

14CV008497

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE

WAKE COUNTY

SUPERIOR COURT DIVISION

FILE NO:

MARY C. WILLINGHAM,

Plaintiff,

v.

COMPLAINT

THE UNIVERSITY OF NORTH  
CAROLINA, a Body Politic and Corporate  
Institution of the State of North Carolina,  
THE UNIVERSITY OF NORTH  
CAROLINA AT CHAPEL HILL, a  
Constituent Institution of the University of  
North Carolina,

Defendants.

FILED  
2014 JUN 30 PM 4:47  
WAKE COUNTY, C.S.C.  
BY

NOW COMES Plaintiff MARY C. WILLINGHAM (“Plaintiff”), by and through counsel pursuant to N.C. R. Civ. P. 8 and complaining against Defendant THE UNIVERSITY OF NORTH CAROLINA (individually “UNC” and collectively “Defendants”), a body politic and corporate institution of the State of North Carolina; and THE UNIVERSITY OF NORTH CAROLINA at CHAPEL HILL (individually “UNC-CH” and collectively “Defendants”), a constituent institution of The University of North Carolina; alleges and says as follows:

PARTIES:

1. Plaintiff is a citizen and resident of Orange County, North Carolina.
2. Defendant UNC is a body politic and corporate institution within the State of North Carolina that is organized and exists pursuant to N.C. Gen. Stat. § 116-1, *et seq.* As such, Defendant UNC is a State institution that is empowered to sue and be sued.

3. Defendant UNC-CH is a constituent institution of Defendant UNC that is organized and exists pursuant to N.C. Gen. Stat. § 116-4, *et seq.* As such, Defendant UNC-CH is a State institution that is empowered to sue and be sued. Defendant UNC-CH is located in Orange County, North Carolina.
4. On information and belief, Defendant UNC is statutorily obligated to supervise the actions of administrators at UNC-CH and to ensure that UNC-CH and its managers at all times comply with the law.
5. On information and belief, Defendant UNC knew or should have known the acts, actions, or omissions to act, that UNC-CH through its managers took against Plaintiff in violation of the First Amendment to the Constitution of the United States, the North Carolina Constitution, and the North Carolina Whistleblower Act, but refused or otherwise failed to remediate such actions or omissions to act, as alleged herein.

JURISDICTION AND VENUE:

6. The jurisdiction of this court is invoked over claims arising under 42 U.S.C. § 1983, the First and Fourteenth Amendments to the United States Constitution, and N.C. Gen. Stat. § 126-84, *et seq.* (“N.C. Whistleblower Act”)
7. This action has been filed within one year (1) after the occurrence of the last act of retaliation, as alleged herein.
8. To the extent required, if at all, Plaintiff has satisfied all private, administrative, and judicial prerequisites for the institution of this action.

COMMON ALLEGATIONS:

*Plaintiff's Employment at UNC-CH*

9. Around October 2003, Defendants hired Plaintiff to serve as contract employee in the capacity of a part-time learning specialist for UNC-CH's athletic department.
10. As a learning specialist, Plaintiff's job responsibilities were centered on assisting university athletes, who had learning disabilities, to succeed academically at the undergraduate level.
11. During her tenure as a learning specialist, Plaintiff reported directly to Robert Mercer ("Mercer"), then the director of academic support for athletes.
12. Around December 2004, Defendants promoted Plaintiff to serve as a full-time learning specialist in the athletic department. Although Plaintiff's job responsibilities remained essentially the same, Plaintiff began working extensively with athletes from UNC-CH's "revenue" sports, including football and later basketball.
13. At all times while she served as a learning specialist, Plaintiff met or exceeded the reasonable work expectations of her employer Defendants.
14. By the 2008-2009 academic year, Plaintiff became disillusioned by what she had been experiencing first-hand as a learning specialist. Specifically, Plaintiff became increasingly troubled by the widespread inappropriate, unethical, and even corrupt academic assistance that she had personally witnessed various student-athletes receiving from university officials and staff.
15. During the 2008-2009 academic year, Plaintiff began looking for other employment within the areas of academic support.

16. On or about January 15, 2010, Defendants hired Plaintiff to serve full-time as an assistant director for UNC-CH's Center for Student Success and Academic Counseling ("CSSAC").
17. As assistant director, Plaintiff reported directly to Harold Woodard ("Woodard"), associate dean and director for CSSAC. Instead of focusing solely on athletes, the assistant director position for CSSAC permitted Plaintiff to assist with helping all students, including athletes, on an academic basis.
18. During this period, CSSAC's self-described mission had been "dedicated to promoting academic excellence to assist students in achieving their academic goals while enrolled at Carolina [UNC-CH]."
19. Upon Plaintiff being named assistant director, CSSAC had been comprised of four constituent programs: Learning Center, Center for Student Academic Counseling, Summer Bridge, and Writing Center. The self-described purpose of these constituent programs were to "provide support for students in developing the skills and strategies needed to achieve academic success."
20. As an assistant director, Plaintiff was responsible for training tutors and overseeing, evaluating, and managing CSSAC's programs.
21. Eventually, as part of her duties as assistant director, Plaintiff also served as a clinical instructor for Defendants' School of Education. As a clinical instructor, Plaintiff was assigned to the Teaching and Learning area and taught a peer tutoring course whenever needed.
22. At all times while she served as an assistant director, Plaintiff met or exceeded the reasonable work expectations of her employer UNC and UNC-CH.

