q And these tax returns for these couple of years,
20 Erskine lost money, would that be fair to say?

21 A I am just reviewing these.

22 Q All right, sir. Take your time.

23 A Well, actually, the net assets increased for the year
24 2010, Exhibit 24. Beginning of the year net assets were
25 \$55,000,849.00 and they were \$59,000,903.00. The

1 following year they did go down due to the adoption of
2 MIFFA with the endowment.

3 Q What, what happens to the money when Erskine has a
4 big year; where does it go?

5 A It depends on where the source of the money is. If
6 it's in the endowment, then it simply grows the fair
7 market value of the endowed assets. In terms of where
8 we've been in, we have three sources of revenue, tuition,
9 fees, room and board being one; the annual fund, and then
10 the endowment. Those are our three sources. For the most
11 part, Erskine operates near to break even on tuition,
12 fees, room and board, and the annual fund. And any
13 growth, any major changes that you see fluctuation wise
14 tend to happen in the endowment which is tied to the stock
15 market and our investment strategy.

16 Q And just for clarification the line 22 on each of
17 these returns, net assets, refund balances, that's what
18 Erskine, Erskine's assets are?

19 A That's what it's net assets are; not total assets.

20 Q Understood.

21 MR. JAMISON TINSLEY: No further questions.

22 THE COURT: Is there any objection to telling the
23 jury what a 501C3 is?

24 MR. JAMISON TINSLEY: No objection, Your Honor.

25 THE COURT: And defense?

1 MR. CLOSE: No objection, but that's a legal opinion.

2 THE COURT: You may step down. Thank you.

3 MR. HASELDEN: Thank you.

4 THE COURT: Folks, so y'all know, the IRS has
5 different tax classifications. As y'all are familiar
6 individuals, married, filing jointly, and separate, all
7 that sort of stuff. There's corporations and there's
8 non-profit corporations. 501C3 is a non-profit
9 corporation and, therefore, they can receive gifts or
10 donations and not be taxed on them. But the donor, the
11 people who don't get taxed on the gifts, they get some
12 sort of benefit by making the gift. So it's kind of a,
13 non-profit corporations aren't in business to make money.
14 They're in the business to be in business. The best way
15 to explain, so that's what a 501C3 is. All right. Call
16 your next witness.

17 MR. CLOSE: Your Honor, we call Adam Weyer.

18 ADAM WEYER, being
19 first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. CLOSE:

22 Q Good morning, Mr. Weyer.

23 A Good morning.

24 Q Mr. Weyer, will you tell me what your position at
25 Erskine College is?

1 A I am currently the Associates Athletic Director for
2 Sports Medicine.

3 Q And how long have you had that position?

4 A I've had that position since November of 2013.

5 Q Did you work at Erskine prior to holding that
6 position?

7 A Yes.

8 Q When did you start working at Erskine?

9 A Fall, September of 2005, I began my work at Erskine.

10 Q And what was your position when you started?

11 A I was the head athletic trainer.

12 Q Have you been an athletic trainer in some capacity
13 for Erskine the entire time you've worked there?

14 A Yes.

15 Q Did you attend Erskine, Mr. Weyer?

16 A I did.

17 Q What years did you attend Erskine?

18 A 1995 to 1999.

19 Q Did you have Dr. Crenshaw's class when you attended
20 Erskine?

21 A Yes, for one class.

22 Q Whether while you were a student or as an employee
23 prior to September 2010, did you have any issues or
24 problems with Dr. Crenshaw?

25 A I did not.

1 Q After you finished school at Erskine, did you receive
2 any further education or training?

3 A Yes. I went to Auburn University for a Master's
4 Degree.

5 Q And what's your Master's Degree in?

6 A Health and Exercise Science.

7 Q And any further training after that?

8 A No.

9 Q How did you get into the athletic training field, Mr.
10 Weyer?

11 A When I was in high school, I took a sports medicine
12 course, and I knew that's what I wanted to do, and then I
13 visited Erskine. I knew that's where I wanted to be to
14 continue my study.

15 Q Do you have to be certified as an athletic trainer?

16 A Yes.

17 Q How do you get certified?

18 A You take the appropriate coursework, and then you
19 pass the national exam to become a certified athletic
20 trainer.

21 Q Okay. And you've done that?

22 A Yes.

23 Q Do you have to get recertified every so often?

24 A You have to accumulate so many hours, continuing
25 education units every three years.

1 Q And when was the last time you completed continuing
2 education?

3 A 2013.

4 Q 2013. So you'll be up for recertification sometime
5 in 2016?

6 A No, it's actually changed. It's actually this year.

7 Q This year?

8 A Yes.

9 Q Do you plan to get that recertification?

10 A Yes.

11 Q In your role currently at Erskine, Mr. Weyer, what do
12 you do?

13 A I oversee the medical care to all 360 student
14 athletes at Erskine. I have a staff of five certified
15 athletic trainers. We just, you know, make sure of their
16 health and safety as well as perform rehabilitation when
17 they become injured to get them back on the field to play.

