

DONALD F. BURKE, ESQ. #008011983  
LAW OFFICE OF DONALD F. BURKE  
45 GALE ROAD  
BRICK, N.J. 08723  
TEL: (732) 966-4922  
ATTORNEYS FOR PLAINTIFF  
A. DAWN TAWWATER

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: GLOUCESTER COUNTY

A. DAWN TAWWATER,  
Plaintiff,

CIVIL ACTION

v.  
ROWAN COLLEGE AT GLOUCESTER  
COUNTY; ROWAN COLLEGE AT  
GLOUCESTER COUNTY BOARD OF  
TRUSTEES; GENE J. CONCORDIA,  
CHAIRPERSON; YOLETTE C. ROSS, VICE  
CHAIRPERSON; DOUGLAS J. WILLS, ES-  
QUIRE, TREASURER; JEAN L. DUBOIS,  
SECRETARY; LEN DAWS; DR. JAMES J.  
LAVENDER; RUBY LOVE; CODY D.  
MILLER; PEGGY NICOLosi; DR.  
GEORGE J. SCOTT; VIRGINIA N. SCOTT;  
DR. FRED KEATING, PRESIDENT; DR.  
LINDA MARTIN, VICE PRESIDENT FOR  
ACADEMIC SERVICES; DANIELLE  
MORGANTI, EXECUTIVE DIRECTOR OF  
HUMAN RESOURCES; DR. PAUL  
RUFINO, DEAN OF LIBERAL ARTS;  
ALMARIE JONES, DIRECTOR OF DIVER-  
SITY; AND MARNA L. CARLTON, ASSIS-  
TANT DIRECTOR OF HUMAN RE-  
SOURCES (in their individual and official  
capacities) and JOHN DOES 1-5 (being  
agents, servants and employees of de-  
fendants as a continuing investigation  
may reveal who are fictitiously named  
because their true identities are un-  
known),

DOCKET No.:

VERIFIED COMPLAINT AND DEMAND FOR  
JURY TRIAL

Defendants.

Plaintiff, A. DAWN TAWWATER, by and through her undersigned attorney DONALD F. BURKE, ESQ., by way of Complaint against defendants, states as follows:

### **NATURE OF THE ACTION**

1. This is an action for declaratory and injunctive relief, damages, attorneys' fees and costs, pursuant to the New Jersey Civil Rights Act, arising from defendants' violations of the Constitution and laws of the State of New Jersey.

2. Defendants, acting under color of State law, have deprived plaintiff of rights, privileges, and immunities secured by the Constitution of the State of New Jersey and plaintiff's right to free speech protected by Article I, Paragraph 6 of the Constitution of the State of New Jersey and plaintiff's due process rights protected by Article I, Paragraph 1 of the Constitution of the State of New Jersey.

3. Defendants intentionally restricted plaintiff's exercise of her right to free speech and academic freedom under Article I, Paragraph 6 of the Constitution of the State of New Jersey as set forth in more detail below and failed to provide an adequate hearing regarding allegations of wrongdoing which defendants used to justify the termination of plaintiff's employment as a tenure-track, Level I professor at ROWAN COLLEGE AT GLOUCESTER COUNTY for a fixed 10 month term in violation of Article I, Paragraph 1 of the Constitution of the State of New Jersey.

4. Further, as set forth below, defendants have violated New Jersey's doctrine of fundamental fairness which serves to protect citizens generally against unjust and arbitrary governmental action and governmental procedures that tend to operate arbitrarily.

## PARTIES

5. Plaintiff A. DAWN TAWWATER is an individual who is a citizen of the State of New Jersey and resides in the Borough of Glassboro, County of Gloucester, and State of New Jersey.

6. Defendant ROWAN COLLEGE AT GLOUCESTER COUNTY (RCGC) is a public, comprehensive, two-year institution accredited by the Middle States Association of Colleges and Schools and located in the County of Gloucester, State of New Jersey with offices located at 1400 Tanyard Road, Sewell, New Jersey 08080.

7. The defendant ROWAN COLLEGE AT GLOUCESTER COUNTY BOARD OF TRUSTEES is responsible for setting policy for ROWAN COLLEGE AT GLOUCESTER COUNTY and making sure its policies are effectuated.

8. Defendant ROWAN COLLEGE AT GLOUCESTER COUNTY BOARD OF TRUSTEES has as its members defendants GENE J. CONCORDIA, CHAIRPERSON; YOLETTE C. ROSS, VICE CHAIRPERSON; DOUGLAS J. WILLS, ESQUIRE, TREASURER; JEAN L. DUBOIS, SECRETARY; LEN DAWS; DR. JAMES J. LAVENDER; RUBY LOVE, CODY D. MILLER, PEGGY NICOLOSI, DR. GEORGE J. SCOTT, VIRGINIA N. SCOTT; and DR. FRED KEATING as *ex officio* member.