23. During her tenure as assistant director, Plaintiff played a substantial part in the following accomplishments:
- a. led project management for supplemental instruction, tutoring, education course/peer tutoring program, graduate assistants, and redeveloped the community tutor board;
  - b. created and marketed five new/updated programs to students and faculty;
  - c. communicated new programming to cohort leaders of diverse targeted student groups;
  - d. wrote and piloted a speed reading program based on needs assessments of graduate and undergraduate students;
  - e. led the effort to re-design the center using a five pillar approach which led to a shift in culture;
  - f. marketed programs on campus via internet, television prompts and movable walkway signs;
  - g. developed social networking sites for the Center including Facebook and twitter;
  - h. redirected staff to measurable result focused orientation through establishment of electronic data collection system;
  - i. developed and completed live time data collection using technology for all programming;
  - j. updated the center to a total online registration and evaluation along with calendar appointment system for 28,000 students to access;

- k. wrote and executed animation video's to communicate skills and strategies to students;
- l. coordinated and supervised staff to support projects with team approach as well as constant communication updates of progress using data collection tools;
- m. reserved and coordinated facilities for programming that served over 5000 students;
- n. advised and counseled students on coursework, and facilitated registration with and for students during all semesters including summer; and
- o. co-supervised five professionals, student office assistants and graduate student; among other accomplishments.

*UNC-CH's Academic Programs for Athletes Become a National Scandal*

- 24. Around July 2011, UNC-CH's former football player, Michael McAdoo ("McAdoo") filed a civil action against UNC-CH and the National Collegiate Athletic Association ("NCAA") for damages and to restore his eligibility to play college football. McAdoo had been dismissed from the football team and declared ineligible by the NCAA, in part, for having accepted inappropriate academic help from a UNC-CH tutor. Media organizations throughout the nation covered the litigation of McAdoo's claims.
- 25. In the lawsuit, McAdoo filed documents with the state trial court that contained a paper that McAdoo had submitted for a grade in a 2009 Swahili class, which was believed to have been taught by Julius Nyang'oro ("Nyang'oro"), then the chair of UNC-CH's Department of African and Afro-American Studies.

26. Shortly after McAdoo filed the court documents, it had been discovered and reported nationally that a substantial portion of the paper McAdoo filed with the court was believed to have been plagiarized. Additionally, Nyang'oro later asserted that he did not teach the Swahili class even though he had been listed by UNC-CH as the teacher.
27. In August 21, 2011, the Raleigh *News & Observer* ("N&O") published an article about the academic transcript of former UNC-CH football player Marvin Austin ("Austin").
28. Around August 21, 2011, the N&O reported that Austin's transcript revealed he had *started* his college career in the summer of 2007 by taking a 400-level African studies class and that he received a B-plus as a final grade. Austin received this grade in the high-level class even though he had not yet taken a remedial writing class that was required for his enrollment after having received relatively low SAT scores. Nyang'oro was also listed as the teacher for Austin's class.
29. On or about August 27, 2011, N&O reported that a sports agent had been hired by Nyang'oro to teach a class during the summer of 2011.
30. Around September 2011, UNC-CH accepted Nyang'oro's "resignation" as the department chair and announced that it was reviewing "possible irregularities" with courses in the African studies department.
31. In March 2012, the NCAA issued formal sanctions against the UNC-CH football program partially because of improper tutor help that UNC-CH provided to its athletes.

32. In May 2012, UNC-CH faculty reported its finding of problems in more than 50 African studies classes. At the time, Chancellor Holden Thorp (“Thorp”) publically expressed his being “surprised” and “shocked” about the faculty’s report.
33. The referenced courses from the May 2012 report including nine in which there were no evidence that any professor taught the course (collectively “no show” classes). On information and belief, these courses had forged signatures on submitted grade rolls. In more than 40 other courses, there was little evidence of classroom teaching even though the classes were supposedly “lecture” classes (collectively “no show” classes).
34. Shortly after May 2012, the North Carolina State Bureau of Investigation began a criminal investigation in UNC-CH’s African studies department.
35. On July 8, 2012, the N&O reported that UNC-CH athletes consisted of a majority of enrollments in more than 40 “no show” classes. At the time, UNC-CH denied that any of the academic issues violated NCAA policy.
36. In late July 2012, UNC-CH faculty called for an “outside review” of academics and athletics at UNC-CH.
37. On or about August 11, 2012, N&O reported on what was later identified as former UNC-CH athlete Julius Pepper’s transcript. The N&O reported that the transcript revealed mostly poor grades—enough for the athlete to be declared ineligible, but for several high grades in African studies classes that had kept the UNC-CH athlete eligible overall.



