

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

JOHN SOLOSKI,

Plaintiff,

vs.

CIVIL ACTION No.:  
1:06-CV-3043-MHS

MICHAEL F. ADAMS, in his  
individual and official capacity  
as President of University of  
Georgia, and THE BOARD OF  
REGENTS OF THE UNIVERSITY SYSTEM  
OF GEORGIA, d/b/a UNIVERSITY OF  
GEORGIA,

Defendants.

THIRD AMENDED PETITION FOR MANDAMUS  
AND COMPLAINT FOR DAMAGES

COMES NOW John Soloski ("Plaintiff") and files this  
Petition and Complaint against Defendants MICHAEL F. ADAMS,  
individually and in his official capacity as President of  
University of Georgia, and BOARD OF REGENTS OF THE UNIVERSITY  
SYSTEM OF GEORGIA, d/b/a UNIVERSITY OF GEORGIA (hereinafter  
collectively "Defendants") and respectfully shows this Court as  
follows:

NATURE OF THE ACTION

1.

This case involves an abuse of official power by MICHAEL  
F. ADAMS, the President of the University of Georgia, and is  
expected to show that Defendant ADAMS has falsely labelled

Plaintiff as a sexual harasser, unlawfully denied Plaintiff his right to a due process hearing to clear his name and improperly reduced Plaintiff's salary in retaliation for Plaintiff's refusal to support ADAMS'S well-publicized abuses of power and other improprieties.

2.

This Petition and Complaint seeks an order of mandamus directing Defendants to hold a name-clearing hearing and providing injunctive relief, promissory estoppel, damages for breach of contract as well as attorney's fees and costs of litigation.

**JURISDICTIONAL STATEMENT**

3.

Plaintiff is a resident of the State of Georgia and subjects himself to the jurisdiction of this Court.

4.

Defendant MICHAEL F. ADAMS ("Defendant ADAMS") is the President of the University of Georgia.

5.

The University of Georgia ("UGA") is a part of the state University System of Georgia, a State of Georgia organization headquartered in Fulton County, Georgia.

6.

Defendant ADAMS is a resident of the State of Georgia.

7.

Service of process on Defendant ADAMS may be made at his home address at 570 Prince Avenue, Athens, Georgia 30601, or his work address at The President's Office, The Administrative Building, University of Georgia, Athens, Georgia 30602.

8.

Defendant ADAMS is subject to the jurisdiction of this Court with proper venue.

9.

Defendant BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF GEORGIA, d/b/a UNIVERSITY OF GEORGIA, ("Defendant REGENTS") is a State of Georgia entity, pursuant to O.C.G.A. §§ 20-3-50 and 20-3-20, and by Article 8, Section 4, paragraph 1 of the Georgia Constitution of 1983, that is headquartered and does business in Fulton County, Georgia.

10.

Service of process may be made on Defendant REGENTS through its authorized agents and representatives to receive service, Ms. Corlis P. Cummings, Senior Vice Chancellor for Support Services, 270 Washington St., SW, Atlanta, Georgia 30334, and Ms. Elizabeth E. Neely, Associate Vice Chancellor for Legal Affairs, 270 Washington St., SW, Atlanta, Georgia 30334.

11.

Pursuant to O.C.G.A. §§ 9-6-20, *et seq.*, and 50-21-1, Defendant REGENTS is subject to the jurisdiction of this Court with proper venue.

**OFFICIAL DUTIES**

12.

Defendant ADAMS'S acts and omissions referred to herein occurred while acting within the scope of his official duties as President of UGA, an officer and employee of Defendant REGENTS.

13.

The acts and omissions of Defendant ADAMS while acting within the scope of his official duties as an officer and employee of UGA and Defendant REGENTS are imputed to Defendant REGENTS as a matter of law.

**JOINT AND SEVERAL LIABILITY**

14.

Defendants are jointly and severally liable for the acts and omissions alleged in this Complaint. At all times pertinent and relevant to the incidents described in this Petition and Complaint, certain unknown or unidentified individuals were acting as an agents or employees of Defendants and were acting within the scope of such agency or employment relationship with Defendants, the principal. The

acts and omissions of the unknown or unidentified individuals as the agent or employee of Defendants are imputed to Defendants as a matter of law.