9. Defendant DR. FRED KEATING is President of ROWAN COLLEGE AT GLOUCESTER COUNTY and was so at all times relevant to this dispute.

10. Defendant DR. LINDA MARTIN is VICE PRESIDENT FOR ACADEMIC SERVICES for ROWAN COLLEGE AT GLOUCESTER COUNTY and was so at all times relevant to this dis-

pute.

11. Defendant DANIELLE MORGANTI is EXECUTIVE DIRECTOR OF HUMAN RESOURCES for ROWAN COLLEGE AT GLOUCESTER COUNTY and was so at all times relevant to this dispute.

12. Defendant DR. PAUL RUFINO is DEAN OF LIBERAL ARTS for ROWAN COLLEGE AT GLOUCESTER COUNTY and was so at all times relevant to this dispute.

13. Defendant ALMARIE JONES is DIRECTOR OF DIVERSITY for ROWAN COLLEGE AT GLOUCESTER COUNTY and was so at all times relevant to this dispute.

14. Defendant MARNA L. CARLTON is ASSISTANT DIRECTOR OF HUMAN RESOURCES for ROWAN COLLEGE AT GLOUCESTER COUNTY and was so at all times relevant to this dispute.

15. Defendants JOHN DOES 1-5 are individuals engaged in wrongful and retaliatory conduct towards plaintiff or who authorized and/or ratified such conduct, whose true identities are unknown but may be revealed through discovery.

16. Individual defendants are named herein in their official and individual capacities for conduct in violation of the New Jersey Civil Rights Act, the New Jersey Constitution and the common law.

### **JURISDICTION**

17. This court has subject-matter jurisdiction over the instant lawsuit, as this action arises under the Constitution of the State of New Jersey and the New Jersey Civil Rights Act, *N.J.S.A.* 10:6-1 to -2, and other common law claims.

18. The court has personal jurisdiction over the defendants based on their residency within the jurisdiction of the State of New Jersey and based on the fact that defendant ROWAN COLLEGE AT GLOUCESTER COUNTY is a governmental entity doing business within the jurisdiction of this Court and the individual defendants are its officials, managers and/or employees. Further, the acts complained of are attributable to the defendants and all occurred within the jurisdiction of this court.

### **ALLEGATIONS COMMON TO ALL COUNTS**

19. On July 21, 2014, MARNA L. CARLTON, ASSISTANT DIRECTOR OF HUMAN RESOURCES for ROWAN COLLEGE AT GLOUCESTER COUNTY, offered plaintiff A. DAWN TAWWATER a position as a tenure-track, Level I professor at RCGC effective September 1, 2014 for a 10 month term subject to renewal.

20. The offer of employment provided the job would start on September 1, 2014 and was a tenure-track, represented position.

21. The offer of employment came with a host of job benefits including medical coverage, dental coverage and retirement benefits and the ability to teach an overload.

22. Plaintiff had been a non-tenure adjunct professor at Austin Community College for 8 years and was searching for a position that would lead to a secure future and the tenure-track, represented position offered to plaintiff was an attractive proposition as it was represented by defendant MARNA L. CARLTON.

23. Accordingly, plaintiff accepted the offer, resigned from her position at Austin Community College, terminated her lease and relocated to New Jersey to begin her new

career.

24. Subsequent to plaintiff's acceptance of the job offer extended by defendant MARNA L. CARLTON, the ROWAN COLLEGE AT GLOUCESTER COUNTY BOARD OF TRUSTEES approved the hiring of plaintiff.

25. When she arrived at RCGC, plaintiff was directed to sign documents that contained additional terms to the ones she accepted, including a condition that the position she had accepted was conditioned on a ninety day probationary period.

26. Given the circumstances regarding her resignation from her previous employment, expending thousands of dollars to relocate to New Jersey, and committing herself to a two year lease in Glassboro, New Jersey, close to the campus of RCGC, plaintiff felt she had no choice but to sign the documents.

27. No additional consideration was afforded by RCGC to plaintiff for this additional provision to her employment contract and this did not change the nature of her employment and convert it to at-will employment or deprive her of the property interest plaintiff had in her employment.

28. Inasmuch as plaintiff was seeking a secure future, if plaintiff been informed by defendant MARNA L. CARLTON that the position she accepted included a probationary period, she would not have accepted the position.

