



VCU Annual Report pursuant to § 23.1-401.1. Constitutionally protected speech; policies, materials, and reports; report

December 1, 2020

Overview

Virginia Commonwealth University is committed to creating an environment that fosters the exercise of protected speech and other expressive activity on university property while maintaining an atmosphere free of disruption to the mission of the university. It recognizes that the free expression of ideas and open inquiry are essential in fulfilling its academic mission by embracing rigorous open discourse, argumentation, speaking, listening, learning and the exploration of ideas. In support of maintaining such an environment, VCU incorporates and employs several policies and practices that protect free speech and support expressive activity in compliance with Va. Code § 23.1-401.1.

Institutional Policies

These policies and related materials include the following:

- [Free Speech](#) at VCU
- [Reservation and Use of Space Policy](#)
- [Reservation and Use of Space website](#)
- [Reservation and Use of Space FAQs](#)
- [Inclusion in mass email sent to all students](#)
- [Division of Student Affairs blog post](#)
- [Student Code of Conduct](#)
- [Social Media Guidelines](#) for social media account administrators (references, and links to, the First Amendment)

Reporting Concerns

The university community is able to report concerns through two primary channels:

- Information on reporting concerns is referenced and linked on the [Free Speech](#) website. This information can also be found at: <https://acs.vcu.edu/integrity-and-compliance-office/ethics-and-compliance-program/reporting-concerns/>
- For concerns regarding students, reports can be made through [the VCU Helpline](#) [www.vcuhelpline.com] or direct to the Division of Student Affairs: <https://cm.maxient.com/reportingform.php?VirginiaCommonwealthUniv>



VCU

Certification

Certification that the institution has developed and communicated the materials outlined herein and [communication to the students has occurred](#). Additional messaging for this reporting period occurred [again in a special notification on November 5, 2020](#) about expressive activity. Communication to all employees regarding expectations exists through new hire onboarding, annual training, and in formal, universitywide, policies readily available and accessible at www.policy.vcu.edu in concert with [quarterly updates of all policy changes](#). [Additional employee focused messaging](#) for this reporting period occurred December 9, 2019, covering the established policies noted in § 1 of the Code referenced herein and providing notice to all faculty and senior leadership cabinet members responsible for the discipline or education of enrolled students of such materials.

Complaints:

One complaint was filed, as described in § 23.1-401.1(D)(3):

- The attached complaint was filed on February 11, 2020 and the University accepted service of process on March 12, 2020. A copy of this complaint was submitted to the Governor; the Chair of the House Committee on Education; and the Chair of the Senate Committee on Education and Health on March 13, 2020, as required.

Reviewed and Certified by the University Chief Ethics and Compliance Officer, Jacqueline L. Kniska.



VCU

Virginia Commonwealth University
Office of Government Relations
910 W. Franklin Street
Post Office Box 842512
Richmond, Virginia 23284-2512

March 13, 2020

The Honorable Ralph S. Northam
Governor Commonwealth of Virginia
Post Office Box 1475
Richmond, Virginia 23218-1475
c/o clark.mercer@governor.virginia.gov

The Honorable L. Louise Lucas
Post Office Box 700 Portsmouth, VA 23705-0700
Chair of the Senate Committee on Education and Health
Senate of Virginia Post Office Box 396
Pocahontas Building, Room E604
Richmond, Virginia 23218

The Honorable Roslyn C. Tyler
25359 Blue Star Highway Jarratt, VA 23867
Chair of the House Committee on Education
Virginia House of Delegates
Post Office Box 406
Pocahontas Building, Room E321
Richmond, Virginia 23218

Dear Governor Northam, Senator Lucas, and Delegate Tyler:

Virginia Commonwealth University remains committed to the constitutional protections and principles of free expression. Pursuant to § 23.1 – 401.1(E) of the Code of Virginia, Virginia Commonwealth University hereby provides notice of one complaint in the attached. This complaint was filed February 11, 2020 and the University accepted service of process on March 12, 2020. University Counsel Mike Melis is available to respond to any questions you may have about this complaint.

Sincerely,

Matthew A. Conrad
Executive Director, VCU Government Relations

Attachment:
Case No.: 3:20-cv-00083 Document 1

**United States District Court for the Eastern District of Virginia
VA**

Cymaea Halim

VS

Index no: 3:20-cv-00083-REP

Virginia Commonwealth University

Service of a Summons & Complaint

Michael Rao
Office of the President 910 West Franklin Street
Richmond, VA23284-2512

RECEIVED

MAR 1 2 2020

Office of the President

SERVE

**FOXMORE
379-5500**

Job # - 118284

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Cymaea Halim

Plaintiff(s)

Y.