38. On September 12, 2012, the N&O reported that UNC-CH's chief fundraiser, Matt Kupec ("Kupec"), had resigned amid questions about "personally driven" travel with Tami Hansbrough, a gifts officer and mother of former star UNC-CH basketball player Tyler Hansbrough. On information and belief, UNC-CH refused to release any documents regarding the same.
39. On September 13, 2012, the N&O reported that Tami Hansbrough's job was created and funded by Kupec, who had been stopped from directly hiring her by Thorp.
40. The N&O reported that Thorp approved the subsequent arrangement by Kupec regarding Tami Hansbrough and that records later showed that Thorp had even traveled with Kupec and Hansbrough during this period.
41. On or about September 30, 2012, N&O reported that records revealed UNC-CH freshmen football players had been enrolled in an upper-level African studies class and had received substantial assistance with their school work from UNC-CH's academic support personnel, but that many of the athletes could not read or write at the college level.
42. The N&O further reported on or about September 30, 2012 that the records suggested that another African studies professor had been aware of the "no show" classes for UNC-CH athletes.
43. UNC-CH's interim director of the academic support program admitted to a UNC Board of Governors panel that some efforts by tutors and others "over the years" had been tantamount to "overhelp."

44. On or about October 21, 2012, the N&O reported on more incidents of plagiarism by football players, including one athlete who turned in work that resembled the work of four 11-year-olds from a Web site.
45. On or about December 20, 2012, former Governor Jim Martin, who had been hired by UNC-CH, released a report that confirmed or corroborated a substantial part of what Plaintiff had reported both internally and to the N&O. Governor Martin found that more than 200 lecture-style classes that were confirmed or suspected of having never held class, dozens of independent studies with little-to-no supervision, and 560 “suspicious” grade changes for athletes dated back as far as 1994.
46. On or about December 29, 2012, the N&O reported that there is little evidence to back UNC-CH officials’ claims that they had raised questions about the “no show” classes. To the contrary, on information and belief, numerous UNC-CH faculty members on the faculty athletic committee said that they either do not recall such a discussion, or explicitly deny it ever occurred.
47. On or about February 7, 2013, the UNC Board of Governors’ (“BOG”) special panel released its report that generally accepted the findings of Governor Martin that the UNC-CH scandal was more about “academics” than it was about “athletics.”
48. However, in response to the BOG panel’s report, some BOG members, including Burley Mitchell, a highly respected former Chief Justice of the North Carolina Supreme Court, took issue with the report. Chief Justice Mitchell, among others, pointed out that Governor Martin’s investigation did not interview a sufficient

number of persons with potentially relevant knowledge and the interviews that were taken often failed to cover obvious, but relevant, lines of inquiry in the scope of questions.

49. Former Chief Justice Mitchell further disputed Gov. Martin's opinion that the UNC-CH scandal was "not about athletics" when athletes accounted for 45 percent of the enrollments in the "no show" classes over a 10 year period, while consisting of less than 5 percent of the undergraduate student body.
50. On or about February 18, 2013, UNC-CH announces that Chancellor Thorp was planning to leave the chancellorship at the end of the year to become provost at Washington University in St. Louis, Missouri.
51. On or about July 20, 2013, the N&O reported that correspondence from UNC-CH showed Jeanette Boxill, chair of the faculty, had sought and received a last-minute revision to a faculty executive committee report that removed a concern about a tutor's "extremely close" ties to athletes may have caused her to enroll the athletes into "no show" classes. N&O reported that Boxill, a former academic counselor for athletes, told the report's authors that concern "could further raise NCAA issues and that is not the intention."
52. On or about January 1, 2014, The New York Times ("NYT") published a front-page story about the UNC-CH scandal. Following the NYT article, the UNC-CH received additional national coverage from such publications as the Entertainment Sports Programming Network ("ESPN"), Cable News Network ("CNN"), Bloomberg Businessweek, National Public Radio ("NPR") among other national news publications and reports.

53. On or about January 15, 2014, former UNC-CH football player Michael McAdoo (“McAdoo”) informed the N&O that he had been steered by the UNC-CH athlete tutoring program to four “no show” courses. McAdoo explained that the UNC-CH counselors also steered him to the African studies major and referred to the “no show” courses as “GPA boosters.”
54. On or about April 3, 2014, around 32 retired UNC-CH professors, many of whom are nationally recognized experts in their fields, signed a letter to the N&O asserting that current UNC-CH faculty needed to “step up” and seek answers about the scandal. The retired professors observed that UNC-CH had been engaging more in “public relations spin” rather than getting to the bottom of the scandal.
55. From around July 2011 to the present date, these news reports and series of subsequent articles related to the UNC-CH academic programs for athletes have collectively and continuously remained in the national news and have been part of a broader national public interest of academics and college athletes from “revenue” sports (collectively “UNC-CH Academic-Athletic scandal”).

*Plaintiff Engaged in Protected Activity*

56. On or about September, 2010, an attorney from UNC-CH’s Office of University Counsel and the then faculty athletic chair interviewed Plaintiff for approximately 2.5 hours about her personal knowledge of the improper and unethical treatment that UNC-CH athletes received from UNC-CH faculty or staff.
57. During this meeting, Plaintiff reported in good faith to UNC-CH’s counsel about her personal knowledge of various times when UNC-CH’s athletes would receive

improper, unethical, illegal and/or corrupt treatment from UNC-CH faculty and/or staff.

