

IN THE CIRCUIT COURT, FOURTH
JUDICIAL CIRCUIT IN AND FOR
DUVAL COUNTY, FLORIDA

MARK TUMEO,

Plaintiff,

CASE NO.: 16-2018-CA-007562

vs.

DIVISION: CV-H

THE BOARD OF TRUSTEES OF THE
UNIVERSITY OF NORTH FLORIDA,

Defendants.

_____ /

**DEFENDANTS THE BOARD OF TRUSTEES OF THE UNIVERSITY
OF NORTH FLORIDA'S ANSWER TO COMPLAINT FOR RELIEF
AND DECLARATORY JUDGMENT**

Pursuant to Fla. R. Civ. P. 1.110 and 1.140, Defendants the Board of Trustees of the University of North Florida ("UNF") answers and asserts affirmative and other defenses to the Complaint for Relief and Declaratory Judgment ("Complaint") filed by Plaintiff Mark Tumeo ("Tumeo") in the above-styled action and states:

ANSWER

1. Concerning paragraph 1 of the Complaint, UNF admits the action is one for declaratory relief and damages, but deny any unlawful or wrongful conduct in connection with Plaintiff's separation from employment with UNF.

2. Concerning paragraph 2 of the Complaint, UNF is without knowledge or information regarding the extent of damages sought in this case, but deny that Plaintiff has suffered any damages attributable to UNF.

3. Paragraph 3 of the Complaint states a legal conclusion to which no response is necessary.

4. UNF admits the allegations in paragraphs 4 through 7 of the Complaint.
5. Paragraph 8 of the Complaint states a legal conclusion to which no response is necessary.
6. UNF admits the allegations in paragraphs 9 and 10 of the Complaint.
7. UNF denies the allegations in paragraphs 11 through 14 of the Complaint.
8. Concerning paragraphs 15 and 16 of the Complaint, UNF admits that on or about October 17, 2018, Plaintiff's attorney in a letter to UNF requested that Plaintiff be allowed to return to a tenured faculty position, but UNF denies that Plaintiff was subject to duress and/or coercion as alleged in the letter. UNF denies all other allegations in paragraphs 15 and 16 of the Complaint.
9. UNF admits the allegation in paragraph 17 of the Complaint.
10. UNF denies the allegation in paragraph 18 of the Complaint.
11. Paragraphs 19 through 21 of the Complaint state legal conclusions to which no response is necessary.
12. The WHEREFORE paragraph immediately following paragraph 21 of the Complaint states a demand for relief to which no response is required. To the extent that the Court deems a response necessary, UNF denies that Plaintiff is entitled to the relief demanded.
13. UNF denies each allegation in the Complaint not specifically admitted in this Answer.

AFFIRMATIVE AND OTHER DEFENSES

A. Plaintiff waived and/or is estopped from asserting the claim in his Complaint by and because of his knowing and voluntary election to resign from employment with UNF despite being fully and legally aware, before and at the point of such election, of his procedural right to

an alternative, name-clearing proceeding and process during which Plaintiff could have remained employed.

B. By delaying two weeks to attempt to rescind his resignation from employment with UNF, Plaintiff waived, or is estopped from asserting, that his resignation was coerced or made under duress.

C. To the extent that Plaintiff claims his resignation from employment with UNF was not voluntary, he has waived his right to relief by having failed to file a grievance within the applicable time limits in UNF's grievance procedure.

D. Any alleged lost wages and benefits should be offset by wages and benefits Plaintiff received since his resignation from employment with UNF.

WHEREFORE, Defendants The Board of Trustees of the University of North Florida request that judgment in its favor be entered, including an award of costs and attorney's fees pursuant to Fla. Stat. § 448.08, along with any such other relief as this Court deems proper.

Dated this 18th day of December 2018.

By: /s/ Michael J. Lufkin
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Trustees of the University of North Florida

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing has been electronically filed with the Clerk of the Court on this 18th day of December 2018 by using the Florida Courts E-Filing Portal system, which will send a notice of electronic filing to:

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/s/ Michael J. Lufkin

Attorney