18 Q What was the student athlete protocol for head
19 injuries in September of 2010?

20 A If an athlete sustained a head injury, we had a
21 procedure we, they underwent tests. There is one test
22 called the standardized assessment concussion test where
23 we ask them questions, common signs and symptoms of
24 concussions.

25 THE COURT: Slow down a little bit. You are talking

1 fast.

2 MR. WEYER: I'm sorry. I apologize.

3 A So we have a lot of questions where we ask them signs
4 and symptoms, dizziness, headache, things along those
5 lines. And then we evaluate them and we contact our team
6 physician to let them know that an athlete sustained a
7 concussion. At the next, the doctor usually comes twice a
8 week. So he'll evaluate them there as well. We also have
9 balance tests that they undergo as well as part of their
10 evaluation and their treatment for concussions.

11 Q What is the protocol in an emergency situation?

12 A If the concussion or the head injury was significant
13 enough or any injury was significant enough, we then would
14 initiate EMS to transport the athlete to the hospital.

15 Q Do you have any hesitation in calling EMS in an
16 emergency situation?

17 A No. If the situation is necessary, we then will
18 activate EMS.

19 Q What's the protocol when an, when EMS is called and
20 arrived for the athletic trainers?

21 A When the EMS arrives, they assume control of the
22 situation. We have a good relationship with the Abbeville
23 County EMS system to where they know our protocols, we
24 know theirs. So we allow them to then assume control of
25 the situation at that point.

1 Q In 2010, was the athletic training protocol at
2 Erskine compliant with the National Collegiate Athletic
3 Association protocols?

4 A It was.

5 Q And are there separate protocols for the National
6 Association or National Athletic Trainers Association?

7 A The two organizations collaborated together, so it's
8 one set of protocols.

9 Q And so your protocols then were also compliant with
10 the National Athletic Training Association?

11 A Correct.

12 Q In 2010, had you reviewed Erskine's head injury
13 protocols for compliance with those associations?

14 A We did.

15 Q And were Erskine's protocols compliant?

16 A They were.

17 Q Mr. Weyer, tell me about how you became involved in
18 the incident where there was a student with a head injury
19 in Dr. Crenshaw's class on September 24th, 2010?

20 A Okay. That morning, I was walking to my office that
21 morning. As I was walking there, I was met by another
22 staff member who said there was an incident with a student
23 athlete that morning. So we then walked to the classroom,
24 to Dr. Crenshaw's class that morning to assess the
25 situation and see what the status was at that time.

1 Q And when you arrived in the class, what was
2 happening?

3 A The student athlete, Dr. Crenshaw was speaking with
4 her at the time. And so that's what I observed at that
5 point and then EMS had, well, had just arrived. It
6 arrived shortly after I did.

7 Q So did you get involved in the treatment of the
8 student at all at that point?

9 A No, there was, there was no time to do that, due to
10 the arrival of EMS.

11 Q Did you see the student when you arrived in the
12 classroom?

13 A I did.

14 Q And did, just based on your impressions did it appear
15 to be an emergent situation?

16 A No, it did not.

17 Q What was her appearance?

18 A I mean, she appeared lethargic. You know, she
19 appeared tired. But she was definitely coherent and
20 conscious and was able to carry on a conversation.

21 Q Did you have any problem with the fact that EMS had
22 been called in that situation?

23 A I did not.

24 Q What did you do when the EMS took the student out of
25 the classroom?

1 A After the student was removed from the classroom, me
2 and Dr. Agnew, who was the Dean of students at the time,
3 we exited Belk Hall and we were standing just in the
4 middle of campus just discussing the situation and the
5 protocols that we had. And so we were just standing there
6 talking about it.

7 Q Why were y'all discussing your protocols?

8 A Well, we were just discussing to, you know, to see,
9 try to get the facts of what she knew and what I need to
10 see, to see what actually had happened. And we had just
11 discussed that we were going to talk later to the people
12 that were involved to get more information. That we would
13 touch base later that afternoon to see, just to make sure
14 we understood all the facts of the incident.

15 Q Do you know what had happened with the student in her
16 lacrosse practice that morning?

17 A As far as I understood, that morning lacrosse had an
18 early morning practice at 6:00 o'clock. We don't have the
19 staff for an athletic trainer to be present at the
20 practice which is our protocol. When the student athlete
21 sustained the injury, the athletic trainer that was
22 working lacrosse was contacted at that time. You know,
23 they talked to the student athlete on the phone. They
24 talked to the head coach. She was instructed to go to
25 class at 8:00 o'clock that morning and we were going to

1 follow up with the student athlete after class in the
2 athletic training room that morning at 9:00 o'clock.

3 Q Does the coach have some medical training?

4 A The coaches are trained in First Aid and CPR.

5 Q When did you go back, you were talking to Dr. Agnew,
6 when did you go back to the ambulance?

7 A Well, as it, from where we were standing in the
8 middle of campus, we saw some police cars go toward the
9 front of Belk Hall which is where the ambulance was. And
10 so we, we assumed that there might have been something
11 else that was going on instead of just Olivia just being
12 able to get into the ambulance. So at that time we then
13 walked around to the front of Belk Hall.

