



VIRGINIA STATE UNIVERSITY

VIRGINIA STATE UNIVERSITY, VIRGINIA 23806

OFFICE OF THE PRESIDENT
P.O. Box 9001

(804) 524-5070

March 1, 2019

The Honorable Ralph S. Northam
Governor
Commonwealth of Virginia
Post Office Box 1475
Richmond, Virginia 23218-1475
c/o clark.mercer@governor.virginia.gov

The Honorable Steve Newman
Senate Chairman
Education and Health Committee
Post Office Box 480
Forest, Virginia 24551
District23@senate.virginia.gov

The Honorable R. Steven Landes
House Chairman
Education Committee
Post Office Box 12
Verona, Virginia 24482
steve@stevelandes.com

Dear Governor Northam, Senator Newman and Delegate Landes:

Virginia State University takes its commitment to constitutional principles of free expression and open exchange of ideas seriously. The University believes that it demonstrates this commitment through a variety of resources, trainings and programs for our students, staff, faculty and community. After all, this University rests on the very shoulders of those committed to protect the precepts of the Constitution.

Over the past several months, the University has created a webpage, <http://www.vsu.edu/student-life/student-activities/vsu-free-speech-policy.php>, with links to the Universities various policies and state regulations impacting public demonstrations, free speech, and distribution of materials. This same website includes guidance on how to report incidents involving infringement upon constitutionally protected speech. The University's Student Handbook, <http://www.vsu.edu/files/docs/student-activities/student-handbook.pdf>, The University's current Discrimination, Harassment, Sexual Misconduct and Retaliation Policy, also known as Policy 1101, <http://www.vsu.edu/files/docs/policies/1000/prohibition%20of%20workplace%20harassment%20policy.pdf> and Facilities Use Policy <http://www.vsu.edu/files/docs/policies/4000/university-facility-use->

Governor Northam
Senator Chairman Newman
House Chairman Landes
March 1, 2019
Page 2

[cost-recovery-policy-4200.pdf](#) demonstrate this point. the University's Student Organization Handbook .

The University's Office of Student Life and Engagement, which is part of the University's Division of Student Success and Engagement, presents policies and protocols at the regular Trojan Induction Program (TIP), which is the University's standard orientation program for all entering freshmen. This same Division provides similar guidance for Town Hall meetings, Leadership Council Meetings, which include the Presidents of all Student-led organizations, and for the University's regular Graduate Studies Fair. The Division of Student Success and Engagement also provides Free Speech/Assembly education for members of the Student Conduct Hearing panels.

In addition to policies and regulations, the University's Free Speech webpage includes Frequently Asked Questions (FAQs) and procedures for students, staff, faculty, and others who wish to report incidents of infringement of constitutionally protected speech.

At this time, there have only been two complaints for an alleged violation of First Amendment free speech pending against the University since December 1, 2017. Both matters were filed in June 2017, one in federal court and one in state court. These complaints and their resolutions are enclosed. The courts found each claim to be without merit. Should you have any questions about these cases, University Counsel Ramona L. Taylor would be available to provide details. These complaints and their resolutions are also found on the University's Free Speech Page under Annual Report

On behalf of the University, I am happy to certify that VSU has fulfilled the requirements of § 23.1-401.1 of the Code of Virginia, including the notification of all employees, including those who are responsible for education of enrolled students of such materials. We will endeavor to improve our knowledge and guide our community in this every changing arena for free expression.

Governor Northam
Senator Chairman Newman
House Chairman Landes
March 1, 2019
Page 3

Please accept our sincerest words of thanks for your continued commitment to the Commonwealth. And please feel free to contact should you have any questions about our compliance or this letter.

Sincerely,

A handwritten signature in blue ink, consisting of several overlapping, sweeping strokes that form a stylized, abstract representation of the name Makola M. Abdullah.

Makola M. Abdullah, Ph.D.
President

Attachments

Commonwealth of Virginia

JUDGES
T.J. HAULER
FREDERICK G. ROCKWELL, III
STEVEN C. MCCALLUM
LYNN S. BRICE
DAVID E. JOHNSON
EDWARD A. ROBBINS, JR.

JOHN F. DAFFRON, JR.
ERNEST P. GATES
WILLIAM R. SHELTON
MICHAEL C. ALLEN
HERBERT C. GILL, JR.
HAROLD W. BURGESS, JR.
RETIRED



COUNTY OF CHESTERFIELD
CITY OF COLONIAL HEIGHTS

JUDGES' CHAMBERS
POST OFFICE BOX 57
CHESTERFIELD, VIRGINIA 23832-0057
(804) 748-1333

TRICIA D. MULLER
ADMINISTRATOR OF JUDICIAL OPERATIONS

TWELFTH JUDICIAL CIRCUIT

November 19, 2018

Jaamal Fleming
P.O. Box 1614
Kosciusko, MS 39090

Ramona Taylor, Esquire
University Legal Counsel &
Asst. Attorney General
1 Hayden Drive
Virginia State University, VA 23219

In Re: Jaamal Fleming v. Virginia State University, et al.
CL17-1702

Dear Parties:

This matter came before the Court on August 15, 2018 for a hearing on the parties' respective arguments relating to Defendant's Motion to Dismiss and Demurrer. The Court has carefully considered all of the evidence presented as well as the pertinent law and finds that Mr. Fleming's claims, except those regarding Dr. Walker as specifically addressed below, must be dismissed. This Court further finds that Mr. Fleming's defamation and breach of contract claims must be dismissed because they do not align with Virginia law. However, Mr. Fleming's fraud claim against Dr. Walker may proceed. This opinion contains analysis and explanation for the Court's conclusions.

I. Mr. Fleming has waived all Negligence-Based Tort Claims Against the Commonwealth and its Agents by Failing to File a Timely Notice of Claim Under the Requirements of the Virginia Tort Claims Act

Mr. Fleming alleges that Dr. Katrina Walker inflicted several intentional torts upon him, including fraud and defamation. He also claims that Dr. Walker violated a contract by fraudulently maintaining his false grade. Sovereign immunity and the Virginia Tort Claims Act (“VTCA”) do not apply to breach of contract claims or intentional torts. *See Fox v. Deese*, 234 Va. 412 (1987); *Bell Atlantic-Virginia v. Arlington County*, 254 Va. 60 (1997). Therefore, any claim implying liability under the VTCA on the part of the Commonwealth or its agents would have to rest on the Commonwealth’s or its agents’ negligence. However, Mr. Fleming’s pleadings do not suggest that anyone but Dr. Walker committed any intentional tort against him. Although not clear in his pleadings, it seems that Mr. Fleming is attempting to prove that defendants other than Dr. Walker were somehow negligent in their oversight of Dr. Walker and are therefore liable to him under the VTCA for that reason. However, Mr. Fleming has missed his opportunity to sue the Commonwealth or its agents under the VTCA.