**FACTUAL BACKGROUND**

15.

Plaintiff is a current professor and the former Dean of the University of Georgia's Grady College of Journalism and Mass Communication ("Grady College").

16.

At all relevant times, Plaintiff has been employed as a tenured faculty member and as Dean of the Grady College pursuant to successive one year employment agreements.

17.

The employment agreement in place at the time Defendants falsely labelled Plaintiff a sexual harasser and constructively discharged him from his deanship position without providing him with due process, Plaintiff was employed pursuant to a contract entitled, "Contract for Faculty Ranked Administrators," for the period July 1, 2004 through to June 30, 2005 (the "Deanship Contract").

18.

A true and correct copy of the Deanship Contract is attached hereto as Exhibit "A."

19.

Plaintiff's annual salary pursuant to the Deanship Contract was \$182,053.00.

20.

The Deanship Contract provides that "THIS ADMINISTRATIVE APPOINTMENT IS MADE EXPRESSLY SUBJECT TO THE APPLICABLE STATE AND FEDERAL LAWS AND TO STATUTES AND REGULATIONS OF THIS INSTITUTION AND TO THE BYLAWS AND POLICIES OF THE BOARD OF REGENTS."

21.

Plaintiff has had an impeccable academic career, receiving the Society of Professional Journalists' Bronze Medallion, one of the foremost recognitions in his discipline and has been named the inaugural holder of the Daniel and Amy Starch Professorship at the University of Iowa, one of the ultimate academic honors attainable for a professor.

22.

During his tenure as Dean of Grady College, Plaintiff increased the size of the facility by twenty percent, conducted unprecedented fundraising of nearly twelve million dollars, and obtained the long-coveted Knight Chair in Medical and Health Journalism.

23.

Plaintiff has been systematically and unlawfully targeted

by Defendant ADAMS and his subordinates for removal and retaliation.

24.

This willful mistreatment began after 2001 following the well-documented public conflict between the trustees of the UGA Foundation and Defendant ADAMS ("the Adams controversy").

25.

At the time of the Adams controversy, public and private sources had exposed a list of Defendant ADAMS'S perceived abuses of power, misappropriations of third-party funds and other improprieties.

26.

As a result of the Adams controversy and the growing list of improprieties being leveled against Defendant ADAMS, Defendant ADAMS'S interim-Provost demanded that the University's deans provide a statement of support for Defendant ADAMS.

27.

The intent of the demand was to rebuild Defendant ADAMS'S ailing credibility in the eyes of the public and University community.

28.

As Dean of Grady College, Plaintiff ethically could not take sides in this political dispute, fearing it would harm

the University's and Grady College's academic reputation.

29.

After Plaintiff chose to remain neutral and declined to endorse any statement that supported Defendant ADAMS and the Board of Regents, Defendant ADAMS calculatngly began looking for ways to target Plaintiff for removal from the deanship and for the destruction of his professional career.

30.

On May 18, 2005, Plaintiff was falsely accused of sexual harassment, providing Defendant ADAMS with a perceived way to force Plaintiff out of his deanship at UGA.

31.

The false allegations of sexual harassment that were used by Defendant ADAMS against Plaintiff were made by a disgruntled Grady College employee after she was reprimanded for conduct detrimental to Grady College.

32.

Specifically, the complainant alleged that, as far back as seven months before she was reprimanded, Plaintiff had complimented her on two occasions.

33.

One remark was at an off-campus event where he stated, "You have brown eyes. I don't believe I've ever noticed that before."



34.

This statement was made by Plaintiff in the context of a discussion concerning his recent Lasik eye surgery.

35.

The other statement, a pleasant remark at a social event, complimented her evening gown as showing off her "assets."

36.

These two isolated compliments, spaced six months apart and both made in social settings where compliments were expected, make up the entirety of the sexual harassment complaint against Plaintiff.

37.

Yet, Defendant ADAMS and his subordinates embraced the opportunity to use the disgruntled employee's false allegation of harassment as an opportunity to drive Plaintiff out of his deanship.

38.

Plaintiff learned of the charges via a letter handed to him by the complainant on May 18, 2005.

39.

