

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

DR. CYNTHIA ANNETT, PH.D., and DR.)
RAYMOND PIEROTTI, PH.D.,)
)
Plaintiffs,)
)
VS.)
)
UNIVERSITY OF KANSAS, and DR. THOMAS)
TAYLOR, PH.D., in his personal capacity,)
)
Defendants.)
_____)

CASE NO. _____

COMPLAINT

The plaintiffs, Dr. Cynthia Annett, Ph.D., and Dr. Raymond Pierotti, Ph.D., for their claim for relief against the defendants state and allege the following:

JURISDICTION AND VENUE

1. This is an employment discrimination case arising under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. ("Title VII"), and under 42 U.S.C. §1981.
2. This court has subject matter jurisdiction over the plaintiff's claims pursuant to 28 U.S.C. §1331, since these claims arise under federal statutory law.
3. On or about May 18, 1998, Dr. Annett filed a timely charge with the Equal Employment Opportunity Commission ("EEOC"), charge number 28D980593, alleging discrimination based on her sex and retaliation. On December 1, 1998, the EEOC issued a "right-to-sue" letter to Dr. Annett. This lawsuit was filed within the 90-day statutory period for filing an action arising under Title VII.

4. On or about May 18, 1998, Dr. Pierotti also filed a timely charge with the Equal Employment Opportunity Commission ("EEOC"), charge number 28D980592, alleging discrimination based on his race and retaliation. On November 30, 1998, the EEOC issued a "right to sue" letter to Dr. Pierotti. This lawsuit was filed within the 90-day statutory period for filing an action arising under Title VII.

5. All of the unlawful acts and practices below were committed within the State of Kansas, and venue is proper in this court pursuant to 28 U.S.C. §1391(b)-(c).

PARTIES

6. Dr. Annett is a white female, who has been employed by the University of Kansas ("KU") as an assistant professor since August of 1992. Dr. Annett was initially hired as an assistant professor in the Department of Systematics and Ecology. In the summer of 1998, the Department of Systematics and Ecology was merged into the Department of Ecology and Evolutionary Biology. Dr. Annett is currently employed as an assistant professor in the Department of Ecology and Evolutionary Biology.

7. Dr. Pierotti is a Native American male, who has been employed by KU since August of 1992. Dr. Pierotti is married to Dr. Annett. Dr. Pierotti was initially hired as an assistant professor in the Department of Systematics and Ecology. Dr. Pierotti is currently employed as an associate professor in the Department of Ecology and Evolutionary Biology.

8. The University of Kansas is a state-supported educational institution, whose main campus is located in Lawrence, Kansas. KU is an "employer" within the meaning of Title VII.

9. Dr. Thomas Taylor, Ph.D., is a white male, who has been employed by KU for several years as a professor of botany. In September of 1996, Dr. Taylor was appointed as the

interim chair of the Department of Systematics and Ecology. In September of 1997, Dr. Taylor was appointed as the regular chair of the Department of Systematics and Ecology. In September of 1998, Dr. Taylor was appointed as the chair of the newly-formed Department of Ecology and Evolutionary Biology. Dr. Taylor is being sued in his personal or individual capacity, and not in his official capacity.

GENERAL ALLEGATIONS

10. On January 15, 1997, the Department of Systematics and Ecology held its regular monthly meeting. During this meeting, Dr. Taylor, as interim chair of the department, raised several issues concerning the department's graduate education program. Dr. Taylor suggested that the department should reduce the number of graduate students admitted to the department, in order to provide financial support to those students currently in the department for a longer time. It was also suggested that the department give priority to its Ph.D. program and de-emphasize its Master's program.

11. During the departmental meeting on January 15, 1997, both Dr. Annett and Dr. Pierotti opposed some of the suggested changes to the graduate education program, on the ground that the suggested changes would unfairly reduce the number of minority students who were admitted to, and supported by, the department. Dr. Annett specifically stated that the Master's program was particularly useful for minority and female students, and that such students who wished to obtain a Master's degree should not be discriminated against.

12. After the departmental meeting on January 15, 1997, Dr. Pierotti sent a memo to Dr. Taylor, providing additional information and suggestions concerning the financial support

provided to graduate students in the department. In this memo, Dr. Pierotti again opposed several of the changes proposed by Dr. Taylor.