To file suit against the Commonwealth of Virginia or its agents for a negligence-based tort claim under the VTCA one must file a Notice of Claim with the Attorney General’s office. The filing must be received in the Attorney General’s office within 1 year from the time the cause of action accrued. Va. Code 8.01-195.6. All requirements of the VTCA are to be strictly construed. *See Halberstam v. Commonwealth*, 251 Va. 248, 250 (1996). In other words, substantial compliance will not suffice. *See id.*

Mr. Fleming seems to allege that the Commonwealth and its agents were negligent in not discovering or addressing fraud on the part of Dr. Walker. Generally, the statute of limitations for fraud is two years. Va. Code. 8.01-243(A). However, the VTCA shortens this time frame to one year. *See* Va. Code 8.01-195.6. The statute of limitations on fraud begins to run when the fraud is discovered or should have been discovered. Va. Code 8.01-249 (1). Therefore, Mr. Fleming had one year from the time the fraud was discovered or should have been discovered to file any negligence-based claims against the Commonwealth or its agents under the VTCA.

Here, it can be argued that Mr. Fleming discovered Dr. Walker’s fraud (or through due diligence should have discovered fraud) as early as 2010, when he first received his incorrect grade. However, even in a light most favorable to Mr. Fleming, he certainly through due diligence should have discovered that the grade was not changed at some point between April 2010 and the two years following the April 2010 discussion with Dr. Walker. Even so, according to Mr. Fleming, he discovered that the fraud occurred “[s]ometime in October 2012” when he “opened a transcript while preparing to apply to various universities.” *See* Fleming Compl. ¶ 22.

Additionally, Mr. Fleming’s complaint conflicts with the evidence he submitted as an exhibit to his complaint. Mr. Fleming contends in his complaint that he did not discover the lack of a change in grade until sometime in October. *See id.* However, Mr. Fleming’s own exhibit does not support this assertion. *See* Fleming Compl. Ex. D. This exhibit is an e-mail from Mr. Fleming to Dr. Reginald Hopkins (the acting head of the Virginia State University Psychology Department in 2012) dated November 1, 2012. In this e-mail Mr. Fleming tells Dr. Hopkins that

he first discovered his grade still had not been changed when he “received a transcript a few months ago that shows” his incorrect grade. *See id.* Therefore, even though Mr. Fleming alleges in his complaint to have discovered this fraud sometime in October of 2012, this e-mail suggests that he discovered that his grade had not yet been changed even before October 2012. For these reasons, Mr. Fleming must have filed his notice of claim asserting negligence on the part of Commonwealth, Virginia State University, and its agents under the VTCA no later than October 2013. He failed to do so.

Mr. Fleming has not alleged that any entity other than Dr. Walker engaged in any non-negligent behavior. He has not alleged with specificity that any party other than Dr. Walker engaged in an intentional tort. Mr. Fleming missed his opportunity to bring claims against the Commonwealth or its agents under a VTCA negligence theory by failing to file a timely notice of claim. For these reasons, Mr. Fleming’s negligence based claims brought under the VTCA against all parties must be dismissed.

II. Mr. Fleming’s Defamation Claim Must be Dismissed As Virginia Does not Recognize the Doctrine of Compelled Self-Publication

Mr. Fleming contends that the defendants have defamed him. Generally, defamation requires 1) publication about the plaintiff, 2) an actionable statement, and 3) the requisite intent. *See Jordan v. Kollman*, 269 Va. 569 (2005). Defamation is an intentional tort. Therefore, sovereign immunity does not apply to defamation. Defamation does not exist when the allegedly defamed party publishes the alleged defamatory statement. *See Ortiz v. Panera Bread Co.*, 2011 U.S. Dist. LEXIS 85463 (E.D. Va. 2011). Mr. Fleming contends that he has been defamed by the publication of his false grade via the distribution of his transcript that contained the unchanged grade. He reaches this conclusion by asserting that he was forced to publish his transcripts in order to obtain employment or admission to graduate school. However, his argument is contrary to Virginia law. Mr. Fleming must order his own transcripts from Virginia State University and can disseminate them in any matter he sees fit. Virginia State University will not send his transcript to any institution or individual without his consent. This means that Mr. Fleming, the allegedly defamed party, published these allegedly defamatory statements himself.

Mr. Fleming concedes that defamation does not exist when it is published by the defamed party. However, he asserts that he was forced to publish this allegedly defamatory information and therefore the doctrine of compelled self-publication applies. Therefore, in order for Mr. Fleming to succeed in his defamation claim Virginia would have to recognize the doctrine of compelled self-publication. However, Virginia does not recognize the doctrine of compelled self-publication. *See Cybermotion, Inc. v. Vedcorp, L.C.*, 41 Va. Cir. 348 (Va. Cir. Ct. 1997). *See also Ortiz v. Panera Bread Co.*, 2011 U.S. Dist. LEXIS 85463 (E.D. Va. 2011); *Wynn v. Wachovia Bank*, 2009 U.S. Dist. LEXIS 38250 (E.D. Va. 2009). Mr. Fleming’s argument that compelled

self-publication applies is contrary to Virginia law and cannot succeed because Virginia does not recognize the doctrine of self-publication. Lastly, as Defendant aptly asserts, Mr. Fleming's defamation claim seems to be directed at Dr. Walker. However, she is not the one who prints or sends out the transcript so she is not involved in any publication. Therefore, Mr. Fleming's defamation claim must be dismissed.