Virginia Commonwealth University

Defendant(s)

Civil Action No. 3:20-cv-00083-REP

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* Virginia Commonwealth University
907 Floyd Ave
Richmond, VA 23284

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Law Office of Jillian T. Weiss, 1 Little West 12th Street, New York, NY 10014

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT



PERSONNEL:

Date: 02/25/2020

Signature of Clerk or Deputy Clerk

118284

Third Party Service
FOXMORE
11503 Allecingie PKWY, 3rd Fl
Richmond, VA 23235
804-379-5500

SERVE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

CVMAEA HALIM,)	
)	
Plaintiff)	Case No.
v.)	
)	
VIRGINIA COMMONWEALTH UNIVERSITY, PATTY PAINE, RYAN ELLINGTON, AND AMIR BERBIĆ)	COMPLAINT and JURY DEMAND
)	
Defendants.)	
)	
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I. PRELIMINARY STATEMENT

1. This is an action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq. (“Title VII”), Title I of the Civil Rights Act of 1991, 42 U.S.C. § 1981a, Title IX of the Education Amendments Act of 1972, as amended, 20 U.S.C. § 1681, et seq. (“Title IX”), the Civil Rights Act of 1871, 42 U.S.C. § 1983, and the Equal Protection and Due Process Clauses of the United States Constitution based on sex, sex stereotyping, gender expression, and retaliation, including hostile work environment and retaliatory hostile work environment.

II. PARTIES

2. Plaintiff Cvmaea Halim is a nonresident citizen of the United States.
3. Plaintiff is an Associate Professor in the Painting and Printmaking (PAPR) program at Defendant Virginia Commonwealth University’s School of the Arts in Qatar.
4. Professor Halim is a nonbinary, and gender non-conforming transgender person, who uses the singular pronouns “they” and “them” to refer to themselves.

5. The singular pronouns “they” and “them” are used in this Complaint to refer to Professor Halim. References to “they” and “them” in regard to Professor Halim refer to Professor Halim alone, unless otherwise stated.
6. Defendant Virginia Commonwealth University Foundation (“VCU”) is a nonstock corporation organized and existing under the law of the Commonwealth of Virginia with its principal office address at 700 West Grace Street, PO Box 843075, Richmond, Virginia 23824-3075.
7. Virginia Commonwealth University School of the Arts in Qatar (“VCUQ”) is located at Al Luqta Street, Education City, Doha, Qatar.
8. VCUQ is incorporated in and under the laws of Qatar.
9. VCUQ is a branch campus of Defendant VCU’s School of the Arts.
10. At all times relevant herein, Defendant VCU has continuously employed more than five hundred (500) employees.
11. At all times relevant herein, Defendant VCU has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g), and (h) of Title VII, 42 U.S.C. §§ 2000e(b), (g), and (h).
12. Defendant VCU is an employer that controls VCUQ.
13. Upon information and belief, the contract for the creation of VCUQ calls for, and the day-to-day operations of VCUQ demonstrate interrelation of operations, common management, centralized control of labor relations, or common ownership or financial control.
14. At all times relevant herein, Plaintiff Cvmaea Halim has continuously been an individual who is employed by Defendant VCU in a foreign country who is a citizen of the United States within the meaning of Section 701(f) of Title VII, 42 U.S.C. § 2000e(f).
15. Defendant VCU is a recipient of funds from the Commonwealth of Virginia.

16. Defendant VCU is a recipient of federal funds.
17. Defendant VCU and its Board of Visitors supervise, manage and administer VCUQ and its academic programs and requirements.
18. At all relevant times herein, Patty Paine was employed by Defendant VCU as the Dean of Academic Affairs at VCUQ.
19. At all relevant times herein, Ryan Ellington was the HR Director for Defendant VCU's School of the Arts, including VCUQ.
20. Amir Berbić is employed by Defendant VCU as the Dean of VCUQ, and was appointed to this position on August 1, 2019.
21. Collectively, Ms. Paine, Mr. Ellington and Mr. Berbić are referred to as the "Individual Defendants" and together with Defendant VCU, the "Defendants".

III. PROCEDURAL HISTORY

22. On or about September 3, 2019, Professor Halim filed a complaint with the Equal Employment Opportunity Commission ("EEOC" or "Commission").
23. The complaint alleged violations of 42 U.S.C. § 2000, et seq. ("Title VII") including discrimination because of gender, including sex, sexual orientation, sex stereotyping, and gender expression (the "Protected Categories"). The complaint also alleged hostile work environment because of the Protected Categories, retaliation for protected activities, and retaliatory hostile work environment.
24. On November 14, 2019, the EEOC issued a dismissal and notice of right to sue to the Plaintiff, attached hereto.
25. Plaintiff took all necessary steps to exhaust their administrative remedies.
26. Plaintiff took all necessary steps to fulfill all conditions precedent to the commencement of this lawsuit.