13. On March 1, 1997, the Department of Systematics and Ecology held a special meeting to discuss proposed changes to the department's graduate education program. Dr. Annett attended the meeting, but Dr. Pierotti was unable to attend because of a previous commitment. During this meeting, Dr. Annett again expressed opposition to several of the proposed changes to the graduate program, stating that the changes would unfairly discriminate against minority and female students. Despite the opposition of Dr. Annett and a few other faculty members, the proposed changes to the graduate program were passed.

14. On March 7, 1997, Dr. Pierotti sent a letter to Dr. Taylor, protesting the changes which had been made to the graduate program of the Department of Systematics and Ecology. Dr. Pierotti stated that the changes would effectively prevent most minority graduate students from being recruited to the program. Dr. Pierotti went on to assert that the department had historically failed to support minority recruitment of both graduate students and faculty members. Dr. Pierotti concluded his letter by saying:

To conclude, I find that recent efforts of S&E [Systematics and Ecology] not only fail to support minority recruitment, but are becoming effectively anti-minority. I believe that this leaves us badly out of step with the University community as a whole. The KU Faculty Council recently found lack of diversity on the faculty to be one of its two major concerns.... The Chancellor is suggesting that a large percentage of new faculty hires should be minorities. Chancellor Hemenway has further suggested that we might look to our own minority graduate students as potential recruits or for help in this effort. As a result, I would like to see a serious personal effort on your part, and for you to make an effort to convince the S&E faculty to address the lack of minority participation in S&E, both in the graduate program and on the faculty.

Dr. Taylor circulated this letter to all of the other faculty members in the Department of Systematics and Ecology.

15. In March and April of 1997, Dr. Annett served on a hearing panel appointed by the University to investigate an informal complaint of sexual harassment. The complaint had been filed by a female employee against a male faculty member of the Department of Systematics and Ecology. Dr. Annett actively participated in this investigation by interviewing a number of witnesses, and by working with the other panel members to prepare a report of their investigation. The Committee's report was presented to Dr. Taylor.

16. The rules and regulations of the University provide that, after a probationary period not to exceed seven years, faculty members should be considered for promotion and the granting of permanent tenure. Consequently, all untenured faculty members undergo a mandatory review for promotion and tenure during the sixth year of their employment with the University. Nominations for promotion and tenure normally originate with the department.

17. Dr. Annett and Dr. Pierotti were the only faculty members in the Department of Systematics and Ecology who were scheduled to undergo the mandatory review for promotion and tenure in the fall of 1997. Dr. Annett was the first female faculty member ever to be considered for promotion and tenure by the Department of Systematics and Ecology. Dr. Pierotti was the first minority faculty member ever to be considered for promotion and tenure by the Department of Systematics and Ecology, although he had been first considered for promotion and tenure in the fall of 1995.

18. In May of 1997, Dr. Taylor made several major changes in the procedures of the Department of Systematics and Ecology regarding nominations for the promotion and tenure of faculty members in the department. These changes involved the procedures for selecting external reviewers, and various deadlines for submitting materials. Dr. Taylor did not give Dr. Annett or Dr. Pierotti the opportunity to discuss, or to agree to, these changes.

19. During July and August of 1997, external reviewers were contacted by the Department of Systematics and Ecology, and were requested to evaluate the publications and scholarly achievements of Dr. Annett and Dr. Pierotti. Typically, six evaluations from external reviewers are obtained for each candidate for promotion and tenure. However, seven evaluations from external reviewers were obtained for Dr. Annett, prior to the date the department voted on her promotion and tenure. The seventh evaluation was not received by the department until the day before the department voted on Dr. Annett's promotion and tenure. Nevertheless, the seventh evaluation was substituted for an earlier, and more favorable, external evaluation of Dr. Annett.

20. On October 22, 1997, the Department of Systematics and Ecology held a special meeting to discuss the promotion and tenure dossiers of Dr. Annett and Dr. Pierotti. These dossiers showed comparable research activities and publications by Dr. Annett and Dr. Pierotti, including ten publications which they had co-authored together.