III. Mr. Fleming's Breach of Contract Claims Must be Dismissed because No Contract has Been Breached

Mr. Fleming alleges that the Virginia State University Academic Credits Committee and Policies and Petitions Committee Procedures Manual ("Manual") constitutes a contract between Mr. Fleming and the university. He further claims that this contract was breached when his grade was not changed in a timely manner. The elements of a breach of contract action are 1) a legally enforceable obligation of a defendant to the plaintiff, 2) the defendant's violation or breach of that obligation, and 3) injury or damage to the plaintiff caused by the breach of obligation. *Filak v. George*, 267 Va. 612 (2004). Here, no legally enforceable obligation has been identified by the plaintiff. The Fourth Circuit has held that a student handbook does not constitute a binding contract when its terms are subject to change. *See Brown v. Rector and Visitors of the Univ. of Va.*, 2008 U.S. Dist. LEXIS 36427 (W.D. Va. May 2, 2008), *aff'd* 361 Fed. Appx. 531 (4th Cir. 2010).

Virginia law requires an absolute mutuality of engagement between the parties to a contract such that each party is bound and has the right to hold the other party to the agreement. *See Smokeless Fuel Co. v. W.E. Seaton & Sons*, 105 Va. 170 (1906). The Manual in this case is similar to the manual in *Brown* in that it is subject to unilateral change by Virginia State University. There is also no indication that there was an absolute mutuality of engagement between the parties. Further, there is no indication that the Manual was intended to be a contract. Instead it appears that the Manual intended to serve as guidance and procedure for appealing a grade. This Court agrees with the Fourth Circuit in holding that a student Manual, without more, is not a binding contract between parties. Because no contract existed in regards to the grade change, Mr. Fleming's breach of contract claim must be dismissed.

IV. Mr. Fleming's Fraud Claim against Dr. Walker may Proceed

The statute of limitations for fraud is two years in Virginia. As mentioned, the statute of limitations on fraud begins to run when the fraud is discovered or should have been discovered. Va. Code 8.01-249 (1). Fraud is an intentional tort, and therefore sovereign immunity does not apply. In a light most favorable to Mr. Fleming the alleged fraud by Dr. Walker was discovered in October 2012. Mr. Fleming initiated this suit on November 1, 2013 when he filed his notice of

claim. Therefore, Mr. Fleming, should he so choose, may proceed with his fraud claim against Dr. Walker.

V. Conclusion

In conclusion, all of Mr. Fleming's claims other than his fraud claim against Dr. Katrina Walker are hereby dismissed. Ms. Taylor is directed to prepare an order reflecting this opinion within 14 days from the date of this letter and to circulate the order to Mr. Fleming so that he may note any objections he may have.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'F.G. Rockwell, III', written in a cursive style.

F.G. Rockwell, III
Judge

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

JAAMAL FLEMING,

Plaintiff,

v.

Civil Action No. 3:15cv268

VIRGINIA STATE UNIVERSITY, et al.,

Defendants.

MEMORANDUM OPINION

This matter comes before the Court on Defendants Virginia State University (“VSU”), the Policies and Procedures Committee, the Academic Credit Committee, Dr. Katrina Walker, Dr. Pamela Hammond, and the Commonwealth of Virginia’s (collectively, the “Defendants”¹) Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(1).² (ECF No. 5.) Plaintiff Jaamal Fleming, proceeding *pro se*, responded, and Defendants replied.³ (ECF Nos. 7, 10.) The Court dispenses with oral argument because the materials before the Court adequately present the facts and legal contentions, and argument would not aid the decisional process. Accordingly, this matter is ripe for disposition.

¹ In his Amended Complaint, Plaintiff Fleming only lists VSU as a defendant. However, Fleming names the additional defendants in the body of the Amended Complaint.

² “[A] party may assert the following defense[] by motion: (1) lack of subject-matter jurisdiction.” Fed. R. Civ. P. 12(b)(1). Defendants also move to dismiss “for failure to state a claim upon which relief can be granted” pursuant to Fed. R. Civ. P. 12(b)(6). Because the Court lacks subject matter jurisdiction over the alleged claims, this alternative basis for dismissal becomes moot. *Harrison v. U.S. Soc. Sec. Admin.*, No. 3:13cv435, 2014 WL 29042, at *1 (E.D. Va. Jan. 2, 2014).

³ Defendants provided Fleming with appropriate notice pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975). (Mot. Dismiss 2, ECF No. 5.)

I. Standards of Review

A. Lack of Subject Matter Jurisdiction: Rule 12(b)(1)⁴

In a motion to dismiss under Fed. R. Civ. P. 12(b)(1) challenging the Court's subject matter jurisdiction, the burden rests with the plaintiff, as the party asserting jurisdiction, to prove that federal jurisdiction is proper. *See Int'l Longshoremen's Ass'n v. Va. Int'l Terminals, Inc.*, 914 F. Supp. 1335, 1338 (E.D. Va. 1996) (citing *McNutt v. Gen. Motors Acceptance Corp.*, 298 U.S. 178, 189 (1936); *Adams v. Bain*, 697 F.2d 1213, 1219 (4th Cir. 1982)). A Rule 12(b)(1) motion may attack the complaint on its face, asserting that the complaint fails to state a claim upon which subject matter jurisdiction can lie. *See Int'l Longshoremen's Ass'n*, 914 F. Supp. at 1338; *see also Adams*, 697 F.2d at 1219. In such a challenge, a court assumes the truth of the facts alleged by plaintiff, thereby functionally affording the plaintiff the same procedural protection he or she would receive under Rule 12(b)(6)⁵ consideration. *See Int'l Longshoremen's Ass'n*, 914 F. Supp. at 1338; *see also Adams*, 697 F.2d at 1219.

⁴ Courts have not been uniform as to whether a dismissal due to Eleventh Amendment sovereign immunity should be examined through Rule 12(b)(1) or Rule 12(b)(6). *Compare Noel-Batiste v. Va. State Univ.*, No. 2:12cv826, 2013 WL 499342, at *1-3 (E.D. Va. Feb. 7, 2013) (analyzing dismissal for Eleventh Amendment sovereign immunity bar via Rule 12(b)(6)), *with Haley v. Va. Dep't of Health*, No. 4:12cv16, 2012 WL 5494306, at *1-2 (W.D. Va. Nov. 13, 2012) (same, but under Rule 12(b)(1)). "The recent trend, however, appears to treat Eleventh Amendment [i]mmunity motions under Rule 12(b)(1)." *Haley*, 2012 WL 5494306, at *2 n.2 (citations omitted). The distinction makes no practical difference, however. In the Court's Rule 12(b)(1) analysis, it provides Fleming the same procedural protections afforded under Rule 12(b)(6). *See infra* p. 2 and note 5.

