

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

Wm. C. PLOUFFE, JR.)
Plaintiff,)

v.)

Case No:

F. JAVIER CEVALLOS, President of Kutztown)
University of Pennsylvania, as employee, officer,)
supervisor, and/or policymaker in his individual)
and official capacities;)

ANNE ZAYAITZ, Dean of the College of Liberal Arts)

and Sciences of Kutztown University Scie (r, super)Tj35.8800 0.0000 TD(visor, and/or policy)Tj123.120

Department of Kutztown University, in his)
 individual and official capacities;)
GARY CORDNER, Professor, Criminal Justice)
 Department of Kutztown University, in his)
 individual and official capacities;)
ANN MARIE CORDNER, Professor, Criminal Justice)
 Department of Kutztown University, in her)
 individual and official capacities;)
JOHN DOES, employees, officers, supervisors, and/or)
 policy makers of Kutztown University, in their)
 official and individual capacities; and)
KUTZTOWN UNIVERSITY OF PENNSYLVANIA,)
 a subordinate entity and/or agency of the)
 Commonwealth of Pennsylvania.)
 _____ Defendants.)

COMPLAINT

COMES NOW the Plaintiff, Wm. C. Plouffe, Jr. (hereinafter “Plouffe”), pro se, and presents his Complaint against the Defendants, F. Javier Cevallos (hereinafter “President”), Anne Zayaitz (hereinafter “Dean”), Sharon Picus (hereinafter “Director”), Alexander Pisciotta (hereinafter “Chair”), Deborah Seiger (hereinafter “Seiger”), Pietro Toggia (hereinafter “Toggia”), Mark Renzema (hereinafter “Renzema”), Mahfuzul Khondaker (hereinafter “Khondaker”), Jonathan Kremser (hereinafter “Kremser”), Keith Logan (hereinafter “Logan”), Gary Cordner (hereinafter “G. Cordner”), Ann Marie Cordner (hereinafter “A.M. Cordner”), various John Does (hereinafter “Does”), and Kutztown University of Pennsylvania (hereinafter “University”). In support of his Complaint, Plouffe states:

I. INTRODUCTION

1. This is a Complaint against the Defendants concerning the acts and omissions of the Defendants during Plouffe’s employment with the Criminal Justice Department of Kutztown University of Pennsylvania from January 2008 until his termination on October 9, 2009, constituting

violations of: 42 U.S.C. § 1983, 42 U.S.C. § 1985, 42 U.S.C. § 1986, First, Ninth, and Fourteenth Amendments to the United States Constitution, Sections 1, 7, and 20 of Article I, Pennsylvania Constitution, 43 Pa. C.S.A. §§ 1421 et seq., the Administrative Agency Act, 68 Pa. C.S. § 680.4000, and 68 Pa. C.S. § 680.4001.

Berks County in the Commonwealth of Pennsylvania and an employee of Kutztown University of Pennsylvania.

6. At all relevant times referred to herein, Defendant, Kutztown University of Pennsylvania (hereinafter “University”) is and was a subordinate political entity in the Commonwealth of Pennsylvania and is and was ultimately responsible for the actions of Kutztown University and its personnel. Kutztown University of Pennsylvania’s conduct in this matter amounted to and continues to amount to negligence, gross negligence, recklessness, deliberate indifference and/or was intentional.

7. At all relevant times referred to herein, the Defendant, F. Javier Ceballos (hereinafter “President”), was and is the President of Kutztown University of Pennsylvania in Kutztown in Berks County of the Commonwealth of Pennsylvania, in charge of Kutztown University of Pennsylvania and employed by Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. At all relevant times referred to herein, he acted under the color of law, statutes, rules, regulations, policies, procedures, customs, and usages of Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. The President was an employee, officer, supervisor, and/or policymaker for Kutztown University. The President was ultimately responsible for the acts and omissions relative to the violation of Plouffe’s civil and constitutional rights and the retaliation against Plouffe for his whistle blowing activity. The President is being sued in his individual and official capacities. The President’s conduct in this matter amounted to deliberate negligence, gross negligence, recklessness, indifference and/or was intentional.

8. At all relevant times referred to herein, the Defendant, Anne Zayaitz (hereinafter “Dean”),

was and is the Dean of the College of Liberal Arts and Sciences of Kutztown University of Pennsylvania in Kutztown in Berks County of the Commonwealth of Pennsylvania, in charge of the College of Liberal Arts and Sciences (which includes the Criminal Justice Department) of Kutztown University of Pennsylvania and employed by Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. At all relevant times referred to herein, she acted under the color of law, statutes, rules, regulations, policies, procedures, customs, and usages of Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. The Dean was an employee, officer, supervisor, policymaker for the College of Liberal Arts and Sciences of Kutztown University. The Dean was ultimately responsible for the acts and omissions relative to the violation of Plouffe's civil and constitutional rights and the retaliation against Plouffe for his whistle blowing activity. The Dean is being sued in her individual and official capacities. The Dean's conduct in this matter amounted to negligence, gross negligence, recklessness, deliberate indifference and/or was intentional.