He immediately telephoned the University's Office of Legal Affairs to notify the appropriate legal official, Kimberly Ballard Washington, of the falsity of the complaint and then faxed Ms. Ballard Washington the letter from the

complainant.

40.

The ensuing investigation by Defendant ADAMS'S subordinates sought to exclude Plaintiff's input at every turn, and despite numerous requests, Plaintiff was denied the opportunity to speak with any of the witnesses interviewed, and was not even aware of many of their identities.

41.

All notes and records of interviews of Plaintiff by Defendant ADAMS'S investigative team were either destroyed or misplaced, while all investigation notes adverse to Plaintiff were released by UGA to the press and public.

42.

During the purported confidential investigation of the complaint of sexual harassment, Defendant ADAMS'S subordinates released the false charges against Plaintiff to the media; permitted media to interview faculty and staff about the charges; and threatened Plaintiff with more release of information should he refuse to resign, knowing that Plaintiff would be denied the right to clear his name.

43.

In private meetings on June 20, 2005 and June 21, 2005, and without a hearing, Plaintiff was instructed by Defendant ADAMS'S subordinates that he had to immediately resign his

deanship and his tenured professorship or UGA would make public the findings that Plaintiff had engaged in the sexual harassment of a colleague, allowing the University Provost to remove him as Dean.

44.

On June 29, 2005 at approximately 9:00 a.m. Plaintiff was interviewed a second time by Ms. Ballard Washington.

45.

That same day, at approximately 3:00 p.m., Ms. Ballard Washington called Plaintiff to read to him a formal letter finding him to have violated the University's sexual harassment policy.

46.

Recognizing that the stigma of such false allegations and false findings would destroy his exemplary career, Plaintiff was forced to involuntarily resign from the position of Dean of Grady College effective June 30, 2005.

47.

Plaintiff's force resignation amounted to a constructive discharge from his deanship.

48.

As a result of his constructive discharge, Plaintiff's salary fell significantly.

49.

However, in direct conflict with the representations made by Defendant ADAMS'S subordinates and despite Plaintiff's resignation, UGA made a finding of sexual harassment, punished Plaintiff, and publicly disseminated this false finding to the media.

50.

Despite numerous attempts to appeal UGA's purported investigative findings, Defendant ADAMS and the Board have repeatedly refused to allow Plaintiff to clear his name and participate in a due process hearing.

51.

In addition to refusing to allow Plaintiff to have a name clearing hearing that complies with UGA policies incorporated in Plaintiff's employment contract and with Constitutional due process, the Defendants routinely use a double standards and unlawful favouritisms in their application of UGA's sexual harassment policy.

52.

For instance, in May of 2005, approximately two weeks before Plaintiff was falsely accused of sexual harassment, former Associate Provost Keith Parker took a student who was applying for a UGA graduate position out of town, enticed her

into sleeping in the same UGA-paid hotel suite, massaged her feet, and intimated sexual comments to her, including a statement that the student "looked like she was the [kind] of girl who like[d] to have fun."

53.

UGA's investigation, however, concluded that Associate Provost Parker had not violated UGA's sexual harassment policy.

54.

Moreover, before this May 2005 incident, Associate Provost Parker had additionally been reprimanded for inappropriate behavior for repeatedly asking a UGA employee out on a date, holding her hand and touching her cheek and shoulders.

55.

UGA found there was no sexual harassment in those Parker incidents as well, concluding that Associate Provost Parker had merely used poor judgment.

56.

The Defendants' use of double standards and unlawful favouritisms in UGA's application of its sexual harassment policy amounts to a gross abuse of discretion

**COUNT ONE - MANDAMUS**

57.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

58.

Plaintiff is a tenured faculty member in the Grady College.

59.

As a result of the false allegations of sexual harassment asserted against Plaintiff and Defendants incomplete investigation and premature decision to label Plaintiff a sexual harasser, informal meetings with Plaintiff were held in the office of Arnett Mace, Provost of the University of Georgia, on June 20 and June 21, 2005.

60.

At the June 20 and 21, 2005, meetings and thereafter, Plaintiff was not afforded his contractual or Constitutional rights to due process.

61.