⁵ "A motion to dismiss under Rule 12(b)(6) tests the sufficiency of a complaint; importantly, it does not resolve contests surrounding the facts, the merits of a claim, or the applicability of defenses." *Republican Party of N.C. v. Martin*, 980 F.2d 943, 952 (4th Cir. 1992) (citation omitted). In considering a motion to dismiss for failure to state a claim, a plaintiff's well-pleaded allegations are taken as true, and the complaint is viewed in the light most favorable to the plaintiff. *Mylan Labs., Inc. v. Matkari*, 7 F.3d 1130, 1134 (4th Cir. 1993); *Martin*, 980 F.2d at 952. This principle applies only to factual allegations, however, and "a court considering a motion to dismiss can choose to begin by identifying pleadings that, because they

B. Obligation to Construe *Pro Se* Pleadings Liberally

District courts have a duty to construe *pro se* pleadings liberally. *Bracey v. Buchanan*, 55 F. Supp. 2d 416, 421 (E.D. Va. 1999). A *pro se* plaintiff must nevertheless allege sufficient facts to state a cause of action. *Id.* (citing *Sado v. Leland Mem'l Hosp.*, 933 F. Supp. 490, 493 (D. Md. 1996)). The Court cannot act as a *pro se* litigant's "advocate and develop, *sua sponte*, statutory and constitutional claims" that the litigant failed to raise on the face of the complaint. *Newkirk v. Circuit Court of Hampton*, No. 3:14cv372, 2014 WL 4072212, at *1 (E.D. Va. Aug. 14, 2014).

II. Procedural and Factual Background

The Amended Complaint describes Fleming's difficulty with Dr. Walker's two psychology classes, PSYC 517 and PSYC 522, his resulting letter grade of "C-" for PSYC 522, and his attempts to convince the VSU administration to change this grade. Fleming took PSYC 517 in the fall of 2009 and PSYC 519 in the spring of 2010, both taught by Dr. Walker. He alleges that during those classes, Dr. Walker consistently "berat[ed] . . . his opinions" and taught with a "subtle," yet "clear," ring of "underlying disdain" for him. (Am. Compl. 2-3.) In the fall of 2009, Fleming also enrolled in PSYC 522. Dr. Walker taught this class as well, but another professor, Dr. Renia Brown-Cobb, was "the actual evaluator of work product." (Am. Compl. 4.)

Near the end of the spring 2010 semester, Fleming apparently began to take issue with his grade in PSYC 522 and met with Dr. Walker to address the situation. Following the meeting, Fleming learned that he had scored 141 out of 170 points for PSYC 522, which, combined with his 768 out of 800 points in PSYC 520, should have garnered him a letter grade of "A" instead of "C-." During or following the meeting, Fleming alleges that Dr. Walker agreed to change his grade. After no change occurred, Fleming asked the acting head of the department, Dr. Oliver

are no more than conclusions, are not entitled to the assumption of truth." *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

Hill, to assist in changing his grade. Throughout the ensuing years, Dr. Walker and Dr. Hill apparently made multiple efforts to change Fleming's PSYC 522 grade, including sending the change of grade to the "Academics Credit Committee." (Am. Compl. 4.) Fleming's grade remains unchanged.

On April 30, 2015, Fleming filed this suit. Fleming brings three causes of action: (1) breach of contract; (2) defamation; and, (3) fraud.⁶ He seeks \$27,000 in compensatory damages for the cost of his "tuition and living expenses while a student at [VSU]"; \$1,000,000 in other, unspecified damages; punitive damages; and, a "permanent injunction to change the grade in PSYC 522." (Am. Compl. 9.)

III. Analysis

The Eleventh Amendment to the United States Constitution provides: "The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State." U.S. Const. amend. XI. The principles underlying the Eleventh Amendment "preserve the integrity of state sovereign immunity within our federal structure" and prohibit federal courts from exercising diversity or supplemental jurisdiction over actions that "would otherwise be prohibited by the courts of the forum state on the basis of that state's sovereign immunity." *Amaran v. Va. State Univ.*, 476 F. Supp. 2d 535, 539–40 (E.D. Va. 2007), *aff'd*, 261 F. App'x 552 (4th Cir. 2008). "As such, the 'ultimate guarantee of the Eleventh Amendment is that non-consenting states may not be sued by private individuals in

⁶ Fleming does not specify which count applies to which defendant. He primarily discusses only Dr. Walker in the counts. However, the Court will liberally construe the Amended Complaint as directing all counts against all defendants.

federal court.” *Haley*, 2012 WL 5494306, at *2 (quoting *Bd. of Trs. of Univ. Ala. v. Garrett*, 531 U.S. 356, 363 (2001)).

A. Eleventh Amendment Immunity Applies to All Defendants Unless an Exception Exists

Eleventh Amendment immunity applies not only to states but also to “state agents and state instrumentalities.” *Lee-Thomas v. Prince George’s Cty. Public Schs.*, 666 F.3d 244, 248 (4th Cir. 2012). “VSU is a constituent entity of the Commonwealth of Virginia” for purposes of Eleventh Amendment sovereign immunity. *Noel-Batiste*, 2013 WL 499342, at *4; *Amaran*, 476 F. Supp. 2d at 539; *see also* Va. Code § 23-14 (listing VSU as a “governmental instrumentalit[y] for the dissemination of education”); Va. Code § 23-174 (“[VSU], and all its property and funds, shall, at all times and in all things, be under the control of the General Assembly.”). Thus, unless an exception applies, the Eleventh Amendment prevents suit against both the Commonwealth of Virginia and VSU in this Court.

Eleventh Amendment immunity also applies to “[s]tate officers acting in their official capacity,” because such a suit “is not a suit against the official but rather is a suit against the official’s office.” *Lyle v. Griffith*, 240 F.3d 404, 408 (4th Cir. 2001) (quoting *Will v. Mich. Dep’t of State Police*, 491 U.S. 58, 71 (1989)). VSU employees and entities, such as a university provost, professor, or an academic committee, sued in their official capacities, constitute such state officers and thus garner Eleventh Amendment protection. *See, e.g., Maisha v. Univ. of N.C.*, No. 1:12cv371, 2013 WL 1232947, at *3 (M.D.N.C. Mar. 27, 2013) (finding Eleventh Amendment sovereign immunity protected university professors from suit when acting in their official capacities); *Amaran*, 476 F. Supp. 2d at 541–42 (same, provost of VSU). Accordingly, unless some exception exists, the Eleventh Amendment bars suit in this Court against Dr.