14 Q And when you arrived on scene with the ambulance,
15 what do you observe?

16 A We saw, Olivia was in the back of the ambulance. She
17 was visibly upset. Her guardian was telling her to refuse
18 medical treatment, so that she could be, come out of the
19 ambulance. And we were going to take her to our team
20 physician that morning right away as soon as she got out
21 of the ambulance. So there was definitely some chaos, not
22 chaos would be the word but just some tension at that
23 point.

24 Q And you said the guardian was the one who was talking
25 to the student about what to do?

1 A Yes.

2 Q Was there another athletic trainer on the scene at
3 the time?

4 A At that time, Nicole Matuseski, who was one of my
5 assistants at the time, she was there as well.

6 Q Was Nicole Matuseski talking to the student about
7 whether or not to receive treatment or transport?

8 A Not that I saw.

9 Q And did you discuss with the student whether or not
10 to receive treatment or transport?

11 A No.

12 Q What was Dr. Crenshaw doing with you arrived on the
13 scene?

14 A He was there in the back of the ambulance talking to
15 the EMS at the time when I got there.

16 Q And what happened? What did Dr. Crenshaw do after
17 that that you observed?

18 A Shortly after that, Dr. Crenshaw had got in the back
19 of the ambulance, closed the door to, and talked to Olivia
20 who was in the ambulance. And that's all I can see. I
21 couldn't hear the conversation at all.

22 Q And you could see him talking to the student?

23 A Through the windows of the ambulance, yes.

24 Q Did you at any time interfere with EMS's care of the
25 student?

1 A No.

2 Q That you observed, did Ms. Matuseski ever interfere
3 with the student's care by EMS?

4 A No.

5 Q Did you hear the student trying to refuse transport?

6 A Yes.

7 Q How did the team doctor get involved?

8 A We had, during the course of when she's being
9 transported to EMS, Nicole had contacted our team
10 physician at the time to let her know the situation, what
11 was going on. Because he had the ability to see her in
12 the ER at Greenwood which is where she was being
13 transported. And they had already actually had obtained
14 an appointment for her to be taken to see him that morning
15 immediately.

16 Q And where would she be seen by the doctor?

17 A It's called Montgomery Center for Family Medicine in
18 Greenwood, South Carolina.

19 Q Is that the doctor's office?

20 A That is the office. It's right across the street
21 from the hospital.

22 Q So the doctor was already prepared to see the student
23 in his office as soon as she got to Greenwood?

24 A Correct.

25 Q Did you ride with the EMS transport to the hospital

1 with the student?

2 A Yes.

3 Q And did the EMS allow you to do that?

4 A Yes.

5 Q Did they object to you doing that?

6 A Not that I'm aware of.

7 Q Mr. Weyer, do you think that the student would have
8 received treatment more quickly if she had refused EMS
9 treatment?

10 MR. JAMISON TINSLEY: Objection. Calls for
11 speculation.

12 THE COURT: Sustained.

13 Q When you arrived at the hospital, Mr. Weyer, what
14 happened?

15 A We arrived at the hospital. We were taken into a
16 room where we waited for the nurse to come in and do the
17 triage part of it. And then we sat there and waited for
18 the physician to come in.

19 Q Did the same physician that had been called come into
20 the emergency room to see the student?

21 A Not immediately.

22 Q What was the student's final diagnosis?

23 A She was diagnosed with a mild brain injury or a
24 concussion.

25 Q And was there anything remarkable about that brain

1 injury that you know of?

2 A No.

3 Q Was she placed on any significant restrictions or out
4 of the ordinary restrictions for that injury?

5 A No.

6 Q What was the guardian's relationship with the
7 student?

8 A She was her, she was her legal guardian.

9 Q And did you know that to be the case?

10 A I did.

11 Q Did she have concerns about the situation?

12 A Yes, because she wanted the student athlete to refuse
13 treatment and remove herself from the ambulance at that
14 time after discussing with Nicole, you know, that we
15 already had a team appointment with our team physician.

16 Q Mr. Weyer, I'm showing you what's been previously
17 admitted into evidence as Plaintiff's Exhibit 10. If you
18 would, take a look at that and let me know if you
19 recognize it?

20 A I do.

21 Q What is that?

22 A This is my grievance letter filing a grievance
23 against Dr. Crenshaw.

24 Q And why did you file that grievance against Dr.
25 Crenshaw?

1 A The grievance was filed because after the incident,
2 Dr. Crenshaw had posted a blog in his class in regards to
3 the incident. And in the blog, he questioned our ability,
4 my staff's ability and me and my staff's ability to do our
5 job and do it properly.