58. Plaintiff never heard back from UNC-CH's counsel once she reported the improper, unethical, illegal, and/r corrupt conduct.
59. After receiving no follow up by the University Counsel's office, Plaintiff eventually concluded that Defendants were not interested in hearing the truth from Plaintiff about the extent of the improper, unethical, illegal, and/or corrupt conduct or services that UNC-CH faculty and/or staff had been providing to student athletes.
60. Since around summer 2011, Plaintiff established and maintained regular contact with Dan Kane ("Kane"), a writer for the N&O, when Plaintiff would truthfully inform Kane about her personal knowledge of inappropriate, unethical, illegal, and/or corrupt acts or services that UNC-CH's managers and staff were providing to UNC-CH athletes to keep them eligible to compete in the "revenue" sports and Plaintiff would truthfully answer any of Kane's questions pertaining to the same (collectively "athletic scandal").
61. Soon after Plaintiff's initial contact with Kane, Plaintiff informed her supervisor, Woodard, that she was speaking with the "N&O" about the athletic scandal. Woodard responded to Plaintiff something to the effect of "I can't stop you --- you have a constitutional right to tell anyone anything you please." Plaintiff interpreted Woodward's response as one that in effect condoned or acquiesced to Plaintiff truthfully reporting to the media her personal knowledge about the athletic scandal. However, shortly after this meeting with Plaintiff, on

information and belief, Woodard began retaliating against Plaintiff, as alleged herein.

62. On or about October 2012, Plaintiff started a blog where she at times reported publically some of her own personal knowledge about the improper, unethical, illegal, and even corrupt treatment or services that UNC-CH faculty and/or staff provided to UNC-CH athletes.
63. Plaintiff made these statements in the public sphere on her blog in good faith for purposes of helping to stop the improper, unethical, and even corrupt treatment and services that UNC-CH faculty and/or staff were providing UNC-CH athletes.
64. On or about October 2012, Governor Martin, who had been hired by UNC-CH to gather information, interviewed Plaintiff for approximately 1.5 hours about Plaintiff's personal knowledge concerning the improper, unethical, and even corrupt services or treatment that UNC-CH faculty and/or staff provided to UNC-CH athletes.
65. On or about November 17, 2012, Plaintiff submitted to an interview with an N&O reporter, Dan Kane, to provide information about her own first-hand knowledge about the UNC-CH academic program for athletes and how it works, in effect, to keep athletes academically eligible to compete in the "revenue" sports through improper, unethical and even corrupt academic assistance.
66. Plaintiff explained to Dan Kane how some UNC-CH athletes who were not even able to perform college-level work would register for "no show" classes. Plaintiff further explained to Kane plagiarism by some of the UNC-CH athletes were tolerated by UNC-CH faculty and/or staff.

67. On or about November 18, 2012, the N&O published segments of its interview with Plaintiff to report about the improper, unethical, illegal and even corrupt academic services and treatment that UNC-CH faculty and/or staff were providing to, or otherwise acquiescing for, its athletes.
68. On information and belief, following the N&O's article that it published covering its interview with Plaintiff on or about November 18, 2013, UNC-CH independent study enrollments plummeted, particularly among members of the basketball team.
69. On or about January 8, 2014, CNN broadcasted a "special report" on the reading abilities of college athletes. Prior to the CNN special report, Plaintiff submitted to an interview with Sara Ganim, a news correspondent at CNN, to discuss Plaintiff's personal knowledge about improper, unethical, illegal, and/or even corrupt services and treatment that UNC-CH faculty and/or students had been providing to UNC-CH athletes.
70. In the report of January 8, 2014, CNN cited research by Plaintiff that indicated a subset of athletes who were suspected of having academic challenges were mostly reading below the high school level.
71. The N&O reported that the CNN "special report" was widely repeated in the media in part because UNC-CH basketball coach Roy Williams disputed Plaintiff's claim that one of his former players was not able to read. In response, Plaintiff offered to show the basketball coach proof about her assertions, but the basketball coach responded that it was "not his place to meet with [Plaintiff]."

72. From February 23, 2013 to July 2013, Plaintiff met in person with numerous UNC-CH officials to discuss Plaintiff's research findings regarding the improper, unethical, and even corrupt treatment and services that UNC-CH faculty and/or staff were providing to UNC-CH athletes before making any public statements to CNN about the same.
73. Plaintiff specifically met with the following UNC-CH officials: Chancellor Holden Thorp, Karen Gill, Bubba Cunningham, and Bobbi Owen. On information and belief, none of the above-referenced UNC-CH officials used any of the information that Plaintiff provided to eradicate or even curtail the improper, unethical, illegal and even corrupt treatment or services that UNC-CH faculty and/or staff provided to UNC-CH athletes.
74. On or about July 2013 and again during the Fall of 2013, Plaintiff emailed various UNC-CH officials, including Jim Dean and the members of the Faculty Athletic Council to share the findings of Plaintiff's research before she shared these findings with CNN.
75. On or about January 17, 2014, UNC-CH Provost Jim Dean and Chancellor Carol L. Folt ("Folt") asserted to the Faculty Council that Plaintiff's research into athlete literacy was "so flawed" that it had "no merit." Dean publically referred to Plaintiff's research as a "travesty." On information and belief, Dean and Folt's assertions about Plaintiff to the Faculty Council and others were false.
76. On January 23, 2014, Chancellor Folt informed the UNC-CH trustees that the university "accepts responsibility" and was "absolutely" accountable for years of bogus African studies course that had been significantly enrolled by athletes.