Walker, Dr. Hammond, the Academic Credit Committee, and the Policies and Procedures Committee.

B. No Exception Exists to Eleventh Amendment Immunity in this Case

A determination that the Eleventh Amendment bars Fleming's suit against all Defendants does not end this Court's inquiry. "The Eleventh Amendment bar to suit is not absolute." *Lee-Thomas*, 666 F.3d at 248. Three well-known exceptions to Eleventh Amendment immunity exist: congressional abrogation, state waiver, and the *Ex Parte Young* exception. *Id.* at 249. First, Congress may abrogate immunity. *Id.* Congress abrogates sovereign immunity via statute when it "unequivocally intends to do so and acts pursuant to a valid grant of constitutional authority." *Id.*; *Haley*, 2012 WL 5494306, at *3. Fleming cites no congressional act of abrogation applicable to this case. He raises only common law Virginia claims. Accordingly, the abrogation exception does not apply.

Second, states themselves may waive their immunity from suit. *Lee-Thomas*, 666 F.3d at 249. A state waives its immunity only when it does so "by the most express language or by such overwhelming implications from the text [of the statute that] leave no room for any other reasonable construction." *McConnell v. Adams*, 829 F.2d 1319, 1329 (4th Cir. 1987) (first alteration added). No Virginia statutory waiver applies in this case. The Virginia Tort Claims Act ("VTCA"), Va. Code § 8.01-195.1–195.9, invoked by Fleming, waives immunity from certain suits against Virginia for money damages in state court. Va. Code § 8.01-195.3. Importantly, the United States Court of Appeals for the Fourth Circuit holds that the VTCA waives sovereign immunity from suit only in *state* courts, not *federal* courts. *McConnell*, 829 F.2d at 1329; *Haley*, 2012 WL 5494306, at *5. The VTCA also does not waive immunity from suit as to state agencies, only the Commonwealth itself. *See Ghayyada v. Rector and Visitors of*

the Univ. of Va., No. 3:11cv37, 2011 WL 4024799, at *5 (W.D. Va. Sept. 12, 2011) (citing *Rector and Visitors of the Univ. of Va. v. Carter*, 591 S.E.2d 76, 78 (Va. 2004)). Thus, because the VTCA cannot waive Defendants' immunity against Fleming's suit in this federal Court, the VTCA statutory waiver exception does not apply here.

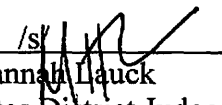
Finally, the recognized doctrine from *Ex Parte Young*, 209 U.S. 123 (1908), allows prospective injunctive relief against state officials for ongoing violations of federal law. See *Lee-Thomas*, 666 F.3d at 249; *Haley*, 2012 WL 5494306, at *6. This "quite narrow" exception only allows "federal courts to vindicate *federal rights*." *Haley*, 2012 WL 5494306, at *6 (emphasis added) (quoting *Va. Office for Prot. and Advocacy v. Stewart*, 563 U.S. 247, 255 (2011); *Pennhurst State Sch. & Hosp. v. Halderman*, 465 U.S. 89, 114 n.25 (1984)). Fleming brings claims for breach of contract, defamation, and fraud, all of which arise under Virginia common law. Fleming's claims do not allege ongoing violations of federal law. Defendants are not exempted from the protections of Eleventh Amendment sovereign immunity in this action under *Ex Parte Young*. In sum, none of the three exceptions to Eleventh Amendment immunity pertains here.

IV. Conclusion

Eleventh Amendment sovereign immunity bars suit against the Defendants in this action, and no exception exists to that immunity. Accordingly, for the foregoing reasons, the Court will grant the Motion to Dismiss (ECF No. 5) and dismiss Fleming's Amended Complaint.

An appropriate Order shall issue.

Date: 3-4-16
Richmond, Virginia



M. Hannah Lauck
United States District Judge

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

**JAAMAL FLEMING
P.O. BOX 1614
KOSCIUSKO , MS 39090**

v.

CASE #: 3:17cv411

**VIRGINIA STATE UNIVERSITY et al.
1 HAYDEN DRIVE
PETERSBURG, VA 23806**

COMPLAINT

BACKGROUND FACTS

This case was timely filed on 30 Apr 15 in this Honorable Court Docket # 3:15cv268. The case was dismissed 4 Mar 16 and was appealed to U.S. Court of Appeals for the Fourth Circuit Docket # 16-1364. On 27 Dec 16 the final judgment of this Honorable Court was modified as dismissal without prejudice. Under Virginia's nonsuit statute and tolling provision, this case can be recommenced before 27 Jun 17. See: *Welding, Inc v. Bland County Service Authority*, 261 Va. 218, 223-4, 541 S.E.2d 909, 912 (2001).

In the alternative, the Plaintiff is entitled to equitable tolling given judicial error prevented him from refiling this case prior to the Fourth Court of Appeals mandate. See: *United States v. Wong*, 135 S. Ct. 1625,1632 (2015).

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S. C. A. § 1391 and 28 U.S.C.A. § 1367 .
2. Venue is proper as the claims before the Court fall under 42 U.S.C. § 1983 and Due Process of the Fifth or Fourteenth Amendments of the U.S. Constitution.

3. All Defendants are residents of the Eastern District Court of Virginia.

PARTIES

4. Plaintiff, Jaamal Fleming, is a citizen of the United States who resides in the county of Attala, State of Mississippi. Plaintiff is a former student of Virginia State University which does business in the County of Dinwiddie, State of Virginia.

5. Defendant, Virginia State University, is a corporation doing business at 1 Hayden Drive, Petersburg, VA 23806 in the County of Dinwiddie, State of Virginia, United States which is in this judicial district. Dr. Makola M. Abdullah is currently head of the corporation and is therefore named in his professional capacity.

6. Defendant, the Policies and Petitions Committee, is an agent of Virginia State University which does business at 1 Hayden Drive, Petersburg, VA 23806 in the county of Dinwiddie, State of Virginia, United States which is in this judicial district. The committee is composed of John Does A-G which the Plaintiff is ignorant to their identities. They are named defendants as a whole entity in their professional capacity.