9. At all relevant times referred to herein, the Defendant, Sharon Picus (hereinafter "Director"), was and is the Executive Director of Human Resources of Kutztown University of Pennsylvania in Kutztown in Berks County of the Commonwealth of Pennsylvania, in charge of human resources of Kutztown University of Pennsylvania and employed by Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. At all relevant times referred to herein, she acted under the color of law, statutes, rules, regulations, policies, procedures, customs, and usages of Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. The Director was an employee, officer, supervisor, and/or policymaker for Kutztown University. The Director was ultimately responsible for the acts and omissions

relative to the violation of Plouffe's civil and constitutional rights and the retaliation against Plouffe for his whistle blowing activity. The Director is being sued in her individual and official capacities. The Director's conduct in this matter amounted to negligence, gross negligence, recklessness, deliberate indifference and/or was intentional.

10. At all relevant times referred to herein, the Defendant, Alexander Pisciotta (hereinafter "Chair"), was and is the Chair of the Criminal Justice Department in the College of Liberal Arts and Sciences of Kutztown University of Pennsylvania in Kutztown in Berks County of the Commonwealth of Pennsylvania, in charge of the Criminal Justice Department of Kutztown University of Pennsylvania and employed by Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. At all relevant times referred to herein, he acted under the color of law, statutes, rules, regulations, policies, procedures, customs, and usages of Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. The Chair was an employee, officer, supervisor, and/or policymaker for the Criminal Justice Department of the College of Liberal Arts and Sciences of Kutztown University. The Chair was ultimately responsible for the acts and omissions relative to the violation of Plouffe's civil and constitutional rights and the retaliation against Plouffe for his whistle blowing activity. The Chair is being sued in his individual and official capacities. The Chair's conduct in this matter amounted to negligence, gross negligence, recklessness, deliberate indifference and/or was intentional.

11. At all relevant times referred to herein, the Defendant, Deborah Seiger (hereinafter "Seiger"), was and is a professor in the Criminal Justice Department in the College of Liberal Arts and Sciences of Kutztown University of Pennsylvania in Kutztown in Berks County of the

Commonwealth of Pennsylvania, and employed by Kutztown University of Pennsylvania and the
Commonwealth of Pennsylvania. At all relevant times referred to herein, she acted under the
color of law, statutes, rules, regulations, policies, procedures, customs, and usages of Kutztown
University of Pennsylvania and the Commonwealth of Pennsylvania. She was responsible for the
acts and omissions relative to the violation of Plouffe's civil and constitutional rights and the
retaliation against Plouffe for his whistle blowing. She is being sued in her individual
and official capacities. Her conduct in this matter amounted to negligence, gross negligence,
recklessness, deliberate indifference and/or was intentional. /ote

Commonwealth of Pennsylvania, and employed by Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. At all relevant times referred to herein, he acted under the color of law, statutes, rules, regulations, policies, procedures, customs, and usages of Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. He was responsible for the acts and omissions relative to the violation of Plouffe’s civil and constitutional rights and the retaliation against Plouffe for his whistle blowing activity. He is being sued in his individual and official capacities. His conduct in this matter amounted to negligence, gross negligence, recklessness, deliberate indifference and/or was intentional.

14. At all relevant times referred to herein, the Defendant, Jonathan Kremser (hereinafter “Kremser”), was and is a professor in the Criminal Justice Department in the College of Liberal Arts and Sciences of Kutztown University of Pennsylvania in Kutztown in Berks County of the Commonwealth of Pennsylvania, and employed by Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. At all relevant times referred to herein, he acted under the color of law, statutes, rules, regulations, policies, procedures, customs, and usages of Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. He was responsible for the acts and omissions relative to the violation of Plouffe’s civil and constitutional rights and the retaliation against Plouffe for his whistle blowing activity. He is being sued in his individual and official capacities. His conduct in this matter amounted to negligence, gross negligence, recklessness, deliberate indifference and/or was intentional.

15. At all relevant times referred to herein, the Defendant, Mahfuzul Khondaker (hereinafter “Khondaker”), was and is a professor in the Criminal Justice Department in the College of

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of the Commonwealth of Pennsylvania, and employed by Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. At all relevant times referred to herein, he acted under the color of law, statutes, rules, regulations, policies, procedures, customs, and usages of Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. He was responsible for the acts and omissions relative to the violation of Plouffe's civil and constitutional rights and the retaliation against Plouffe for his whistle blowing activity. He is being sued in his individual and official capacities. His conduct in this matter amounted to negligence, gross negligence, recklessness, deliberate indifference and/or was intentional.

17. At all relevant times referred to herein, the Defendant, Keith Logan (hereinafter "Logan"), was and is a professor in the Criminal Justice Department in the College of Liberal Arts and Sciences of Kutztown University of Pennsylvania in Kutztown in Berks County of the Commonwealth of Pennsylvania, and employed by Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. At all relevant times referred to herein, he acted under the color of law, statutes, rules, regulations, policies, procedures, customs, and usages of Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. He was responsible for the acts and omissions relative to the violation of Plouffe's civil and constitutional rights and the retaliation against Plouffe for his whistle blowing activity. He is being sued in his individual and official capacities. His conduct in this matter amounted to negligence, gross negligence, recklessness, deliberate indifference and/or was intentional.

