

1 Aaron T. Martin (AZ 028358)
2 Catie B. Kelley (AZ 037066)
3 Martin Law & Mediation PLLC
4 11811 N. Tatum Blvd., Suite 3031
5 Phoenix, AZ 85028
6 (602) 812-2680
7 aaron@martinlawandmediation.com
8 catie@martinlawandmediation.com

9 Ángel J. Valencia (*Pro hac vice* forthcoming)
10 District of Columbia Bar No. 1552471
11 Liberty Justice Center
12 7500 Rialto Blvd. Suite 1-250
13 Austin, Texas 78735
14 (512) 481-4400
15 avalencia@libertyjusticecenter.org

16 *Attorneys for Plaintiff*

17 UNITED STATES DISTRICT COURT
18 DISTRICT OF ARIZONA

19 Dr. Matthew Abraham, an individual,
20 Plaintiff,

21 v.

22 Arizona Board Of Regents, for and on
23 behalf of the University of Arizona,
24 Defendant.

25 **Complaint**

26 Plaintiff Dr. Matthew Abraham through the undersigned counsel, hereby files this
27 Complaint for compensatory damages, declaratory and injunctive relief against
28 Defendant Arizona Board of Regents (“ABOR”), for and on behalf of the University of
Arizona (“UA”).

INTRODUCTION

1. This is an action for unlawful retaliation and race discrimination in violation
of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*



1 **ADMINISTRATIVE EXHAUSTION**

2 9. Abraham timely filed a Charge of Discrimination with the EEOC (No. 540-
3 2022-02125) alleging race discrimination and retaliation for engaging in protected activity.

4 10. The EEOC issued a Determination and Notice of Rights with a right-to-sue-
5 letter dated September 2, 2025. This suit is filed within 90 days of Abraham’s receipt of
6 that letter.

7 11. Abraham’s Title VII claims are within the scope of the EEOC charge and
8 related allegations, including retaliation arising from the same nucleus of facts.

9 **FACTUAL ALLEGATIONS**

10 **Abraham’s Background**

11 12. Abraham is a tenured faculty member at UA and, at all relevant times, was
12 qualified and willing to serve on CAFT and APR.

13 13. UA hired Abraham as a tenured professor in 2013, and Abraham achieved
14 the rank of full professor in 2016.

15 14. Throughout his employment at UA, Abraham has performed his duties
16 competently and successfully, contributing to UA’s scholarship and governance. He has
17 consistently been eligible for professional advancement and leadership opportunities
18 within UA’s governance structure, including service on CAFT and APR.

19 **Protected Activity**

20 15. Beginning in 2017 and continuing through 2022, Abraham made good-faith
21 complaints to UA officials concerning discriminatory hiring and selection practices that,
22 in his view, unlawfully favored candidates based on race and other protected characteristics
23 under Title VII. His complaints included formal internal grievances, public records
24 requests, and written communications to UA leadership opposing such practices.

25 16. Between November 2018 and September 2020, Abraham submitted multiple
26 public records requests under Arizona’s Public Records Law, A.R.S. § 39-121 *et seq.* to
27 obtain documents concerning faculty hiring, leadership appointments, and committee
28 proceedings.



1 17. On September 15, 2020, Abraham, through counsel, served a formal demand
2 letter on UA and ABOR documenting instances of race-based discrimination and practices
3 favoring DEI criteria in ways that adversely affected him in hiring and selection decisions.
4 The letter expressed Abraham's opposition to perceived race-based decision-making and
5 alerted ABOR and UA to Abraham's protected opposition to what he reasonably believed
6 were unlawful practices. *See* Exhibit 1.

7 18. In September 2021, Abraham filed a special action in Pima County Superior
8 Court against ABOR (No. C20214306) to compel compliance with the public records laws
9 regarding hiring and selection records. The trial court eventually denied relief, and the
10 Arizona Court of Appeals, Division Two, affirmed on January 6, 2025, in *Matthew*
11 *Abraham, PhD v. Arizona Board of Regents*, No. 2 CA-CV 2024-0073.

12 19. Thereafter, Abraham continued to be outspoken about his opposition to the
13 use of DEI-preferential criteria and race-based decision-making in hiring, evaluation, and
14 committee selection processes.

15 20. Abraham filed a Charge of Discrimination with the EEOC on August 4,
16 2021, charging UA with race discrimination due to being denied leadership positions in
17 the Department of English on racial grounds, and in favor of lesser qualified persons of
18 different racial classifications than Abraham's. On August 12, 2021, the EEOC notified
19 UA of Abraham's Title VII charge (No. 540-2021-03104), and later treated the charge as
20 unperfected.

21 21. Abraham filed a subsequent Title VII Charge of Discrimination with the
22 EEOC on March 1, 2022 (No. 540-2022-02125), alleging retaliation and racial
23 discrimination by UA officials for engaging in protected activities. Specifically, Abraham
24 alleged that he was retaliated against when he was excluded from serving on CAFT and
25 APR because he engaged in protected activity. *See* Exhibit 2. The EEOC issued a
26 Determination and Notice of Rights on September 2, 2025. *See* Exhibit 3.



1 22. Abraham’s efforts—internal complaints, counsel’s demand letter, public
2 records litigation, and EEOC charges—constitute protected opposition and participation
3 activity under Title VII and the First Amendment.

4 **Governance Structure and Applicable Policies**

5 23. ABOR Policy 6-201 and UA’s faculty governance instruments—including
6 the University Handbook for Appointed Personnel (“UHAP”), the English Department
7 Constitution (Fall 2021), Faculty Constitution and Bylaws (July 2020), and the Nominating
8 Committee processes—govern faculty service on CAFT and APR.

9 24. As applied, these governance policies and processes gave UA discretion to
10 consider eligibility criteria when proposing nominees. UA officials leveraged and
11 manipulated these provisions to exclude Abraham from leadership opportunities on
12 pretextual grounds.

13 **Adverse Employment Actions: Exclusion from CAFT**

14 25. CAFT is a high-profile faculty governance body at UA charged with hearing
15 and evaluating disputes implicating academic freedom, tenure, and related faculty rights.
16 CAFT handles high stakes employment decisions, including faculty dismissals and tenure
17 decisions. Service on CAFT is widely regarded as a prestigious and influential assignment
18 that materially enhances a faculty member’s standing, visibility, and prospects for future
19 leadership roles within UA.

20 26. After UA became aware of Abraham’s protected activities and complaints on
21 or around October 5, 2021, UA officials excluded him from consideration for CAFT,
22 constituting overt and materially adverse actions under Title VII.

23 27. Shortly after, and in the midst of, Abraham’s protected activities and
24 complaints, UA officials involved in the faculty nominating and selection process adopted
25 and implemented practices designed to label and exclude “problematic” faculty members
26 from CAFT—those who had previously filed grievances, challenged administrative
27 practices, or otherwise engaged in protected conduct—from eligibility or consideration for
28 grievance-related committees.



1 28. On October 5, 2021, Nominating Committee member Dr. Katharine Zeiders
2 (“Zeiders”) reported that Jane Cherry (“Cherry”), Senior Program Coordinator at UA’s
3 Faculty Center, identified certain faculty as ineligible based on being “impartial faculty”
4 with “hidden agendas,” described such faculty as “problems for the university,” and stated
5 they were “not easy to work with”—criteria unrelated to any published eligibility rule and
6 consistent with excluding faculty who had filed grievances or challenged UA practices.

7 29. On October 5, 2021, Zeiders documented that Cherry had marked Abraham
8 and others as “ineligible” for CAFT, not due to bylaws or rank, but due to Cherry’s personal
9 experience, rumors that they were “problematic,” and a concern that Abraham “may have a
10 CAFT case”—referencing protected grievance activity as a basis to disqualify.

11 30. On January 24, 2022, Cherry wrote to members of the Nominating Committee
12 that Faculty Center staff “have always guided the [Nominating Committee] with the
13 selection process based on confidential information that the office has been privy to,” and
14 that “not all faculty are deemed appropriate,” citing “facts about certain candidates’ past
15 dealings with committees, the Office of General Counsel, and Faculty Senate.”

16 31. In a presentation to the Nominating Committee, Cherry indicated the faculty
17 members she deemed “problematic”—including Abraham—by highlighting their names in
18 red.