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9. Defendant, The Commonwealth of Virginia, is a State within the United States. Pursuant to the rules of the Virginia Torts Claim Act it is named as principal to Virginia State University.

GENERAL ALLEGATIONS

10. On or about 26 Oct 09, Dr. Katrina Walker accosted Plaintiff and his classmates in PSYC 517, which she was the instructor of, addressing her perceived grievances of general disrespect they possessed as a group. The Plaintiff asserts that a bulk of Dr. Walker's assertions were rumors and third party information that she did not take the time to verify by asking any of the accused what happened. During her accosting, she used aggressive speech and slammed her hand down and berated the group. Among the statements Dr. Walker relied on from third parties that she made the Plaintiff aware of was his negative criticism of the psychology program and his belief some of the faculty were lazy. It was apparent from her teary eyes she took much of the criticism personally. Following this incident, the Plaintiff noticed Dr. Walker's consistent beratement of his opinions during class. Though normally subtle in delivery in an attempt of a visage of professional decorum, the underlying disdain rung loud and clear. This pattern continued into PSYC 519 in the spring semester such that the Plaintiff felt it unsafe to even speak the slightest opinion that may upset Dr. Walker.

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Mathematically this is well above 90% and thus should be an A not a C-. Also during this meeting the Plaintiff informed Dr. Walker of his awareness of her perceived disdain for him and he believed her actions were a vindictive form of intimidation. A reference to this meeting can be inferred from the exhibits.

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16. On 8 Nov 10 Dr. Oliver Hill communicated that the change of grade from had been sent to the Academics Credit Committee.

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18. The Plaintiff, certain in his belief Dr. Walker would likely not change the grade, sent a letter on or about 27 Nov 12 to the Polices and Petitions committee once again to ensure it is changed. No member of the committee has responded to the Plaintiff to date. There actions are complicit to Dr. Walker's; thus , a violation of 42 U.S.C.A. § 1986 .

19. The grade in PSYC 522 was unchanged at the time of the original filing of this complaint in 2015.

BREACH OF CONTRACT

20. A valid contract is in effect if there are concrete terms that both parties have agreed to that are not in conflict with the law. In order to prevail on a claim of breach of contract the Plaintiff would need to show that: legally enforceable obligation was owed to the plaintiff by the defendant, the defendant did not perform this obligation, and damage to the plaintiff caused by the breach of obligation. *Ulloa v. QSP, Inc.*, 624 S.E.2d 43, 48 (Va. 2006). There is little question that the student –university relationship is contractual in nature. *Goodreau v. Rectors and Visitors of University of Virginia*, 116 F. Supp.2d 694 (2000). There is a dearth of law that addresses this issue within Virginia. However, one case that addresses the issues of an “enforceable” obligation within the 4th Circuit is *McFadyen. _McFadyen v. Duke University*, 786 F. Supp.2d 887 (2011). In matters of student-university the obligation must be defined concretely . *Id.* In *McFadyen* use of the university’s handbook and policy manuals are permissible for interpretation of a contract and are enforceable so long as they are not vague nuances of a qualitative nature. The Supreme Court of Virginia has stated that the student handbook (and in this case policy/manuals similar to those in *McFadyen*) create contractual obligations for both parties. *Herron v. Virginia Com. University*, 366 F. Supp.2d 355 (2004).

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WAIVER OF IMMUNITY

24. The Plaintiff asserts that sovereign immunity is waived due to Plaintiff's compliance with Va. Code Ann. §8.01-195.1 through 8.01-195.12. Further, the Defendants are not entitled to Eleventh Amendment immunity pursuant to 42 U.S.C. § 1983 and 1986 as well as the Due Process provision of the Fifth/Fourteenth Amendments. A state agent is simply not allowed to use their professional capacity to intimidate, harm, or retaliate against a citizen's First Amendment rights. See *Qvyt v. Lin*, 953 F. Supp. 244 (1997) [Emphasis Added].

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25. Defamation requires a publication, actionable statement, and intent. *Chapin v. Knight-Ridder, Inc.*, 993 F.2d 1087, 1092 (4th Cir.1993). First, publication appears to be an issue in this matter. The Plaintiff will show that the falsified grade is reproduced as a republication of falsity every time it is sent to a new location. *Katz v. Odin, Feldman & Pittleman, P.C.* 322 F.Supp.2d 909, 922 (E.D.Va. 2004). The Plaintiff was required to send transcripts to various universities after the 1 Nov 12 agreement by Dr. Walker. The Plaintiff has sent a transcript after the aforementioned date to , Mississippi State University, St. Johns University, and the University of Alabama. These republications give new cause of action has accrued since repetition of the false grade has occurred in a new forum. *Id.* Plaintiff has disputed the original publication and asserted its falsehood numerous times to the originator of the publication. The Policies and Petitions Committee could have determined any veracity to the claims of Plaintiff, yet by their inaction The University is printing and will continue to print a false grade. While Policies and Petitions Committee nor the Academic Credit Committee are the one who created the falsity, it has been brought to their attention it the grade may be incorrect. The University is essentially the originator of the false printing by and through the actions of its agents. Consequently, this would mean that while the originator may have believe the premises to be true, failure of the originator to ascertain the facts still arises to a defamatory remark. *Lewis v. Kei*, 281 Va. 715 , 708 S.E.2d 884. (2011).

26. Further, the Plaintiff argues that this form of defamation is more akin to defamation per se in that the harm is to his reputation. *Tomlin et al. v. International Business Machines et al.*, 585 S.E.2d 567 (2003). The incorrect grade harms the Plaintiff's reputation as it indicates a lower Grade Point Average (GPA) and lower standard of his intellectual capability. Whenever the client applies to a new university or job, this lower standard is ever present. It is common knowledge that a higher GPA is most desirable when one seeks admission to a new university or to remain competitive as a job applicant. The current transcript has a lowered standard that may prejudice prospective employers and universities as to academic capabilities of the Plaintiff.

MALICE

27. As for intent, the Plaintiff contends that Dr. Katrina Walker acted with malice when she falsified the grade. The Virginia Supreme Court defines malice as follows:

[S]ome sinister or corrupt motive such as hatred, revenge, personal spite, ill will, or desire to injure the plaintiff; or what, as a matter of law, is equivalent to malice, that the communication was made with such gross indifference and recklessness as to amount to a wanton or willful disregard of the rights of the plaintiff. *Preston v. Land*, 220 Va. 118, 120–21, 255 S.E.2d 509, 511 (1979).

