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COMMONWEALTH OF KENTUCKY
JEFFERSON COUNTY CIRCUIT COURT
CIVIL ACTION NO.: _____ JEFFERSON CIRCUIT COURT
DIVISION FOUR (4)

SAMUEL B. CONNALLY

Exhibits
FILED IN CLERK'S OFFICE
DAVID L. NICHOLSON, CLERK
FEB 24 2015
BY _____
DEPUTY CLERK

VS.

BOARD OF TRUSTEES *RAP*
OF THE UNIVERSITY OF LOUISVILLE

COMPLAINT AND JURY DEMAND JURY FEE PAID

I. NATURE OF THE CASE

1. Plaintiff, Samuel B. Connally (hereinafter "Connally"), brings this action against Defendant, the Board of Trustees of the University of Louisville ("Defendant") alleging that Defendant violated Kentucky Revised Statute 61.101 *et. seq.* and the Kentucky Civil Rights Act ("KCRA").

II. PARTIES

- 2. Connally resided within Jefferson County at all times relevant to this action.
- 3. Defendant is a university located in Louisville, Kentucky, that is maintained as a state institution of the Commonwealth of Kentucky.

III. JURISDICTION

- 4. Connally seeks an amount of damages in excess of \$6,000.00. Thus, the Circuit Court has jurisdiction.
- 5. Defendant is an "employer" as that term is defined under KRS § 61.101(2) and KRS 344.030(2).

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e.s.

6. Connally is an "employee" as that term is defined under KRS § 61.101(1) and KRS 344.030(5).

IV. FACTUAL ALLEGATIONS

7. Connally was hired by the Defendant as the Vice President of Human Resources on February 8, 2010. The Board of Trustees augmented Connally's official position description on July 1, 2010 to also serve as University EEO Officer. In this position, Connally reported to Executive Vice President and University Provost, Shirley Willihnganz.

8. In April 2010, Humana Insurance Corporation ("Humana"), then the University's Third Party Administrator for its health plan, entered into a public dispute with the University of Louisville Physicians, regarding reimbursement rates under their network contracts with Humana which resulted in the University of Louisville Physicians being excluded from the Humana network from July 1, 2010 to September 30, 2011.

9. In recognition of the contract dispute, Defendant, at the behest of Provost Willihnganz, announced an intention to conduct a public request for proposal ("RFP") for a Third Party Administrator ("TPA") for its health plan, effective January 1, 2011. Defendant selected United Healthcare ("UHC") as its Third Party Administrator. After the selection of United Healthcare, Provost Willihnganz asked Connally if the University could write a six month or one-year contract with UHC, then re-bid the health plan TPA in 2011, assuming UofL Physicians were reinstated to the Humana

network by that time. The form of the 2010 RFP, however, required a minimum two-year contract; so a six-month or one-year contract was not permissible. Historically, Defendant set up three year contracts with two one-year renewal options with a TPA; however, here it only contracted with United Healthcare for the calendar years 2011 and 2012, or the minimum contract duration possible, given the nature of the 2010 RFP

10. In 2012, Defendant again conducted a public RFP for its TPA beginning in 2013. Among other respondents, Defendant received competitive proposals from Humana, Anthem and United Healthcare. Connally and members of the "Human Resources Advisory Committee" acting as the Board of Trustees sanctioned "Benefits Committee", received and reviewed the competing proposals, with the advice and counsel of AON Corporation, the University's benefit consultant of record.

11. On August 24, 2012, Connally conveyed a preliminary assessment of RFP proposals to Provost Willihnganz and David Dunn, Executive Vice President for Health Affairs, that the RFP evaluation team would recommend that the bid be awarded to United Healthcare, who had the most competitive bid and presented estimated savings of \$1.2 million over the bid submitted by Humana.

12. On August 27, 2012 Provost Willihnganz emailed an acknowledgement of Connally's preliminary assessment and disclosed that Michael McAllister, Chairman & CEO of Humana, had written to the President during the open bid process to "complain" about the evaluation methods that AON Corporation used in evaluating

health plan bids and offered to work with Defendant's human resources team and AON in their evaluation of carriers.