6 Q Was there any other criticism of you and your
7 department that was the basis of your grievance?

8 A And that was the primary basis of the grievance.

9 Q And why did you find that blog to be worthy of a
10 grievance against Dr. Crenshaw?

11 A In the blog, he basically stated, he questioned our
12 ability to do our job properly, saying that we weren't
13 trained properly to do our job. And he basically was
14 telling student athletes that they shouldn't come to see
15 us to get the treatment for any of their injuries. That
16 that's not, it's not the proper way to do it. So that was
17 the primary reason why I filed a grievance, because he had
18 a lot of student athletes in the course at the time.

19 Q What with the effect of that kind of communication to
20 students be on your job?

21 A Well, the main part of our job is the ability to
22 develop trust between us and our student athletes in the
23 care of the medical injuries. So if they felt like they
24 weren't receiving the proper care or that we didn't know
25 what we they doing, that we were doing, then they would

1 not be as eager or trustworthy to come to us for the
2 medical care.

3 Q Mr. Weyer, I'm showing you what's been previously
4 marked as Plaintiff's Exhibit 8. Will you take a look at
5 the document and let me know if you recognize it?

6 A I do.

7 Q And what is that document?

8 A It's a document, just an email exchange back and
9 forth between myself and Dr. Crenshaw after the incident
10 occurred.

11 Q Were these emails part of the subject of your
12 grievance?

13 A I would say after or, after Dr. Crenshaw refused to
14 meet and discuss the situation, initially, and then after
15 the blog posting, that was what would be the catalyst for
16 the grievance.

17 Q Let me direct your attention to the first page of
18 Exhibit 8.

19 THE COURT: Can you give me context on that
20 grievance, email discussion, timing?

21 MR. CLOSE: Yes, Your Honor.

22 THE COURT: I want to get that clear in my head right
23 now.

24 MR. CLOSE: Sure.

25 THE COURT: For the jury, too. I'm kind of confused

1 right now.

2 Q Mr. Weyer, what is the date of your grievance?

3 A The date of the grievance is September 27th, 2010.

4 Q And the date of the incident was, with the student
5 was what?

6 A September 24th, 2010.

7 Q Okay. Can this email that I've just handed to you,
8 Plaintiff's Exhibit 8, the first page, and that's an email
9 from Dr. Crenshaw to you, is that correct?

10 A Correct.

11 Q And the date of that email is September 24th, 2010 at
12 5:30 p.m., is that right?

13 A Correct.

14 Q The first line of that email I read into the record
15 it says, Liv almost fell through the cracks today. Is
16 that an accurate reading of that line?

17 A That is what the line says, yes.

18 Q Did you feel like that was a true statement?

19 A I did not.

20 Q And why not?

21 A After reading that it definitely gives the impression
22 that it was almost a tragedy, the incident that occurred
23 that day with the student athlete, which was not the case.

24 Q Let me direct your attention, Mr. Weyer, to the
25 fourth page in that exhibit. It's an email that begins,

1 Adam, you say. Do you see that?

2 A Yes.

3 Q And is that an email from Dr. Crenshaw to you?

4 A It is.

5 Q And that's on September 25th, 2010 at 10:19 a.m., is
6 that correct?

7 A Correct.

8 Q Had you informed Dr. Crenshaw that your protocol is
9 what the NCAA requires?

10 A Maybe not in writing. In any of these emails, we
11 had, before the year started I had all the protocols
12 reviewed by the Office of Student Services which was what
13 athletics was underneath at the time with Dr. Agnew and
14 Dr. Bryan Rush. And they are aware that all the protocols
15 are met and all the requirements of the NCAA and NETA.

16 Q So these protocols weren't secret, they'd been shared
17 with the appropriate college administrators. Is that
18 right?

19 A Correct.

20 Q If you'll turn to the next page, Mr. Weyer, and
21 there's an email dated September 25, 2010 at 12:10 a.m.
22 from you. Do you see that? It starts, Bill, the day was
23 a case. Do you see that?

24 A I do.

25 Q If you'll look at the next to the last sentence of

1 that email. I'll read it into the record. It says the
2 fact of the matter is our protocol is exactly what the
3 National Collegiate Athletic Association wants in regards
4 to concussion protocols. Do you see that?

5 A I do.

6 Q And is that what you wrote?

7 A I did.

8 Q Did Dr. Crenshaw ever respond to you about that fact?

9 A He did.

10 Q And did he ever respond to you about the protocols
11 meeting NCAA requirements?

12 A His response to that email does, he doesn't, I guess,
13 directly discuss that in regards to NCAA protocols. He
14 just questions the protocol as it stands.

15 Q Did he ever acknowledge that the protocols met NCAA
16 requirements?

17 A He did not.

18 Q Mr. Weyer, if you'll turn to the last page of that
19 exhibit, please, and find an email from you to Dr.
20 Crenshaw dated September 25th, 2010 at 9:16 p.m. Do you
21 see that?