It is the Plaintiff's belief that Dr. Walker's contempt for him was such that spited his future career aspirations. Malice need not be limited to physical harm; it only requires the awareness of one's ability to harm another and the willfulness to execute said harm. *Feddeman & Co. v. Langan Associates, P.C.*, 260 Va. 35, 530 S.E.2d 668 (2000). From the repeated instances of her saying she will/did send the change of grade form and it is abundantly clear of her willfulness to harm.

FRAUD

28. The Plaintiff contends that the conduct of Dr. Walker is also fraud. In Virginia, to succeed on a claim for actual fraud, a party must show "(1) a false representation, (2) of a material fact, (3) made intentionally and knowingly, (4) with intent to mislead, (5) reliance by the party misled, and (6) resulting

damage to the party misled.” *State Farm Mut. Auto. Ins. Co. v. Remley*, 270 Va. 209, 219, 618 S.E.2d 316 (2005). The Plaintiff has no option but to hope Dr. Walker or some other agent of The University corrects the false grade. The Plaintiff contends after Dr. Hill signed the form Dr. Walker never turned it in to the Academic Credit Committee. That when she responded in the 1 Nov 12 e-mail she knew this was false and merely stated it with the intent to conceal her actions. If not for Dr. Walker’s fraudulent claim that she did send the form the grade would be changed and the bulk of this complaint would not be necessary.

29. Moreover, the transcripts the University produces are a product it uses taxpayer money for and fraud committed in connection with that product most certainly should fall within federal question jurisdiction. Dr. Walker knowingly falsified the Plaintiff’s grade in her professional capacity; thus, a state agent’s conduct is harming the property of a private citizen. The Plaintiff is not a state or federal employee and therefore cannot evoke the False Claims Act. However, fraud of this caliber should fall under that statute. The Plaintiff must rely upon the Due Process clause of the 5th or 14th Amendment to protect his intellectual work property. The

30. As stated previously, transcripts cannot be opened and are generally sent directed to the human resources department of a job or admissions office of a university. Had it not been for the request made by the professor writing the letter of recommendation in October 2012 to upload the transcript, the Plaintiff would still be unaware the grade was never changed. Dr. Walker’s conduct fraudulently concealed her improper means. *Grimes v. Suzukawa*, 262 Va. 330 (2001). After all, the Plaintiff did send the November 2012 letter stating he was certain without intervention by a higher authority the grade would miraculously not get changed. Perhaps the Plaintiff should have said, " just as sure as the Sun will rise and set tomorrow," to evocate his hardened certainty of Dr. Walker intent to mislead him that she would actually change the grade.

WHEREFORE, premises considered the Plaintiff prays this Court enters judgment against the Defendants providing following relief:

- (a) Compensatory damages in the amount of \$27,000.00 for cost of tuition and living expenses while a student at Virginia State University. This would return the Plaintiff to the position he held prior to breach.
- (b) Damages in the amount of \$1,000,000.00 for the cumulative defamations and fraud.
- (c) Punitive damages to be determined by the triar of fact.
- (d) A permanent injunction under *Ex Parte Young* to correct the grade in PSYC 522.
- (e) Any other damages the Court determines necessary.

So submitted this the 31 day of May, 2017


JAAMAL FLEMING

pro se

IN THE CIRCUIT COURT OF
CHESTERFIELD COUNTY VIRGINIA

JAAMAL FLEMING
P.O. BOX 1614
KOSCIUSKO , MS 39090

V.

CASE #: _____

VIRGINIA STATE UNIVERSITY et al.
1 HAYDEN DRIVE
PETERSBURG, VA 23806

COMPLAINT

RECEIVED & FILED
CHESTERFIELD CIRCUIT COURT
2017 JUN 19 AM 9:59
WENDY S. HUGHES
CLERK OF COURT
TESTE
FLEMING DEPUTY CLERK

BACKGROUND FACTS

This case was timely filed on 30 Apr 15 in the District Court for the Eastern District of Virginia, Richmond Division- Docket # 3:15cv268. The case was dismissed 4 Mar 16 and was appealed to U.S. Court of Appeals for the Fourth Circuit Docket # 16-1364. On 27 Dec 16 the final judgment of the District Court was modified as dismissal without prejudice. Under Virginia's nonsuit statute and tolling provision, this case can be recommenced before 27 Jun 17. See: *Welding, Inc v. Bland County Service Authority*, 261 Va. 218, 223-4, 541 S.E.2d 909, 912 (2001).

In the alternative, the Plaintiff is entitled to equitable tolling given judicial error prevented him from refiling this case prior to the Fourth Court of Appeals mandate. See: *United States v. Wong*, 135 S. Ct. 1625,1632 (2015).

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to VA Code § 17.1-513 .
2. Venue is proper as the claims before the Court fall under the Virginia Torts Claim Act.
3. All Defendants do business in Chesterfield County, Virginia.

PARTIES

4. Plaintiff, Jaamal Fleming, is a citizen of the United States who resides in the county of Attala, State of Mississippi. Plaintiff is a former student of Virginia State University which does business in the Counties of Chesterfield/Dinwiddie, State of Virginia.

5. Defendant, Virginia State University, is a corporation doing business at 1 Hayden Drive, Petersburg, VA 23806 in the Counties of Chesterfield/Dinwiddie, State of Virginia, United States which is in this judicial district. Dr. Makola M. Abdullah is currently head of the corporation and is therefore named in his professional capacity.

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while the other says down, left while the other says right, night while the other says day. It was apparent that either one agreed with Dr. Walker lest you incur her wrath.

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28. The Plaintiff contends that the conduct of Dr. Walker is also fraud. In Virginia, to succeed on a claim for actual fraud, a party must show “(1) a false representation, (2)of a material fact, (3) made intentionally and knowingly, (4)with intent to mislead, (5) reliance by the party mislead, and(6) resulting damage to the party mislead.” *State Farm Mut.Auto. Ins. Co. v. Remley*, 270 Va. 209, 219, 618 S.E.2d 316 (2005). The Plaintiff has no option but to hope Dr. Walker or some other agent of The University

corrects the false grade. The Plaintiff contends after Dr. Hill signed the form Dr. Walker never turned it in to the Academic Credit Committee. That when she responded in the 1 Nov 12 e-mail she knew this was false and merely stated it with the intent to conceal her actions. If not for Dr. Walker's fraudulent claim that she did send the form the grade would be changed and the bulk of this complaint would not be necessary.