At the June 20 and June 21, 2005, meetings and thereafter, Plaintiff was not afforded the protections and rights to an impartial factfinder, the right to confront his accuser, the right to offer witness testimony on his own behalf, the right to offer documentary evidence on his own

behalf, and was not permitted to subpoena witnesses in his defense.

62.

If Defendants had granted Plaintiff his contractual and constitutional rights to due process, Plaintiff would have been exonerated of the false charges against him, no false findings would have been made public and his name would have been cleared.

63.

As a result of Defendants' failure to afford Plaintiff his contractual and constitutional rights to due process, Plaintiff was found to have violated the UGA policy regarding sexual harassment based on false findings and received a formal letter of reprimand, was required to attend sexual harassment training, and lost his deanship, his salary level and his good name. A true and correct copy of the June 29, 2005, letter from Arnett Mace to Plaintiff is attached hereto as Exhibit "B."

64.

As a result of the false findings published by Defendants and their constructive discharge of Plaintiff, Plaintiff's reputation in the academic community has been damaged and Plaintiff has lost his employment as Dean of the Grady College of Journalism and Communication, thereby constituting state

action depriving Plaintiff of a liberty interest without due process of law. Plaintiff is entitled to due process under Article 1, Section 1, Paragraph 1, of the Georgia Constitution of 1983, Sections 802.17, 803.11(A), 803.1101 and 803.1102 of the Board of Regents Policy Manual, and Section 1.13-1 of the UGA Academic Affairs Policy Manual.

65.

Plaintiff filed a request with Defendant ADAMS for an appeal and proper hearing which would protect his due process rights. A true and correct copy of the request is attached hereto as Exhibit "C."

66.

Plaintiff's request for an appeal and hearing was denied by Defendant ADAMS. A true and correct copy of the denial of that request is attached hereto as Exhibit "D."

67.

Plaintiff then filed a request with Defendant REGENTS for an appeal and proper hearing which would protect his due process rights. A true and correct copy of the request is attached hereto as Exhibit "E."

68.

Plaintiff's request for an appeal and hearing was denied by Defendant REGENTS. A true and correct copy of the denial of that request is attached hereto as Exhibit "F."



69.

The June 20 and 21, 2005, meetings conducted by Provost Arnett Mace were administrative in nature because of the lack of protections and rights for Plaintiff and was not judicial or quasi-judicial in nature.

70.

Section 802.17 of the Board of Regents Policy Manual provides sanctions to sexual harassment offenders only "after compliance with procedural due process."

71.

Defendant ADAMS and Defendant REGENTS have the duty to provide a hearing satisfying the requirements of the UGA policies incorporated into Plaintiff's employment contract and with Georgia Constitutional due process in order to deprive Plaintiff of his liberty interest in his reputation plus his property interest in his higher salary and continued employment as dean.

72.

Pursuant to Board of Regents Policy 803.11, Plaintiff's employment as dean could only be terminated "for cause."

73.

Defendant ADAMS and Defendant REGENTS have failed to provide Plaintiff a hearing satisfying the requirements of UGA policies incorporated in Plaintiff's employment contract and

with Georgia Constitutional procedural due process.

74.

The failure of the Defendants to faithfully perform their duties or their improper performance of these duties compels the issuance of a writ of mandamus pursuant to O.C.G.A. § 9-6-20 to require Defendants to grant Plaintiff a name clearing hearing.

75.

Alternatively, if this Court determines that the Defendants' failure to faithfully perform their duties or their improper performance of these duties is "discretionary," then their performance or improper performance constitutes a gross abuse of discretion which also compels the issuance of a writ of mandamus.

76.

Plaintiff respectfully requests this Court to Order a Writ of Mandamus to Defendants pursuant to O.C.G.A. § 9-6-20 to order Defendants to provide Plaintiff with a name clearing hearing that complies with UGA policies incorporated in Plaintiff's employment contract and with Georgia Constitutional due process within fourteen days of the granting of the Writ.

**COUNT TWO - BREACH OF CONTRACT**

77.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

78.

Defendant REGENTS is an employer that has promulgated employment policies that promise fairness in its treatment of employees, a method for which it would investigate complaints, and a due process requirement before adverse employment actions take place. See Policy Manual of the Board of Regents; UGA Academic Affairs Policy Manual.

79.