13. During a subsequent in-person discussion of the health plan RFP process on August 27, Provost Willihnganz disclosed that the Defendant's administration was desirous of extending every possible courtesy to Humana in the selection of a health plan vendor, since the University was planning to solicit David Jones, Sr., Humana's founder, for a \$10 million gift to the Defendant's capital campaign. Provost Willihnganz provided a copy of the McAllister-Ramsey letter to Connally asking him to prepare a confidential response for herself and Dunn, while also asking him to delete any reference to Humana or McAllister's concerns from his discussion notes.

14. On August 29, 2012, Connally provided a comprehensive assessment of McAllister's concerns to Provost Willihnganz and Dunn and establishing the independent validity of AON's evaluation methodology, while estimating a final difference of \$1.5 million between the Humana bid and the United Healthcare bid. Connally re-stated that he expected to recommend United Healthcare as the University's TPA for a three-year contract, effective 2013 through 2015.

15. In his August 29, 2012 assessment of McAllister's objections to the University's RFP evaluation process, Connally first raises concern regarding the University's fiduciary responsibilities to its employees, writing to Provost Willihnganz and Executive Vice President of Health Affairs Dunn, "Humana is currently at approximately a \$1.2 million disadvantage in relation to United Healthcare in 2012

While it is regrettable that the Humana-ULH (UofL Hospital) legacy contract puts Humana at a competitive disadvantage in relation to Anthem or United Healthcare in the Louisville/Jefferson County healthcare market – **given the fiduciary obligation that the University has toward its employees to seek out the most cost-effective health care in an open and competitive RFP process** – there are no provisions that would reasonably or rationally overcome the financial advantages of the United Healthcare proposal in relation to the Humana proposal for our health plan.”

16. Subsequently, Provost Willihnganz convened a meeting on September 6, 2012 regarding the RFP which was attended by Connally, Willihnganz, Dunn, and two other senior staff from Health Affairs. During this meeting, a discussion was held regarding whether the Defendant could simply forego concluding its evaluation of RFPs for the 2013 health plan and cancel the RFP process on the presumption that none of the proposals drove sufficient savings to warrant writing a new three year contract. During the meeting, Connally observed it may be a reasonable business proposition to trade short-term cost increases for long-term savings, provided the University covered the short-term expense, but re-stated his concern that Defendant had a fiduciary obligation to get the best price possible on behalf of both the University and its employees. This concern was amplified by an upcoming discussion scheduled for later that day that the health plan might be called on to fund operating costs for the newly renovated Humana Gym as part of Defendant’s Get Healthy Now Program, which was funded by the UofL Health Plan. In response to Connally’s concerns, Provost

Willihnganz made it clear that the decision was not Connally's to make and that she and the President would make the decision noting, "at the end of the day, it's kind of hard to argue with \$10 million dollars" referring to the size of the gift that the Provost was responsible for soliciting from David Jones, Sr., Humana's Founder.

17. As a result of this meeting, Defendant cancelled its 2012 RFP for a TPA and deferred any action until 2013, at which time the health plan was re-bid for the third time in thirty six months - foregoing at least \$1.5 million in savings beginning in 2013.

18. Subsequent to Connally raising the foregoing concerns, Provost Willihnganz became hostile toward Connally. In October 2012, Provost Willihnganz retaliated against Connally by suspending him with pay on the basis of false, frivolous and malicious charges that his behavior toward the Director of the Get Healthy Now program, Patricia Benson, was bullying in nature. In January 2013, , she threatened to terminate Connally without cause on the basis of anecdotal, but anonymous, comments from other senior staff, (the substance of which would not reasonably give rise to a threat of loss of employment on the part of an executive officer of the university).

19. As a result of foregoing potential savings from a new health plan contract and in part to cover expected health plan cost increases, Defendant increased employee premiums \$25.00 per employee per month (or \$300 per employee per year), totaling \$1.65 million per year for 5,500 health plan participants, effective January 1, 2013.

20. As of June 30, 2013, however, the health plan generated an equivalent surplus in the amount of \$1.65 million. Rather than return excess premiums to employees or reduce employee premiums, Defendant moved \$1.65 million in excess funds out of the health plan and spent them on non-health plan expenditures.