21. During the meeting on October 22, Dr. Taylor raised allegations that Dr. Annett had violated the Faculty Code of Conduct by furnishing false information on her promotion and tenure form, called the "blue form." The alleged false information concerned the "in press" status of three publications listed on Dr. Annett's blue form. The allegations of misconduct raised by Dr. Taylor were misleading and defamatory. Approximately one week prior to the meeting on

October 22, Dr. Taylor had specifically asked Dr. Annett about the status of the three publications in question. During this earlier conversation, Dr. Annett had explained to Dr. Taylor that she had been in contact with her co-authors on these publications, and that she had requested final copies from the co-authors who had been responsible for the final submissions. During this earlier conversation, Dr. Annett had also specifically asked Dr. Taylor to make whatever changes in her blue form he thought were necessary.

22. At the end of the meeting on October 22, the faculty members in the department voted on the promotion and tenure dossiers of Dr. Annett and Dr. Pierotti. The department voted to recommend Dr. Pierotti for promotion and tenure, but not to recommend Dr. Annett. The promotion and tenure dossiers of both Dr. Annett and Dr. Pierotti were thereafter forwarded to the College Committee on Promotion and Tenure for consideration.

23. On October 29, 1997, Dr. Annett wrote a four-page letter, explaining in detail why she had listed the three publications in her blue form as "accepted/in press." This letter was placed in her promotion and tenure dossier, along with additional materials substantiating the status of her publications. Dr. Annett also added to her dossier a list of changes to her blue form. These changes downgraded the status of the publications which previously had been listed as "accepted/in press," thereby avoiding any possible impression of wrongdoing.

24. Sometime prior to November 13, 1997, Dr. Taylor sent a letter to Dr. Sally Frost Mason, Dean of the College of Liberal Arts and Sciences, requesting that the Dean's office investigate whether Dr. Annett had violated the Faculty Code of Conduct. The alleged violation of the Code of Conduct consisted of furnishing false information in the earlier version of her promotion and tenure blue form, which had listed the three publications as "in press." Dean Frost

Mason asked Dr. Robert Weaver, the Associate Dean of the College, to investigate Dr. Taylor's allegations.

25. During the early part of December, 1997, the College Committee on Promotion and Tenure met to consider the promotion and tenure dossiers of Dr. Annett and Dr. Pierotti. The College Committee was chaired by Dean Frost Mason, and consisted of six additional faculty members, including Dr. Taylor and Dr. Robert Holt, another faculty member from the Department of Systematics and Ecology. Dr. Holt had supported Dr. Annett's promotion and tenure at the department level. Dean Frost Mason requested both Dr. Taylor and Dr. Holt to recuse themselves from voting on Dr. Annett's dossier, apparently because of Dr. Taylor's pending allegations of academic misconduct against Dr. Annett. Dr. Holt reluctantly agreed to his recusal.

26. The College Committee on Promotion and Tenure voted to recommend Dr. Pierotti for promotion and tenure, but not to recommend Dr. Annett. The promotion and tenure dossiers of both Dr. Annett and Dr. Pierotti were thereafter forwarded to the University Committee on Promotion and Tenure for consideration.

27. On February 9, 1998, Dr. Pierotti sent a letter to Dr. Richard Givens, Assistant Provost of the University. In this letter, Dr. Pierotti complained that Dr. Taylor had appropriated a laboratory assigned to Dr. Pierotti while Dr. Pierotti was out of town. This laboratory had housed three of Dr. Pierotti's students, two of whom were Native Americans. The students' books and belongings were personally packed and moved by Dr. Taylor in the evening. In the letter of February 9, Dr. Pierotti also accused Dr. Taylor of retaliating against him for opposing Dr. Taylor's insensitivity to minorities, saying:

The actions taken by Dr. Taylor appear to be directed solely at me, since to my knowledge, no other faculty member in S&E has had

space usurped for storage of Dr. Taylor's personal materials. In addition, in his letter of 5 February, Dr. Taylor specifically links 'comments attributed to me' to the actions he has taken. I assume that Dr. Taylor refers to the fact that I have criticized him for being insufficiently sensitive to the needs of minority and female students and faculty. To my mind this clearly establishes a pattern of retaliation against me on the part of Dr. Taylor.