When Plaintiff entered into the employment contract with Defendant REGENTS, Defendants induced Plaintiff to believe, and Plaintiff reasonably believed that the policies and procedures outlined in the policy manuals were incorporated into the employment contract and that Defendant REGENTS, by and through Defendant ADAMS, would adhere to its employment policies as outlined in the policy manuals.

80.

Plaintiff reasonably relied on the incorporation of the policy manuals into Plaintiff's employment contract and Defendant's adherence to them.

81.

Defendants violated Section 802.17 of the Board of Regents Policy Manual by sanctioning him for sexual harassment without compliance with procedural due process.

82.

Section 803.11 of the Board of Regents Policy Manual provides that "The President of an institution may at any time remove a faculty member or other employee of an institution for cause." Section 803.1101(A) of the Board of Regents Policy Manual provides that tenured faculty members, or non-tenured faculty members, before the end of contract terms may be dismissed "provided that the institution has complied with procedural due process requirements."

83.

Section 803.1102 of the Board of Regents Policy Manual provides that dismissal of tenured faculty members or non-tenured faculty members before the end of the term specified in their contracts should be preceded by the following, at a minimum:

1. Discussion between the faculty member and appropriate administrative officers **looking toward a mutual settlement.**
2. Informal inquiry by an appropriate faculty committee which may, upon failing to effect an adjustment, advise the president whether dismissal proceedings should be undertaken; its advisory opinion shall not be binding upon the president.

3. A letter to the faculty member forewarning that he/she is about to be terminated for cause and informing him/her that a statement of charges will be forwarded to him/her upon request. **The faculty member may also request a formal hearing on the charges before a faculty committee.** Failure to request charges or a hearing within a reasonable time shall constitute a waiver of the right to a hearing.
4. A statement of charges, if requested by the faculty member, framed with reasonable particularity by the president or his or her designated representative. Along with the charges, **the faculty member shall be advised of the names of the witnesses to be used against him** or her together with the nature of their expected testimony.

Board of Regents Policy Manual § 803.1102 (emphasis added).

84.

In forcing the resignation of Plaintiff from his deanship without any proper procedural due process, Defendants violated policies in the Board of Regents Policy Manual and UGA Academic Affairs Policy Manual.

85.

Defendant ADAMS and Defendant REGENTS materially breached the terms of Plaintiff's Deanship Contract by violating Defendant REGENTS' and UGA's own employment policies, which were incorporated into the terms of the Deanship Contract.

86.

As a direct and proximate result of this breach, Plaintiff was forced to resign his position as Dean of Grady College, received a much-reduced salary, and lost much of the

value of his reputation.

87.

Plaintiff is entitled to recover all damages incurred or suffered by him as a result of or arising out of the breach of contract.

**COUNT THREE - BREACH OF CONTRACT**

88.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

89.

On August 17, 2001, Defendants, through their authorized representative Senior Vice President and University Provost Karen Holbrook, entered into an employment contract with Plaintiff for an appointment to position of Dean of Grady College of Journalism and Mass Communications ("Grady College") and for a seven-year tenured appointment as an academic professor. A copy of the letter establishing the contract is attached hereto as Exhibit "G."

90.

The employment contract provided that, should Plaintiff resign as Dean during the seven-year period, Plaintiff would remain a full tenured professor, receive his full Dean's salary for one year, and his salary then "would be renegotiated to an amount that would be no less than the

highest paid full professor within the department of the Grady College."

91.

On June 30, 2005, Plaintiff was forced to involuntarily resign as Dean of Grady College.

92.

On June 9, 2006, Defendant ADAMS, on behalf of Defendant REGENTS, issued a one-year employment contract for the academic year beginning July 1, 2006, to Plaintiff for \$130,015, to be signed and returned within 20 days. A true and correct copy of the proposed employment contract is attached hereto as Exhibit "H."

93.

The highest paid full professor within the department of Grady College will receive a salary in excess of \$130,015 for the academic year beginning July 1, 2006.

94.

Upon information and belief, the highest paid full professor within the department of Grady College will receive a salary of \$190,000 for the academic year beginning July 1, 2006.

95.

Other full professors within the department of Grady College will receive salaries of \$170,000 and \$132,616 for the

academic year beginning July 1, 2006.