IV. JURISDICTION AND VENUE

27. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 because the action is based on Title VII of the Civil Rights Act and 42 U.S.C. §1983, and pursuant to 28 U.S.C. § 1337 because the action is based on a federal statute regulating commerce.
28. Venue is proper in the United States District Court for the Eastern District of Virginia pursuant to 28 U.S.C. §§ 1391(b)(2) because the Eastern District of Virginia is the judicial district in which the Defendant is resident.
29. Venue is proper in the United States District Court for the Eastern District of Virginia pursuant to 42 U.S.C. § 2000e-5(f)(3) because the Eastern District of Virginia is the judicial district in which the employment records relevant to such practice are maintained and administered.

V. FACTS

30. Plaintiff Cvmaea Halim has identified as a transgender, nonbinary and gender non-conforming person.
31. Professor Halim is married to a cisgender (i.e., not-transgender) man.
32. Professor Halim is Arab and of Lebanese heritage.
33. Professor Halim had a male gender expression upon being hired in August 2013.

A. Sex, Sex Stereotyping, Gender, and Gender Expression

34. *Sex* is a term that includes gender and gender expression within its meaning.
35. *Sex stereotyping* refers to the application by an employer of stereotypes related to sex to restrict, disparage, or discriminate on the basis of an employee's gender expression.
36. *Gender* refers to cultural expectations specific to the sexes.
37. *Gender expression* refers to a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's sex assigned at birth.

38. *Transgender individuals* are people who have a gender expression or identity that does not match the sex they were assigned at birth.
39. *Gender non-conforming* refers to a person whose gender expression and/or gender identity does not conform to social expectations.
40. *Nonbinary* is a term referring to combinations of gender identities and expressions, such as combinations of being masculine and feminine, or neither or both. It encompasses both gender fluid and fixed gender persons.
41. *Gender transition*. Transgender individuals often seek out legal, social, and medical means of aligning external manifestations of their sex and gender with their gender identity. This process is colloquially known as *gender transition* or *transition*.
42. Discrimination against transgender people for being transgender is based on their sex, sex stereotyping, gender, and gender expression.

B. Employment With VCU

43. Professor Halim has been a member of VCU faculty since August 2013.
44. They joined the faculty as Assistant Professor in the Painting and Printmaking program at VCUQ ("PAPR").
45. Professor Halim's artwork frequently deals with themes of sexuality and gender.
46. In or about August 2018, they were promoted to Associate Professor, their current role.
47. Throughout their employment with Defendant VCU, Professor Halim has consistently received awards, grants, and positive performance reviews.
48. Professor Halim enjoyed a successful career as assistant professor at VCU and was deeply involved in the VCUQ community.

49. For example, they took on the development of a digital photography lab and set up student-led dark rooms, which involved a significant time commitment and training of students.

50. They had an above-average participation rate in committees.

51. As a result of their efforts, they were considered a valuable member of the VCUQ community and had the respect of peers and administrators.

1. Hostile Work Environment and Discrimination Based on Sex, Sex Stereotyping, Gender and Gender Expression

52. Unfortunately, Professor Halim was exposed to an increasingly hostile work environment regarding sex, sex stereotyping, gender and gender expression.

53. Professor Halim's employment by Defendant VCU at VCUQ includes a number of benefits which are specific to employees of that campus.

54. These benefits include housing allowance, travel allowance and airfare, and support in obtaining legal residency status in Qatar for employees' spouses.

55. Professor Halim was informed that they would not receive these benefits for their husband.

56. Professor Halim addressed a claim for benefits for their husband to the Director of Human Resources for VCUQ, Linda Carter.

57. Ms. Carter relayed Professor Halim's claim to administration.

58. Professor Halim's claim was denied, and they were told that if they pursued the issue, it would negatively affect their continued employment at VCUQ.

59. Professor Halim found this to be hostile and offensive based on sex, sex stereotyping and gender.

60. Upon information and belief, the reason for this denial was bias based on sex, sex stereotyping and gender.

61. Professor Halim did not pursue the claim.
62. Professor Halim was also involved in a research funding committee regarding a faculty member whose work dealt with LGBTQ themes.
63. Other committee members expressed concern that the faculty member's research would be controversial because it dealt with gender and sex from a non-heteronormative perspective.
64. These comments made Professor Halim uncomfortable and were offensive.
65. Professor Halim expressed opposition to making academic decisions based on sex, sex stereotyping or gender expression.
66. Professor Halim's expressed opposition created friction between them and other faculty members, including faculty member Fleming Jeffries, later promoted to Interim Director of PAPR.
67. On or around November 7, 2016, Professor Halim was appointed chair of the Taskforce for Gender and Racial Inclusion by Dean Akel.
68. As part of this role, Professor Halim raised concerns about discrimination based on sex, sex stereotyping and gender expression, among other things, in the department.
69. These concerns were not addressed, and the discrimination continued.