22 A I do not.

23 MR. CLOSE: May I approach the witness, Your Honor?

24 THE COURT: Sure.

25 Q The last page.

1 A Yes.

2 Q Okay.

3 A Got it.

4 Q Will you read the last paragraph beginning, I am not
5 going, into the record, please, Mr. Weyer.

6 A Yes.

7 Q Slowly for the Court Reporter, please.

8 A It says, I am not going to engage in email spar with
9 you. If you would like to discuss this matter further I'd
10 be more than happy to sit down with you, Mark Peeler, Dr.
11 Agnew, Dr. Christie and/or Dr. Norman to further discuss
12 what you see as endangering our student athletes.

13 Q So you offered to meet with Dr. Crenshaw to discuss
14 this matter?

15 A I did.

16 Q Did he ever agree to meet with you?

17 A He did not.

18 Q Mr. Weyer, I'm showing you what's been previously
19 admitted into evidence as Defendant's Exhibit 11. Will
20 you take a look at that and let me know if you recognize
21 that?

22 A I do.

23 Q What is that, Mr. Weyer?

24 A Dr. Crenshaw's blog post after the incident occurred.
25 That was the reason why the grievance was filed.

1 Q If you'll look at the last page written in the blog
2 post, not the student responses.

3 A Yes.

4 Q And the last paragraph, the next to the last
5 paragraph, I apologize. It starts, when I call for an
6 ambulance. Do you see that?

7 A Yes.

8 Q Will you read that?

9 A It says, when I call for an ambulance, therefore, I
10 know what I am doing based on thousands of hours of
11 authoritative instruction and thousands and thousands of
12 hours of experiential learning. I have far more training
13 and experience in dealing with head trauma in the field,
14 on the street than anyone else on this campus.

15 Q And you said that this post was part of the basis for
16 your grievance, right?

17 A Correct.

18 Q And is that provision specifically part of the basis
19 for your grievance?

20 A That would be one of the main paragraphs, correct.

21 Q And why is that? Why did you take issue with that
22 paragraph?

23 A I took issue with that paragraph because I'm not
24 denying Dr. Crenshaw's experience in dealing with head
25 traumas in regards to emergency situation. But there is a

1 difference in dealing with head traumas as a result of
2 athletic competition or athletic practices. So I'm not
3 saying he doesn't have this time, this experience. I
4 never denied that. I just feel like he doesn't have the
5 experience that we have from an athletic standpoint in
6 dealing with head trauma.

7 Q And your testimony is there is a difference?

8 A There is a difference.

9 Q Why did you file your grievance with Tracy Spires,
10 the non-discrimination coordinator, Mr. Weyer?

11 A At the time that was her position, in fact, a
12 grievance to be filed with her.

13 Q By doing that, did you mean for, to allege that Dr.
14 Crenshaw had acted in a discriminatory or performed sexual
15 harassment in any way?

16 A I did not.

17 Q And when your grievance filed with Ms. Spires was
18 later sent to Dean Christie, did it change in substance at
19 all?

20 A It did not.

21 Q It was the same grievance?

22 A Correct.

23 Q Did you have concerns about how this issue and the
24 handling of it would affect the student?

25 A I did.

1 Q Why?

2 A In spending the day with the student athlete and her
3 guardian, in conversations I got the impression that this
4 would negatively affect the student's wanting to remain at
5 Erskine as a student and as a student athlete.

6 Q And did it ultimately affect her staying at Erskine?

7 A It did.

8 Q How so?

9 A She remained at Erskine for the remainder of the
10 year, but then she transferred at the end of that year.

11 Q Did you have any meetings after the ambulance
12 incident on September 24th with Erskine administration
13 about the head injury protocols?

14 A I did.

15 Q And who was a part of that meeting?

16 A Mr. Greg Haselden, and Dr. Norman, and Mr. Mark
17 Peeler.

18 Q And what was the purpose of the meeting?

19 A To review our protocols and also to review the
20 specifics of the incident.

21 Q Well, was the administration concerned about the
22 protocols?

23 A I think they just had some questions about the
24 protocol in regards to, if we were saying that the faculty
25 didn't have the rights to call 911 which is not what the

1 protocol says at all.

2 Q So faculty can call 911?

3 A If they deem it necessary, yes.

4 Q After you filed the grievance, Mr. Weyer, did you
5 have concerns with Dr. Crenshaw being a member of the
6 grievance committee?

7 A I did.

8 Q And what were your concerns?

9 A I felt that for, for someone who a grievance is being
10 filed against, it wouldn't have been fair or right for him
11 to be a part of the committee making the decision that
12 he's a part of.

13 Q Did you express those concerns?

14 A I did.

15 Q Who did you express them to?

16 A Both Dr. Norman and Dr. Christie.

17 Q And do you recall their response?

18 A I recall that they said that he would not be a part
19 of that decision making process and the grievance.

20 Q And did that satisfy your concerns?

21 A It did.

22 MR. CLOSE: And one minute, Mr. Weyer.

23 MR. WEYER: Okay.

24 Q Mr. Weyer, I show you what has been marked as
25 Defendant's Exhibit 26 and ask you if you recognize this

1 document?