29. Plaintiff started employment as scheduled on September 1, 2014.

30. Plaintiff was teaching five sections: three sections of Sociology 101 ("Principles of Sociology") in addition to one section each of Sociology 102 ("Sociology of the Family")

and Sociology 104 (“Social Problems”).

31. Prior to her hiring by RCGC, TAWWATER taught at Austin Community College, Dallas Community College, Collin County Community College, Tarrant County College Fort Worth, and Iona College.

32. In all, TAWWATER has taught college-level sociology for roughly 20 years.

33. On September 29, 2014 after teaching one of her Sociology 101 sections, TAWWATER returned to her campus office, where she received a note from Dean of Liberal Arts DR. PAUL RUFINO requesting that she meet with him at 10:00 that morning.

34. In this meeting, which lasted for roughly 15 minutes, she was informed of two student complaints regarding her teaching.

35. TAWWATER was given information about only one of these complaints, which concerned the use of profanity during class sessions.

36. RUFINO briefly mentioned that the second complaint had been filed with Linda LINDA MARTIN, VICE PRESIDENT OF ACADEMIC SERVICES, but provided no further details.

37. It was unclear to TAWWATER whether these were the same complaint, made separately to RUFINO and MARTIN.

38. RUFINO advised TAWWATER that the complaint made to him concerned her screening of a feminist music-video parody of Robin Thicke’s popular song “Blurred Lines,” which TAWWATER had screened for two of her Sociology 101 sections.

39. The music video for the parody—called “Defined Lines”—is similar in style and

execution to the video for “Blurred Lines,” but with the gender roles reversed; the “Defined Lines” video features men in their underwear, whereas the “Blurred Lines” video featured topless women. The parody itself is a critique of the original’s controversial messages regarding sexual consent and female objectification.

40. TAWWATER had shown this video dozens of times to classes in her previous teaching positions, without incident or complaint, and explained to RUFINO that she had shown the video as part of an introductory lesson on postmodern theory.

41. TAWWATER explained to RUFINO that the video was relevant to class content and appropriate as a pedagogical tool.

42. RUFINO noted that the complaint about the music video specifically referenced the student’s discomfort with the underwear-clad men featured in the video (whose presence is central to the video’s critique) and the use of profanity.

43. RUFINO suggested that TAWWATER consider warning students in advance of screening the video because of its content, a proposal to which TAWWATER objected due to its inherent constraint of academic freedom. TAWWATER demonstrated the pedagogical point by referencing the lack of a warning to women who are subjected to objectification in popular culture.

44. RUFINO also suggested that while some profanities were not objectionable, TAWWATER should refrain from saying or using material with the word “fuck” in her classroom but that “damn” and “shit” are “OK.”

45. Despite her belief that freedom of speech and academic freedom rights protected



this expression given the context in which the word was used, TAWWATER told RUFINO that she would be more mindful of her language in the classroom.

46. TAWWATER thought this conversation resolved the matter.

47. Only at the end of this discussion, after TAWWATER insisted on knowing RCGC's procedure for handling student complaints, did RUFINO inform TAWWATER that the complaint had been made in writing.

48. RUFINO gave TAWWATER a brief opportunity to view an unsigned document that purported to be a complaint that stated TAWWATER had called the class "a bunch of fucking bitches", something that TAWWATER told RUFINO was a lie.

49. TAWWATER was not permitted to keep a copy of the document RUFINO showed her.

50. RUFINO then informed TAWWATER that ROWAN COLLEGE AT GLOUCESTER COUNTY had no written procedure regarding investigating and acting upon student complaints.

51. On October 1, 2014, RUFINO emailed TAWWATER and asked her to meet with him and with ALMARIE JONES, DIRECTOR OF DIVERSITY, at 10:00 the following morning in her office "to discuss a student complaint" and advised TAWWATER she could have a representative of the New Jersey Education Association (NJEA) union accompany her.

52. TAWWATER replied by requesting the location of ALMARIE JONES' office because it was not listed in the RCGC directory. TAWWATER also advised she would attend and

also contacted the NJEA campus president and RCGC professor Oron Nahom to seek union representation for the meeting.

53. Mr. Nahom wrote to ALMARIE JONES that evening, informing her that no NJEA representative would be available before the following afternoon to satisfy TAWWATER's request for representation, and therefore requested that the meeting be rescheduled.

54. TAWWATER received no further communications from RCGC, either with regard to her request for the location of the meeting or the Nahom's request for a postponement, so she reasonably assumed the meeting had been adjourned as requested by Nahom. TAWWATER learned from Mr. Nahom by cell phone at about 10:15 the next morning that RCGC was proceeding with the meeting as scheduled despite the request to reschedule.