18. At all relevant times referred to herein, the Defendant, Gary Cordner (hereinafter "G. Cordner"), was and is a professor in the Criminal Justice Department in the College of Liberal Arts and Sciences of Kutztown University of Pennsylvania in Kutztown in Berks County of the

Kutztown University of Pennsylvania and employed by Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. At all relevant times referred to herein, they acted under the color of law, statutes, rules, regulations, policies, procedures, customs, and usages of Kutztown University of Pennsylvania and the Commonwealth of Pennsylvania. The Does were employees, officers, supervisors, and/or policymakers for Kutztown University. The Does were ultimately responsible for the acts and omissions relative to the violation of Plouffe's civil and constitutional rights and the retaliation against Plouffe for his whistle blowing activity. The Does are being sued in their individual and official capacities. The Does' conduct in this matter amounted to negligence, gross negligence, recklessness, deliberate indifference and/or was intentional.

IV. FACTS

21. Kutztown University of Pennsylvania is an agency of the Commonwealth of Pennsylvania and subject to the Administrative Agency Law of Pennsylvania. Such agencies and their decisions are subject to both constitutional and statutory law and decisions of them are subject to judicial review.

22. Plouffe was hired by the University and started employment on or about January 5, 2008. Plouffe was hired as a probationary tenure track professor with the Criminal Justice Department in the College of Arts and Sciences, with a one year renewable contract, to be renewed annually upon satisfactory performance until Plouffe's five year anniversary, at which time an application for tenure normally would be considered.

23. During the early part of the spring semester of 2008, Plouffe was approached by the Chair who pressured Plouffe to place the name of another tenure track professor, Logan, as co-author

on some of Plouffe's academic publications, because Logan needed publications for his impending tenure application. Logan had been with the Criminal Justice Department for at least four years. Plouffe refused on the ground that such activity was highly unethical (see, e.g., Code of Ethics, III, C, 1, Academy of Criminal Justice Sciences (2000)) and Statement on Multiple Authorship, American Association of University Professors (1990)) and possibly illegal. The Chair continued to pressure Plouffe, who finally and under objection relinquished to the Chair's demands on the condition that Logan at least do some work to justify the co-authorship. Logan failed and/or refused to do the work, despite several requests by Plouffe, and the publication did not occur, thereby harming Plouffe's academic reputation because Plouffe had used his contacts to arrange a relatively immediate potential publication to benefit Logan under pressure from the Chair.

24. During the spring semester of 2008, Plouffe and Logan were on a Search Committee together seeking another professor for the Criminal Justice Department. During the interview of a candidate, Logan, uncollegially and unethically, began to personally insult Plouffe and the candidate's specialty. Statement on Professional Ethics, American Association of University Professors (1987). The third member of the Search Committee, Pietro Toggia (hereinafter "Toggia"), told Logan to stop. Plouffe also told Logan to stop. The incident was reported to the Chair who took no disciplinary action against Logan. Toggia acknowledged this event to the Union.

25. During the Spring Semester of 2008, Plouffe was assigned to the Comprehensive Examination Committee to write comprehensive examinations. Plouffe was to write the question of criminal law, with other professors to write the questions on theory and criminal procedure.

Plouffe wrote the examination and was pressured by Pisciotta, Renzema, and Toggia to make it easier to minimize the number of students who failed. Plouffe did so.

26. During the spring semester of 2008, the Chair assigned Plouffe to prepare a course to be taught at both the undergraduate and graduate levels on the law of terrorism. Plouffe began work on the assignment, which included ordering and reviewing text books, contacting other programs and colleges for information, preparing syllabi and proposals, and occasional updates with the Chair. At the end of the spring semester of 2008, Logan quizzed Plouffe about the assignment and asked Plouffe for a copy of Plouffe's work on the course. As a matter of collegiality, Plouffe provided it to him. Later that summer, when Plouffe was engaged in a conversation with the Chair, Logan entered the Chair's office and asked about some issue as he was now doing the law of terrorism course. Plouffe, being quite surprised at this turn of events, immediately asked when the course had been reassigned. Logan immediately left the office. The Chair acknowledged that he had originally given the assignment to Plouffe and had then given it to Logan (claiming he forgot about Plouffe), but refused to provide the law of terrorism course syllabus to Plouffe.

with the students. The Chair then took the overload away from Plouffe and gave it to Logan, causing significant financial distress to Plouffe. Plouffe asked the Chair to reconsider, who refused. Plouffe complained to Hanna who sustained the appeal and returned the overload class to Plouffe. The Chair apologized to Plouffe for his actions. It was at this time that the Chair's attitude towards Plouffe became noticeably hostile.

28. During the fall semester of 2008, it came to Plouffe's attention from various students that Logan was uncollegially and unethically telling students not to take Plouffe's courses. Code of Ethics, III, A, 9, Academy of Criminal Justice Sciences (2000). Plouffe approached the PET (Promotion, Evaluation, and Tenure) Committee (consisting of Toggia and Renzema), who informed the Chair about the situation. One student even volunteered to and did come in and relate the incident for the PET Committee. The student had refused Logan's advice and signed up for Plouffe's courses anyway. The PET Committ

At the end of Plouffe's defense, Seiger said she wanted to hire Plouffe as her attorney in the future and even stated that she would lose all respect for Plouffe if he ever agreed to co-author anything with Logan again. Renzema and Toggia apologized to Plouffe. Yeboah told the Chair that the person who should be spoken to was Logan.

examinations and it reduced the quality of the program. The same examination was given over Plouffe's objections.