2 A Okay.

3 Q What is that document, Mr. Weyer?

4 A It's an email exchange between myself and Dr.
5 Christie and Dr. Norman in regards to Dr. Crenshaw being
6 on the grievance committee.

7 Q And what date did you email Dr. Norman and Dr.
8 Christie about Plaintiff being on the grievance committee?

9 A October 12th, 2010.

10 Q If you look, Mr. Weyer, about two-thirds of the way
11 down on the right-hand side there's a sentence that
12 starts, if he has. Do you see that?

13 A Yes.

14 Q Will you read the sentence into the record, please?

15 A Yes. It says, if he has the right to be there, I
16 feel that I do as well so that all members of the
17 committee get a fair view of the incident in question.

18 Q Were you willing to participate in the grievance at
19 the time?

20 A If I was asked to, yes.

21 Q And if you'll look just above at that, well, I'm
22 sorry. Turn to page one of the document, Mr. Weyer.

23 A Okay.

24 Q Is that an email from Dr. Norman, the Defendant
25 sitting behind me, to you copying Brad Christie?

1 A It is.

2 Q And it's dated October 12th, 2010?

3 A Correct.

4 Q Is that in response to your concern about Dr.
5 Crenshaw being on the grievance committee?

6 A It is.

7 Q At the bottom of that first page of the document it
8 says, this is from Dr. Norman to you, correct?

9 A Correct.

10 Q And it says, but it is my intention to respect both
11 the letter and the spirit of faculty governance. Is that
12 right?

13 A Correct.

14 Q What did you understand that to mean?

15 A That once the grievance had been filed, we're just
16 going to let the grievance go through the procedures as
17 outlined in the faculty handbook.

18 Q And if you look at the top of the next page is the
19 same email from Dr. Norman to you, do you see that?

20 A Yes.

21 Q It says, as much as I would like to answer your
22 question directly, I want to avoid even the slightest hint
23 of intrusion into the grievance committee's very important
24 and sensitive work with mediation. Is that correct?

25 A Correct.

1 Q Mr. Weyer, after you filed a grievance did you follow
2 up with the grievance process at all?

3 A I did not.

4 Q Did you want to see the grievance handled?

5 A I did.

6 Q Why?

7 A Because I thought it was important enough to file the
8 grievance, just to let the process run its course and let
9 the decision get made by the grievance committee.

10 Q At one point, did Dr. Christie offer the opportunity
11 for you and Mr. Peeler and Mr. Austin to sit down with he
12 and the Plaintiff and discuss the matter?

13 A Repeat the question. I am sorry.

14 Q Did Dr. Christie ever offer to mediate between you
15 and Mr. Peeler and Mr. Austin and Dr. Crenshaw?

16 A He did.

17 Q Did you accept that offer to mediate?

18 A I did not.

19 Q Why didn't you accept it?

20 A That offer was, I believe, in October or November
21 after the grievance had already been filed. So we were
22 just going to let the grievance process run its course at
23 that time.

24 Q And did you feel like the grievance process was the
25 right way for this to be resolved?

1 A I did as it was outlined in the faculty handbook.

2 MR. CLOSE: Mr. Weyer, that's all I have for you. If
3 you will answer any questions that Mr. Tinsley may have.

4 MR. WEYER: Okay.

5 MR. CLOSE: Oh, I'm sorry. I need to move to admit
6 that last exhibit into evidence. It's number 26.

7 THE COURT: Any objection?

8 MR. JAMISON TINSLEY: No objection.

9 THE COURT: It's in. 26 is in without objection.

10 (Whereupon, Defendant's Exhibit 26 was admitted into
11 evidence.)

12 CROSS-EXAMINATION

13 BY MR. JAMISON TINSLEY:

14 Q Mr. Weyer, you had Dr. Crenshaw as a professor?

15 A Correct.

16 Q How did you do in his class?

17 A Well, I don't remember the exact grade.

18 Q Is he a pretty good teacher?

19 A He was a good professor, yes.

20 Q And would you describe a lacrosse stick for us?

21 A Describe a lacrosse stick?

22 Q Yeah.

23 A It's got a shaft probably three feet long made of
24 fiberglass, and then it has a plastic netting at the end
25 of it.

1 Q Okay. Pretty hard material?

2 A The stick? Yeah, I mean, it's not as hard as a
3 baseball bat but sure.

4 Q Okay. And the student was injured when she hit
5 herself in the head with a stick. Is that your
6 understanding?

7 A To be honest, I do not remember how she became
8 injured that morning. But she was, during practice, she
9 was injured, yes.

10 Q During a lacrosse practice?

11 A Correct.

12 Q And you would describe lacrosse as a high context
13 sport?

14 A It's, relatively, yes.

15 Q Possibly dangerous?

16 A All sports are but, yes.

17 Q And you were not present on site of the injury?

18 A Correct.

19 Q When did you first become aware of it?

20 A As I was walking to class that morning over to my
21 office, it was probably about 8:30 that morning is when I
22 was made aware of the injury.