55. TAWWATER arrived at the meeting at approximately 10:30 a.m., at which point the administrators present decided to reschedule the meeting for the afternoon of October 6, 2014.

56. TAWWATER was briefly informed that the administration had received two new complaints since her September 29, 2014 meeting with RUFINO.

57. On October 3, 2014, TAWWATER emailed DANIELLE MORGANTI, EXECUTIVE DIRECTOR OF HUMAN RESOURCES, requesting "a copy of whatever process we are now institutionally traversing," noting that she could find no written guidance from RCGC's published policies. TAWWATER also requested "a copy of any policy governing student complaints and faculty rights during the complaint process," which she also had been un-

able to locate.

58. Finally, TAWWATER requested copies of the student complaints that had been filed against her.

59. In response, MORGANTI provided only a link to the RCGC policy website, noting in particular that TAWWATER should be familiar with Administrative Procedure 7065, concerning “Employee Conduct and Work Rules.”

60. This policy, however, lists only various conduct violations and the recommended sanctions for each violation based on the number of offenses.

61. MORGANTI did not provide copies of the complaints to TAWWATER or give any specific details about them. MORGANTI only noted that “several formal written complaints” had been filed and that her case had “risen to the level that a formal investigation must occur.”

62. MORGANTI did not provide any details on what constitutes a formal investigation other than to say that “[w]hen a complaint is brought . . . we are obligated to address it and in a formal manner” or words to that effect.

63. At the hearing on October 6—at which roughly eight to ten administrators were present—TAWWATER was not provided with copies of or allowed to view any of the complaints against her, and was informed of their contents only verbally.

64. The issue of TAWWATER’s use of profanity in the classroom was raised again in one or both of the complaints; in all or nearly all of these instances, the administrators did not provide any context for any of the alleged uses of profanity.

65. TAWWATER was also informed of complaints about her alleged cancellation of one class and early dismissal of another, as well as about a complaint from a student (a mother of a disabled child) who claimed TAWWATER had treated her insensitively.

66. TAWWATER was then presented with a typewritten “Last Chance Agreement” which was prepared before the meeting.

67. The Last Chance Agreement required TAWWATER, among other things, to “refrain from using indecent language in the classroom” and to “publicly apologize to the affected classes.”

68. TAWWATER would also be required to “participate in a training program approved by the College, which includes effective teaching methodologies, sensitivity training, and effective communication” pursuant to the terms of the Last Chance Agreement.

69. The Last Chance Agreement also stipulated that “any future student complaint of violation of the agreements listed above will result in immediate termination.”

70. TAWWATER asked if the prohibition of “indecent language” would include the use of media or other materials containing language that might be considered such; the administrators replied that it would. TAWWATER refused to sign the agreement, and Nahom stated that he would not recommend that she sign the agreement, either.

71. The administrators refused to amend the agreement other than to slightly modify one provision stating that her agreement would be removed from her personnel file after 24 months if there were no further incidents; they offered to reduce this period of time to 12 months.

72. TAWWATER again refused to sign the agreement, at which point she was ordered to clean out her office and return.

73. When she returned, she was given a letter informing her of her termination.

74. The letter specified the reasons for her termination as:

- Four student complaints filed within the first 30 days of employment for using indecent language and inappropriate behavior in the classroom;
- Being late to one class that resulted in the class cancellation for that day, and subsequently dismissing the same class early on the next scheduled meeting date without informing your Dean.

75. TAWWATER was then given a printed copy of Administrative Procedure 7065, with several highlighted sections apparently indicating TAWWATER's alleged violations.

76. These highlighted portions covered:

- “[i]ndecent or abusive language or gestures”;
- “[l]eaving assigned work area without permission”;
- “[p]articipating in any activity that interferes with normal operations, or attempting to influence or persuade others to engage in such activities”;
- “[r]ude or discourteous behavior to a student”;
- “[f]ailure to adhere to the rules, regulations and/or statutes”;
- “[m]aking . . . vicious or malicious statements concerning any . . . student”; and “[i]nsubordination, including the refusal to follow a supervisor’s instructions.”

77. TAWWATER was neither given notice that she had been charged with the above offenses prior to her termination nor informed which of her alleged offenses applied to any of the specific highlighted violations. Further, she did not engage in any such conduct.

78. TAWWATER's treatment is an affront to faculty rights, displaying remarkable indifference to academic freedom and freedom of speech and an alarming disregard for due

process.