33. During the fall semester of 2008, Plouffe was asked by Pisciotta to do an independent study with a student on judicial corruption. The student was woefully unprepared to do the study but Pisciotta pressured Plouffe to do it anyway. Plouffe refused. Pisciotta later did the independent study with the student, who, to the best of Plouffe's knowledge, did very poorly and dropped out of the program.

34. During the later part of the fall semester of 2008, Plouffe

36. In January of 2009, the Chair improperly and untimely filed a Reply to Plouffe's Rebuttal, making a number of unfavorable allegations against Plouffe that were not included in the original evaluation, which was not permitted by the CBA. Plouffe and the Union decided to grieve the issue, as it was retaliatory in response to Plouffe's filing of his Rebuttal, which was a protected labor activity allowed by the CBA, and an ethical violation. See, e.g., Code of Professional Practice and Conduct for Educators found at 22 Pa. Code § 235.4. The grievance was successful and, as a result, the Chair's Reply was revorable

interviewed or hired unless they met the minimum advertised qualifications. Emails suggest that Khondaker may have misrepresented the favored candidate's qualifications to the Office of Social Equity to obtain an interview for him.

39. On review of the favored candidate's application packet, Plouffe discovered that the favored candidate did not even meet the advertised requirements for hire, making him ineligible for even an interview, never mind hiring. Further, the favored candidate failed to timely provide a transcript of his academic criminal justice work at Rutgers University, where his academic performance did not even come close to meeting his claims of excellence made in his cover letter. Plouffe also discovered that the favored candidate had lied in a number of places on his c.v., to include falsely claiming that he had been awarded "summa cum laude" for his M.P.A. from Kutztown University and falsely claiming that he had been an undergraduate teaching assistant for his B.S. from Kutztown University in criminal justice. Kutztown University has never allowed for either such award for a graduate degree or teaching position for undergraduates. Such false statements are a crime under Pennsylvania law (18 Pa.C.S.A. § 4904).

40. Plouffe informed the Search Committee and the Criminal Justice Department that the favored candidate should not be hired, as such acts would be violative of policy, unethical, and would place a seal of approval on criminal activity. Such approval might also trigger criminal accomplice liability (18 Pa.C.S.A. § 306) or criminal use/reliance on a false document knowing it

Pennsylvania. See Management Directive 505.7, Commonwealth of Pennsylvania Governor's Office, § 7.22 (2009). Further, it would be an ethical violation to hire or allow an unqualified professor to instruct a class. Code of Ethics, III, A, 4, Academy of Criminal Justice Sciences (2000); Code of Professional Practice and Conduct for Educators found at 22 Pa. Code § 235.7; Principle IV, Code of Ethics for the Education Profession, Pennsylvania State Education Association (2009).

41. The Criminal Justice Department responded that these facts did not matter and that they wanted the favored candidate to be placed on the hire list. Essentially, Plouffe was trying to stop criminal and unethical activity within the Criminal Justice Department relating to the hiring process to protect the students, the quality of their education, and the University. Plouffe had no personal or financial interest in this matter. Moreover, Plouffe even raised the issue of setting an ethical example for the criminal justice students. Indeed, the Code of Ethics of the Academy of Criminal Justice Sciences requires that voting on employment should be based solely on professional criteria (Code of Ethics, III, D, 1, Academy of Criminal Justice Sciences (2000) and Code of Professional Practice and Conduct for Educators found at 22 Pa. Code § 235.7) and mandates that there is an ethical duty to be knowledgeable about employment law and an ethical duty to attempt to change unfair employment practices (Code of Ethics, III, D, 3, Academy of Criminal Justice Sciences (2000)).

42. Plouffe also raised the issue of direct personal conflicts of interest, because the favored candidate was a personal friend of the Chair and Renzema, Renzema had written a recommendation letter for the favored candidate, and both Renzema and the Chair were still going to vote on his potential hire. See Black's Law Dictionary p. 299 (6th ed. West 1991); 4 Pa.

Code § 7.152 (prohibiting personal and financial conflicts of interest (and 4 Pa. Code § 7.159 providing that violations of such conflicts of interest are grounds for termination)). See also Management Directive 505.7, Commonwealth of Pennsylvania Governor's Office, § 13.21 (2009) (stating that both financial and personal conflicts of interest are prohibited). Renzema, in his letter of recommendation for the favored candidate, even specifically

value of a Kutztown University criminal justice degree, as the favored candidate was patently unqualified and had committed crimes in an attempt to obtain the professorship. Even more important, during the course of these discussions, one of the members of the Criminal Justice Department, Khondaker, by email, intimated that a complaint would be filed against Plouffe because of his actions in this matter (which raises serious ethical concerns, Code of Professional Practice and Conduct for Educators found at 22 Pa. Code § 235.11(5) and foreshadows Plouffe's claim of retaliation for whistle blowing). Plouffe continued to attempt to have this situation addressed internally within the Criminal Justice Department (which is an ethical obligation under the Code of Ethics, III, H, 5, Academy of Criminal Justice Sciences (2000)), but the Department refused and even told Plouffe to take it up to higher authority when Plouffe said he would do so, if necessary.

45. Plouffe then did so, after seeking the advice and approval of the Union, by going to the Provost and the Office of Social Equity. The Provost directed Plouffe to the Office of Social Equity, which sustained Plouffe's complaint and informed the Criminal Justice Department that the favored candidate would not be considered for hire.

46. In the Spring of 2009, Seiger spoke to Plouffe and told him that the Criminal Justice Department would get him if they decided to do so.