23 Q Okay. So you didn't know about it before she went
24 into Dr. Crenshaw's class?

25 A No, my staff member did though.

1 Q Okay. So you never witnessed the student's condition
2 prior to Dr. Crenshaw calling EMS?

3 A Correct.

4 Q And you would agree that the trainers and EMT's play
5 different roles in the medical field?

6 A Correct.

7 Q You don't have any reason to doubt Dr. Crenshaw's
8 paramedic training?

9 A No.

10 Q And no reason to doubt his sincerity for the
11 student's health?

12 A No.

13 Q Or for student health in general?

14 A No.

15 Q And Dr. Crenshaw never violated any protocol during
16 this incident?

17 A Not that I'm aware of.

18 Q Okay. And you testified that you didn't have any
19 problem with the EMS being called?

20 A Correct, I did not.

21 Q I want you to take a look, I think you've got it up
22 there, I believe Plaintiff's 10, the complaint?

23 A Yes, sir.

24 Q Down there on the third paragraph in parentheses,
25 would you read that sentence for me?

1 A It says, had the student been unconscious or not
2 breathing an EMS call would have been necessary but that
3 was not the case.

4 Q So you didn't think EMS was necessary?

5 A From what I saw of the situation, no.

6 Q Okay. But it would be appropriate to call EMS for a
7 student suffering symptoms from a concussion?

8 A Who's making that phone call? I mean I, could you
9 repeat the question, please?

10 Q In general, it would be appropriate for anybody to
11 witness somebody suffering symptoms from a concussion and
12 they knew they had a head injury or trauma to call EMS?

13 A If their symptoms are severe enough, yes.

14 Q And Dr. Crenshaw, in that email exchange as
15 Plaintiff's 8, he gave you a fifth request to see the
16 protocol that you had accused him of violating, correct?

17 A Correct.

18 Q And you never provided him that protocol?

19 A I did not.

20 Q Is it your opinion that student athletes had a
21 different protocol for injuries that people observed on
22 campus than non-athletes who were students?

23 A When they were under the care of me and my staff and
24 when it was during athletic contests or practice, they
25 fell under our care and our protocols, yes.

1 Q Okay. But generally on campus they fell under
2 general protocol?

3 A I mean, correct. If a faculty member felt the need
4 to call 911 then, yes.

5 Q Now, are you aware that the paramedic in charge at
6 the scene asked Dr. Crenshaw to get in the back of the
7 ambulance?

8 A I am not aware of that.

9 Q Do you have any reason to dispute that?

10 A I did not, I did not see that exchange.

11 Q Okay. So you don't know one way or the other?

12 A No, I guess not.

13 Q Will you agree with me that brain injuries are
14 serious?

15 A Just taking a brain injury itself, yes.

16 Q They can have lasting long-term effects on a person?

17 A If it's severe enough, yes.

18 Q Is there any way to, that you're aware of, pardon me.
19 Scratch that. There's no way to assess how serious it is
20 just on-the-scene without doing a CT or something internal
21 like that?

22 A I would disagree.

23 Q You would disagree?

24 A Yes. That's why we have, there are tools out there
25 called the standardized assessment concussion tool that

1 assesses the patient for ability for memory, cognitive
2 ability. Then there is also symptom score sheet that,
3 that is used to access the significance or the severity of
4 the head injury.

5 Q But is that as exact as a CT?

6 A No. CT's aren't a hundred percent accurate either,
7 according to research.

8 Q Okay. And you said the athletic trainer protocol,
9 call it NCAA standards?

10 A Correct.

11 Q Okay. And you're aware that over the last few years
12 the NCAA has been involved in several lawsuits regarding
13 their treatment of head injury?

14 A That would, I am.

15 Q You testified the student's guardian was on the
16 scene?

17 A Correct.

18 Q All right. The student was 18 years old, correct?

19 A I believe so.

20 Q Okay. Is it typical for an 18-year-old to have a
21 guardian, in your experience?

22 A I can't answer that question. I wouldn't know.

23 Q And you, but you testified you knew that was her
24 guardian?

25 A I did know that was her guardian.

1 Q How do you have that knowledge?

2 A When we arrived at the scene, Nicole Matuseski, my
3 assistant at the time told me who that person was. And
4 she had met her previously because the guardian was there
5 because lacrosse was having a match that weekend. So she
6 was there to watch the match.

7 Q Okay. So you're going off what, what this lady said,
8 basically?

9 A Yes.

10 Q The blog that you went over, your name is never
11 mentioned in there, correct?

12 A It is not.

13 Q And that last paragraph Mr. Close had you read, do
14 you have any reason to dispute the factual assertion made
15 in there?

16 A I'm not disputing the fact that Dr. Crenshaw has
17 experience in dealing with head trauma.

18 Q Okay. And you declined Dr. Christie's offer to
19 mediate the matter informally?

20 A When the offer was made in November, yes.

21 Q You had no desire to settle the matter with Dr.
22 Crenshaw at that point?

23 A At that point, no.

24 Q And was there any further communication between you
25 and Dr. Crenshaw following these emails?

1 A The original emails in September?

2 Q Yes.

3 A Not that I am, that I am aware of.

4 Q You use the term, slander, in the grievance, correct?

5 A If you could direct me to where it is, I'll let you
6 know.

7 Q Page 2, the last paragraph, first sentence. It says,
8 The second reason for the grievance is that Dr. Crenshaw
9 has continued to slander the Erskine College athletic
10 training staff.