79. The current RCGC faculty collective bargaining agreement grants faculty members the “freedom of discussion in the performance of his or her faculty responsibilities and in the classroom provided the discussion is relevant to the course.”

80. RCGC failed to verify the legitimacy of the course-related claims made against TAWWATER or to weigh them against her First Amendment and academic freedom rights, both of which enjoy robust protection.

81. Defendants have an obligation to thoroughly investigate student complaints and assess their merit in light of faculty members’ rights, something defendants failed to do.

82. Well-accepted notions of freedom of speech protect the occasional use of profanity by professors in the public college classroom when such speech is related to pedagogy.

83. In fact, the Collective Bargaining Agreement entered into between the ROWAN COLLEGE AT GLOUCESTER COUNTY BOARD OF TRUSTEES and the faculty of ROWAN COLLEGE AT GLOUCESTER COUNTY specifically recognizes:

Any unit member is entitled to freedom of discussion in the performance of his or her faculty responsibilities and in the classroom, provided the discussion is relevant to the course.

[(See portion of Collective Bargaining Agreement regarding Academic Freedom attached as Exhibit A)].

84. ROWAN COLLEGE AT GLOUCESTER COUNTY is accredited by the Middle States Commission on Higher Education.

85. The Middle States Commission on Higher Education sets forth standards for accreditation that include standards for academic freedom. These standards state:

Academic freedom, intellectual freedom and freedom of expression are central to the academic enterprise. These special privileges, characteristic of the academic environment, should be extended to all members of the institution's community (i.e. full-time faculty, adjunct, visiting or part time faculty, staff, students instructed on the campus, and those students associated with the institution via distance education programs).

Academic and intellectual freedom gives one the right and obligation as a scholar to examine data and to question assumptions. It also obliges instructors to present all information objectively because it asserts the student's right to know all pertinent facts and information. A particular point of view may be advanced, based upon complete access to the facts or opinions that underlie the argument, as long as the right to further inquiry and consideration remains unabridged.

[(See Middle States Commission on Higher Education standards regarding Academic Freedom attached as Exhibit B)].

86. Defendant ROWAN COLLEGE AT GLOUCESTER COUNTY BOARD OF TRUSTEES has adopted a robust and far-reaching policy on academic freedom for students and faculty at RCGC.

Free inquiry and expression are indispensable to an academic institution and include the transmission of knowledge, pursuit of truth, development of the individual student and improvement of society.

Freedom to teach and learn, to inquire and dissent, to speak freely and be heard and to assemble and protest peaceably are essential to academic freedom and to the continued functioning of the College as an educational institution.

[(See Board policy 8100, Revised 10/9/02 attached as Exhibit C) (emphasis added)].

87. TAWWATER's classes consist of adult students who are more than able to endure the occasional use of coarse language in the normal give-and-take of a college lecture. [See Expert Report of Donald A. Downs, Professor of Law and Journalism, University of

Wisconsin-Madison attached as Exhibit D).

88. Additionally, the teaching of sociology itself is bound to venture into sometimes uncomfortable territory—covering, among many other topics, violence and social deviance as well as deeply contested matters of race, gender, sexuality and socio-economic class. *Id.*

89. The fact that occasional discomfort is all but inevitable should have no bearing on a professor's right to select his or her materials and use them as he or she sees fit. *Id.*

90. TAWWATER's free speech and academic freedom rights protect her screening of the parody music video in her class, the subject of at least one student's complaint.

91. The video was entirely germane to the subject matter TAWWATER was teaching.

92. Defendants have not provided a remotely plausible or compelling explanation as to why the complaints over her language and course content should not be dismissed. *Id.*

93. Allowing such complaints to result in TAWWATER's termination will have a profoundly chilling effect on faculty expression and academic freedom. *Id.*

94. Indeed, it will render "academic freedom" virtually meaningless at RCGC. *Id.*

95. Defendants attempted to coerce TAWWATER into signing the "Last Chance Agreement" prohibiting the use of "indecent language" in her classroom and requiring TAWWATER to surrender her right to continued employment and due process if defendants determined she violated the agreement.

96. This further disregards the principles of free speech and academic freedom, which RCGC is bound to uphold. *Id.*



97. Defendants' prohibition on "indecent language" in the classroom is also impermissibly vague. *Id.*

98. In addition to RCGC's disregard for its faculty's right to free speech and academic freedom, the procedures resulting in TAWWATER's termination were rife with defects that denied her fundamental fairness and a meaningful opportunity to defend herself.

99. RCGC has no written policies or procedures to inform faculty about disciplinary processes, even in cases where a faculty member faces termination.