21. As of June 30, 2014, the health plan again generated a surplus of \$3.4 million. Rather than return excess premiums to employees or reduce employee premiums, Defendant again moved \$3.4 million in excess funds out of the health plan and spent them on non-health plan expenditures.

22. In or about October 2014, on the date that health plan premiums were fixed for calendar year 2015, the health plan was projected to generate an annual surplus of \$1.75 million, of which \$250,000 was allocated to offset minor enhancements to retiree health insurance, leaving a net annual surplus of \$1.5 million in the health plan.

23. In preliminary discussions of health plan premiums between Connally & Willihnganz on August 28, 2014 and September 19, 2014, Provost Willihnganz wanted to consider another premium increase in 2015 with no more justification than "just because we can" and because university general fund budgets were exceedingly tight. Connally countered that the University's commitment to transparency in building health plan premiums required that the University document the need to increase employee premiums well in advance, based on actual increases in health plan costs. In

the absence of health plan cost increases and with health plan savings projected, the University could not reasonably increase employee premiums.

24. Defendant elected to continue to charge employees excess health plan premiums for a third consecutive year, knowing that projected health plan funding surpluses were sufficient to reduce employee premiums to 2012 levels. During 2015, Defendant continues to charge its employees \$300 per year per employee (approximately \$1.65 million per year) in excess of reasonably projected health plan expenses, with the expectation of spending such surpluses on non-health-plan expenditures.

25. Connally addressed his concerns related to the University's fiduciary obligations related to the health plan in an email to Dana Mayton, Interim University Counsel, on October 9, 2014. Ms. Mayton responded by email on October 13, 2014 that "to the extent that you may have additional allegations against the provost, you should share those with the investigator." However, as discussed below, the investigator never interviewed Connally regarding his complaint against Provost Willihnganz.

26. Connally and Mayton discussed the University's fiduciary obligations related to the health plan in person on October 17, 2014 during which Interim University Counsel Mayton specifically inquired as to whether the \$1.65 million increase in premiums in 2013 (following the suspension of the University's 2012 RFP process) resulted in increases to "the university or to policy holders" - in response to which Connally confirmed the increases were to employee premiums, with the

University providing approximately \$50 million in health plan funding and employees providing approximately \$12 million in health plan funding.

27. On November 13, 2012, Pat Arauz, Executive Director of Student Financial Aid, sent an email to all staff in the Financial Aid Office outlining a reorganization and restructure of the office. The reorganization plan included promotions for six employees. All six promotions went to White employees.

28. On December 18, 2012, five employees in Defendant's Financial Aid Office filed formal charges with the Defendant's Human Resources and EEO Office against Arauz alleging race discrimination in the promotion processes and compensation paid to African-American staff.

29. Staff in the office of the Vice President for Human Resources and University EEO Officer are responsible for investigating discrimination complaints and are required to issue an administrative review report that includes a determination as to whether the University's non-discrimination policies were violated or not. Under relevant University policies pertaining to Title VII or Title IX investigations, the findings and determinations of the University EEO Officer constitute the "final administrative decision of the University of Louisville with respect to all internal discrimination complaints."

30. After a thorough investigation by Mary Elizabeth Miles, Director of Staff Development & Employee Relations, and Donna Ernst, Staff Development & Employee Relations Specialist, both staff in the office of the Vice President for Human Resources

and University EEO Officer, it was concluded, *inter alia*, that under Arauz's management of the Financial Aid Office during 2012, White employees in Financial Aid had been four times more likely than Black employees to receive positive performance evaluations and that, during the period 2010 - 2012, White employees had been ten times more likely than Black employees to be assigned additional duties and responsibilities that resulted in reclassification or promotion. At the request of prior University Counsel, Angela Koshewa, Reviewers also requested that the Office of Institutional Research conduct tests of statistical significance to determine whether promotional results could be construed as random or causal. The results indicated that these results were statistically significant to 3.64 standard deviations (equivalent to odds of 3/10,000); were not random or attributable to chance, and would support a causal relationship attributable to race.

31. Connally, as Vice President for Human Resources and University EEO Officer, reviewed the complaints and supporting documents and adopted the reviewers' findings that: (1) Arauz had administered facially neutral HR policies over a period of three to seven years in a manner as to advantage White employees and disadvantage Black employees; (2) Arauz's employment practices had caused the five Complainants to be denied promotions, professional development and pay raise opportunities because of their race; and (3) Arauz's behaviors constituted race discrimination in violation of University policy.