47. During the spring of 2009, Kremser went into Plouffe's office and asked Plouffe if he was going to go to Logan's house and do some mischief. Plouffe asked Kremser where did that question come from. Kremser then left Plouffe's office.

48. During the spring of 2009, Plouffe was still on the Comprehensive Examination Committee and was to write the criminal law question and Logan the criminal procedure

question. Logan, without informing Plouffe, wrote the criminal law question as a few multiple choice. Plouffe asked about question and the quality of the examination. asked about it and Logan was then assigned to do the criminal procedure question and to make it essay and not multiple choice.

49. Because of this situation and the previous problems with the Criminal Justice Department, the Union repeatedly advised Plouffe to seek an external PET Committee as it was obvious that the Criminal Justice Department would not be fair or objective in its evaluation of Plouffe for his second year review, which was a vital step for Plouffe to continue in his employment after his second year. After some persuasion, Plouffe finally agreed, and a request for an external PET Committee was made. The Criminal Justice Department opposed the request. However, the Provost ultimately granted the request. The Union then started proceedings to remove the Chair as an evaluator of Plouffe because the Chair clearly would not be objective and fair, as demonstrated by the Chair's previous retaliation against Plouffe for engaging in the contractually allowed and protected labor activity of filing a Rebuttal to the improper portion of his first year evaluations.

50. Shortly after the decision of the Office of Social Equity upholding Plouffe's complaint concerning the improper and illegal attempted hire was communicated, Plouffe noticed a distinct and profound change in the overall attitude of the Criminal Justice Department. Where before Plouffe had had friendly and collegial relations with most of the Department, except for Logan and the Chair, now everyone was either uncollegially hostile or shunning Plouffe. Perversely, given the nature of the charges brought against Plouffe, this behavior itself is an extreme example of the uncollegiality initiated and continued by the Criminal Justice Department (which

raises yet even more ethical issues, Code of Professional Practice and Conduct for Educators found at 22 Pa. Code § 235.11(5) and Statement on Professional Ethics, American Association of University Professors (1987)), yet the President, during the course of adjudicating the complaint by the Criminal Justice Department against Plouffe, refused to allow Plouffe to bring charges and the Department was not charged for this behavior which, ironically, was the same charge for which Plouffe was ultimately fired. This shunning behavior was witnessed by the Union President.

51. Plouffe was then informed by several other professors that the Criminal Justice Department was going to have him fired. It was relatively common knowledge around the campus.

52. Then, shortly thereafter, sometime during June or July of 2009, apparently the Criminal Justice Department lodged a complaint with the administration against Plouffe. Plouffe and the Union have attempted to obtain the dates and copies of the original complaint/statements, but have been unsuccessful as of this time. The Respondents refuse to disclose this information but the attempts to obtain them are continuing.

53. During the late spring and summer of 2009, Plouffe was refused permission to teach his selected topics course, even though it had already been approved and scheduled in the Criminal Justice Department.

54. During the spring and summer of 2009, Plouffe continually tried to get copies of policies

topic, Plouffe spoke with the Union, who advised Plouffe to inquire about the subject of the meeting. Plouffe made such a request and was told it was about some non-disciplinary issues. Thus, Plouffe did not bring a Union representative to the meeting. When Plouffe arrived at the meeting, he discovered it was about potentially disciplinary issues and Plouffe demanded Union representation three times but was refused, even though it is allowed by law and the CBA. Zayaitz claimed that proper notice had been given to him. Plouffe later discovered that Zayaitz had sent Plouffe an email the night before, after Plouffe had left campus, indicating that the meeting would concern the situation at the Criminal Justice Department. This was not timely nor adequate notice and violated due process. Of course, Plouffe had not received the email until after the meeting when he went to his office, which Zayaitz would have known.

56. During the summer and fall of 2009, Plouffe, with the previous approval of Pisciotta, was preparing a basic criminalistics course. Plouffe had even obtained a grant for the equipment. At the first meeting of the Criminal Justice Department, Plouffe discovered that the assignment had been given to G. Cordner and Plouffe had not been informed. Plouffe asked why, as it mirrored the problem with Logan, but no one would explain.

57. Subsequently, Plouffe was notified by Picus that an investigation was being conducted concerning him and the Criminal Justice Department. Plouffe was not given any specifics, such as victims, complainants, dates, times, places, or specific factual allegations of what acts Plouffe had allegedly committed or what rules or policies Plouffe

was also ordered not to communicate with the Criminal Justice Department about the matter.

58. Plouffe was provided with just a general and unspecific summary of the charges against him, alleging that Plouffe had: 1) made accusations of unethical behavior by department members and threatened legal action whenever there was any disagreement within the department, 2) Plouffe lacked the ability to take constructive criticism and operate in a collegial manner, 3) Plouffe was unwilling to follow established departmental processes and protocols, and 4) Plouffe used threats and displayed behaviors that intimidate and/or cause co-workers to be fea

Director approved of this defamation when they failed to arrange for these measures and terminated Plouffe based in part on them. The Defendants knew this complaint was false yet essentially approved of and relied on it in the termination of Plouffe.

61. During the fall of 2009, Plouffe was removed from his position with the Comprehensive Examination Committee and not given any reason.