100. TAWWATER was not permitted to confront her accusers, if they indeed exist, nor was she allowed to fully understand the complaints they purportedly made about her; she was not even provided with the written complaints made against her, despite repeated requests.

101. Further, RCGC did not provide TAWWATER with a list of the policies she was alleged to have violated until after it had rendered its decision to terminate her.

102. RCGC provided no explanation of which complaints corresponded with each of the policies she allegedly violated, nor did it give any indication of the number of violations TAWWATER is alleged to have committed in each category.

103. In total, these procedural failings indicate that RCGC predetermined that it would terminate TAWWATER and engaged in a deliberate course of conduct designed to allow the College to achieve these ends expediently and without accountability. *Id.*

104. Specifically in this regard, RCGC prepared its "Last Chance Agreement" for TAWWATER to sign in advance of her hearing, signaling that the College had determined

her guilt before she ever had a chance to defend against the allegations.

105. A grievance was filed on TAWWATER's behalf by Christopher Berzinski of the NJEA, TAWWATER's union, to challenge the process that lead to the termination and the termination itself.

106. The Grievance was received by defendant DR. FRED KEATING, PRESIDENT, on October 10, 2014 and denied on behalf of defendant DR. FRED KEATING, PRESIDENT, by defendant DANIELLE MORGANTI, EXECUTIVE DIRECTOR OF HUMAN RESOURCES, on the same day.

107. The grievance was denied because defendants asserted the Administrative Procedure 7014 provided for a probationary period of 90 days during which an employee was considered at-will and that any action taken during this period would not be subject to the grievance procedure or other internal avenues of appeal even though TAWWATER was offered and accepted employment for a fixed term of 10 months.

108. Thus, TAWWATER has exhausted all available avenues of administrative relief available to her.

109. At the meeting held on October 14, 2014, ROWAN COLLEGE AT GLOUCESTER COUNTY BOARD OF TRUSTEES; GENE J. CONCORDIA, CHAIRPERSON; YOLETTE C. ROSS, VICE CHAIRPERSON; DOUGLAS J. WILLS, ESQUIRE, TREASURER; JEAN L. DUBOIS, SECRETARY; LEN DAWS; DR. JAMES J. LAVENDER; RUBY LOVE, CODY D. MILLER, PEGGY NICOLOSI, DR. GEORGE J. SCOTT, VIRGINIA N. SCOTT; apparently accepting the recommendation of defendant DR. FRED KEATING, PRESIDENT to terminate

TAWWATER's employment effective as of October 6, 2014 although TAWWATER was not notified of or invited to attend the meeting.

110. Accordingly, through their conduct, defendants violated TAWWATER's right to fundamental fairness, substantive, procedural due process and other rights protected by the New Jersey Constitution. *Id.*

111. TAWWATER's substantive and procedural due process rights were so compromised by defendants' failures that TAWWATER must be restored to her position.

112. Further RCGC must clearly establish and publish procedures that will fully inform faculty members of their due process rights and ensure that faculty members aren't left unable to defend themselves in the manner TAWWATER was.

113. The termination of TAWWATER's employment as a college professor for alleged misconduct as alleged by defendants has imposed on her a stigma that impacts, and indeed may foreclose, her freedom to obtain other employment. *Id.*

114. As a consequence of the discrimination and retaliation by defendants as aforesaid, plaintiff has sustained compensatory and consequential damages; has incurred costs of suit and attorneys' fees; and is entitled to such other remedies as statutorily allowed by the New Jersey Civil Rights Act.

115. Further, defendants have engaged in intentional and deliberate misconduct and are liable for compensatory and punitive damages because defendants are members of upper management and actually participated in the unlawful conduct in their individual and official capacities as set forth above.

116. Defendants, including the JOHN DOE defendants, knew or should have known of the unlawful policies and/or conduct but allowed it by failing to properly supervise and failing to take prompt and appropriate remedial action.

### **FIRST COUNT**

#### **VIOLATIONS OF THE NEW JERSEY CIVIL RIGHTS ACT AND THE CONSTITUTION OF NEW JERSEY – DECLARATORY RELIEF**

##### **(ACADEMIC FREEDOM AND DUE PROCESS)**

117. Plaintiff incorporates the above paragraphs as if set forth in full herein.

118. The conduct of the defendants, acting individually and jointly, has deprived plaintiff of rights secured by the New Jersey Constitution, the laws of New Jersey and the New Jersey Civil Rights Act.