28. Sometime during the latter part of February or the early part of March, 1998, the University Committee on Promotions and Tenure met to consider the promotion and tenure dossiers of Dr. Annett and Dr. Pierotti. The University Committee was chaired by Dr. David Shulenburger, Provost of the University, and consisted of ten additional members who were broadly representative of the University faculty as a whole. The University Committee voted to recommend Dr. Pierotti for promotion and tenure. The University Committee also voted to recommend Dr. Annett for promotion and tenure, thus reversing the recommendations of the Department of Systematics and Ecology, and the College Committee on Promotion and Tenure.

29. Sometime during March of 1998, the promotion and tenure dossiers of both Dr. Annett and Dr. Pierotti were forwarded for final decision to the Chancellor of the University, Dr. Robert Hemenway. Only the Chancellor has the authority to grant promotion and tenure to faculty members.

30. On March 16, 1998, Dean Frost Mason sent a letter to Provost Shulenburger, stating that Dr. Taylor had requested the Dean to investigate whether Dr. Annett had violated the Faculty Code of Conduct by furnishing false information on her blue form. Based on information supplied by Dr. Taylor, the Dean believed that Dr. Annett had violated the Code of Conduct, and consequently the Dean recommended that Dr. Annett be censured for academic misconduct. The

information supplied by Dr. Taylor, which formed the basis of the Dean's recommendation, was false and misleading.

31. On March 25, 1998, Dr. Annett met with Provost Shulenburg to discuss the charges of academic misconduct. Dr. Annett explained in detail why she had listed the three publications in her original blue form as "accepted/in press." Dr. Annett further stated that she had explained the status of the publications to Dr. Taylor prior to October 22, 1997, and that she also had specifically asked Dr. Taylor to make whatever changes in her blue form he thought were necessary. Provost Shulenburg advised Dr. Annett that he would consider her comments, and that he would make a decision in the near future as to the charges of academic misconduct. The Provost further advised Dr. Annett that the Chancellor was aware of the charges of academic misconduct, and that the Chancellor must consider "all the facts" in deciding whether or not to award promotion and tenure to Dr. Annett.

32. On March 30, 1998, Provost Shulenburg sent a letter to Dr. Annett, notifying her that Chancellor Hemenway had determined not to award her promotion and tenure. According to this letter, the Chancellor's decision was based on his review of "information from the department, College and University Promotion and Tenure Committees." This was the first time that Chancellor Hemenway had not followed the University Committee's recommendation to award tenure to a faculty member. Also, on March 30, Provost Shulenburg sent a letter to Dr. Pierotti, notifying him that the Chancellor had approved the recommendation of the University Committee to award Dr. Pierotti promotion and tenure.

33. On April 1, 1998, Provost Shulenburger sent another letter to Dr. Annett, notifying her that he had decided not to pursue the charges of academic misconduct asserted against her by Dean Frost Mason and Dr. Taylor.

34. On April 20, 1998, Dr. Pierotti filed a complaint of discrimination against Dr. Taylor and Dean Frost Mason with the University's Office of Equal Opportunity. The complaint alleged that Dr. Taylor had participated in a consistent pattern of discrimination and retaliation against Dr. Pierotti over the last year, and that Dean Frost Mason had acted to aid and abet Dr. Taylor in this wrongful conduct beginning in January of 1998. The complaint alleged five main acts of discrimination and retaliation: (a) circulating to other faculty members Dr. Pierotti's letter of March 7, 1997, which protested the changes made to the graduate program of the Department of Systematics and Ecology; (b) changing the procedures of the Department of Systematics and Ecology regarding nominations for promotion and tenure; (c) appropriating a laboratory assigned to Dr. Pierotti while Dr. Pierotti was out of town; (d) removing Dr. Pierotti as the chair of the Minority Affairs Committee of the Department of Systematics and Ecology; and (e) refusing to make a counter offer to Dr. Pierotti in response to an offer of a tenured faculty position from the University of Minnesota.

35. During the summer of 1998, the Department of Systematics and Ecology was merged into the Department of Ecology and Evolutionary Biology. Three faculty members in the new department were scheduled to undergo the mandatory sixth-year review for promotion and tenure in the fall of 1998: Dr. Walter Dimmick, Dr. Townsend Peterson, and Dr. Michael Christensen. All three of these faculty members are white males. All three of these faculty

members were given the opportunity to discuss, and to consent in writing to, the procedures to be followed for the promotion and tenure process in the new department.