2. Changes to Administrative Personnel

70. On or around October 27, 2017, Dean Akel was placed on administrative leave without notice.
71. He was replaced as acting head of VCUQ by Patty Paine.
72. At the same time, Fleming Jeffries was appointed interim director of PAPR at VCUQ.
73. Ms. Jeffries was Professor Halim's supervisor and evaluator.

3. Further Hostile Work Environment Based on Gender and Gender Expression

74. During the summer of 2018, Professor Halim began to change gender expression.
75. Professor Halim began to change their gendered appearance, including longer hair and piercings.
76. In addition, Professor Halim's work began to deal more explicitly with LGBTQ issues in the Middle East, exploring issues of gender and gender expression.
77. At the beginning of the 2018 academic year, in or around August 2018, Professor Halim showed their work to the department.
78. A number of faculty members criticized Professor Halim's work because it was "queer" and "too sexual," advertizing negatively to the genders and gendered expressions contained within the works.
79. This implied that certain types of gendered expression were not welcome at VCUQ, including Professor Halim's gender expression.
80. This was offensive to Professor Halim.

4. Inappropriate Conduct of Fleming Jeffries

81. In or around November 2018, Professor Halim was assigned to the search committee for Fleming Jeffries' replacement as director of the PAPR program at VCUQ.
82. Ms. Jeffries was also on the search committee.
83. Ms. Jeffries and Professor Halim had differing opinions of who should be hired.
84. On or around April 23, 2019, Professor Halim was called to a meeting by Ms. Jeffries.
85. At this meeting, Ms. Jeffries asked Professor Halim to support her choice of candidate for the position of director of the PAPR program.

86. Ms. Jeffries told them that she was upset at them because Professor Halim's life changes had created social distance from her, because she had evaluated Professor Halim professional performance scores as mediocre, and because Professor Halim had acted improperly in having their spring semester course load lessened.
87. Professor Halim was surprised by this attack, because they knew their scores to be adequate, and their course load adjustment to be proper.
88. Professor Halim's art focus is in photography, which required him to make research trips more frequently than other members of their department.
89. For this reason, they formally requested a reduction in their teaching load from two fall semester and three spring semester courses to two courses per semester.
90. This mirrored the course load in the PAPR program at VCU home campus in Richmond, VA.
91. Professor Halim's request was reviewed by the Chair of PAPR and the Dean of Academic Affairs at VCUQ.
92. Based on Professor Halim's extra service and research load, their request was approved.
93. Professor Halim reminded Interim Director Jeffries that their exhibition and publishing record was proportionally higher than other faculty, that the readjustment was merely aligning their load with equivalent faculty at the Richmond, VA campus, and that they went through appropriate channels to have their course load changed.
94. Ms. Jeffries told Professor Halim that she could change their evaluation scores, but would include language regarding Professor Halim's failure to spend appropriate amounts of time on campus.
95. Professor Halim confided to colleagues about their meeting with Ms. Jeffries.

96. Professor Halim emailed the interim Dean of Academic Affairs, Patty Paine, notifying her of concerns about the statements by Interim Director Jeffries.
97. Professor Halim also requested an appeal of the evaluation.
98. Professor Halim went to the HR department and spoke to Eman Ali, a HR manager for VCUQ, regarding the statements of Interim Director Jeffries.
99. Ms. Ali told Professor Halim they should report their concerns.
100. However, when Ms. Ali called the Director of HR for Defendant VCU in Richmond, VA, he instructed her not to speak to Professor Halim further about these concerns.

5. Administrative Leave Meeting

101. On April 29, 2019, Professor Halim met with administrators, including Dean Paine, VCUQ Director of Human Resources Archana Kumar, VCU Director of Human Resources Ryan Ellington, and another unknown administrator.
102. At this meeting, Professor Halim was told that they were being placed on paid administrative leave.
103. Professor Halim was not given a reason for the decision at this time.
104. Professor Halim was given a formal letter signed by Ms. Paine confirming the decision but again, stating no reason.
105. Professor Halim was then escorted off campus in a humiliating and degrading manner.
106. It is against VCUQ policy or protocol to put a faculty member on administrative leave without providing notice or a reason.
107. Other similarly situated faculty members who are not members of the Protected Categories were given notice prior to being placed on administrative leave.