Chancellor Folt claimed that the university was “going to learn from that painful history.” Later that day, the N&O sued UNC-CH for public records that could identify the ratios of athlete enrollments in the earliest “no show” classes.

77. On or about April 11, 2014, three outside “reviewers” hired by UNC-CH disputed Plaintiff’s athlete literacy claims. The reviewers asserted that Plaintiff overstated how many athletes were subpar readers, and used a test not recommended for determining reading ability at the grade level. None of the reviewers ever spoke with Plaintiff to discuss her findings or otherwise to obtain all the information that Plaintiff used to arrive at her findings.
78. On information and belief, Defendants spent approximately \$500,000.00 over a 24 months period to wage a public relations campaign against Plaintiff and against the truth of what Plaintiff had asserted as it pertained to the improper, unethical, illegal and even corrupt treatment and services that UNC-CH faculty and/or staff had been providing to UNC-CH student athletes.
79. On or about June 6, 2014, ESPN reported that former UNC-CH basketball player, Rashad McCants (“McCants”), a star from the 2005 NCAA men’s basketball championship team, admitted that he took many “no show” classes at UNC-CH and that those “no show” courses kept him eligible to play.
80. ESPN further reported on or about June 6, 2014 that McCants acknowledged that the UNC-CH tutoring program steered him to the “no show” courses and that tutors wrote papers for him and that “everyone” in the athletic department knew about the “paper class system.”

81. On June 6, 2014, the N&O reported that data it received from Plaintiff revealed that five members of the 2005 national championship basketball team had been heavily enrolled in “no show” classes and “independent study.”

*UNC-CH's Reprisal and Retaliation Against Willingham*

82. On or after June 30, 2014, Defendants informed Plaintiff of various changes concerning the terms and conditions of her employment by Defendants that would be effective on or after July 1, 2014. Defendants through Plaintiff's supervisor Harold Woodard and others informed Plaintiff as follows:

- a. that effective July 1, 2014, Plaintiff will be demoted in rank and title;
- b. that Plaintiff would be required to report to “weekly meetings” with her supervisor;
- c. that Plaintiff would receive additional job duties, which would require extensive training that Plaintiff would have to take over the summer months (i.e. interfere with vacation plans, etc.)
- d. that Plaintiff would no longer be advising undergraduate students, but would only provide academic advising to graduate students (which is clerical work in nature);
- e. that Plaintiff was only permitted to see students who were seniors for tutoring;
- f. that Plaintiff's work hours would be strictly enforced during the afternoons (which on information and belief was designed to and in fact did prevent Plaintiff from being able to attend the regular faculty meetings and athletic reform group meetings, both of which took place during the afternoons).

- g. that Plaintiff would be required to provide written requests for all time off for sick, vacation, and personal leave (when other employees in positions similar to Plaintiff would not be so required). Plaintiff was informed by Woodard that a written request must be made in writing and submitted 30 days prior for any time requested for leave and that some requests would be denied; and
- h. that Plaintiff would be required to move her existing office to another space with poor work conditions that would be shared with a retired professor.

83. Additionally, on or after July 1, 2014, Defendants retaliated against Plaintiff by providing her with a hostile work environment and purposefully failing or refusing to take prompt and effective remedial action to eradicate Plaintiff's hostile work environment. In addition to that listed in the preceding paragraph, Defendants created and condoned a hostile work environment for Plaintiff in at least the following manner:

- a. removed Plaintiff's job title and provide substantial additional work duties and responsibilities to Plaintiff on an incremental basis without additional compensation;
- b. assigned Plaintiff with additional duties, such as graduation advisor, which did not "fit" Plaintiff's skills, knowledge, or expertise;
- c. when UNC-CH's provost attacked Plaintiff's character at a faculty meeting during February 2014 following the CNN report;
- d. when UNC-CH would submit false claims and accusations against Plaintiff that she had been engaged in multiple violations of Family Educational Rights

and Privacy Act (“FERPA”) and Health Insurance Portability and Accountability Act (“HIPAA”) in an effort to intimidate Plaintiff;

- e. when UNC-CH would fail to or otherwise cause inordinate delay in handling Plaintiff’s complaints about her treatment, including the filing of a grievance pursuant to UNC-CH’s policies and procedures.
84. Plaintiff submitted formal and informal demands to Defendants regarding the retaliation and hostile work conditions she was experiencing, but to no avail.
85. To any extent required, Plaintiff has satisfied all private, administrative, and judicial prerequisites for the institution of this action.