36. On August 19, 1998, a preliminary investigative conference was held by the Kansas Human Rights Commission ("KHRC"), in regard to the administrative charges of discrimination which had been cross-filed by Dr. Annett and Dr. Pierotti with the KHRC and the EEOC in May of 1998. Dr. Taylor appeared at this conference to respond to the charges on behalf of the University.

37. During the preliminary investigative conference conducted by the KHRC, Dr. Annett was informed that she could self-nominate for promotion and tenure for a second consecutive year. Accordingly, Dr. Annett sent a letter to Provost Shulenburger on August 24, 1998, inquiring as to the procedures and guidelines for self-nomination for promotion and tenure.

38. On September 8, 1998, Provost Shulenburger sent a letter to Dr. Annett, informing her of the University's procedures and guidelines for self-nomination for promotion and tenure. The Provost stated that the blue form, containing complete information provided by the candidate, should be submitted to his office. The blue form would then be forwarded to the department "with instructions to give the dossier the same consideration as those submitted under the normal review procedures." The Provost further informed Dr. Annett that it would be the responsibility of the College of Liberal Arts and Sciences to supervise the process for obtaining external reviews for the candidate. The Provost advised Dr. Annett to meet with Dean Frost Mason to discuss the specific procedure for obtaining external reviews.

39. On September 18, 1998, Dr. Annett met with Dean Frost Mason to discuss the specific procedure which would be used for obtaining external reviews for Dr. Annett. It was

agreed that Dr. Annett would submit to the Dean a list of potential external reviewers. Dr. Annett had the right to veto potential external reviewers. After the meeting, Dr. Annett sent the Dean a letter memorializing their discussion, together with a list of potential external reviewers and a list of vetoed external reviewers.

40. On October 5, 1998, Dr. Annett submitted her blue form and self-nomination for promotion and tenure to Provost Shulenburg. The next day, the Provost forwarded Dr. Annett's blue form to Dr. Taylor, together with a memorandum instructing Dr. Taylor to "please see that this nomination receives the same careful examination and evaluation at the department level as nominations considered during the regular process."

41. On October 14, 1998, Dr. Taylor convened a meeting of the Department of Ecology and Evolutionary Biology, in order to discuss and vote on the procedures for voting on nominations for promotion and tenure. The voting procedures proposed by Dr. Taylor were substantially different from the voting procedures used by the Department of Systematics and Ecology in the fall of 1997. Dr. Annett objected to the new voting procedures proposed by Dr. Taylor, pointing out that she, unlike the three male candidates, had not agreed to the new voting procedures. Dr. Annett stated that the proposed procedures were discriminatory. Despite Dr. Annett's objections, the department adopted the new voting procedures proposed by Dr. Taylor.

42. On October 22, 1998, Dr. Pierotti filed another complaint with the University's Office of Equal Opportunity, charging Dr. Taylor with additional acts of discrimination and retaliation. This complaint alleged four acts of discrimination and retaliation: (a) removal of additional office space from Dr. Pierotti's control; (b) harassment and discriminatory treatment of Dr. Pierotti concerning a national award for mentoring minority students from the Society for the

Advancement of Chicanos and Native Americans in Science; (c) changes in the tenure and promotion procedures in the department from 1997 to 1998; and (d) errors in the department's 1997 annual report regarding Dr. Pierotti's service activities and graduate student supervision.

43. During the last week of October, 1998, the Department of Ecology and Evolutionary Biology held two separate meetings, one to discuss the promotion and tenure dossiers of Dr. Peterson and Dr. Dimmick, and the second to discuss the promotion and tenure dossiers of Dr. Annett and Dr. Christiansen. These dossiers showed that Dr. Annett's research, teaching, and service achievements were equal to, or greater than, the achievements of all three of the male candidates.

44. During the second departmental meeting in which Dr. Annett's dossier was discussed, Dr. Taylor told the faculty members that Dr. Annett's dossier had to be measured against a higher standard than the male candidates, since Dr. Annett was being considered for promotion and tenure for a second consecutive year and in her seventh year of employment. Dr. Taylor then presented an overhead, summarizing Dr. Annett's record of publications and arguing that her record did not show "compelling evidence of new achievements."