6. False Allegations Against Professor Halim

108. Professor Halim made numerous attempts to contact VCU with questions about their status, their obligations, and their entitlements and health care coverage while on administrative leave.
109. VCU did not respond to these requests.
110. On August 26, 2019, attorney for VCU Jacob Belue contacted attorney Eileen N. Wagner, who was acting on behalf of Professor Halim.
111. Mr. Belue told Ms. Wagner that Professor Halim was put on administrative leave because of allegations of drug use.
112. These allegations were untrue and unsubstantiated by any competent evidence possessed by VCUQ.
113. The allegations of drug use were purposely, knowingly or recklessly false.
114. Professor Halim had never been requested to undergo a drug test by VCU during their employment.
115. This allegation was never raised to Professor Halim prior to August 26, 2019.
116. This allegation was made as pretext for their administrative leave, but the real reason for this adverse action was hostility because of their membership in the Protected Categories, or with the Protected Categories as a motivating factor.
117. Mr. Belue also alleged that Professor Halim was put on administrative leave because they were involved in an illegal “hit and run” accident.
118. This was untrue and unsubstantiated by any competent evidence possess by VCUQ.
119. In or around November 2018 Professor Halim’s car door had been caught by the wind and swung open, denting another car.

120. The other car was unoccupied and there were no injuries.
121. Professor Halim did not believe the other car to be damaged.
122. There was, in fact, minor damage to the other car.
123. Professor Halim was subsequently arrested and detained for approximately 12 hours.
124. Upon information and belief, they were released from detention without charge.
125. Professor Halim notified Defendant VCU of the incident.
126. The allegations of an illegal hit and run accident were purposely, knowingly or recklessly false.
127. The incident was never formally raised as a concern with Professor Halim prior to August 26, 2019.
128. This allegation was made as pretext for their administrative leave, but the real reason for this adverse action was hostility because of their membership in the Protected Categories, or with the Protected Categories as a motivating factor.
129. Mr. Belue also stated that Professor Halim dressed inappropriately, and implied he was referring to clothing and styling appropriate to Professor Halim's perceived gender.
130. Professor Halim had changed their clothing and styling appearance related to their gender expression.
131. This was an admission by VCUQ by their attorney, Mr. Belue, that VCUQ had taken an adverse employment action against Professor Halim because of their sex, sex stereotyping, gender and gender expression.
132. Mr. Belue further stated that Professor Halim spoke loudly and in an intimidating manner.
133. Mr. Belue named no specific incidents or persons involved in such incidents.
134. This allegation was never raised as an issue to Professor Halim prior to August 26, 2019.

135. This allegation was made as pretext for their administrative leave, but the real reason for this adverse action was hostility because of their membership in the Protected Categories, or with the Protected Categories as a motivating factor.

7. Hostile Work Environment Based on Other Protected Characteristics

136. Professor Halim was also subjected to a work environment rife with hostility to other protected characteristics.

137. For example, they were involved in the search committee to appoint a Dean of VCUQ in 2015.

138. One of the candidates was Dr. Akel I. Kahera, a black, Muslim man.

139. In the course of Dr. Akel's review, Professor Halim heard other committee members make negative comments based on race, national origin and religion about Dr. Akel.

140. This included comments by Dr. Valerie Jeremijenko, Assistant Dean for Student Affairs, and Mr. Garry Huff, Associate Dean for Administration, that having a Muslim Dean would affect freedom of expression on campus.

141. Dr. Jeremijenko and Mr. Huff indicated that they believed Dr. Akel would censor faculty artwork because of his religion.

142. These comments made Professor Halim uncomfortable.

143. Professor Halim expressed their opposition to the discriminatory comments to the other committee members.

144. In spite of the racial and religious bias against Dr. Akel, he was appointed Dean in April 2015.

145. Faculty members and employees of VCUQ continued to express suspicion regarding Dr. Akel and his loyalty to VCUQ throughout his tenure as Dean.

146. Professor Halim continued to express their opposition to these discriminatory comments.

147. Professor Halim was subjected to hostility because of their opposition to the discriminatory statements about Dr. Akel.

8. Retaliatory Contract Non-Renewal

148. Professor Halim signed a contract in May 2018 for a three-year term of employment, through May 2021.

149. The VCU Faculty Handbook states that faculty members must be given one year's notice prior to termination in the form of a "terminal contract" or else the contract is automatically renewed for an additional year.

150. On August 29, 2019, without any prior notice, Defendant VCU and Individual Defendant Dean Amir Berbic issued a terminal contract to Professor Halim for the term August 10, 2019 through May 9, 2020.