32. Connally submitted his report in draft form to Provost Willihnganz and the Vice Provost responsible for Financial Aid in advance of its formal publication. In response, Willihnganz challenged the validity of the findings and chastised Connally for stating that Arauz's behavior constituted the most extreme example of race discrimination that he had observed in over 20 years as a University EEO Officer.

33. Even after Connally's findings were accepted by University Counsel Koshewa and published as final administrative decisions, Willihnganz continued to assert that Connally was unduly harsh with the Respondent and that his findings were disruptive to the department of Financial Aid and embarrassing to the Vice Provost responsible for administering Financial Aid.

34. Provost Willihnganz subsequently approved a nine-month work at home arrangement for Arauz, which incidentally was three times the recompense offered by the University to the victims of the discrimination, because, after the publication of the findings that she discriminated against her African-American reports, it would be too embarrassing for her to return to the office. Connally objected to the arrangement noting that an extended work at home arrangement was unprecedented at the University for Board-Appointed Administrators and contrary to the public interest.

35. In Spring 2014, two of the Complainants executed settlement agreements with the University while their charges were pending before the U.S. Equal Employment Opportunity Commission. When the Interim Director of Financial Aid attempted to re-negotiate the terms and conditions of the EEOC Settlement agreement

with the Complainants, Connally instructed him that the agreements must be implemented as executed. Provost Willihnganz chastised Connally in writing for issuing directives to employees in other departments; although it was expressly Connally's duty to convey instructions regarding the implementation of EEOC settlement agreements.

36. In late Spring 2014, one of the three remaining Complainants who had not executed a settlement agreement, approached Connally after a Commission on Diversity and Racial Equality meeting to ask why the University had "changed its mind" about discrimination in Financial Aid and was "attacking the employees" and "denying that discrimination had occurred" in meetings with the EEOC.

37. Connally made subsequent inquiries to Interim University Counsel Mayton as to the status of EEOC mediation discussions pertaining to the three remaining Complainants. In response to these inquiries, Connally learned that former University Counsel Koshewa and Provost Willihnganz had met outside of Connally's presence and determined along with outside counsel, Vanessa Rogers and Donna King Perry, of Dinsmore and Shohl, to submit position statements to the U.S. Equal Employment Opportunity Commission in the three remaining charges that directly contradicted the final administrative decisions of the University as issued by Connally. The Position Statements submitted to the EEOC on April 1, 2014 denied that discrimination occurred, disparaged the performance of the employees and specifically

omitted any reference to the fact that the University had made a final administrative decision that discrimination had occurred.

38. Upon learning of the aforementioned actions, and receiving copies of the position statements filed on the University's behalf by Dinsmore and Shohl, Connally filed a written objection with Provost Willihnganz and Interim University Counsel Mayton, on June 5, 2014, describing the position statements submitted by Dinsmore and Shohl to the EEOC as being "intellectually dishonest and morally repugnant". Connally recommended that the position statements be officially withdrawn or rescinded and that the University return to mediation discussions with the EEOC and affected employees.

39. Provost Willihnganz responded only that she would discuss Connally's observations with Interim University Counsel Mayton; but objected to Connally that, "Your note to me is not privileged." Willihnganz took no further action for the University to withdraw or rescind the position statements, allowing intentionally false statements disparaging African-American employees to remain a matter of record with the EEOC and among public records in the Office of Human Resources.

40. Interim University Counsel Mayton also verbally chastised Connally regarding his June 5 email - alleging his private and confidential email to her and the Provost constituted defamation of character or slander against the subject law firm that prepared the position statements and could expose the university to risk of a lawsuit.

Connally understood this admonition to be expressly threatening or chilling of his discretion to voice professional judgments as University EEO officer.

41. Subsequent to Connally's protected activity, the Office of the Interim University Counsel usurped Connally's role as University EEO Officer. In September 2014, the Office of Interim University Counsel, with Provost Willihnganz' awareness and tacit approval, unilaterally assumed responsibility for investigating a student EEO complaint regarding a faculty member, which is the purview of the EEO Officer and not that of University Counsel. Second, in October 2014, Associate University Counsel Amy Shoemaker asserted a presumed right on the part of the Office of University Counsel to specify final language in University Title IX compliance guidelines, over the informed objections of the University EEO Officer as Title IX Coordinator.