19 32. UA applied extra-statutory, subjective filters—such as whether a candidate
20 had filed grievances, challenged administrative decisions, or been involved with the Office
21 of General Counsel—to pre-screen, target, and disqualify candidates for CAFT.

22 33. UA’s bylaws and eligibility criteria for CAFT and other grievance
23 committees do not prohibit service by faculty members who have filed grievances or
24 participated in protected activity. Nevertheless, UA used protected grievance-related
25 activity as a *de facto* disqualifier for committee consideration.

26 34. In 2022, when Abraham was proposed for CAFT consideration, UA officials
27 declared him ineligible for supposedly having a “conflict of interest” due to his pending
28 grievances, in the exercise of protected activities.



1 35. UA asserted before the EEOC, among other things, that Abraham’s “pending
2 grievance” created a “conflict of interest” rendering him ineligible for CAFT. *See* Exhibit
3 4.

4 36. UA’s internal communications reveal that CAFT disqualifications were
5 driven by disfavor of so-called “problematic” faculty members and those with “past
6 dealings” with the Office of General Counsel or committees.

7 37. UA’s use of a “pending grievance/conflict of interest” basis to exclude
8 Abraham was not grounded in any neutral, consistently applied rule. It was selectively
9 invoked in response to protected activity, including Abraham’s internal discrimination
10 complaints regarding his opposition to DEI-based selection practices.

11 38. In addition to the pretextual “conflict of interest” justification, UA later
12 proffered an ostensibly neutral rule excluding “degree-seeking” faculty members from
13 service or leadership positions on CAFT.

14 39. Abraham was also pursuing a Juris Doctor degree at the University of
15 Arizona’s James E. Rogers College of Law at the time of his exclusion from CAFT.

16 40. UA’s invocation of a degree-seeking restriction is pretextual and inconsistent
17 with prior practice, as numerous faculty members who were enrolled in degree programs
18 were permitted to serve in comparable or identical committees during the same period.

19 41. UA selectively and discriminatorily applied the degree-seeking exclusion to
20 Abraham after he engaged in protected activities, such as filing internal grievances,
21 sending a demand letter through counsel, and initiating a public records lawsuit.

22 42. At no point prior to Abraham’s protected activity did UA treat his scholarly
23 degree enrollment as disqualifying for leadership or service.

24 43. UA’s pre-screening, red-flagging, and disqualification of Abraham tainted
25 UA’s Nominating Committee process and constituted adverse employment actions that
26 would dissuade a reasonable employee from engaging in protected activity.



1 44. UA’s explanations—citing alleged conflicts of interests arising from
2 Abraham’s protected activity and ineligibility for pursuing a law degree—are designed to
3 mask retaliation for his protected speech and activity.

4 45. The exclusion from CAFT materially impacted Abraham’s university service
5 opportunities, visibility, influence in faculty governance, and leadership opportunities.

6 46. In response to Abraham’s protected activities, the Faculty Senate Chair
7 requested that the Committee of Eleven, a standing faculty governance body, conduct an
8 independent investigation into the CAFT selection process.

9 47. In January 2023, the Committee of Eleven issued a written report finding a
10 series of irregularities that unchecked will continue to allow, inappropriate interventions
11 from a number of sources against an eligible faculty member’s right to participate fully in
12 elections to CAFT. The report concluded that non-elected staff had improperly influenced
13 which faculty were treated as eligible for CAFT, and that these interventions were not
14 grounded in any published criteria.

15 48. The Committee of Eleven’s report determined that the practice of using
16 undisclosed criteria, including labeling certain faculty members as “problematic” or as
17 having “hidden agendas,” to screen them out of CAFT consideration was inappropriate and
18 inconsistent with Faculty Bylaws. The report further found that there is no provision in the
19 applicable governing documents rendering a faculty member categorically ineligible to
20 serve on CAFT by virtue of having filed a grievance or having matters pending before
21 faculty committees.

22 49. In light of the Committee of Eleven’s findings, the CAFT selection process
23 was reformed whereby Abraham was allowed to run for a position on CAFT. Abraham
24 began serving a three-year term on CAFT on July 1, 2024, after being elected.

25 50. In August 2025, however, UA removed Abraham from CAFT. UA’s
26 purported and pretextual reason for the removal was that Abraham had been recommended
27 for dismissal from employment by his Dean and the Provost on August 20, 2025, mainly
28 because Abraham held concurrent employment at the Arizona Attorney General’s Office.



1 51. The true reason for Abraham’s removal from CAFT in August 2025 was his
2 history of protected activity, including EEOC charges, internal grievances about
3 discriminatory and retaliatory practices in faculty hiring and committee selection, and his
4 public records litigation.

5 52. The sequence of events—Abraham’s repeated protected activity, the
6 Committee of Eleven’s findings, his subsequent election to CAFT when the selection
7 process was corrected, and then his sudden ouster from CAFT in August 2025 on a thin
8 concurrent employment rationale—demonstrates that UA’s purported justification was
9 pretextual and that Abraham was again targeted and excluded from CAFT in retaliation for
10 his opposition to UA’s DEI/race-based hiring and selection policies.

11 **Adverse Employment Actions: Exclusion from APR**

12 53. APR is an English Department faculty governance body at UA that reviews
13 annual faculty performance and provides rankings for faculty members in the areas of
14 teaching, research, and service. Service on APR is an important professional opportunity
15 that enhances a faculty member’s standing, visibility, and prospects for future leadership
16 roles.

17 54. From 2015 through 2018, Abraham successfully served on APR. During his
18 APR service, Abraham performed his duties competently and without any findings of bias,
19 misconduct, or conflict of interest. His prior appointment confirms that he met all stated
20 eligibility requirements and that UA considered him a suitable APR member.

21 55. After Abraham began raising formal concerns about race and DEI-based
22 practices, UA faculty declined to return Abraham to APR, effectively excluding him from
23 further service.

24 56. In March 2022, the English department chair nominated Abraham to serve
25 on APR. In what was expected to be a pro-forma vote ratifying the chair’s nomination, the
26 department council instead voted against Abraham 7-4. At the time of the election, the
27 APR was understaffed, and the department had a difficult time filling positions.

28



1 57. At the time UA declined to elect Abraham to APR service, UA
2 decisionmakers were aware that Abraham had filed internal grievances, served the
3 September 15, 2020 demand letter through counsel alleging race discrimination, filed and
4 pursued a public records special action against ABOR in September 2021, and initiated
5 EEOC litigation.

6 58. Like his exclusion from CAFT, Abraham’s exclusion from APR was based
7 on his past protected activities which were known to the department council voters at the
8 time.

9 59. Faculty members who had not filed grievances or publicly challenged UA’s
10 DEI practices were not prevented from serving on APR.

11 60. Any purported neutral rationale for declining Abraham’s election to APR
12 service—such as alleged “degree-seeking” ineligibility or generalized neutrality
13 concerns—was not contained in a consistently enforced policy and had not been applied to
14 bar his initial APR appointment or his prior APR service. Those rationales emerged only
15 after Abraham engaged in protected activity.

16 61. Termination of APR service caused Abraham concrete professional harm,
17 including loss of an ongoing leadership and service role, reduced influence over
18 performance evaluations for Abraham’s peers, and loss of service/leadership credit
19 important for evaluation and professional advancement.

20 **Knowledge and Timing**

21 62. The exclusion from CAFT and APR occurred after UA had actual knowledge
22 of Abraham’s protected activities. Namely, Abraham’s public records requests, internal
23 grievances, demand letter, and special action lawsuit.

24 63. As a direct and proximate result of UA’s unlawful retaliation and race-based
25 discrimination, Abraham suffered lost professional opportunities, reputational injury, and
26 emotional distress, and he will continue to suffer such harms absent relief.

27 64. Venue and jurisdiction are proper because the events giving rise to these
28 claims occurred in this District, and UA is located and does business here.



CAUSES OF ACTION

COUNT I

**Retaliation in Violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §
2000e-3(a)**

65. Abraham realleges and incorporates by reference paragraphs above as though fully set forth herein.

66. Title VII prohibits an employer from retaliating against an employee because the employee has opposed any practice made unlawful by Title VII or has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under Title VII.