119. Each of the defendants' actions as set forth above was taken under color of State law.

120. As set forth more fully above, plaintiff was deprived by defendants of her right to substantive due process and/or equal protection and/or substantive rights, privileges or immunities secured by the Constitution and/or laws of this State and her exercise and/or enjoyment of those substantive rights, privileges or immunities has been interfered with and/or attempted to be interfered with, by threats, intimidation and/or coercion by defendants who are persons acting under color of State law.

121. Article 1, Paragraph 1 of the New Jersey Constitution safeguards values like those encompassed by the principles of fundamental fairness, substantive due process and protection protects citizens against arbitrary, unreasonable and unjustified government action.

## SECOND COUNT

### VIOLATIONS OF THE NEW JERSEY CIVIL RIGHTS ACT AND THE CONSTITUTION OF NEW JERSEY – INJUNCTIVE RELIEF

#### (EQUITABLE REINSTATEMENT)

122. Plaintiff repeats and realleges each and every allegation set forth above as if set forth at length herein.

123. Plaintiff is likely to succeed on the merits seeking declaratory relief but without injunctive relief, plaintiff has and will – for the reasons set forth in the Allegations Common to All Counts – suffer irreparable harm.

124. This case concerns matters affecting the right of freedom of speech and therefore impacts the public interest as well as plaintiff's rights which entitle plaintiff to preliminary injunctive relief.

125. Plaintiff has no adequate remedy at law to remedy the ongoing constitutional violations alleged above including her right to free speech.

126. Thus, plaintiff is entitled to injunctive relief reinstating of her position as a tenure-track, Level I professor at RCGC for the remainder of her fixed term of employment.

127. Granting a preliminary injunction will not harm the defendant, as plaintiffs seek to maintain the status quo pending a determination in this action.

128. The injunction sought is in the public interest. It is in the public interest to ensure that defendants act within the limits set by the New Jersey Constitution and statutorily granted powers.

## THIRD COUNT

### DEPRIVATION OF PROPERTY RIGHT/BREACH OF CONTRACT

129. Plaintiff repeats and realleges each and every allegation set forth as if set forth at length herein.

130. Plaintiff TAWWATER accepted the offer of employment made by MARNA L. CARLTON, ASSISTANT DIRECTOR OF HUMAN RESOURCES for ROWAN COLLEGE AT GLOUCESTER COUNTY, on July 21, 2014 for a position as a tenure-track, Level I professor at RCGC effective September 1, 2014 for a 10 month term, subject to renewal.

131. The document signed by plaintiff on August 28, 2014 acknowledging receipt of policies of RCGC, including “Probationary Period *Board Rule and Reg. 7014*”, did not alter the terms and conditions of employment as offered by RCGC and accepted by plaintiff which was for a fixed 10 month term, subject to being extended, and did not include a probationary period.

132. No additional consideration was afforded by RCGC to plaintiff for this additional provision to her employment contract and this did not change the nature of her employment and convert it to at-will employment.

133. Defendants breached the contract by terminating plaintiff before the end of the 10 month term.

## FOURTH COUNT

### DETRIMENTAL RELIANCE

134. Plaintiff reasonably relied to her detriment on the representation of defendant

MARNA L. CARLTON regarding the position being a tenure-track position with a 10 month term which she accepted and which was ratified by the ROWAN COLLEGE AT GLOUCESTER COUNTY BOARD OF TRUSTEES.

135. Defendant MARNA L. CARLTON never advised plaintiff the position was probationary for 90 days.

136. Given the circumstances regarding her resignation from her previous employment, expending thousands of dollars to relocate to New Jersey, committing herself to a two year lease in Glassboro, New Jersey, close to the campus of RCGC, plaintiff detrimentally relied upon the representations of defendant MARNA L. CARLTON that her employment was a tenure-track position with a fixed 10 month term.

137. Plaintiff accepted the job offer extended by defendant MARNA L. CARLTON, which was ratified by the ROWAN COLLEGE AT GLOUCESTER COUNTY BOARD OF TRUSTEES.

138. The attempt to add a probationary period as a condition to the employment contract entered into by the parties after plaintiff relied upon defendants' promise is an ineffective attempt to add terms to the agreement which was offered to TAWWATER, accepted by TAWWATER and reasonably relied upon by TAWWATER.

139. Defendants knew or should have known TAWWATER would reasonable rely on their promise of employment with terms as set forth above.

#### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff A. DAWN TAWWATER demands judgment against defendants for:

- a. A Declaratory Judgment that defendants' policies and conduct violates the Constitution of the State of New Jersey and the New Jersey Civil Rights Act;
- b. An injunction directing defendants to reinstate plaintiff A. DAWN TAWWATER to her position as tenure-track, Level I professor at RCGC for the January semester;
- c. Compensatory damages;
- d. Consequential damages;
- e. Punitive damages (pecuniary and nonpecuniary);
- f. Reasonable counsel fees, costs and expenses; and
- g. Such other general or specific relief, both at law and in equity, to which plaintiff may be justly entitled to include declaratory and injunctive relief.

Respectfully submitted,

LAW OFFICE OF DONALD F. BURKE  
Attorneys for Plaintiff  
A. DAWN TAWWATER

By: 

Donald F. Burke, Esq.

Dated: January 26, 2015

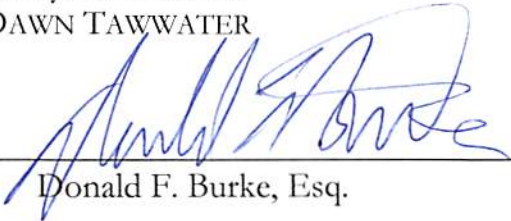
### **DEMAND FOR TRIAL BY JURY**

Plaintiff A. DAWN TAWWATER hereby demands a trial by Jury as to all claims.

Respectfully submitted,



LAW OFFICE OF DONALD F. BURKE  
Attorneys for Plaintiff  
A. DAWN TAWWATER

By:   
Donald F. Burke, Esq.

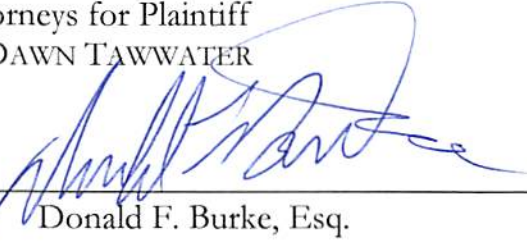
Dated: January 26, 2015

### DESIGNATION OF TRIAL COUNSEL

DONALD F. BURKE, ESQ., is designated as trial counsel for the plaintiff in the above matter.

Respectfully submitted,

LAW OFFICE OF DONALD F. BURKE  
Attorneys for Plaintiff  
A. DAWN TAWWATER

By:   
Donald F. Burke, Esq.

Dated: January 26, 2015

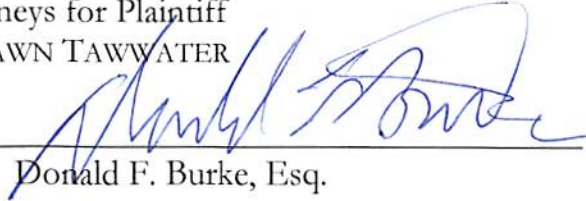
### CERTIFICATION OF NO OTHER ACTIONS

The matter in controversy is not related to any pending action or arbitration and no other action or arbitration proceeding is contemplated. Further, we know of no other parties that should be joined in the above action other than those identified as JOHN DOE defendants. In addition, we recognize the continuing obligation of each party to file and serve on all parties and the court an amended Certification if there is a change in the facts stated in this original Certification.

Respectfully submitted,

LAW OFFICE OF DONALD F. BURKE  
Attorneys for Plaintiff  
A. DAWN TAWWATER

By: \_\_\_\_\_

  
Donald F. Burke, Esq.

Dated: January 26, 2015

## VERIFICATION

I, A. DAWN TAWWATER, of full age, do affirm and state:

1. I am the plaintiff in the above action.
2. I have reviewed the contents of the Verified Complaint and Demand for Trial by Jury

and state they are true to the best of my knowledge and belief.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

---

A. DAWN TAWWATER

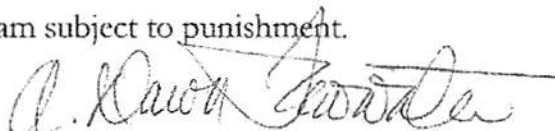
Dated: January , 2015

## VERIFICATION

I, A. DAWN TAWWATER, of full age, do affirm and state:

1. I am the plaintiff in the above action.
2. I have reviewed the contents of the Verified Complaint and Demand for Trial by Jury and state they are true to the best of my knowledge and belief.


I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

  
A. DAWN TAWWATER

Dated: January , 2015

**CERTIFICATION PURSUANT TO RULE 1:4-4**

I certify that I represent plaintiff A. DAWN TAWWATER and I recognize her signature on the above Verified Complaint which was sent to me by Portable Document Format (PDF). I will file the original signed document if requested by the court or a party.

  
\_\_\_\_\_  
Donald F. Burke, Esq.

Dated: January 26, 2015