96.

Plaintiff has made good faith requests and inquiries to Defendant ADAMS and Defendant REGENTS to receive a salary for the academic year beginning July 1, 2006 that is not less than the highest paid full professor within the department of the Grady College.

97.

In repeatedly refusing to offer Plaintiff a salary for the academic year beginning July 1, 2006, that is no less than the highest paid full professor within the department of the Grady College, Defendant ADAMS and Defendant REGENTS have given notice of an anticipatory breach of the contract.

98.

Plaintiff has made numerous good faith requests and inquiries to Defendant ADAMS and Defendant REGENTS in an attempt to negotiate the amount of his salary for the academic year beginning July 1, 2006.

99.

In repeatedly refusing Plaintiff any opportunity to negotiate the amount of his salary for the academic year beginning July 1, 2006, Defendant ADAMS and Defendant REGENTS have given notice of an anticipatory breach of the contract.



100.

Plaintiff has complied fully with all of his obligations under the contract.

101.

As a direct and proximate result of these anticipatory breaches, Plaintiff is forced to find alternative employment at short notice and at a lower salary, or accept Defendants' \$130,015 mandate, receiving a salary far less than provided for in the original contract.

102.

Plaintiff is entitled to recover all damages incurred or suffered by him as a result of or arising out of the breach of contract.

**COUNT FOUR - EQUITABLE INJUNCTION**

103.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

104.

Pursuant to O.C.G.A. § 9-5-10 and O.C.G.A. § 9-11-65, Plaintiff requests a permanent equitable injunction in this case.

105.

Plaintiff seeks a permanent equitable injunction against the Defendants:

(a) Enjoining Defendants and restraining Defendants and all those in active concert or participation with them from any direct or indirect action which would have the effect of denying Plaintiff a name clearing hearing in the future that complies with UGA policies and constitutional due process; and,

(b) Enjoining and restraining Defendants and all those in active concert or participation with them from any direct or indirect action which would have the effect of impermissibly reducing Plaintiff's future salary to an amount less than the highest paid full professor within the department of the Grady College.

106.

Unless an equitable injunction is granted, Plaintiff will suffer immediate and irreparable injury, loss and damage.

107.

Plaintiff does not have an adequate remedy at law.

**COUNT FIVE - PROMISSORY ESTOPPEL**

108.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

109.

In private meetings on June 20, 2006, and June 21, 2006, agents for Defendants deliberately made promises to Plaintiff and should have reasonably expected that Plaintiff would rely on those promises.

110.

Defendants' promises were known by said Defendant to create a reasonable expectation in Plaintiff that a formal finding of sexual harassment would not be made against Plaintiff if Plaintiff resigned his deanship.

111.

Plaintiff relied to his detriment upon Defendants' promises.

112.

An injustice can be avoided only by the enforcement of Defendants' promises because Plaintiff surrendered, forwent, and rendered a valuable right to Defendants.

**COUNT SIX - CIVIL RIGHTS ACT CLAIM FOR RACIAL DISCRIMINATION**

113.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

114.

On November 3, 2005, Plaintiff filed a Charge of Discrimination (the "Charge") with the Equal Employment

Opportunity Commission ("EEOC") alleging that he had been discriminated against by his employer, Defendant REGENTS, because of his race (White) in violation of Title VII of the Civil Rights Act of 1964.

115.

Plaintiff filed an Amended Charge of Discrimination (the "Amended Charge") with the EEOC on July 19, 2006, alleging that he had been retaliated against by Defendant REGENTS for having opposed unlawful employment practices, in violation of Title VII of the Civil Rights Act.

116.

On August 28, 2006, Plaintiff received a Notice (the "Notice") of his right to sue from the EEOC with regard to his Charge and Amended Charge.

117.

Plaintiff has exhausted his administrative remedies.

118.

Plaintiff has timely filed a Charge of Discrimination with the EEOC.

119.

Plaintiff has timely filed an Amended Charge with the United States Equal Employment Opportunity Commission.

120.

This lawsuit is timely filed.

121.

Plaintiff was treated differently than his similarly situated coworker, Keith Parker, who is not White.

122.