FIRST CLAIM FOR RELIEF:

(42 U.S.C. § 1983-Retaliation for Exercise of First Amendment Rights)

86. The foregoing allegations are hereby realleged and fully incorporated herein by reference as if fully set forth herein.
87. As alleged in the preceding paragraphs, Plaintiff met with members of the media and journalists to report truthfully and accurately her personal knowledge about the inappropriate, unethical, illegal, and even corrupt services that UNC-CH faculty and/or staff would provide to UNC-CH athletes, particularly those in the “revenue” sports (collectively “athletic academic concerns”).
88. Plaintiff also authored various reports that she published to the public in her personal blog that reported truthfully and accurately her personal knowledge about the inappropriate, unethical, illegal, and even corrupt services that UNC-CH faculty and/or staff would provide to UNC-CH athletes, particularly those in the “revenue” sports (collectively “athletic academic concerns”).

89. When Plaintiff spoke publically and to members of the media about her athletic academic concerns at UNC-CH, Plaintiff was speaking as a citizen upon matters of public concern, as evident by the news coverage, *inter alia*.
90. At all times relevant herein, Plaintiff's interests in speaking upon the matters of public concern, as alleged herein, outweighed Defendants' interests in managing its working environment.
91. On information and belief, Plaintiff's speaking as a citizen upon matters of public concern, as alleged herein, were a substantial factor in Defendants' decisions to:
- a. demote Plaintiff in rank and title effective July 1, 2013;
  - b. reassign Plaintiff to substandard office space and equipment;
  - c. fail to take prompt and effective remedial action to address Plaintiff's grievances and the factors behind the hostile work environment that Plaintiff faced on a daily work basis;
  - d. require that Plaintiff follow procedures that other employees did not have to follow pertaining to the taking and requesting of sick leave, vacation leave, and personal leave;
  - e. all other acts alleged in paragraphs 83 and 84 *supra*.; and
  - f. in such other and further ways as may be proven at trial.
92. As a direct and proximate result of Defendants' acts of reprisal against Plaintiff, as alleged herein, Plaintiff has incurred and sustained harms, losses and other damages in an amount to be determined at trial, but in excess of \$10,000.00.

SECOND CLAIM FOR RELIEF:

(Whistleblower Claim Act Claim—N.C. Gen. Stat. § 126-84, *et seq*)

93. The foregoing allegations are hereby realleged and fully incorporated herein by reference as if fully set forth herein.
94. At all times relevant herein, Plaintiff has been a “state employee” of the State of North Carolina and subject to the protections and privileges contained in N.C. Gen. Stat. §126-84, *et. seq.*
95. On information and belief, Defendants discriminated against Plaintiff because Plaintiff engaged in good faith in protected activity when Plaintiff reported the following:
- A. the fact that there were “no show” or “paper” courses at UNC-CH where some athletes could receive academic credit without ever having to attend a class for some courses;
  - B. that the UNC-CH mentors were writing papers on behalf of some UNC-CH athletes to be graded as if the athlete were writing the paper so that the athlete could remain or become eligible to compete in NCAA competition;
  - C. that UNC-CH advisors in athletics steered some UNC-CH athletes into the “now show” or “paper” courses at UNC-CH;
  - D. that some UNC-CH athletes were only not able to read and/or write at a middle school (8<sup>th</sup> grade) level or below; and
  - E. in such other and further ways as may be discovered in this action and proven at trial.

96. Defendants discriminated and retaliated against Plaintiff because Plaintiff engaged in the protected activity, as alleged herein, when Defendants acted as follows:
- a. demoted Plaintiff in rank and title;
  - b. provided Plaintiff with substantial and additional job duties, which were mostly clerical in nature, without any increase in salary;
  - c. required Plaintiff to be receiving training for the additional job duties during Plaintiff's summer vacation time;
  - d. required Plaintiff to provide a written request 30 days in advance for sick leave, vacation leave, and personal leave (when other employees were not so required);
  - e. required Plaintiff to work "office hours" for students at times when faculty meetings were being conducted for purposes of excluding Plaintiff for the same;
  - f. permitted and refused to remediate Plaintiff's hostile work environment in a prompt and effective manner; and
  - g. in such other and further ways as may be discovered in this action and proven at trial (collectively "adverse employment actions").
97. Defendants essentially punished Plaintiff for having reported the truth, as alleged herein, which truth was protected by N.C. Gen. Stat. § 126-84.
98. Defendants constructively terminated Plaintiff's employment by taking the adverse employment actions against Plaintiff and creating and facilitating a

hostile work environment against Plaintiff through severe and pervasive work conditions that it imposed or permitted to be imposed on Plaintiff.

99. Defendants' alleged "reasons" for taking the adverse employment actions against Plaintiff were specious and served merely as a pretext to retaliate against Plaintiff because she had been engaging in the protected activity.
100. Even if Defendants had valid or legitimate reasons for taking adverse action against Plaintiff, which is denied, Defendants' retaliatory animus was a substantial causative factor for the adverse action that was taken against Plaintiff.
101. On information and belief, Defendants' violations of N.C. Gen. Stat. § 126-85 were willful and unjustified.
102. As a direct and proximate result of Defendants' discrimination and retaliation against Plaintiff, as alleged herein, Plaintiff has incurred harms and losses in an amount to be proven at trial, but in excess of \$10,000.00.