45. At the end of each of the two separate meetings, the faculty members in the department voted on the promotion and tenure dossiers of Dr. Annett and the three male candidates. The department voted to recommend Dr. Peterson and Dr. Dimmick for promotion and tenure, but not to recommend Dr. Annett and Dr. Christiansen. The promotion and tenure dossiers of Dr. Annett and the three male candidates were thereafter forwarded to the College Committee on Promotion and Tenure for consideration.

46. During the early part of December, 1998, the College Committee on Promotion and Tenure met to consider the promotion and tenure dossiers of Dr. Annett and the three male candidates from the Department of Ecology and Evolutionary Biology. The College Committee was chaired by Dean Frost Mason, and included Dr. Taylor and his wife, Dr. Edith Taylor, as two of its six faculty members. The College Committee voted not to recommend Dr. Annett for promotion and tenure. Thereafter, the dossier of Dr. Annett was forwarded to the University Committee on Promotion and Tenure, where the dossier is presently under consideration.

COUNT I: DISPARATE TREATMENT IN VIOLATION OF TITLE VII

47. All of the above paragraphs numbered 1-46 are incorporated herein as though fully set forth in Count 1.

48. The University of Kansas, through its agents and employees, has intentionally discriminated against Dr. Annett because of her sex, in violation of Title VII. Specifically, the University has discriminated against Dr. Annett by denying her promotion and tenure in 1997 and 1998, while granting promotion and tenure to male faculty members with equal, or lesser, qualifications than Dr. Annett. In addition, the University has intentionally discriminated against Dr. Annett by filing unfounded charges of academic misconduct against her.

49. The University of Kansas, through its agents and employees, has intentionally discriminated against Dr. Pierotti because of his race, in violation of Title VII. The acts of discrimination against Dr. Pierotti include: refusing to make a counter offer to him in response to the offer from the University of Minnesota; removing laboratory and office space from his use and control; removing him as chair of the department's Minority Affairs Committee; and denigrating his national award for mentoring minority students.

50. As a result of the University's discriminatory actions against Dr. Annett, she has sustained damages in the form of back pay, front pay, and compensatory damages as defined in 42 U.S.C. §1981a.

51. As a result of the University's discriminatory actions against Dr. Pierotti, he has sustained damages in the form of back pay, front pay, and compensatory damages as defined in 42 U.S.C. §1981a.

WHEREFORE, Dr. Annett and Dr. Pierotti pray for an injunction against the University of Kansas, enjoining the University and its employees from engaging in unlawful employment practices, and ordering the University to grant Dr. Annett promotion and tenure. In addition, Dr. Annett and Dr. Pierotti pray for judgment against the University of Kansas for damages in excess of \$100,000.00, consisting of back pay, front pay, compensatory damages, pre-judgment interest, attorneys fees and litigation costs.

COUNT II: RETALIATION IN VIOLATION OF TITLE VII

52. All of the above paragraphs numbered 1-46 are incorporated herein as though fully set forth in Count II.

53. The University of Kansas, through its agents and employees, has intentionally retaliated against Dr. Annett for opposing unlawful employment practices, and for participating in proceedings under Title VII. Specifically, the University has retaliated against Dr. Annett by denying her promotion and tenure in 1997 and 1998, and by filing unfounded charges of academic misconduct against her.

54. The University of Kansas, through its agents and employees, has intentionally retaliated against Dr. Pierotti for opposing unlawful employment practices, and for participating in

proceedings under Title VII. The acts of retaliation include: refusing to make a counter offer to him in response to the offer from the University of Minnesota; removing laboratory and office space from his use and control; removing him as chair of the department's Minority Affairs Committee; failing to support his national award for mentoring minority students; and denying promotion and tenure to his spouse, Dr. Annett.

55. As a result of the University's discriminatory actions against Dr. Annett, she has sustained damages in the form of back pay, front pay, and compensatory damages as defined in 42 U.S.C. §1981a.

56. As a result of the University's discriminatory actions against Dr. Pierotti, he has sustained damages in the form of back pay, front pay, and compensatory damages as defined in 42 U.S.C. §1981a.