62. Plouffe was ordered to attend an investigatory interview on September 3, 2009, concerning the complaint. No preliminary information was provided to Plouffe or the Union except for the general summaries of the charges listed above. Plouffe attended with Union representatives, Paul Quinn and Ruth Perkins (hereinafter "Perkins"). Picus asked a number of questions, which Plouffe answered. Plouffe was allowed to provide an abbreviated description of some of the potentially relevant activities involving the Criminal Justice Department, but he was unable to provide any specific defense because he was not given access to the specific interview summaries or the requested information prior to this meeting (or during this meeting) and time was limited.

63. Plouffe was subsequently notified by the President, on September 16, 2009, that he was being scheduled for a Pre-Disciplinary Conference on September 18, 2009. In this letter, the President specifically stated that Plouffe would have the opportunity to respond to the allegations. On September 16, 2009, at the same time as the notice of the hearing was hand delivered to Plouffe, Plouffe was presented with a packet of twenty four exhibits which would be used against him. This act of scheduling an immediate hearing is an indisputable example of intentional bad faith, as it was patently obvious that Plouffe could not possibly prepare an adequate defense in such a short time or arrange for Union representation in such a short time. A

later date of October 6, 2009, was scheduled over Plouffe's objections because he had an academic conflict that day and more time was needed to adequately prepare to respond to the over one hundred allegations raised against him. Plouffe's objection was denied and Plouffe has suffered damages because of it. The packet contained just summaries of the statements given by the Dean and the Criminal Justice Department against Plouffe, which constituted multi-level hearsay, and not the original statements.

64. During the short time between September 18, 2009 and October 6, 2009, Plouffe and the Union made a number of requests of the President, which included requests for information, documents, policies, and procedures such as: for a complete verbatim record, specific allegations of actions by Plouffe, identification of complainants, presentation of witnesses, subpoenas, depositions, cross examination of witnesses, specific identification of what rules or policies Plouffe had allegedly violated, access to witnesses, access to evidence, dates of complaints, access to expert witness evidence, access to emails concerning the Criminal Justice Department, clarification of the charges, and to file charges and/or a counterclaim, as allowed under Article 43 of the CBA and the First Amendment in the Bill of Rights to the United States Constitution which allows for the right to petition the government for the redress of grievances. Plouffe attempted to explain to the President how such rights were allowed under the Administrative Agency Law and due process, but the arguments were rejected. All of these requests were denied.

65. At the hearing, Plouffe renewed these requests in writing, which were denied. Plouffe also moved for dismissal, in writing, of the charges on a number of legal issues, which included: objections to the multi-level hearsay nature of the summaries, refusal of the right of cross examination, inadequate notice, inadequate time to prepare a defense, staleness of the alleged

charges, and previous addressing of the allegations. The motion was denied by the President.

66. During the hearing, a person apparently from the Chancellor's Office was present, whom the President referred to as "Counsel". During the initial stage of the hearing, he responded to Plouffe's legal arguments, which discussion was limited by the President to approximately fifteen minutes. It was not until later in the hearing that Plouffe discovered that he was not an attorney, which was revealed by the President.

67. The rest of the hearing consisted of the President asking Plouffe questions and asking for clarifications, which Plouffe provided. Then, towards the end of the hearing, the President asked Plouffe if he had anything to say. Plouffe answered that he wanted to respond to the four charges and also respond to the over one hundred allegations made against him. The President stated that there was not enough time. Plouffe and the Union asked for an extended hearing date or a continuance to allow Plouffe to do so, which the President refused. However, he did allow Plouffe to say a few sentences on each of the four general charges and accepted seventeen emails/documents that Plouffe had brought in support of his anticipated defense. The President allowed Plouffe to very briefly mention the criminal and other legal violations that Plouffe stated were relevant in this matter, and that Plouffe alleged the complaint to be both retaliatory and a violation of the whistle blower laws. Plouffe asked the President, orally and in writing, for permission to submit a brief to present his defense and the supporting documents. The President took the request under advisement and said that Plouffe could also submit more emails/documents by Friday and that the decision on the brief would be made by Friday and the disciplinary decision would be made by Monday at the latest.

68. Plouffe prepared additional documents, which consisted of approximately two dozen

Plouffe from a radio program concerning Dr. Jack Kevorkian. Plouffe complained to the Union, which sought relief on the issue from the administration, and Plouffe was reinstated to the program.

72. A few weeks after his termination, Plouffe was informed by another professor that Pisciotta had stated that they already had a person to replace Plouffe when he was fired, thus demonstrating that the decision to fire Plouffe had been made long before any “pro forma” hearing.

73. The Defendants failed to post the Whistle blowing Law throughout Kutztown University, as required by

termination posted by the students.

79. After Plouffe was terminated, Plouffe's replacement began to defame Plouffe and his qualifications and his teaching to his former students, despite Plouffe's outstanding teacher and student evaluations. Plouffe had never met this person and this person had never been in any of Plouffe's classes. Upon information and belief and dependent upon further discovery, the only source for such defamation would have had to have been the Defendants named herein.

80. Upon information and belief and dependent upon further discovery, Plouffe asserts that the Defendants have no policies or procedures or only have inadequate policies addressing the subjects of this complaint to include but not limited to: civil rights violations, retaliation, whistle blowing, termination, and due process.

81. Upon information and belief and dependent upon further discovery, Plouffe asserts that the Defendants failed to follow the Commonwealth of Pennsylvania policies in its investigation and termination of him.