67. Abraham engaged in protected activity under Title VII, including:

a. Opposing what he reasonably and in good faith believed to be racially discriminatory hiring and selection practices tied to DEI criteria, through internal grievances and communications to UA officials;

b. Filing a public records special action against ABOR, resulting in a January 6, 2025, appellate affirmance by the Arizona Court of Appeals, Division Two (2 CA-CV 2024-0073), to obtain records concerning the challenged hiring processes;

c. Serving a demand letter on September 15, 2020, through counsel, challenging race/DEI discriminatory practices and pressing public records requests concerning hiring;

d. Filing a Charge of Discrimination against UA on August 4, 2021, with the EEOC alleging race discrimination, for being denied leadership positions in the Department of English on racial grounds in favor of lesser qualified persons of different racial backgrounds than Abraham's; and

e. Filing a Charge of Discrimination with the EEOC alleging race discrimination and retaliation by UA for engaging in protected activity, which resulted in a Determination and Notice of Rights on September 2, 2025.



1 68. UA took materially adverse actions against Abraham, in violation of his
2 constitutional rights, that would dissuade a reasonable employee from making or
3 supporting a charge of discrimination, including but not limited to:

4 a. Pre-screening, red-flagging, and declaring Abraham “ineligible” for CAFT
5 under a purported and pretextual “conflict of interest” based on his protected activity;

6 b. Excluding Abraham from consideration for service on CAFT and APR;

7 c. Tainting the nominating and selection process through staff-driven
8 gatekeeping and disqualifications based on Abraham’s protected activity and perceived
9 opposition to UA’s practices; and

10 d. Removing Abraham from CAFT in August 2025, invoking a purported
11 concurrent employment issue as a pretext, when in reality the decision was motivated by
12 his protected activity.

13 69. UA knew of Abraham’s protected activity when it took these adverse actions.

14 70. Abraham’s protected activity was a but-for cause of the adverse actions.

15 71. By the acts and omissions described above, UA retaliated against Abraham
16 in violation of Title VII.

17 72. As a direct and proximate result, Abraham suffered and continues to suffer
18 lost professional opportunities, reputational harm within faculty governance, emotional
19 distress, and other compensable damages.

20 73. Abraham seeks all remedies available under Title VII, including injunctive
21 and declaratory relief, compensatory damages, attorneys’ fees and costs, and such other
22 and further relief as the Court deems just and proper.

23 **COUNT II**

24 **Race Discrimination in Violation of Title VII, 42 U.S.C. § 2000e-2(a)**

25 74. Abraham realleges and incorporates by reference paragraphs above though
26 fully set forth herein.

27 75. Title VII prohibits an employer from discriminating against an employee
28 with respect to terms, conditions, or privileges of employment because of the employee’s



1 race, and from using race as a motivating factor in employment decisions, even if other
2 factors also motivated the practice.

3 76. Abraham, an Indian-American natural-born United States citizen, is a
4 member of a protected class and has standing to challenge UA’s race-based policies and
5 practices.

6 77. Abraham was qualified and eligible for consideration to serve on UA
7 committees, including CAFT and APR.

8 78. UA, through its nominating and selection processes, considered race and
9 race-related DEI criteria in a manner that unlawfully affected the availability of governance
10 opportunities and committee placements. The process implemented non-bylaw
11 demographic balancing and extra-statutory criteria, disfavoring individuals, including
12 Abraham, who challenged those practices.

13 79. Abraham suffered adverse treatment with respect to the terms, conditions,
14 and privileges of employment—including participation in faculty governance, committee
15 service, and attendant professional recognition and influence—because of race and/or
16 because he opposed race-based practices. UA’s exclusion of Abraham under a pretextual
17 “conflict of interest” rationale was part and parcel of a selection regime that used racial
18 criteria and retaliated against those who opposed such use.

19 80. Similarly situated faculty members outside Abraham’s protected class, and
20 those whose candidacies aligned with the UA’s race-based and DEI selection preferences,
21 were treated more favorably in the nominating and selection process, including being
22 advanced or not disqualified based on grievance activity.

23 81. UA’s proffered reasons for excluding or disadvantaging Abraham—such as
24 a “conflict of interest” due to a pending grievance, being a “degree-seeking” faculty
25 member, or holding concurrent employment— are pretextual. Contemporaneous
26 communications show pervasive reliance on subjective and extra-bylaw factors, including
27 demographic balancing and disqualifying “problematic” faculty members, which correlate
28 with UA’s race-based selection objectives.



1 82. By the acts and omissions described above, UA discriminated against
2 Abraham with respect to the terms, conditions, and privileges of employment because of
3 race, in violation of Title VII.

4 83. As a direct and proximate result, Abraham suffered and continues to suffer
5 damages, including lost professional opportunities, reputational harm, emotional distress,
6 and other compensable injuries.

7 Abraham seeks all remedies available under Title VII, including injunctive and
8 declaratory relief, compensatory damages, attorneys' fees and costs, and such other and
9 further relief as the Court deems just and proper.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff respectfully requests that this Court enter judgment on their
12 behalf as follows:

13 A. Entering a declaratory judgment declaring UA violated Title VII's anti-
14 retaliation provisions by retaliating against Abraham for engaging in protected activity;

15 B. Entering a declaratory judgment declaring UA violated Title VII's anti-
16 discrimination provisions by discriminating against Abraham on the basis of race in their
17 hiring and selection practices;

18 C. Enjoining UA from using, referencing, or relying on Abraham's protected
19 activity (including internal grievances, public records requests or litigation, and EEOC
20 charges) as a basis to deem him conflicted, ineligible, or otherwise disfavored for any
21 position, committee, or leadership opportunity;

22 D. Requiring UA to implement neutral, non-retaliatory, and non-discriminatory
23 criteria for selection to CAFT, APR, and other leadership roles, and to publish those criteria
24 in applicable governance documents;

25 E. Requiring UA to provide training to officials and nominating bodies
26 regarding Title VII retaliation and to revise policies/processes that treat protected activities
27 as conflicts of interest;

28



1 F. Ordering UA to expunge any records labeling Abraham as conflicted,
2 “problematic” or ineligible due to his grievances, public records litigation or EEOC
3 activity, and to notify decisionmakers and nominating bodies of the expungement;

4 G. Ordering UA to consider Abraham for CAFT, APR, and comparable
5 leadership/service positions under lawful, neutral criteria without regard to his protected
6 activities, and to conduct such processes under Court supervision for a defined period;

7 H. Enjoining UA from using race/DEI-preferential criteria in a manner that
8 violated Title VII, as applied to Abraham, and require lawful safeguards.

9 I. Awarding Abraham compensatory damages for emotional distress,
10 reputational harm, loss of professional standing, and other non-pecuniary injuries caused
11 by UA’s unlawful conduct, plus applicable interest;

12 J. Awarding Abraham his costs and reasonable attorneys’ fees pursuant to the
13 Enforcement Provisions of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(k);

14 K. Awarding any such other additional relief as the Court may deem just and
15 proper.

16
17 DATED this 25th day of November, 2025.

18
19 By /s/Aaron T. Martin

20 Aaron T. Martin
21 Catie B. Kelley
22 Martin Law & Mediation PLLC
23 11811 N. Tatum Blvd., Suite 3031
24 Phoenix, AZ 85028

25 Ángel J. Valencia (*Pro hac vice*
26 *forthcoming*)
27 Liberty Justice Center
28 7500 Rialto Blvd. Suite 1-250
Austin, Texas 78735

*Attorneys for Plaintiff Dr. Matthew
Abraham*



Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): Matthew Abraham , Dr;

Defendant(s): Arizona Board of Regents , ;

County of Residence: Pima

County of Residence: Maricopa

County Where Claim For Relief Arose: Pima

Plaintiff's Atty(s):

Defendant's Atty(s):

Aaron Martin ,
 Martin Law and Mediation
 11811 N. Tatum Blvd., Suite 3031
 Phoenix, AZ 85028
 6028122680

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,

IFP REQUESTED

REMOVAL FROM COUNTY, CASE #

II. Basis of Jurisdiction:

3. Federal Question (U.S. not a party)

III. Citizenship of Principal Parties(Diversity Cases Only)

N/A

Plaintiff:-

N/A

Defendant:-

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

550 Civil Rights

VI.Cause of Action:

42 U.S.C. § 2000e, 28 U.S.C. § 1331, 28 U.S.C. § 1391(b)

VII. Requested in Complaint

No

Class Action:

Dollar Demand:

No

Jury Demand:

VIII. This case is not related to another case.

Signature: Aaron T. Martin

Date: 11/25/25

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the **Back** button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.