42. Following the November 2014 meeting of the Commission on Diversity and Racial Equality, one of the Financial Aid Complainants who had deferred executing a settlement agreement with the University (and who had previously approached Connally, as University EEO Officer, regarding the Dinsmore and Shohl EEOC reports), again approached Connally to discuss implementation of the settlement agreement provision related to race discrimination training for all Financial Aid staff. The Complainant represented that few Financial Aid employees had participated in race relations training since the first settlement agreements were executed in March and that Black employees in Financial Aid "worked in a segregated environment."

43. In response to these concerns, Connally, as University EEO Officer, invited the five Financial Aid Complainants to meet with him to discuss current climate issues in Financial Aid and brainstorm positive strategies that Connally might suggest to the Vice Provost for Enrollment Management going forward. Four of the five original Complainants met for lunch on Friday, November 21, 2014 at Connally's invitation.

44. Mary Elizabeth Miles was invited to participate in the lunch discussion as the Deputy EEO Officer/Title IX Coordinator and the lead investigator in the Financial Aid discrimination investigation. Ms. Miles declined the invitation voicing apprehension that a public lunch meeting with Financial Aid Complainants could be misperceived as Human Resources "inviting" a follow-up complaint from the employees and inferring that such a meeting could expose Connally or Miles to retaliation.

45. In lieu of Ms. Miles, Connally invited a senior member of the Commission on Diversity and Racial Equality to attend the discussion to whom Financial Aid employees had confided the prior year and who was aware of race relations concerns Black employees continued to have. This individual was the same individual that agreed to serve as Connally's personal advisor in the meeting with Tom Williams investigating the Durbin complaint, on the understanding that he would remain anonymous so as to protect himself from retaliation, as discussed in paragraphs 55 to 58.

46. In November 2013, Provost Willihnganz suggested to Connally that she believed that she would be able to award him a higher increase in 2014 than the 2% increase she awarded him in 2013. However, in July 2014, Provost Willihnganz only awarded Connally another 2% increase, despite his having completed 100% of his HR Scorecard goals and six scorecard goals on behalf of the Office of the Provost.

47. In August 2014, after a lengthy briefing regarding performance management recommendations from the Staff Senate regarding staff employees, Provost Willihnganz casually dismissed Connally's request for a salary adjustment, but proceeded to counsel him for 40 minutes regarding, *inter alia*, his interaction in the Spring with the Interim Director of Financial Aid regarding the implementation of the EEOC settlement agreements.

48. On September 29, 2014, at 12:37a.m., Malinda Ann Durbin chose to retire from her position as Staff Development & Employee Relations Specialist in Human Resources. In her notice of retirement, Durbin complained of undue stress and bullying behavior that she felt that she was subjected to by Mary Elizabeth Miles during Ms. Miles' tenure of almost 4 years. Durbin also suggested Miles' behavior was enabled by Connally.

49. Connally, noting the time of the email, responded to Durbin to allay her concerns and suggested that she reconsider her decision to retire. Durbin confirmed her decision to retire and noted that she did not want a response to her retirement document.

50. Without prior inquiry of any kind whatsoever as to materiality or relevance, Provost Willihnganz quickly responded to Connally, Tracy Eells, Vice Provost for Faculty Affairs, and Dana Mayton, Interim University Counsel, that the University would need to internally review further. There did not appear, however, to be any legitimate reason to copy Eells on the correspondence, nor launch an internal review.

51. While discussing the Durbin resignation on September 29 and the Provost's launching an internal review, Miles spontaneously asked Connally, "Do I need to start looking for a job? What happens to me when you're gone?" Connally perceived Miles to be concerned that if Connally were gone, she would have no protection from Provost Willihnganz's animosity over the Financial Aid EEO Investigation in which she participated.

52. On October 2, 2014, Connally submitted a retaliation complaint to Provost Willihnganz and President Ramsey outlining that he believed that Willihnganz had subjected him to a hostile work environment in retaliation for his opposition to her desire to accommodate Humana in the open bid process at the expense of the University's fiduciary obligations to its employees and his issuance of the five separate findings of race discrimination in the Office of Financial Aid.