29. Moreover, the transcripts the University produces are a product it uses taxpayer money for and fraud committed in connection with that product most certainly should fall within federal question jurisdiction. Dr. Walker knowingly falsified the Plaintiff's grade in her professional capacity; thus, a state agent's conduct is harming the property of a private citizen. The Plaintiff is not a state or federal employee and therefore cannot evoke the False Claims Act. However, fraud of this caliber should fall under that statute. The Plaintiff must rely upon the Due Process clause of the 5th or 14th Amendment to protect his intellectual work property. The

30. As stated previously, transcripts cannot be opened and are generally sent directed to the human resources department of a job or admissions office of a university. Had it not been for the request made by the professor writing the letter of recommendation in October 2012 to upload the transcript, the Plaintiff would still be unaware the grade was never changed. Dr. Walker's conduct fraudulently concealed her improper means. *Grimes v. Suzukawa*, 262 Va. 330 (2001). After all, the Plaintiff did send the November 2012 letter stating he was certain without intervention by a higher authority the grade would miraculously not get changed. Perhaps the Plaintiff should have said, "just as sure as the Sun will rise and set tomorrow," to evocate his hardened certainty of Dr. Walker intent to mislead him that she would actually change the grade.

WHEREFORE, premises considered the Plaintiff prays this Court enters judgment against the Defendants providing following relief:

- (a) Compensatory damages in the amount of \$27,000.00 for cost of tuition and living expenses while a student at Virginia State University. This would return the Plaintiff to the position he held prior to breach.
- (b) Damages in the amount of \$1,000,000.00 for the cumulative defamations and fraud.
- (c) Punitive damages to be determined by the triar of fact.
- (d) A permanent injunction to correct the grade in PSYC 522.
- (e) Any other damages the Court determines necessary.

So submitted this the 15 day of June, 2017


JAAMAL FLEMING

pro se

UNPUBLISHED

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

No. 17-1814

JAAMAL FLEMING,

Plaintiff - Appellant,

v.

VIRGINIA STATE UNIVERSITY; POLICIES AND PETITIONS COMMITTEE;
ACADEMIC CREDIT COMMITTEE; KATRINA WALKER;
COMMONWEALTH OF VIRGINIA,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, at
Richmond. John A. Gibney, Jr., District Judge. (3:17-cv-00411-JAG)

Submitted: December 29, 2017

Decided: March 5, 2018

Before NIEMEYER and HARRIS, Circuit Judges, and SHEDD, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Jaamal Fleming, Appellant Pro Se. Ramona Leigh Taylor, VIRGINIA STATE
UNIVERSITY, Petersburg, Virginia, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Jaamal Fleming appeals from the district court's order dismissing his civil action for breach of contract, defamation, and fraud for lack of subject matter jurisdiction based on Eleventh Amendment immunity. Appellees argue that the action is barred by the doctrine of res judicata. Assuming without deciding that the doctrine of res judicata does not bar Fleming's complaint, we conclude after review of the record that the district court did not reversibly err in determining that it lacked subject matter jurisdiction over the complaint. We therefore affirm the district court's dismissal decision. *Fleming v. Va. State Univ.*, No. 3:17-cv-00411-JAG (E.D. Va. June 9, 2017). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF CHESTERFIELD

JAAMAL FLEMING,)	
Plaintiff,)	
)	
v.)	Case No.: CL17001702-00
)	
COMMONWEALTH OF VIRGINIA;)	
VIRGINIA STATE UNIVERSITY; POLICIES)	
AND PETITION COMMITTEE;)	
ACADEMIC CREDIT COMMITTEE; and)	
DR. KATRINA WALKER,)	
Defendants.)	

ORDER

CAME THE PARTIES, Plaintiff, *Pro se*, and the Defendants, *by Counsel*, and presented Defendant's Motion to Dismiss and Demurrer at the hearing before this Court on August 15, 2018. For the reasons set forth in the Court's letter opinion, dated November 19, 2018, and the briefs filed and arguments made at the hearing, it is hereby

ORDERED, that Defendants' Motion to Dismiss and Demurrer, be and hereby are, GRANTED as to Defendants Commonwealth of Virginia, Virginia State University, VSU Policies and Petition Committee, and VSU Academic Credit Committee; and it is further


ORDERED, that the Defendants' Motion to Dismiss and Demurrer, be and hereby are, GRANTED, as to Defendant Dr. Katrina Walker on the allegations of defamation and breach of contract; and it is further

ORDERED, that the Defendant's Motion to Dismiss and Demurrer, be and hereby are, DENIED, as to the Defendant Dr. Katrina Walker on the allegations of fraud; and it is further

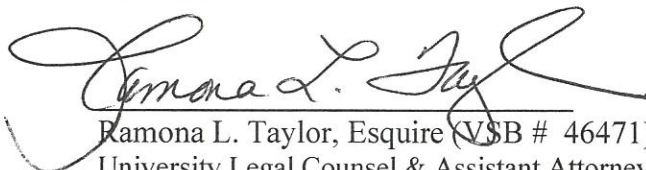
ORDERED, that as to the remaining allegations, the trial date previously scheduled for December 12, 2018 shall be continued ^{to April 5, 2019 at 9:00 a.m.} and the parties are directed to ~~schedule a new trial date.~~

The Clerk is directed to send a copy of this Order to all counsel of record and to the Plaintiff.

ENTERED THIS 7th DAY OF January, 2019


/s/
FREDERICK G. ROCKWELL, III
Presiding Circuit Court Judge

SEEN AND AGREED AS TO THE DISMISSALS and
SEEN AND OBJECTED AS TO THE DENIAL OF THE REMAINING FRAUD
COUNT:


Ramona L. Taylor, Esquire (VSB # 46471)
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A COPY TESTE:
WENDY S. HUGHES, CLERK
BY: 
Kim Krafcik, Deputy Clerk

SEEN AND OBJECTED AS TO THE DISMISSALS and
SEEN AND AGREED AS TO THE DENIAL OF THE REMAINING FRAUD COUNT:


Jaamal Fleming
P.O. Box 1614
Koschuisko, MS 39090
Plaintiff *Pro Se*