EXHIBIT 1

Christopher R. Houk,
Houk Law Firm, PLLC
1050 East Southern Avenue, Suite A-3
Tempe, Arizona 85282
480.569.2377 – Phone
480.569.2379 – Fax
chouk@houklawfirm.com



Houk Law Firm

September 15, 2020

Arizona Board of Regents
Attn: Suzanne Templin, Secretary to the Board
2700 N. Central Ave, Suite 400
Phoenix, AZ 85004-4593

**RE: Notice of Claim Pursuant to A.R.S. § 12-821.01
Matthew Abraham, PhD, University of Arizona**

Dear Ms. Templin:

The University of Arizona regularly failed to advance Dr. Matthew Abraham into positions for which he was the most qualified because of his race and in retaliation for reporting discrimination. Further raising concerns, the U of A did not follow established hiring protocols in making many of these personnel decisions. We write to suggest mediation to attempt a swift, just result in this case without the need to resort to additional investigative or legal proceedings.

Background

A. Dr. Abraham Has Over 25 Years of Extraordinary Experience in Higher Education.

Dr. Abraham came to the U of A with over 25 years of exceptional experience in studying and teaching English. For example,

- In 1995, he graduated with Honors from the University of Arkansas in English and History.
- In 1998, he graduated with an MA in Writing and Rhetoric from the University of Arkansas at Little Rock.
- In 2003, he earned a PhD in English and Philosophy, with a specialization in Rhetoric and Composition, from Purdue University.
- Dr. Abraham taught at University of Tennessee and DePaul University as an Assistant Professor of English. He quickly rose at DePaul from Assistant Professor of English to

Assistant Professor of Writing, Rhetoric, and Discourse, then to Associate Professor of Writing, Rhetoric, and Discourse.

- He began as an Associate Professor of English at the U of A in 2013, becoming a full Professor in 2016.

A prolific scholar, Dr. Abraham has

- Authored two books;
- Edited or Co-edited three books;
- Published nine book chapters;
- Co-edited a Special Journal Issue;
- Written 15 journal articles; and
- Frequently served as a reviewer for tenure and promotion cases at other universities, in addition to evaluating the suitability of manuscripts for publication in leading journals in his field.

Additionally, during his career, Dr. Abraham has been a frequent public speaker on key issues in the context of the Israel-Palestine conflict. He's

- Participated in 49 conferences on the use of language and writing, including composition, rhetoric, persuasive theory, persuasive speaking, critical theory, political discourse, and civil and race theory; and
- Conducted 18 interviews and academic talks.

Further, Dr. Abraham has served in a myriad of leadership roles in academia. For example, he served

- On the U of A English Department Council, Abraham served multiple terms as the Rhetoric, Composition, and the Teaching of English (RCTE) Program Representative;
- On the Institutional Animal Review Board as a non-scientist representative, the Undergraduate Curriculum Committee for three years, the Faculty Senate for four years, the Committee on Academic Freedom, and Tenure for three years, and U of A's Grievance Clearinghouse for one year; and
- On multiple committees and councils at other universities.

B. The U of A Failed to Advance Dr. Abraham Into Leadership Positions Based on Race When It Hired Less-Qualified Whites and Hispanics.

Dr. Abraham came to the U of A from DePaul University in 2013, where he had held several leadership positions and played an instrumental role in building an independent writing department from 2006-2013. As he settled into his professorship at the U of A, Dr. Abraham wished to progress within and build a long-lasting career for himself there. Dr. Abraham has pursued several leadership positions at the U

of A, but has repeatedly been passed over for other candidates who are white or Hispanic, many of whom have been less credentialed. For example,

- In December 2013, Dr. Abraham, as a tenured faculty member of the English Department faculty, indicated to then-Director Ken McAllister and other RCTE faculty, that he would be interested and willing to become Director of the U of A's RCTE Program—the same program for which he served as a Representative on the English Department Council. Director McAllister asked Dr. Abraham about how he felt about Professor Adela Licon—a Hispanic woman—moving into the position without following the formal process as outlined in the English Department's bylaws and constitution. At that time, Dr. Abraham, because he was relatively new to the U of A, did not want to cause conflict within RCTE and the Department, so he did not press the issue further—even though what McAllister did contravene the English Department's constitution.
- In 2015, Department Chair, Dr. Leerom Medovoi, offered Dr. Abraham a two-year term as RCTE Director, if Dr. Abraham agreed to serve as Interim Director in the Fall of 2015, so Dr. Damian Baca—a Hispanic man and the current Director—could take a long-awaited research leave. Had Dr. Baca not taken the leave that semester, he would have lost the leave. Dr. Medovoi promised Dr. Abraham that once Dr. Baca returned from leave, Dr. Baca would resume as Director for three semesters giving time for Dr. Abraham to become a full professor. Thus, the proposal benefitted both Dr. Baca Medovoi. Dr. Abraham accepted Dr. Medovoi's proposal, taking the Interim Director position in exchange for the Directorship at the end of Dr. Baca's term of three semesters with the expectation of becoming the permanent Director in the Fall of 2018. In Spring 2016, Dr. Abraham applied for and received a promotion to full Professor. Yet, in Spring 2017, Dr. Medovoi re-appointed Dr. Baca as the Director of RCTE—instead of moving Dr. Abraham into place—in violation of departmental bylaws and constitution because Dr. Medovoi did not consult all the instructional faculty as required by the Department's constitution, despite claiming he had done so. There had been multiple complaints about Dr. Baca's performance as RCTE Director throughout his two-year term. Even Professor Tom Miller, who was Associate Vice Provost of Academic Affairs at the time and an RCTE faculty member, wrote to Dr. Medovoi in this time period stating that he could not support Baca for another term as RCTE Director.
- In October 2017, the outgoing parliamentarian, Professor Jerry Hogle, recommended to Dr. Medovoi that Dr. Abraham become the next departmental Parliamentarian because of Abraham's excellent knowledge of University procedures and processes. Dr. Medovoi rejected Professor Hogle's nomination of Dr. Abraham.
- In Spring 2018, Dr. Medovoi, again without consulting anyone, created a temporary new position called Interim Co Program Director and moved Professor Susan Miller-Cochran—a white woman—into the position with Dr. Baca. This was done because Dr. Baca was not performing well in the Director position. Then at the end of the Spring 2018 semester, Dr.

Medovoi appointed Dr. Cristina Ramirez—a Hispanic woman—as the RCTE Director, despite knowing that Dr. Abraham was interested in and possessed more experience for the position. Dr. Ramirez had significantly less experience than Dr. Abraham, having only gained tenure in Spring 2017 (while Dr. Abraham had earned tenure in 2009 at DePaul University and was promoted to full Professor at the U of A in 2016).