53. Contrary to University practice and protocol, the University contracted with a third party investigator, Tom Williams, of Stoll Keenon & Ogden, to investigate Malinda Durbin's concerns. Because Durbin had retired and insisted that she did not

file a formal complaint and did not want a response to her retirement letter, normal University practice and protocol would have not treated her letter as a formal complaint requiring investigation.

54. The University also contracted with Tom Williams, of Stoll Keenon & Ogden, to investigate Connally's complaint of retaliation against Provost Willihnganz.

55. Connally made himself available to be interviewed by Williams as part of the investigation into both the Durbin complaint and his own complaint on at least three occasions: October 17, 2014, October 24, 2014 and November 21, 2014. Connally informed Williams by email on November 20, 2014 that he would be accompanied by a "personal advisor" during the interview as provided by University policy. Connally identified his personal advisor as a member of the Commission on Diversity and Racial Equality and former member of the Human Resources Advisory Committee. Connally also notified Williams that to protect his personal advisor from any potential retaliation that he would not disclose his personal advisor's identity.

56. Williams electronically mailed Connally the following day, approximately three hours before their scheduled meeting, to inform Connally that he would allow a "personal advisor" to attend during the portion of the interview dealing with the allegations in the Durbin "complaint" but not during the portion of the interview concerning his October 2, 2014 complaint against Provost Willihnganz. Williams suggested that if Connally wanted time to consider his proposal that he could reschedule the interview to Monday.

57. Approximately twenty minutes later, Connally responded to Williams suggesting that they go forward with the Durbin interview as scheduled, but that they reschedule the interview regarding his October 2, 2014 complaint against Provost Willihnganz to Monday as suggested by Williams. Connally further represented that University policy did not require the identification of personal advisors, and because of political ramifications and concerns on the part of the advisor about potential retaliation, he would not disclose the identity of the advisor, noting that only the President could make such pre-conditions for a Board-appointed Administrator as to the role of personal advisors, since this role was established in University policy and did not require disclosure. Williams did not respond to Connally's email, and permitted the interview to occur without further comment. All email exchanges were copied to Interim University Counsel Mayton, who could have offered a ruling or recommendation, but refrained from commenting on the Williams-Connally exchange.

58. When Connally arrived at Williams' office for the interview regarding the Durbin "complaint", he was confronted by Williams at approximately 1:40 p.m. in the reception area of Stoll Keenon & Ogden. Connally introduced his personal advisor only as "John." Williams immediately demanded the full name of Connally's personal advisor. When Connally reiterated his position that his personal advisor did not need to reveal his identity to Williams, Williams argued that John would be required to identify himself or the interview would not proceed. Connally requested that their conversation relocate from the public reception area to the conference room. Williams

motioned Connally to follow him and abruptly moved into and down an adjacent hallway, without guiding the way. When Connally and John finally found Williams, he was in an empty conference room that lacked any indicia that an interview of any length or depth was anticipated to occur within it. Indeed, Williams flatly stated to Connally that if John did not identify himself to Williams that the interview could not proceed. At Williams' insistence, the interview into the Durbin "complaint" was terminated and, nine minutes after being initially confronted by Williams, Connally and John departed.

59. Approximately an hour later, Friday, November 21, 2014 at 2:42 p.m., Williams sent an email to Connally that misrepresented the exchange between Connally and Williams and concluded that he was going to conclude the investigation without interviewing Connally. Further, Williams suggested that he would "welcome any objections [Connally] [had] to this process by next Monday at 5p.m. By the same date and time, I would welcome any additional written information you would like to provide to support your claims and in response to the Durbin complaint." Williams manipulated the chain of emails associated with his correspondence by removing the emails that Connally had sent to him. Williams copied Dana Mayton, Interim University Counsel, on the email.