151. Professor Halim was surprised by this, as they already had a contract effective through May 2021.

152. They were given no notice for this terminal contract.

153. The contract included the following terms:

- a. They would not be permitted to work on campus at VCUQ,
- b. They would instead be working remotely in a research capacity,
- c. They would report to the interim Associate Dean for Academic Affairs,
- d. Their employment would terminate August 28, 2020.

154. These were adverse actions, undesirably reassigning Professor Halim for the 2019/2020 academic year, and terminating their employment a year earlier than promised.

155. This was in violation of VCU policy, which required one years' notice for issuance of a terminal contract, as laid out in VCU's Faculty Handbook.

156. Upon information and belief, Defendant VCU's ostensible reasons for these adverse actions were the same as those given for the administrative leave, as set forth above.

157. Professor Halim filed a charge with the EEOC on September 3, 2019.

158. Professor Halim was required to sign the terminal contract as demanded by the school on September 29, 2019.

CAUSES OF ACTION

COUNT 1

42 U.S.C. § 2000e, et seq.

Title VII

**Hostile Work Environment Because of Sex,
Sex Stereotyping, Gender and Gender Expression
(Against Defendant VCU)**

159. Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth herein.

160. Plaintiff is a member of a protected category with regard to sex, sex stereotyping, gender and gender expression.

161. In response to Plaintiff's non-conforming gender expression, Defendant VCU's faculty and administrators, including the Individual Defendants, instituted a campaign of harassment and discrimination, including false criminal allegations, on the basis of sex and sex stereotyping, including gender and gender expression, and adopted adversarial attitudes and hostile demeanors.

162. This harassment was frequent, severe and pervasive.

163. Plaintiff was targeted for harassment and subjected to a hostile work environment by managers and employees because of their sex and sex stereotyping, including gender and gender expression.

164. The discriminatory acts as detailed herein were perpetuated and/or directed by the same core group of administrators and employees, including the Individual Defendants, were egregious, numerous and concentrated, and formed part of a hostile work environment.
165. The discriminatory acts were unwelcome to Plaintiff.
166. Discriminatory intimidation, marginalization, ostracism, and insult permeated the work environment, and was sufficiently severe or pervasive to alter the conditions of Plaintiff's employment and to create an abusive working environment, as detailed herein.
167. The effects of the hostile environment alleged herein were and are felt by Plaintiff daily.
168. Plaintiff felt humiliation and despair as a result of the false allegations made against them.
169. Many events contributing to this hostile work environment occurred within the 300-day period prior to Plaintiff's EEOC charge.
170. Plaintiff perceived the working environment to be abusive or hostile.
171. A reasonable person in Plaintiff's circumstances would consider the working environment to be abusive or hostile.
172. Defendant VCU's actions occurred because of Plaintiff's sex, sex stereotyping, gender and gender expression, in that their gender expression is gender non-conforming and gender non-binary.
173. Defendant VCU was on notice of the hostile work environment, including actual notice by means of complaints made by Plaintiff, as detailed herein.
174. Defendant VCU did not undertake prompt and effective efforts sufficient to stop the hostile environment detailed herein.
175. As a direct and proximate result of Defendant VCU'S unlawful discrimination, Plaintiff incurred damages including but not limited to lost wages, humiliation, loss of enjoyment of life, emotional distress, physical injury, damage to their professional reputation, and other pecuniary and non-pecuniary losses, which damages would not have occurred but for Defendant VCU's unlawful hostile work environment.

COUNT 2
42 U.S.C. § 2000e, et seq.
Title VII
Discrimination Because of Sex
(Against Defendant VCU)

176. Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth herein.
177. Defendant VCU, including through the actions of the Individual Defendants, discriminated against Plaintiff by adverse actions and in the terms, conditions, or privileges of employment based on sex, sex stereotyping, gender and gender expression, by placing them on administrative leave, failing to provide them with the notice and grounds for the decision, and requiring them to sign a terminal contract without proper notice, unlike the treatment given to similarly situated employees outside of Plaintiff's protected categories.
178. The reasons given by Defendant VCU for these adverse actions regarding Plaintiff's clothing and styling were an admission that sex, sex stereotyping, gender and gender expression were the cause of or a motivating factor for the adverse actions.
179. The other reasons given were purposely, knowingly, or recklessly false, and were a pretext for the real reason, which was discrimination based on sex, sex stereotyping, gender and gender expression.
180. As a direct and proximate result of Defendant VCU'S unlawful discrimination, Plaintiff incurred damages including but not limited to lost wages, humiliation, loss of enjoyment of life, emotional distress, physical injury, damage to their professional reputation, and other pecuniary and non-pecuniary losses, which damages would not have occurred but for Defendants' discrimination.