- In April 2020,
 - English Department Head, Dr. Aurelie Sheehan selected Dr. Ramirez again as RCTE Director for another two years over Dr. Abraham. (Dr. Sheehan was going to simply select Dr. Ramirez for these two years without going through any process. She previously indicated to Dr. Abraham that Dr. Ramirez was interested in serving an additional term, believing that was enough for her to reappoint Dr. Ramirez for another two-year term. When Dr. Abraham pointed out that the bylaws were clear that the instructional faculty had to be consulted, Dr. Sheehan reversed herself and agreed with Dr. Abraham, asking that Dr. Abraham and Dr. Ramirez both submit vision statements to her to circulate to RCTE faculty and conducting a survey among the RCTE faculty.)
 - Rather than select Dr. Abraham for the position for the Director of Undergraduate Studies, Dr. Sheehan extended the term of the current Director, Professor Paul Huhr—a white male—without following any process. (Back in 2017, though Dr. Abraham expressed interest in the position, Dr. Medovoi unilaterally hired Professor Huhr into the position without an open process. Indeed, also, in 2017, Dr. Medovoi rejected the recommendation of Professor Jerry Hogle—past Director of Undergraduate Studies—to select Dr. Abraham for the position of Parliamentarian (selecting Allison Deming, a white woman, then Jon Reinhardt, a white man instead of Dr. Abraham.).)
 - Finally, in June 2020, Dr. Abraham was rejected for the Writing Program Director position and Dr. Rochelle Rodrigo—a white woman—got the job instead. (Previously, in December 2019, Professor Sheehan and Dean J.P. Jones of the College of Social & Behavioral Sciences were going to appoint Dr. Rodrigo unilaterally as the Interim Writing Program Director. When concerns were raised, the search was opened up, and two additional applicants competed against Dr. Rodrigo, but Dr. Rodrigo was selected anyways over Dr. Abraham.) Dr. Rodrigo had significantly less experience than Dr. Abraham in terms of time as a tenured academic, and service on University and Departmental Committees. For example,
 - Dr. Rodrigo received her PhD in English in 2009, six years after Dr. Abraham.
 - She has never held tenure, her highest title being Assistant Professor and Associate Writing Studies Specialist, while Dr. Abraham has been full Professor since 2016.

- Dr. Rodrigo taught at the U of A since 2015, first as Visiting Assistant Professor and then Assistant Professor. In contrast, Dr. Abraham started at the U of A two years earlier, in 2013, as a tenured Associate Professor and quickly became a full Professor in 2016.

Thus, the University denied Dr. Abraham's bids for advancement over and over again, without following standard hiring practices, and selecting individuals over him who were far less qualified.

C. The U of A Repeatedly Retaliated Against Dr. Abraham for His Complaints About Discriminatory Practices in the English Department.

Since at least February 2017, Dr. Abraham has repeatedly complained of discriminatory practices within the English Department. Dr. Abraham became concerned that the RCTE was denying admission into its graduate program in ways that could screen out applicants based on race, gender, or sexual orientation. Dr. Abraham requested that Dr. Medovoi provide the personal statements and writing samples of all applicants denied admission, but Dr. Medovoi did so for only one such applicant.

Rather than welcoming the inquiry, in February 2017, Dr. Medovoi retaliated, instructing Dr. Abraham to "stop emailing your colleagues about it", threatening him that "Your cooperation with my request is critical to avoiding further risk to the survival of your graduate program."¹

In October 2017, Dr. Abraham raised his concerns of discrimination in the denial of applications for admission to the RCTE to J.P. Jones, the Dean of the College of Social & Behavioral Studies. Abraham requested that the College of Social and Behavioral Sciences conduct an investigation into the issues and concerns that Abraham raised about the Rhetoric, Composition, and the Teaching of English Program's admissions practices, which Abraham argued were out of compliance with Proposition 107, an amendment to the Arizona State Constitution. Proposition 107 prohibits hiring employees or admitting students to the University of Arizona based primarily on their race or gender. Abraham argued that RCTE graduate admissions process did not comply with the Proposition 107.

Instead of investigating himself, Dean J.P. Jones referred the matter to Associate Dean Monica Casper, the Academic Dean for the College of Social and Behavioral Sciences. Rather than take Abraham's concerns seriously, in a meeting in February 2018, Dr. Casper threatened that Abraham would "soon hear" from Human Resources about his "harassing emails" to colleagues. Abraham never heard anything.

Casper responded to Dr. Abraham's memo in February 2018 (four months after Abraham sent the memo to the SBS Leadership), sidestepping the issues Abraham raised.² Instead, Casper tried to frame Dr. Abraham as the problem within RCTE, citing a memo that she had received from the Office of General

¹ See Exh. 1, Email from Dr. Leerom Medovoi to Dr. Matthew Abraham (Feb. 21, 2017).

² See Exh. 2, Email from Dr. Monica Casper, Associate Dean for Faculty Affairs and Inclusion to Dr. Matthew Abraham (Feb. 27, 2018).

Counsel advising her as to how Proposition 107 should be applied to the issue Abraham raised about RCTE's graduate admissions policies.

Others also urged changes in the Department of English hiring policies because of concerns that diversity in hiring would not occur without them. In November 2019, the Equity & Inclusion Committee for the Department of English wrote to Dean Jones that to continue with the existing process for filling the Director of the Writing Program “denies equal opportunity to untold numbers of talented potential applicants.”³ In particular, the Committee urged a “transparent process in hiring for the position of Director of the Writing Program”, the same position that Dr. Abraham had applied for.⁴

Analysis

1. The U of A Discriminated Against Dr. Abraham Based on Race in Violation of Title VII, and Title VI, and Retaliated Against Dr. Abraham in Violation of These Statutes and the First Amendment.

It is unlawful for an employer to “discriminate against any individual with respect to [her] compensation, terms, conditions, or privileges of employment, because of such individual’s race, sex, or national origin...”⁵ An employee suffers disparate treatment when she “is singled out and treated less favorably than others similarly situated on account of” her protected class.⁶ A plaintiff must offer proof that:

1. The plaintiff belongs to a protected class;
2. The plaintiff performed his job satisfactorily;
3. The plaintiff suffered an adverse employment action; and
4. The employer treated plaintiff differently than a similarly situated employee not in the same protected class.⁷

In addition, Title VII prohibits retaliation for complaints about race and sex discrimination. To prove an employer retaliated against him, Plaintiff must prove a prima facie case, namely that he engaged in protected conduct and was subject to an adverse employment action because of the protected conduct.⁸ An

³ See Exh. 3, Letter from Stephanie Brown, to J.P Jones, Dean, College of Social & Behavioral Sciences (Nov. 25, 2019).

⁴ *Id.*

⁵ 42 U.S.C. § 2000e-2(a)(2); *Fonseca v. Sysco Food Servs. of Arizona, Inc.*, 374 F.3d 840, 850 (9th Cir. 2004) (“Analysis of an employment discrimination claim under § 1981 follows the same legal principles as those applicable in a Title VII disparate treatment case.”).

⁶ *Cornwell v. Electra Cent. Credit Union*, 439 F.3d 1018, 1028 (9th Cir. 2006).

⁷ *Id.* (citing *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973)).

⁸ *Yartsoff v. Thomas*, 809 F.2d 1371, 1375 (9th Cir. 1987) (“A plaintiff may establish a prima facie case of retaliation by showing that (1) he engaged or was engaging in activity protected under Title VII, (2) the employer subjected

employer cannot reasonably provoke an employee by continuing years of harassment and then fire him or fail to advance him because they didn't like his response.⁹ As the courts have recognized,

It would be ironic, if not absurd, to hold that one loses the protection of an antidiscrimination statute if one gets visibly (or audibly) upset about discriminatory conduct. Of course, there are limits. Actions accompanying an emotional outburst cannot be unchecked. But there is absolutely no evidence in this record that Hertz's exclamations from his office caused any injury to Employer's interests. Would that the rest of humanity could match the admirable (or perhaps not so admirable) self-restraint Employer recommends in accepting the unacceptable.¹⁰

Thus, responding passionately to unlawful discrimination does not excuse the employer's further harassment; it is simply unreasonable to expect an employee to be *tolerant* of a continuing discriminatory conduct.

“An action is cognizable as an adverse employment action if it is reasonably likely to deter employees from engaging in protected activity.”¹¹ “A fair reading of [*Burlington N. R.R. & Santa Fe Ry. Co. v. White*, 548 U.S. 53 (2006)] reveals that the case imposes no requirement that a threat be fulfilled.”¹² Such threats meet the lower burden for First Amendment retaliation cases, where the United States Supreme Court noted, “Moreover, the First Amendment ...already protects state employees not only from patronage dismissals but ‘even an act of retaliation as trivial as failing to hold a birthday party for a public employee . . . when intended to punish her for exercising her free speech rights.’”¹³

Further, Title VI of the Civil Rights Act protects University employees from discrimination based on race, color, or national origin and retaliation in employment in programs receiving Federal financial assistance.¹⁴

him to an adverse employment decision, and (3) there was a causal link between the protected activity and the employer's action.”).