Plaintiff was subjected to disciplinary action and terminated from his employment a Dean because of his race and color.

123.

Defendant REGENTS discriminated against Plaintiff by denying him employment opportunities because of his race and color.

124.

The effect of Defendant REGENTS'S discriminatory employment practices has denied Plaintiff equal employment opportunities, income in the form of wages, and other benefits of employment because of his race and color.

125.

Defendant REGENTS has intentionally and knowingly discriminated against Plaintiff in the terms and conditions of his employment.

126.

As a direct result of Defendant REGENTS'S discriminatory employment practices, Plaintiff has suffered mental pain and suffering and has been humiliated, embarrassed, and otherwise

mentally degraded.

127.

As a direct and proximate result of Defendant REGENTS'S discrimination, Plaintiff has lost and will continue to lose income in an amount to be proved at trial.

**COUNT SEVEN - 42 U.S.C. § 1981 CIVIL RIGHTS VIOLATION**

128.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

129.

The racial discrimination practiced by Defendants deprived Plaintiff of the equal benefit of the law and interfered with Plaintiff's employment contract in violation of 42 USC § 1981.

**COUNT EIGHT - CIVIL RIGHTS ACT CLAIM FOR RETALIATION**

130.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

131.

Plaintiff engaged in statutorily protected expression by filing his Charge with the EEOC.

132.

Defendant REGENTS retaliated against Plaintiff in whole or in part because Plaintiff engaged in protected speech, in

violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-3(a).

133.

As a direct and proximate result of Defendant REGENTS'S retaliation, Plaintiff has suffered mental pain and suffering and has been humiliated, embarrassed, and otherwise mentally degraded.

134.

As a direct and proximate result of Defendant REGENTS'S retaliation, Plaintiff has lost and will continue to lose income in an amount to be proved at trial.

**COUNT NINE - 42 U.S.C. § 1983  
AGAINST DEFENDANT ADAMS' INDIVIDUALLY**

135.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

136.

Defendant ADAMS is sued in his personal capacity in this Count.

137.

Acting individually and in concert with subordinate employees of Defendant REGENTS, Defendant ADAMS deprived Plaintiff of his liberty interest in his good name and his property interest in continued employment as dean of Grady

College and in the higher salary he was receiving as dean.

138.

Defendant ADAMS was directly and personally involved in the Defendants' activities as set out herein.

139.

Defendants' actions were in violation of Plaintiff's rights under the Fifth Amendment and the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

**COLOR OF STATE LAW**

140.

At all times material to the allegations set forth in this Complaint, Defendant ADAMS was employed as president of Defendant UGA.

141.

Defendants' policies, procedures and customs were in whole or part a moving force behind the violation of Plaintiff's constitutional rights as described herein.

142.

Defendant ADAMS performed all acts relevant to this action under color of state law, to wit, under color of statutes, ordinances, regulations, policies, customs and usages of the State of Georgia and/or Defendant REGENTS.

143.

Defendants' activities constitute a deprivation of the



Plaintiff's liberty and property rights without providing just compensation and violate the Fifth Amendment's proscription against a public taking of private property without just compensation.

144.

Defendants' activities constitute a deprivation of the Plaintiff's liberty and property rights without due process of law and violate the Plaintiff's substantive and procedural due process rights secured under the Fifth and Fourteenth Amendments to the Constitution, as clearly established under existing case precedent at the time of Defendant ADAMS' actions.

**COUNT TEN - STATE TORT CLAIM FOR  
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

145.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

146.

Plaintiff has satisfied all conditions precedent to the filing of his tort claims in this Petition and Complaint.

147.

Notice of Plaintiff's tort claims identified in this Petition and Complaint was given in writing within 12 months of the date the loss was discovered or should have been discovered.

148.

Notice of Plaintiff's tort claims identified in this Petition and Complaint was delivered personally to and a receipt obtained from the Risk Management Division of the Department of Administrative Services.

149.

Notice of Plaintiff's tort claims identified in this Petition and Complaint was delivered personally to Defendant REGENTS.

150.

A true and correct copy of Plaintiff's Notice of Claim presented to the Department of Administrative Services together with the receipt for delivery is attached hereto and incorporated as Exhibit "I."

151.