COUNT 3
42 U.S.C. § 2000e, et seq.
Title VII
Retaliation
(Against Defendant VCU)

181. Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth herein.
182. Plaintiff engaged in protected activity by protesting their disparate treatment by the Defendant to Dean of Academic Affairs Patty Paine, to Human Resources representative Eman Ali, and by filing a complaint with the United States Equal Employment Opportunity Commission on September 3, 2019.
183. Plaintiff's filing of the complaint was made known to Defendant VCU immediately thereafter.
184. Following and because of Plaintiff's Title VII protected conduct, Plaintiff continued to be harassed with false allegations of misconduct, and threatened with and subjected to tangible or adverse employment actions.
185. The actions taken against Plaintiff would dissuade a reasonable employee from making or supporting a complaint of discrimination.
186. Defendant VCU retaliated against Plaintiff because of their protected activity all in violation of Title VII and Title I of the Civil Rights Act of 1991.
187. As a direct and proximate result of Defendant VCU's unlawful retaliation, Plaintiff has incurred damages including but not limited to lost wages, humiliation, loss of enjoyment of life, emotional distress, physical injury, damage to their professional reputation, and other pecuniary and non-pecuniary losses.

COUNT 4
20 U.S.C. § 1681, et seq.
Title IX
Hostile Work Environment Because of Sex
(Against Defendants VCU, Paine, Ellington, Berbić)

188. Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth herein.
189. Plaintiff is a member of a protected category with regard to sex.

190. In response to Plaintiff's non-conforming gender expression, Defendant VCU's faculty and administrators, including the Individual Defendants, instituted a campaign of harassment and discrimination, including false criminal allegations, on the basis of sex, sex stereotyping, gender and gender expression, and adopted adversarial attitudes and hostile demeanors.
191. This harassment was frequent, severe and pervasive.
192. Plaintiff was targeted for harassment and subjected to a hostile work environment by managers and employees because of their sex and sex stereotyping, including gender and gender expression.
193. The discriminatory acts as detailed herein were perpetuated and/or directed by the same core group of administrators and employees, were egregious, numerous and concentrated, and formed part of a hostile work environment.
194. The discriminatory acts were unwelcome to Plaintiff.
195. Discriminatory intimidation, marginalization, ostracism, and insult permeated the work environment, and was sufficiently severe or pervasive to alter the conditions of Plaintiff's employment and to create an abusive working environment, as detailed herein.
196. The effects of the hostile environment alleged herein were and are felt by Plaintiff daily.
197. Plaintiff daily felt humiliation and despair as a result of the false allegations made against them.
198. Plaintiff perceived the environment to be abusive or hostile.
199. A reasonable person in Plaintiff's circumstances would consider the environment to be abusive or hostile.
200. Defendants' actions occurred because of Plaintiff's sex, sex stereotyping, gender and gender expression, in that their gender expression is gender non-conforming and gender non-binary.
201. Defendant VCU was on notice of the hostile work environment, including actual notice by means of complaints made by Plaintiff, as detailed herein.
202. Defendant VCU did not undertake prompt and effective efforts sufficient to stop the hostile environment detailed herein.

203. As a direct and proximate result of Defendant VCU's unlawful discrimination, Plaintiff incurred damages including but not limited to lost wages, humiliation, loss of enjoyment of life, emotional distress, physical injury, damage to their professional reputation, and other pecuniary and non-pecuniary losses, which damages would not have occurred but for Defendant VCU's unlawful hostile work environment.

COUNT 5
42 U.S.C. § 1983
United States Constitution
First Amendment Freedom of Speech
(Against Defendants Paine, Ellington, Berbić)

204. Plaintiff realleges and incorporates herein the foregoing paragraphs as though fully restated herein.

205. 42 U.S.C. § 1983 provides in part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, or any State * * *, subjects, or causes to be subjected, any citizen of the United States * * * to the deprivation of any right, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

206. As a public employee, the First Amendment to the United States Constitution guarantees Plaintiff the right to express themselves on matters of public concern without fear of unjust retaliation.

207. Plaintiff engaged in speech related to matters of political, social, educational, and public concern to the VCU community when they protested the treatment of other faculty, spoke up at faculty meetings and seminars, and created and shared their artwork.

208. Plaintiff's speech referenced above was protected by the First Amendment to the United States Constitution.

209. Plaintiff engaged in speech protected by the Equal Protection Clause of the United States Constitution and the Due Process Clause of the United States Constitution when they crafted

their appearance to be appropriate to their transgender, non-binary, gender non-conforming person.