DEMAND FOR JURY TRIAL:

Pursuant to Fed. R. Civ. P. 38(b) and 42 U.S.C. § 1981a(c), Plaintiff hereby makes demand for a trial by jury on all triable issues.

PRAAYER FOR RELIEF:

WHEREFORE, Plaintiff prays unto the Court as follows:

1. That the Court issue a permanent injunction against Defendants jointly and severally in favor of Plaintiff as follows:
  - a. That Defendants be required to reinstate Plaintiff to her employment with Defendants; or alternatively at her election, that Plaintiff receive front pay from Defendants; and

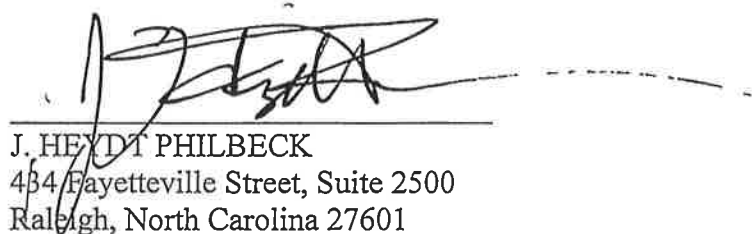


- b. That Defendants, and their agents, managers, and employees be enjoined from any further acts of discrimination or retaliation against Plaintiff;
2. That Plaintiff have and recover of Defendants, jointly and severally, the amount of all compensatory harms, losses, and damages in an amount to be determined at trial, but in excess of \$10,000.00, plus interest;
  3. That Plaintiff recover from Defendants all court costs, including expert witness fees, deposition costs, and attorney's fees, as permitted by law;
  4. That Plaintiff's compensatory harms, losses, and damages be trebled pursuant to N.C. Gen. Stat. § 126-87;
  5. That Plaintiff receive a jury trial as to all matters so triable;
  6. That the Court grant Plaintiff such other and further relief as the Court deems just and proper.

This the 30<sup>th</sup> day of June, 2014.

BAILEY & DIXON, L.L.P.

By:

  
\_\_\_\_\_  
J. HEYDT PHILBECK  
434 Fayetteville Street, Suite 2500  
Raleigh, North Carolina 27601  
Telephone: (919) 828-0731  
Facsimile: (919) 828-6592  
Email: [hphilbeck@bdixon.com](mailto:hphilbeck@bdixon.com)

*Attorneys for Plaintiff*

14CV008197

STATE OF NORTH CAROLINA

File No.

WAKE County

In The General Court of Justice

District  Superior Court Division

Name of Plaintiff  
MARY C. WILLINGHAM  
Address  
City, State, Zip

CIVIL SUMMONS

ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

VERSUS

Name of Defendant(s)  
THE UNIVERSITY OF NORTH CAROLINA, a Body Politic and Corporate Institution of the State of North Carolina, THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, a Constituent Institution of the University of North Carolina

Date Original Summons Issued

Date(s) Subsequent Summon(es) Issued

To Each of The Defendant(s) Named Below:

Name And Address of Defendant 1  
The University of North Carolina  
c/o Mr. Thomas C. Shanahan, Vice President and General Counsel  
UNC General Administration  
910 Raleigh Road  
Chapel Hill, NC 27514

Name And Address of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

- 1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
- 2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address of Plaintiff's Attorney (If None, Address of Plaintiff)  
J. Heydt Philbeck  
Bailey & Dixon, LLP  
434 Fayetteville St., Suite 2500  
Raleigh, NC 27601

Date Issued 6/30/14 Time 4  AM  PM  
Signature [Handwritten Signature]  
 Deputy CSC  Assistant CSC  Clerk of Superior Court

ENDORSEMENT (ASSESS FEE)  
This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date of Endorsement Time  AM  PM  
Signature  
 Deputy CSC  Assistant CSC  Clerk of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

14CV008497

File No.

STATE OF NORTH CAROLINA

WAKE County

In The General Court of Justice

District  Superior Court Division

Name of Plaintiff  
MARY C. WILLINGHAM  
Address  
City, State, Zip

CIVIL SUMMONS

ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3, 4

VERSUS

Name of Defendant(s)  
THE UNIVERSITY OF NORTH CAROLINA, a Body Politic and Corporate Institution of the State of North Carolina, THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, a Constituent Institution of the University of North Carolina

Date Original Summons Issued

Date(s) Subsequent Summon(es) Issued

To Each of The Defendant(s) Named Below:

Name And Address of Defendant 1  
The University of North Carolina at Chapel Hill  
c/o Ms. Leslie Chambers Strohm, Vice Chancellor and General Counsel  
110 Bynum Hall  
Campus Box 9105  
Chapel Hill, NC 27599-9105