Ninety days have elapsed after the presentation of Plaintiff's Notice of Claim without action by the Department of Administrative Services.

152.

Plaintiff's injuries and damages were caused by the Defendants' negligent performance, or negligent failure to perform, their ministerial functions.

153.

Plaintiff's injuries and damages were caused by the

Defendants' acts which were made with actual malice or with actual intent to cause injury in the performance of their official functions.

154.

Defendants' conduct towards Plaintiff was intentional, reckless, extreme, and outrageous.

155.

Defendants' conduct caused Plaintiff to experience severe emotional distress.

156.

Defendants' conduct was of such serious import as to naturally give rise to intense feelings of extreme humiliation and embarrassment.

157.

Plaintiff's emotional distress was directly and proximately caused by Defendants' wrongful conduct.

**COUNT ELEVEN - STATE TORT CLAIM FOR FRAUD**

158.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

159.

Defendants falsely represented to Plaintiff that a formal finding of sexual harassment would not be made against Plaintiff if Plaintiff resigned his deanship.

160.

Defendants intended that Plaintiff rely on said representations.

161.

Plaintiff relied on Defendants' false representations to his detriment, losing his good name and his higher salary.

162.

Plaintiff's injury was a direct and proximate result of Defendants' false representations.

**COUNT TWELVE - STATE TORT CLAIM FOR INVASION OF PRIVACY**

163.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

164.

At all times pertinent and relevant to the incidents described in this Petition and Complaint, Plaintiff had a right of privacy guaranteed to him by the constitutions of the United States and the State of Georgia.

165.

Defendants are liable for an invasion of Plaintiff's right of privacy in that they negligently and recklessly published and allowed the republication of false and offensive statements about his professional life that placed him in a false light in the public eye.

166.

Defendants are liable for an invasion of Plaintiff's right of privacy in that they negligently and recklessly published and allowed the republication of private, confidential or exempt records that placed him in a false light in the public eye.

167.

As a direct and proximate result of the acts of invasion of privacy by said Defendants, Plaintiff has suffered and continues to suffer injury to his personal and professional reputation, humiliation and embarrassment, extreme mental and emotional distress, and a diminishment of his professional reputation and standing within the community.

**COUNT THIRTEEN - ATTORNEY'S FEES AND EXPENSES**

168.

The allegations contained in all paragraphs above are incorporated herein by reference as if set forth verbatim.

169.

Defendants have acted in bad faith and have caused Plaintiff unnecessary hardship and expense in this matter.

170.

Plaintiff is entitled to an award of costs, attorney's fees, and litigation expenses pursuant O.C.G.A. § 13-6-11 and

42 U.S.C. § 1988.

171.

Defendant Adams has proximately caused actual injury to Plaintiff in a malicious, wanton, and oppressive manner.

172.

Plaintiff is entitled to an award of punitive damages pursuant to 42 U.S.C. § 1983.

**TRIAL BY JURY DEMANDED ON ALL COUNTS.**

**WHEREFORE**, Plaintiff prays:

- a. That summons issue and Defendants be served according to law;
- b. That Plaintiff be awarded damages and judgment issued against Defendants for his claims of breach of contract;
- c. That the Court issue a mandamus nisi in accordance with O.C.G.A. § 9-6-27;
- d. That the Court Order that Plaintiff is entitled to a hearing in accordance with his procedural due process rights, including a neutral third party factfinder and the right to present and confront evidence under the Georgia rules of evidence;
- e. Declare that the acts and practices complained of herein are violations of Title VII of the Civil Rights Act, as amended;

- f. Enjoin and permanently restrain Defendant and all persons in active concert or participation with Defendant REGENTS from engaging in any employment practice which discriminates based on race and color;
- g. Direct Defendant REGENTS to make Plaintiff whole for all earnings and benefits he would have received but for Defendant REGENTS'S discriminatory treatment;
- h. Award Plaintiff back pay, prejudgment interest, and damages for all employment benefits he lost;
- i. Award Plaintiff compensatory damages;
- j. Award reasonable attorney's fee and costs;
- k. Award punitive damages; and,
- l. For such other relief as this Court deems just and proper.

This 17<sup>th</sup> day of January, 2007.

**BRANDON HORNSBY, P.C.**

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