WHEREFORE, Dr. Annett and Dr. Pierotti pray for an injunction against the University of Kansas, enjoining the University and its employees from engaging in unlawful employment practices, and ordering the University to grant Dr. Annett promotion and tenure. In addition, Dr. Annett and Dr. Pierotti pray for judgment against the University of Kansas for damages in excess of \$100,000.00, consisting of back pay, front pay, compensatory damages, pre-judgment interest, attorneys fees and litigation costs.

COUNT III: DISPARATE TREATMENT IN VIOLATION OF 42 U.S.C. §1981

57. All of the above paragraphs numbered 1-46 are incorporated herein as though fully set forth in Count II.

58. Dr. Taylor, in his personal capacity, has intentionally discriminated against Dr. Pierotti because of his race by interfering with his right to equal enjoyment of all benefits,

privileges, terms and conditions of his employment, in violation of 42 U.S.C. §1981. The unlawful acts of discrimination committed by Dr. Taylor include: refusing to make a counter offer to Dr. Pierotti in response to the offer from the University of Minnesota; removing laboratory and office space from Dr. Pierotti's use and control; removing Dr. Pierotti as chair of the department's Minority Affairs Committee; and denigrating Dr. Pierotti's national award for mentoring minority students.

59. As a result of Dr. Taylor's discriminatory actions, Dr. Pierotti has sustained damages in the form of past and future financial loss, emotional distress, and mental anguish.

60. In committing unlawful acts of discrimination against Dr. Pierotti, Dr. Taylor has acted with malice or with reckless indifference to Dr. Pierotti's federally protected rights. Dr. Taylor is therefore liable for punitive damages.

WHEREFORE, Dr. Pierotti prays for judgment against Dr. Taylor, in his personal capacity, for damages in excess of \$100,000.00, consisting of past and future financial loss, pre-judgment interest, emotional distress, mental anguish, punitive damages, attorneys fees, and litigation costs.

COUNT IV: RETALIATION IN VIOLATION OF 42 U.S.C. §1981

61. All of the above paragraphs numbered 1-46 are incorporated herein as though fully set forth in Count II.

62. Dr. Taylor, in his personal capacity, has intentionally retaliated against Dr. Pierotti for opposing unlawful employment practices against racial minorities, in violation of 42 U.S.C. §1981. The acts of retaliation committed by Dr. Taylor include: refusing to make a counter offer to Dr. Pierotti in response to the offer from the University of Minnesota; removing laboratory and

office space from Dr. Pierotti's use and control; removing Dr. Pierotti as chair of the department's Minority Affairs Committee; denigrating Dr. Pierotti's national award for mentoring minority students; and denying promotion and tenure to his spouse, Dr. Annett.

63. Dr. Taylor, in his personal capacity, has intentionally retaliated against Dr. Annett for opposing unlawful employment practices against racial minorities, in violation of 42 U.S.C. §1981. The acts of retaliation committed by Dr. Taylor against Dr. Annett include causing the denial of her promotion and tenure in 1997 and 1998, and causing the filing of unfounded charges of academic misconduct.

64. As a result of Dr. Taylor's retaliatory actions, Dr. Pierotti has sustained damages in the form of past and future financial loss, emotional distress, and mental anguish.

65. As a result of Dr. Taylor's retaliatory actions, Dr. Annett has sustained damages in the form of past and future financial loss, emotional distress, and mental anguish.

66. In committing unlawful acts of retaliation against Dr. Pierotti and Dr. Annett, Dr. Taylor has acted with malice or with reckless indifference to their federally protected rights. Dr. Taylor is therefore liable for punitive damages.

WHEREFORE, Dr. Pierotti and Dr. Annett pray for judgment against Dr. Taylor, in his personal capacity, for damages in excess of \$100,000.00, consisting of past and future financial loss, pre-judgment interest, emotional distress, mental anguish, punitive damages, attorneys fees, and litigation costs.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFFS

REQUEST FOR TRIAL BY JURY

Pursuant to Fed.R.Civ.Pro 38, the plaintiffs request a trial by jury on all claims in the above-captioned matter.

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DESIGNATION OF PLACE OF TRIAL

Plaintiffs request that Kansas City, Kansas, be designated as the place of trial in the above-captioned matter.

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