⁹ *NLRB v. Mueller*, 501 F.2d 680, 686 (5th Cir. 1974) *citing* *NLRB v. M & B*, 349 F.2d 170, 174 (4th Cir. 1965) (“An employer cannot provoke an employee to the point where she commits such an indiscretion as is shown here and then rely on this to terminate her employment”); *Jalil v. Abdel*, 873 F.2d 701, 709 (3rd Cir. 1988) (reversing grant of summary judgment because alleged insubordination could be pretext for retaliation); *Sumner v. USPS*, 899 F.2d 203, 210 (2d Cir. 1990) (“Where the employer provokes a reaction from an employee, that reaction should not justify a decision to impose a disproportionately severe sanction.”) *citing* *Jalil*, 873 F.2d at 709; *Excel v. Bosley*, 165 F.3d 635, 639 (8th Cir. 1999) (“When an employee is fired because he acted to defend himself against harassment, which supervisors failed to take reasonable measures to prevent or correct, the termination process cannot be said to be free from discrimination.”).

¹⁰ *Hertz v. Luzenac Am., Inc.*, 370 F.3d 1014, 1022 (10th Cir. 2004).

¹¹ *Ray v. Henderson*, 217 F.3d 1234, 1243 (9th Cir. 2000).

¹² *D'Andrea v. Univ. of Hawaii*, 686 F. Supp.2d 1079, 1088 (D. Haw. 2010) (citations omitted), *aff'd sub nom. D'Andrea v. Hawaii*, 453 Fed. Appx. 749 (9th Cir. 2011).

¹³ *Rutan v. Republican Party of Illinois*, 497 U.S. 62, 76 n. 8 (1990) (citation omitted).

¹⁴ 42 U.S.C. § 2000d (discrimination); *See* 34 C.F.R. § 100.7(e) (retaliation).

A government employee speaks as a private citizen when he has “no official duty to make the questioned statement.”¹⁵ The “critical question” is “whether the speech at issue is itself ordinarily within the scope of an employee’s duties, not whether it merely concerns those duties.”¹⁶ The proper inquiry of the employee’s duty is practical and not restricted by written job descriptions.¹⁷ Further, “the fact that an employee is threatened or harassed by his superiors for engaging in a particular type of speech provides strong evidence that the act of speech was not, as a ‘practical’ matter, within the employee’s job duties.”¹⁸ Reporting racial discrimination is a matter of public concern.¹⁹ The speech does not lose its classification as a matter of public concern if made privately.²⁰ Generally, it is not a part of an employee’s job duty to report discrimination.²¹

Further, an employer’s failure to follow its established procedures is additional evidence of discrimination or retaliation.²²

Here, Dr. Abraham is of East Indian descent, and born in the United States. As described above, for six years, U of A regularly hired less qualified white or Hispanic colleagues over Dr. Abraham or candidates in violation of Department rules:

- In December 2013, Director McAllister moved Professor Adela Licon—a Hispanic woman—into the position Director of the U of A’s RCTE Program without following the formal process as outlined in the English Department’s bylaws and constitution.
- In Spring 2017, Department Chair, Dr. Medovoi, reneged on an offer to Dr. Abraham for a two-year term as RCTE Director in violation of the Department’s bylaws and constitution.
- In October 2017, Dr. Medovoi rejected Dr. Abraham’s bid for Parliamentarian, even though Professor Jerry Hogle recommended to Dr. Medovoi that Abraham become the next departmental Parliamentarian because of Abraham’s excellent knowledge of University procedures and processes.

¹⁵ *Anthoine v. North Central Counties Consortium*, 605 F.3d at 749 (9th Cir. 2010).

¹⁶ *Lane v. Franks*, 134 S. Ct. 2369, 2379 (2014); see also *Clairmont v. Sound Mental Health*, 632 F.3d 1091, 1106 (9th Cir. 2011) (holding that speech made outside of a job duty to make such speech was protected).

¹⁷ *Garcetti v. Ceballos*, 547 U.S. 410, 424 (2006); *Dahlia v. Rodriguez*, 735 F.3d 1060, 1070–71 (9th Cir. 2013).

¹⁸ *Id.* at 1075.

¹⁹ *Alpha Energy Savers, Inc. v. Hansen*, 381 F.3d 917, 925 (9th Cir. 2004).

²⁰ *Anthoine v. N. Cent. Clys. Consortium*, 605 F.3d 740, 749 (9th Cir. 2010) (citing *Givhan v. W. Line Consol. Sch. Dist.*, 439 U.S. 410, 415–16 (1979)); *Shepard v. City of Portland*, 829 F. Supp. 2d 940, 967 (D. Or. 2011).

²¹ *Freitag v. Ayers*, 468 F.3d 528, 545 (9th Cir. 2006); *Alaska v. EEOC*, 564 F.3d 1062, 1070 (9th Cir. 2009); *Shepard v. City of Portland*, 829 F. Supp. 2d 940, 967 (D. Or. 2011).

²² *Earl v. Nielsen Media Research, Inc.*, 658 F.3d 1108, 1117 (9th Cir. 2011) (“A plaintiff may also raise a triable issue of pretext through evidence that an employer’s deviation from established policy or practice worked to his disadvantage.”); *Wagoner v. Pfizer, Inc.*, 391 Fed.Appx. 701, 707 (10th Cir.2010) (“A plaintiff typically makes a showing of pretext with evidence that: (1) defendant's stated reason for the adverse employment action is false, (2) defendant acted contrary to a written policy, or (3) defendant acted contrary to an unwritten policy or practice.”).

- In Spring 2018, Dr. Medovoi, again without consulting anyone as required, created a temporary new position called Interim Co-Program Director and moved Professor Susan Miller-Cochran—a white woman—into the position with Dr. Baca, a move that Department Council called “unusual.”²³
- In December 2019, Professor Sheehan and Dean Jones were going to appoint Dr. Rodrigo unilaterally as the Interim Writing Program Director. When concerns were raised, the search was opened up, and two additional applicants competed against Dr. Rodrigo, including Dr. Abraham, but Dr. Rodrigo was selected anyways over Dr. Abraham and another candidate. After the public records release of information, it became clear that Abraham had more support from the tenured and tenure-track faculty than Rodrigo did.
- In June 2020, Dr. Abraham was rejected for the Writing Program Director position and instead Dr. Rochelle Rodrigo—a white woman with significantly less experience in academia —got the job.

Further, U of A’s decisions not to appoint Dr. Abraham to various positions for which he was clearly qualified came on the heels of his numerous complaints to various supervisors about discriminatory treatment and documented procedural missteps within the RCTE Program and the English Department. These supervisors included at least three different Directors of the Rhetoric and Composition Program, two different English Department Heads, the Associate Dean of the College of Social and Behavioral Sciences, the Dean of the Social and Behavioral Sciences, and two different Associate Vice Provosts for Faculty Affairs from 2015-2020. In addition, Dr. Abraham has filed four different grievances with U of A’s Grievance Clearinghouse, with only one two of these grievances (both against department chairs in English) being sent through the conciliation process.

Starting in February 2017, Dr. Abraham repeatedly complained about discriminatory practices starting about RCTE’s admission practices and retaliation followed. Specifically,

- In February 2017, Dr. Abraham voiced concern that RCTE was denying admission to its graduate program in ways that could screen out applicants based on race, gender, or sexual orientation.
 - Soon after Dr. Abraham started complaining, Dr. Medovoi re-appointed Dr. Baca as the Director of RCTE—instead of Dr. Abraham—in Spring 2017 in violation of the department’s bylaws and constitution.
- Dr. Abraham’s complaints culminated in his October 8, 2017 letter to J.P. Jones asking for an investigation into RCTE practices.²⁴
 - Days later, on October 14, 2017, Dr. Medovoi rejected Dr. Abraham’s bid for Parliamentarian, even though Professor Jerry Hogle, recommended to Dr. Medovoi

²³ See Exh. 2, *supra*, Email from Dr. Monica Casper.

²⁴ See Exh. 4, Confidential Memo from Dr. Matthew Abraham to J.P. Jones, Dean, College of Social & Behavioral Sciences (Oct. 8, 2017).

that Abraham become the next departmental parliamentarian because of Abraham's excellent knowledge of University procedures and processes.