82. Upon information and belief and dependent upon further discovery, and based on the circumstantial evidence, Plouffe asserts that the Defendants engaged in a pattern of conduct that shows that they engaged in a conspiracy to, inter alia, deprive Plouffe of his civil and constitutional rights and to retaliate against him for his whistle blowing activity.

83. During the course of this situation, Plouffe attempted to obtain the assistance of the American Association of University Professors, who opined that the Plouffe's rights were being violated, especially involving academic freedom. The AAUP sent a letter to the President, whereupon the President and the University counsel, improperly and unethically, wrote to the AAUP indicating that they should not help Plouffe because he was represented by a Union and

that his case was without merit. Plouffe asserts that this is another example of how the Defendants have attempted to violate Plouffe's rights and interfere in his advantageous relationships.

84. Upon information and belief and dependent upon further discovery, Plouffe asserts that female employees of Kutztown University have engaged in much worse uncollegial activities as were brought against Plouffe and no action was taken against them, thereby rendering the action against Plouffe violative of Title VII and Title IX as reverse gender discrimination. Plouffe reserves the right to assert such claims until the EEOC finishes its administrative procedures as Plouffe intends to file such a complaint.

85. Plouffe asserts there is public policy prohibiting the termination of a public employee in this manner.

86. Plouffe asserts that additional evidence for this Complaint will be found after a full and reasonable opportunity for discovery in this matter.

87. Plouffe has suffered damages in this matter, to include but not limited to: pain and suffering, emotional distress, loss of job, loss of wages, loss of legal subscription, loss of livelihood, loss of reputation, defamation, medical damages, future retirement benefits, loss of status, medical and death and disability insurance benefits.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION **FIRST AMENDMENT** **FREE SPEECH**

88. The Defendants, the University, the President, and the Does, when they terminated Plouffe's employment, violated Plouffe's First Amendment right to free speech. The Defendants,

the University, the President, the Director, and the Does, when they refused to allow Plouffe to file a counterclaim or a charge against the Defendants for their conduct, violated Plouffe's First Amendment right to free speech. The Defendants, the University, the Director, the Dean, the President, and the Does, when they essentially validated and/or approved of the retaliatory complaint of the Defendants and did not oppose or end it, violated Plouffe's First Amendment right to free speech. The Defendants, the Chair, Seiger, Toggia, Renzema, Kremser, Logan, Khondaker, G. Cordner, A.M. Cordner, and the Does, when they complained about Plouffe in retaliation for his actions concerning the improper hire, violated Plouffe's First Amendment right to free speech.

SECOND CAUSE OF ACTION
FIRST AMENDMENT
RIGHT TO PETITION

89. The Defendants, the University, the President, and the Does, when they terminated Plouffe's employment, violated Plouffe's First Amendment right to petition the government for the redress of grievances. The Defendants, the University, the President, the Director, and the Does, when they refused to allow Plouffe to file a counterclaim or a charge against the Defendants for their conduct, violated Plouffe's First Amendment right to petition the government for the redress of grievances. The Defendants, the University, the Director, the Dean, the President, and the Does, when they essentially validated and/or approved of the retaliatory complaint of the Defendants and did not oppose or end it, violated Plouffe's First Amendment right to petition the government for the redress of grievances. The Defendants, the University, the Chair, Seiger, Toggia, Renzema, Kremser, Logan, Khondaker, G. Cordner, A.M. Cordner, and the Does, when they complained about Plouffe in retaliation for his actions

Amendment right to free speech. The Defenda

retaliatory complaint of the Defendants and did not oppose or end it, violated Plouffe's First Amendment right to petition the government for the redress of grievances. The Defendants, the University, the Chair, Seiger, Toggia, Renzema, Kremser, Logan, Khondaker, G. Corder, A.M. Corder, and the Does, when they complained about Plouffe in retaliation for his actions concerning the improper hire, violated Plouffe's First Amendment right to petition the government for the redress of grievances.

EIGHTH CAUSE OF ACTION
PENNSYLVANIA CONSTITUTION, ARTICLE I, § 1
DUE PROCESS

95. The Defendants, the University, the President, the Dean, the Director, and the Does, when they failed and/or refused to follow proper and adequate procedures in the investigation and prosecution of Plouffe, to include the statutory and policy requirements under Pennsylvania state law and policy directives, resulting in Plouffe's termination, violated Plouffe's Fourteenth Amendment right to procedural due process, as he had property rights in, inter alia, his contract of employment.

NINTH CAUSE OF ACTION
43 Pa. C.S.A. §§ 1421 et seq
WHISTLE BLOWING

96. The Defendants, the Chair, Seiger, Toggia, Renzema, Kremser, Logan, Khondaker, G. Corder, A.M. Corder, and the Does, when they improperly and retaliatorily complained about Plouffe resulting in Plouffe's termination and the University, the Dean, and the Director, when they essentially validated the retaliatory complaint of the Defendants and did not oppose or end it, and the University and the President when Plouffe was terminated based on the retaliatory complaint of the Defendants, violated Plouffe's rights under the Pennsylvania whistle blower

THIRTEENTH CAUSE OF ACTION
PENNSYLVANIA TORT
INTERFERENCE WITH AN ADVANTAGEOUS RELATIONSHIP

100. The Defendants, the President, the Dean, the Director, the Chair, Seiger, Toggia, Renzema, Kremser, Logan, Khondaker, G. Cordner, A.M. Cordner, and the Does, when they acted as alleged in this petition and omitted to act in accordance with law, resulting in the termination of Plouffe's employment, interfered in the advantageous relationship Plouffe had with the Commonwealth of Pennsylvania: his employment relationship.