Name And Address of Defendant 2

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

- 1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
- 2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address of Plaintiff's Attorney (If None, Address of Plaintiff)  
J. Heydt Philbeck  
Bailey & Dixon, LLP  
434 Fayetteville St., Suite 2500  
Raleigh, NC 27601

Date Issued 6/30/14 Time 4  AM  PM  
Signature [Signature]  
 Deputy CSC  Assistant CSC  Clerk of Superior Court

ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date of Endorsement Time  AM  PM  
Signature  
 Deputy CSC  Assistant CSC  Clerk of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$15,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

STATE OF NORTH CAROLINA

File No. 14CV0008497

WAKE County

In The General Court of Justice
District Superior Court Division

FILED

2014 JUN 30 PM 4:47

Name and Address of Plaintiff 1
MARY C. WILLINGTHAM

Name and Address of Plaintiff 2

BY

GENERAL

CIVIL ACTION COVER SHEET
INITIAL FILING SUBSEQUENT FILING

Rule 5(b), Rules of Practice for Superior and District Courts

Name And Address of Attorney or Party, If Not Represented (complete for initial appearance or change of address)

J. Heydt Philbeck
434 Fayetteville Street, Suite 2500
Raleigh, NC 27601

VERSUS

Name of Defendant 1
THE UNIVERSITY OF NORTH CAROLINA, a Body Politic and Corporate Institution of the State of North Carolina, THE UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL, a Constituent Institution of the University of North Carolina

Telephone No. Cell Telephone No.

919-828-0731

NC Attorney Bar No.

19379

Attorney E-Mail Address

hphilbeck@bdixon.com

Summons Submitted Yes No

Initial Appearance in Case Change of Address

Name of Defendant 2

Name of Firm

Bailey & Dixon, L.L.P.

FAX No.

919-828-6592

Counsel for

All Plaintiffs All Defendants Only (List party(ies) represented)

Summons Submitted Yes No

Jury Demanded in Pleading

Complex Litigation

Amount in controversy does not exceed \$15,000

Stipulate to arbitration

TYPE OF PLEADING

(check all that apply)

- Amend (AMND) Assess Motion Fee
Amended Answer/Reply (AMND-Response) Assess Motion Fee
Amended Complaint (AMND) Assess Motion Fee
Answer/Reply (ANSW-Response)
Change Venue (CHVN) Assess Motion Fee
Complaint (COMP)
Confession of Judgment (CNFJ)
Consent Order (CONS)
Consolidate (CNSL) Assess Motion Fee
Contempt (CNTP) Assess Motion Fee
Continue (CNTN) Assess Motion Fee
Compel (CMPL) Assess Motion Fee
Counterclaim vs. (CTCL) Assess Court Costs
Crossclaim vs. (List on back) (CRSS) Assess Court Costs
Dismiss (DISM) Assess Court Costs
Exempt/Waive Mediation (EXMD) Assess Motion Fee
Extend Statute of Limitations, Rule 9 (ESOL) Assess Motion Fee
Extend Time For Complaint (EXCO) Assess Motion Fee

(check all that apply)

- Failure to Join Necessary Party (FJNP) Assess Motions Fee
Failure to State a Claim (FASC) Assess Motions Fee
Improper Venue/Division (IMVN) Assess Motions Fee
Intervene (INTR) Assess Motions Fee
Interplead (OTHR) Assess Motions Fee
Lack of Jurisdiction (Person (LJPN) Assess Motions Fee
Lack of Jurisdiction (Subject Matter) (LJSM) Assess Motions Fee
Rule 12 Motion in Lieu Of Answer (MDLA) Assess Motions Fee
Sanctions (SANC) Assess Motions Fee
Set Aside (OTHR) Assess Motions Fee
Show Cause (SHOW) Assess Motions Fee
Transfer (TRFR) Assess Motions Fee
Third Party Complaint (List Third Party Defendants on Back (TPCL)
Vacate/Modify Judgment (VCMD) Assess Motions Fee
Withdraw as Counsel (WDCN) Assess Motions Fee
Other (specify and list each separately)

NOTE: See Side Two for a list of motions not subject to the motions fee.

CLAIM FOR RELIEF

- Administrative Appeal (ADMA)
Appointment of Receiver (APRC)
Attachment/Garnishment (ATTC)
Claim and Delivery (CLMD)
Collection on Account (ACCT)
Condemnation (CNDM)
Contract (CNTR)
Discovery Scheduling Order (DSCH)
Injunction (INJU)
Medical Malpractice (MDML)
Minor Settlement (MSTL)
Money Owed (MNYO)
Negligence - Motor Vehicle (MVNG)
Negligence - Other (NEGO)
Motor Vehicle Lien G.S. 44A (MVLN)
Limited Driving Privilege - Out-of-State Convictions (PLDP)
Possession of Personal Property (POPP)
Product Liability (PROD)
Real Property (RLPR)
Specific Performance (SPPR)
Other (specify and list separately)
Retaliation for Exercise of First Amendment

Date
June 30, 2014

Signature of Attorney/Party

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a General Civil (AOC-CV-751), Motions (AOC-CV-752) or Court Action (AOC-CV-753) cover sheet.