In the context of his recent research leave in the Spring of 2020, Abraham stepped up to fight documented corruption of processes in the context of the permanent search for the U of A's Writing Program Director, culminating in his denial for the position.

Further, the retaliatory animus was overt. In February 2017, Dr. Medovoi instructed Dr. Abraham to "stop emailing your colleagues about" his complaints of discrimination, threatening him that "Your cooperation with my request is critical to avoiding further risk to the survival of your graduate program."²⁵ In a meeting in February 2018, Dean Casper threatened Abraham that he would "soon hear" from Human Resources about his "harassing emails" to colleagues. Given this intense reaction to Dr. Abraham's complaints, it is not surprising, then, that the U of A denied Dr. Abraham positions in 2017, 2018, 2019, and 2020.²⁶

2. The University Interfered with Dr. Abraham's Employment.

The University also improperly interfered with Dr. Abraham's employment.²⁷ As described above, at every turn University stopped Dr. Abraham from advancing into various position.

Damages

Because of the continuing harm that the University of Arizona has caused Dr. Abraham, we are hopeful that we can resolve this case promptly without resort to further proceedings. The available damages under Title VI, VII, First Amendment and interference claims are: back pay²⁸ front pay,²⁹ compensatory,³⁰ and attorneys' fees.

If this matter goes to trial, Dr. Abraham will pursue the full remedy provided under the law, which he currently and reasonably values at **\$500,000**. This total makes consists of:

²⁵ See Exh. 1, *supra*, Email from Dr. Leerom Medovoi; See also, Exh. 5, Statement from Dr. Leerom Medovi Re: Dr. Matthew Abraham's Emails (Mar. 2018), Dr. Matthew Abraham's Additions/Corrections to 3-30-18 Departmental Meeting Minutes Submitted by Matthew Abraham.

²⁶ See *Id.* (a reasonably jury could find causation where employer took the first opportunity to retaliate).

²⁷ *Wagenseller v. Scottsdale Memorial Hosp.*, 147 Ariz. 370, 386, 710 P.2d 1025, 1041 (1985).

²⁸ "Absent compelling circumstances, when an employer has refused to hire an employee in violation of that employee's rights under Title VII, the court should compute the backpay award from the date of the discriminatory act until the date of final judgment." *Thorne v. City of El Segundo*, 802 F.2d 1131, 1136 (9th Cir. 1986).

²⁹ 42 U.S.C § 1981(a)(1) (compensatory and punitive damages available under Title VII).

³⁰ "To receive front pay, a Title VII plaintiff must show that her employer's violations of Title VII caused her loss of employment." *Gotthardt v. Nat'l R.R. Passenger Corp.*, 191 F.3d 1148, 1155 (9th Cir. 1999). "Awards of front pay are appropriate when it is impossible to reinstate the plaintiff or when it would be inappropriate due to excessive hostility or antagonism between the parties." *Thorne*, 802 F.2d at 1137.

1. **\$50,000** in lost wages for estimated loss in compensation to the failure to promote him;
2. **\$300,000** in compensatory damages; and
3. **\$150,000** in attorneys' fees, through summary judgment; and
4. Fast-Track Dr. Abraham into a Leadership Role.

Dr. Abraham suffered compensatory damages, including the following: pain, suffering, inconvenience, diminished enjoyment of life, humiliation, outrage, discomfort, anxiety, sorrow, fear, depression, loss of sleep, nightmares, loss of the love, care, affection, companionship, and other pleasures of the marital relationship, change in demeanor, and harmed reputation at work.

Dr. Abraham enjoys his job and plans to continue moving into additional leadership roles. He is uniquely and highly qualified to be hired for a Director position at the U of A based on over 25 years of experience as a professor, accomplished author, and nationally recognized leader in his field.

If the University does not settle Dr. Abraham's claim within 60 days, the claim is deemed denied and Dr. Abraham may sue immediately. Please feel free to contact me, Christopher R. Houk, at 480.569.2377 or via email at chouk@houklawfirm.com to discuss this matter.

Sincerely,
/s/ Christopher R. Houk
Attorney for Dr. Matthew Abraham

EXHIBIT 2

EEOC Form 5 (11/09)

<p>CHARGE OF DISCRIMINATION</p> <p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>	<p>Charge Presented To: Agency(ies) Charge No(s):</p> <p style="text-align: center;">EEOC 540-2022-02125</p> <p style="text-align: center;">FEPA</p>
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Arizona Attorney General's Office, Civil Rights Division and EEOC

State or local Agency, if any

Name <i>(indicate Mr., Ms., Mrs.)</i>	Home Phone	Year of Birth
Dr. Matthew Abraham	(773) 682-9322	1972

Street Address

8401 E. Brookhill Dr.
TUCSON, AZ 85750

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. *(If more than two, list under PARTICULARS below.)*

Name	No. Employees, Members	Phone No.
University of Arizona	501+ Employees	

Street Address

University Services Bldg. 888 N. Euclid Ave.
Tucson, AZ 85721

Name	No. Employees, Members	Phone No.

Street Address City, State and ZIP Code

DISCRIMINATION BASED ON	DATE(S) DISCRIMINATION TOOK PLACE						
Retaliation	<table style="width:100%;"> <tr> <td style="width:50%;">Earliest</td> <td style="width:50%;">Latest</td> </tr> <tr> <td style="text-align: center;">02/28/2022</td> <td style="text-align: center;">07/22/2022</td> </tr> <tr> <td colspan="2" style="text-align: center;">Continuing Action</td> </tr> </table>	Earliest	Latest	02/28/2022	07/22/2022	Continuing Action	
Earliest	Latest						
02/28/2022	07/22/2022						
Continuing Action							

THE PARTICULARS ARE *(If additional paper is needed, attach extra sheet(s))*:

After filing charge number 540-2021-03104 on August 4, 2021, as well as a public-records lawsuit against the University of Arizona, I was subjected to retaliation on two different occasions. On or about February 28, 2022, the Faculty Center Coordinator, who was not an elected member of the Nominating Committee, utilized and insisted on the use of a faculty blacklist to exclude me and other faculty members from obtaining fair consideration for service on the Committee on Academic Freedom and Tenure. The Faculty Center coordinators and the Nominating Committee's refusal to utilize the policy and procedures, as outlined in the University's bylaws, creates the potential to negatively impact members of different national origins and races, as candidates are being deemed ineligible based on a single staff member's personal opinion. The staff member reported to the Nominating Committee members that she had received information from other offices, on campus, about why I and other faculty members would not be good candidates for the Committee on Academic Freedom and Tenure. I, as well as other aggrieved individuals were blackballed from even being considered for committees, which negatively impacts my ability to meet my yearly service obligations as outlined in my employment contract. I made numerous complaints about the treatment, and nothing was done to resolve the issue. In addition, the English Department's Council voted 7-4 to turn down my department head's recommendation, for me to serve on the department's Annual Performance Review (APR) Committee.

<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p>	<p>NOTARY – <i>When necessary for State and Local Agency Requirements</i></p>
<p>I declare under penalty of perjury that the above is true and correct.</p> <p>Digitally Signed By: Dr. Matthew Abraham</p> <p>10/18/2022</p> <p style="text-align: center;"><i>Charging Party Signature</i></p>	<p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE <i>(month, day, year)</i></p>

EEOC Form 5 (11/09)

<p>CHARGE OF DISCRIMINATION</p> <p>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</p>	<p>Charge Presented To: Agency(ies) Charge No(s):</p> <p style="text-align: center;">EEOC 540-2022-02125</p> <p style="text-align: center;">FEPA</p>
<p>Arizona Attorney General's Office, Civil Rights Division and EEOC</p> <hr style="width: 80%; margin: auto;"/> <p><i>State or local Agency, if any</i></p>	

I am a full professor in the department and have served on the department's annual review committee on several occasions. I am confident in stating that a department head's recommendation for the APR Committee has never been turned down in the past. I believe I was retaliated against, for filing EEOC Charge 540-2021-03104, based on my race and national origin, in violation of Title VII of the Civil Rights Act of 1964, as amended.