11 A Yes.

12 Q You're aware the term, slander, has legal
13 implications?

14 A I mean at the time, it was a word I was using in the
15 grievance to express my frustration with the situation.

16 Q Well, I don't mean the definition you gave to it,
17 just in general terminology, slander has legal
18 implications.

19 A Okay.

20 Q You agree with that?

21 A Sure.

22 Q You gave some testimony that there is a difference
23 between hitting your head on the field and off the field
24 head injury on direct?

25 A There's a difference between athletic head injuries

1 and head injuries that are a result of a motor vehicle
2 accident or a head injury that results from, from a fall,
3 from a height due to the forces that are involved. Yes,
4 there is a difference between the two types of head
5 injuries.

6 Q And what's the difference?

7 A Well, generally, in athletics, the forces that are
8 involved are not as severe or as great as you would see in
9 a motor vehicle accident or some incident along those
10 lines. So that's why, generally, they're treated a little
11 differently in regards to the assessment of them and the
12 care of them. In a motor vehicle accident, generally the
13 victim or the person who's injured would be taken to the
14 ER for a CT scan. But in all, in athletics, not all head
15 injuries necessitate a CT scan.

16 Q So you would agree it's not all car wrecks that
17 necessitate a CT scan?

18 A I do agree with that.

19 Q And your head doesn't know physically what hits it,
20 it just knows it got hit, correct?

21 A Yes.

22 Q And the student, are you aware, was she not wearing a
23 helmet at lacrosse for the women's team?

24 A They don't wear helmets in women's lacrosse.

25 Q Okay. She never told you she was transferring

1 because of Dr. Crenshaw?

2 A I mean, that wasn't a direct comment that came out of
3 her mouth, no.

4 Q Where did she transfer to?

5 A I don't believe where, I don't remember where she
6 transferred to at the end of the year. I believe it was
7 somewhere in South Carolina but I'm not one hundred
8 percent sure on that.

9 Q Many, many students transfer from Erskine through the
10 years, correct?

11 A Correct.

12 Q And Dr. Crenshaw did recuse himself from the
13 grievance committee, correct?

14 A Correct. As far as I understand.

15 Q Okay. And you never got any resolution to your
16 grievance?

17 A Correct.

18 Q And you never expected your grievance to lead to Dr.
19 Crenshaw's termination?

20 MR. CLOSE: Objection, Your Honor. Calls for
21 speculation.

22 MR. JAMISON TINSLEY: It's his expectation. He knew
23 what he expected when he wrote the grievance.

24 THE COURT: I don't think that's relevant. Move on.

25 Q And for clarification, men do wear helmets in

1 lacrosse?

2 A Yes. Correct.

3 Q You testified that you're not aware of Dr. Crenshaw
4 violating any protocol?

5 A No.

6 Q Okay. If you'll flip to page 6 of Plaintiff's 8, the
7 email exchange. You say in there in the bottom email
8 dated September 25th at 9:16. You decided not to do that,
9 you went outside the protocol?

10 A I just mean once he initiated the phone call to Dr.
11 Agnew and he was instructed to then contact me or a member
12 of my staff, which is protocol. By not following what Dr.
13 Agnew told him to do, he was going outside of the protocol
14 that was explained to him.

15 Q But you don't know what he was instructed to do?

16 A Well, after discussing it with Dr. Agnew, she had
17 told, she had instructed him to contact me.

18 Q But you didn't hear Dr. Agnew and Dr. Crenshaw's
19 discussion?

20 A No.

21 Q And these would be the athletic training protocols
22 that you're referring to here, correct?

23 A Correct.

24 Q All right. Do you have any knowledge if Dr. Crenshaw
25 was even aware of this protocol that he had requested five

1 times?

2 A Before the incident? No, but Dr. Agnew was.

3 Q Was it your understanding that all of Erskine
4 Professors were covered by, were subject to the athletic
5 trainer protocols?

6 A Well, they're subject to the protocols of the
7 institution.

8 Q But not y'all's specific protocols?

9 A No, correct.

10 Q No further questions.

11 THE COURT: Redirect?

12 MR. CLOSE: Very briefly.

13 REDIRECT EXAMINATION

14 BY MR. CLOSE:

15 Q Mr. Weyer, when you used the term, slander, in your
16 grievance, did you mean it in a legal sense?

17 A I did not.

18 Q Did you ever intend to file any legal action against
19 Dr. Crenshaw?

20 A I did not.

21 Q Did you feel like this was a legitimate grievance you
22 filed?

23 A I did.

24 Q Did you expect any action to be taken against Dr.
25 Crenshaw as a result of--