60. On Sunday, November 23, 2014, Connally submitted his objections to the process to Williams noting, *inter alia*, that he felt that Williams' email misrepresented the exchange that occurred on November 21, 2014 and that one business day to provide

his response to Durbin's "complaint" was an insufficient amount of time to prepare it. Connally requested that he be provided with five business days as that would not only be more appropriate, but also consistent with the University's general policy and practice of allowing complainants and respondents up to five business days to prepare for and respond to any succeeding step in an investigatory process. Finally, Connally noted that, with the University's Thanksgiving break scheduled for that week, he would respond by Wednesday, December 3, 2014, the fifth business day from Williams' email request for it.

61. Neither Williams nor the University responded to Connally's objection and request that he be provided five (5) business days to provide a written response to the Durbin "complaint."

62. Williams did not interview Connally regarding his complaint against Provost Willihnganz on Monday, November 24, 2014, as he had initially suggested.

63. Instead, Williams provided an oral report to University President James Ramsey on Tuesday, November 25, 2014.

64. The following day, November 26, 2014, University President Ramsey terminated Connally's employment, without prior notice and without cause.

65. On December 17, 2014, Williams submitted an Investigation Report that found that Durbin's allegations that she was bullied by Miles were not corroborated. Likewise, Williams report found that there was no evidence that Connally encouraged

or enabled any bullying activities by Miles and that the one specific allegation by Durbin against Connally was not corroborated by any of the witnesses.

66. On December 17, 2014, Williams also submitted an Investigation Report regarding Sam Connally. The Investigation Report falsely alleges that the investigation was delayed “because the unavailability, and subsequent refusal of Connally, to participate.” As noted above, the November 21, 2014 interview that Williams refused to conduct because Connally would not provide the full identity of his personal advisor was in relation to only the Durbin “complaint.” At Williams’ suggestion, the interview into Connally’s complaint regarding Provost Willihnganz was to be conducted on Monday without a personal advisor. In any event, Williams failed to interview Connally and did not allow Connally the opportunity to submit his written response prior to reporting his findings to the University.

67. The Investigation Report falsely states that “All relevant witnesses have been interviewed”; however, the only individuals that were interviewed were Miles, Durbin and Willihnganz. Connally’s October 2, 2014, retaliation complaint against Provost Willihnganz implicated many other relevant witnesses and raised a number of factual representations which could have readily been verified from public documents, none of which were investigated and either confirmed or denied by the outside investigator in his report.

68. In fact, it is clear from the scope of the investigation and its findings that no meaningful investigation was undertaken into Connally’s complaint, but, rather, the

investigation was targeted at Connally and, just as he feared and presaged in his October 2, 2014 retaliation complaint, utilized as a pretext to terminate his employment.

69. On December 18, 2014, the Executive Committee of the Board of Trustees ratified President Ramsey's decision to terminate Connally's employment.

V. LEGAL ALLEGATIONS

COUNT I: VIOLATION OF KENTUCKY'S WHISTLEBLOWER STATUTE

70. Connally hereby incorporates paragraphs one (1) through sixty-nine (69) of his Complaint.

71. Defendants aforementioned actions constitute a violation of KRS 61.101 *et. seq.*

72. Connally has suffered damages as a result of Defendant's unlawful actions.

COUNT II: VIOLATION OF KENTUCKY CIVIL RIGHTS ACT

73. Connally hereby incorporates paragraphs one (1) through seventy-two (72) of his Complaint.

74. Defendant's aforementioned actions constitute a violation of KRS 344.280(1).

75. Connally has suffered damages as a result of Defendant's unlawful actions.

VI. REQUEST FOR RELIEF

WHEREFORE, Plaintiff, Samuel B. Connally, by counsel, respectfully requests the following:

- A. A trial by jury;
- B. Enter a declaratory judgment holding that Defendant's actions violated Connally's rights as protected by the provisions of KRS 61.101 and KRS 344.280.
- C. Reinstate Plaintiff to the position, salary and seniority level he would have enjoyed but for Defendant's unlawful employment actions, or award him front pay in lieu thereof;
- D. All wages, benefits, compensation, and other monetary loss suffered as a result of Defendant's unlawful actions;
- E. Compensation for any and all other damages suffered as a consequence of Defendant's unlawful actions;
- F. Compensatory damages;
- G. All costs and attorney's fees incurred as a result of bringing this action;
- H. Pre- and post-judgment interest on all sums recoverable; and
- I. All other legal and/or equitable relief this Court sees fit to grant.

Respectfully submitted,

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