<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p>	<p>NOTARY – <i>When necessary for State and Local Agency Requirements</i></p>
<p>I declare under penalty of perjury that the above is true and correct.</p> <p>Digitally Signed By: Dr. Matthew Abraham</p> <p>10/18/2022</p> <p style="text-align: center;"><i>Charging Party Signature</i></p>	<p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.</p> <p>SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE</p> <p><i>(month, day, year)</i></p>

CP Enclosure with EEOC Form 5 (11/09)

PRIVACY ACT STATEMENT: Under the Privacy Act of 1974, Pub. Law 93-579, authority to request personal data and its uses are:

1. **FORM NUMBER/TITLE/DATE.** EEOC Form 5, Charge of Discrimination (11/09).
2. **AUTHORITY.** 42 U.S.C. 2000e-5(b), 29 U.S.C. 211, 29 U.S.C. 626, 42 U.S.C. 12117, 42 U.S.C. 2000ff-6.
3. **PRINCIPAL PURPOSES.** The purposes of a charge, taken on this form or otherwise reduced to writing (whether later recorded on this form or not) are, as applicable under the EEOC anti-discrimination statutes (EEOC statutes), to preserve private suit rights under the EEOC statutes, to invoke the EEOC's jurisdiction and, where dual-filing or referral arrangements exist, to begin state or local proceedings.
4. **ROUTINE USES.** This form is used to provide facts that may establish the existence of matters covered by the EEOC statutes (and as applicable, other federal, state or local laws). Information given will be used by staff to guide its mediation and investigation efforts and, as applicable, to determine, conciliate and litigate claims of unlawful discrimination. This form may be presented to or disclosed to other federal, state or local agencies as appropriate or necessary in carrying out EEOC's functions. A copy of this charge will ordinarily be sent to the respondent organization against which the charge is made.
5. **WHETHER DISCLOSURE IS MANDATORY; EFFECT OF NOT GIVING INFORMATION.** Charges must be reduced to writing and should identify the charging and responding parties and the actions or policies complained of. Without a written charge, EEOC will ordinarily not act on the complaint. Charges under Title VII, the ADA or GINA must be sworn to or affirmed (either by using this form or by presenting a notarized statement or unsworn declaration under penalty of perjury); charges under the ADEA should ordinarily be signed. Charges may be clarified or amplified later by amendment. It is not mandatory that this form be used to make a charge.

NOTICE OF RIGHT TO REQUEST SUBSTANTIAL WEIGHT REVIEW

Charges filed at a state or local Fair Employment Practices Agency (FEPA) that dual-files charges with EEOC will ordinarily be handled first by the FEPA. Some charges filed at EEOC may also be first handled by a FEPA under worksharing agreements. You will be told which agency will handle your charge. When the FEPA is the first to handle the charge, it will notify you of its final resolution of the matter. Then, if you wish EEOC to give Substantial Weight Review to the FEPA's final findings, you must ask us in writing to do so within 15 days of your receipt of its findings. Otherwise, we will ordinarily adopt the FEPA's finding and close our file on the charge.

NOTICE OF NON-RETALIATION REQUIREMENTS

Please **notify** EEOC or the state or local agency where you filed your charge **if retaliation is taken against you or others** who oppose discrimination or cooperate in any investigation or lawsuit concerning this charge. Under Section 704(a) of Title VII, Section 4(d) of the ADEA, Section 503(a) of the ADA and Section 207(f) of GINA, it is unlawful for an *employer* to discriminate against present or former employees or job applicants, for an *employment agency* to discriminate against anyone, or for a *union* to discriminate against its members or membership applicants, because they have opposed any practice made unlawful by the statutes, or because they have made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the laws. The Equal Pay Act has similar provisions and Section 503(b) of the ADA prohibits coercion, intimidation, threats or interference with anyone for exercising or enjoying, or aiding or encouraging others in their exercise or enjoyment of, rights under the Act.

EXHIBIT 3



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Phoenix District Office
3300 North Central Avenue, Suite 690
Phoenix, AZ 85012
(602) 661-0002
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161, 161-A & 161-B)

Issued On: 09/02/2025

To: Dr. Matthew Abraham
8401 E. Brookhill Dr.
Tucson, AZ 85750
Charge No: 540-2022-02125

EEOC Representative and email: MARLETT AVILA
EQUAL OPPORTUNITY INVESTIGATOR
MARLETT.AVILA@EEOC.GOV

DETERMINATION AND NOTICE OF RIGHTS


The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice that the EEOC has dismissed your charge and has issued you notice of your right to sue the respondent(s) on this charge. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of EEOC's official notice of dismissal.** You should keep a record of the date you received the EEOC's official notice of dismissal. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign-in to the EEOC Public Portal and upload the court complaint to charge 540-2022-02125

On behalf of the Commission,



Melinda Caraballo
District Director

Cc:

David Wagner
University of Arizona
PO BOX 210066
Tucson, AZ 85721

Laura T Johnson
University of Arizona
PO BOX 210066
Tucson, AZ 85721

Please retain this Notice for your records.

Enclosure with EEOC Notice of Closure and Rights (05/25)

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

*(This information relates to filing suit in Federal or State court **under Federal law**. If you also plan to sue claiming violations of State law, please be aware that time limits may be shorter and other provisions of State law may be different than those described below.)*

IMPORTANT TIME LIMITS – 90 DAYS TO FILE A LAWSUIT

If you choose to file a lawsuit against the respondent(s) named in the charge of discrimination, you must file a complaint in court **within 90 days of the date you receive EEOC’s official notice of dismissal**. You should **keep a record of the date you received EEOC’s official notice of dismissal**. Once this 90-day period has passed, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and the record of your receiving EEOC’s official notice of dismissal (email or envelope).

If your lawsuit includes a claim under the Equal Pay Act (EPA), you must file your complaint in court within 2 years (3 years for willful violations) of the date you did not receive equal pay. This time limit for filing an EPA lawsuit is separate from the 90-day filing period under Title VII, the ADA, GINA, the ADEA, or the PWFA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA, the ADEA, or the PWFA, in addition to suing on the EPA claim, your lawsuit must be filed within 90 days of your receipt of EEOC’s official notice of dismissal and within the 2- or 3-year EPA period.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. You must file a “complaint” that contains a short statement of the facts of your case which shows that you are entitled to relief. Filing this Notice is not enough. For more information about filing a lawsuit, go to <https://www.eeoc.gov/employees/lawsuit.cfm>.

ATTORNEY REPRESENTATION

For information about locating an attorney to represent you, go to:
<https://www.eeoc.gov/employees/lawsuit.cfm>.

In very limited circumstances, a U.S. District Court may appoint an attorney to represent individuals who demonstrate that they are financially unable to afford an attorney.

HOW TO REQUEST YOUR CHARGE FILE AND 90-DAY TIME LIMIT FOR REQUESTS

There are two ways to request a charge file: 1) a Freedom of Information Act (FOIA) request or 2) a “Section 83” request. You may request your charge file under either or both procedures. EEOC can generally respond to Section 83 requests more promptly than FOIA requests.

Since a lawsuit must be filed within 90 days of EEOC’s official notice of dismissal, please submit your FOIA and/or Section 83 request for the charge file promptly to allow sufficient time for EEOC to respond and for your review.

To make a FOIA request for your charge file, submit your request online at <https://eeoc.arkcase.com/foia/portal/login> (this is the preferred method). You may also submit a

Enclosure with EEOC Notice of Closure and Rights (05/25)

FOIA request for your charge file by U.S. Mail by submitting a signed, written request identifying your request as a “FOIA Request” for Charge Number 540-2022-02125 to the District Director at Melinda Caraballo, 3300 North Central Avenue Suite 690, Phoenix, AZ 85012.

To make a Section 83 request for your charge file, submit a signed written request stating it is a “Section 83 Request” for Charge Number 540-2022-02125 to the District Director at Melinda Caraballo, 3300 North Central Avenue Suite 690, Phoenix, AZ 85012.

You may request the charge file up to 90 days after receiving EEOC’s official notice of dismissal. After the 90 days have passed, you may request the charge file only if you have filed a lawsuit in court and provide a copy of the court complaint to EEOC.

For more information on submitting FOIA requests, go to <https://www.eeoc.gov/eeoc/foia/index.cfm>.

For more information on submitted Section 83 requests, go to <https://www.eeoc.gov/foia/section-83-disclosure-information-charge-files>.