FOURTEENTH CAUSE OF ACTION
PENNSYLVANIA TORT
INTENTIONAL/NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS

101. The Defendants, the University, the President, the Dean, the Director, the Chair, Seiger, Toggia, Renzema, Kremser, Logan, Khondaker, G. Cordner, A.M. Cordner, and the Does, by their acts and omissions, inflicted upon Plouffe emotional distress.

FIFTEENTH CAUSE OF ACTION
PENNSYLVANIA TORT
DEFAMATION

102. The Defendants, the Chair, Kremser, and the Does, by making allegations that Plouffe was a Columbine risk, without any reasonable basis whatsoever, defamed Plouffe. The Defendants, the University, the Dean, the Director, the President, and the Does, by not taking any appropriate actions to investigate such an allegation and by refusing to reject it and by relying on it, approved and ratified the defamation of Plouffe.

SIXTEENTH CAUSE OF ACTION
PENNSYLVANIA TORT
WRONGFUL TERMINATION - PUBLIC POLICY

103. The Defendants, the Chair, Seiger, Toggia, Renzema, Kremser, Logan, Khondaker, G.

Cordner, A.M. Cordner, and the Does, when they improperly and retaliatorily complained about Plouffe resulting in Plouffe's termination and the Dean and the Director, when they essentially approved and/or validated the retaliatory complaint of the Defendants and did not oppose or end it, and the University and the President when Plouffe was terminated based on the retaliatory complaint of the Defendants, violated public policy by terminating Plouffe for whistle blowing.

SEVENTEENTH CAUSE OF ACTION
PENNSYLVANIA LAW
BREACH OF CONTRACT

104. The Defendants, the University, the President, the Director, and the Does, by terminating Plouffe within the time period of his employment contract with the University, have, without just cause, breached this contract.

105. The Defendants, the University, the President, the Director, and the Does, by their actions in failing and/or refusing to reimburse Plouffe for the Westlaw contract have breached the contract with Plouffe.

EIGHTEENTH CAUSE OF ACTION
PENNSYLVANIA TORT
MALFEASANCE/MISFEASANCE/NONFEASANCE

106. The Defendants, the President, the Dean, the Director, the Chair, and the Does, by not following the proper procedures and law, as officers, and supervisors, in the termination of Plouffe, have committed the torts of malfeasance and/or misfeasance and/or nonfeasance.

107. The Defendants, the President, the Dean, the Director, the Chair, and the Does, as policy makers, have failed to provide adequate policies and procedures for the protection of Plouffe and have, thus committed the torts of malfeasance and/or misfeasance and/or nonfeasance.

NINETEENTH CAUSE OF ACTION
42 U.S.C. § 1986
CONSPIRACY

108. The Defendants, the President, the Dean, the Director, the Chair, Seiger, Toggia, Renzema, Kremser, Logan, Khondaker, G. Cordner, A.M. Cordner, and the Does, when they failed to come to Plouffe's aid during the ongoing violations of Plouffe's civil rights, they violated Plouffe's civil rights under 42 U.S.C. § 1986.

VI. CONCLUSION

109. The Plaintiff, Wm. C. Plouffe, Jr., respectfully prays that this honorable Court find the Defendants responsible for violating the various provisions of law specified herein and award him the following damages and equitable relief:

a. actual damages and compensatory damages, or, in the alternative, general damages, in the amount of \$1,000,000, or, in the alternative, nominal damages;

b. consequential damages;

c. special damages;

d. punitive damages in the amount of \$3,000,000.00;

e. return to his employment with back pay, back benefits, reimbursement for all back benefits, status equivalent to what he likely would have had if he had not been terminated, seniority, tenure, and promotion to associate professor;

f. front pay and front benefits, from his date of termination, if Plouffe is not given his job back and prejudgment and post judgment interest;

g. an injunction prohibiting the Defendants and its successors from violating Plouffe's civil rights;

h. an injunction prohibiting the Defendants from denying Plouffe any and all incidents or benefits of employment, to include but not limited to, promotion, tenure, grants, scheduling, conferences and assignments, if he is otherwise objectively qualified by an outside evaluator;

i. an injunction mandating that, at least once a semester, Plouffe will be allowed to teach his Selected Topics seminar on subjects of his choice;

j. an injunction prohibiting the Defendants from removing Plouffe as the Director of the Kutztown University Distinguished Speaker Series on Law and Justice and to mandate the provision of financing equal to other speaker series on campus;

k. an injunction mandating that the Defendants post the statutory notices for the Whistle Blower law and that all the Defendants be required to take a least a week professional training on whistle blowing, retaliation, and discrimination laws, and that the Defendants be required to create and implement a formal policy on whistle blowing.

l. attorneys fees, costs, and expenses, under, inter alia, 42 U.S.C. § 1988..

109. The Plaintiff demands a jury for trial of all issues.

DATED this _____ day of April, 2010.

Respectfully Submitted,

Wm. C. PLOUFFE, JR.

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