210. Plaintiff's speech, in wearing clothing appropriate to their non-binary gender, was protected by the First Amendment to the United States Constitution.

211. Plaintiff's speech, in adopting plural pronouns and changing their name, is protected by the First Amendment to the United States Constitution.

212. In direct retaliation for their exercise of protected speech and to deter their free speech, Defendants intentionally retaliated against Plaintiff by the differential treatment of, and adverse actions taken against, Plaintiff in the manner described in the preceding paragraphs.

213. The hostile environment, differential treatment of, and adverse actions taken against Plaintiff were intentional, malicious and arbitrary, motivated by nefarious and discriminatory purpose, and were not rationally related to any governmental interest.

214. The hostile environment, differential treatment of, and adverse actions taken against Plaintiff were intentional, malicious and arbitrary, motivated by nefarious and discriminatory purpose, and were not substantially related to any important governmental interest.

215. The hostile environment, differential treatment of, and adverse actions taken against Plaintiff were intentional, malicious and arbitrary, motivated by nefarious and discriminatory purpose, and were not narrowly tailored to achieving any compelling governmental interest.

216. The hostile environment, differential treatment of, and adverse actions taken against Plaintiff by the Individual Defendants were undertaken by governmental policymakers with final authority to establish policy with respect to the actions taken against Plaintiff, or had been delegated the same, and the differential treatment and misconduct constituted the governmental policy and practice of the Defendant VCU.

217. As a result of the above-described wrongful conduct, Plaintiff's constitutional rights were violated.

218. As a direct result of Individual Defendants' conduct, Plaintiff has suffered lost wages and benefits, lost seniority, lost promotion, lost future earnings, lost employment opportunities, humiliation, embarrassment, loss of self-esteem, damage to their reputation, attorneys' fees and costs of suit.

COUNT 6
42 U.S.C. § 1983
United States Constitution
Equal Protection Clause and Due Process Clause
(Against Defendants Paine, Ellington, Berbić and VCU)

219. Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth herein.

220. 42 U.S.C. § 1983 provides in part:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, or any State * * *, subjects, or causes to be subjected, any citizen of the United States * * * to the deprivation of any right, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

221. On information and belief, other employees of Defendant VCU similarly situated to Plaintiff outside of the Plaintiff's protected category have not been subjected to the hostile environment, differential treatment and adverse actions Plaintiff received as described in the preceding paragraphs.

222. As a result of Plaintiff's gender and gender expression, the Individual Defendants intentionally targeted Plaintiff for hostile environment, differential treatment and adverse employment actions.

223. The hostile environment, differential treatment of, and adverse employment actions taken against, Plaintiff as described in the preceding paragraphs, were intentional, malicious and arbitrary, motivated by nefarious and discriminatory purpose, and were not rationally related to any governmental interest.

224. The reasons given by the Individual Defendants for these actions against Plaintiff were a pretext for discrimination based on gender and gender expression.

225. The hostile environment, differential treatment of, and adverse actions taken against, Plaintiff were undertaken by governmental policymakers with final authority to establish policy with respect to the actions ordered, or had been delegated the same, and the differential treatment and misconduct constituted the governmental policy and widespread practice of Defendant VCU.
226. Defendant VCU and its agents and employees, including the Individual Defendants, acted under color of state law and knew or reasonably should have known that their conduct would violate Plaintiff's constitutional rights.
227. The Individual Defendants' conduct was a cause in fact of Plaintiff's differential treatment and the adverse actions taken against them.
228. Plaintiff's gender and gender expression are a matter of individual right and privacy and may not be dictated by government officials.
229. Plaintiff has a right of autonomy applicable to their gender and gender expression.
230. As a result of the above-described wrongful conduct, Plaintiff's constitutional rights were violated.
231. As a direct result of the Individual Defendants' conduct, Plaintiff has suffered lost wages and benefits, lost seniority, lost promotion, lost future earnings, lost employment opportunities, humiliation, embarrassment, loss of self-esteem, damage to their reputation, attorneys' fees and costs of suit.

COUNT 7
Breach of Contract
(Against Defendant VCU)

232. Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth herein.
233. Plaintiff and Defendant VCU entered into a legally enforceable obligation in May 2018 by means of a written employment contract signed by the parties.

234. The contract bound the parties to a three-year term of employment, through May 2021.
235. On August 29, 2019, without any prior notice, Defendant VCU demanded that Plaintiff sign a terminal contract terminating them on May 9, 2020 in lieu of termination.
236. By so doing, Defendant VCU breached its obligation under the original contract.
237. This damaged Plaintiff in the amount of the salary due to them under the May 2018 contract between May 2020 and May 2021.
238. Defendant VCU was aware and it was within their contemplation that its breach would require Plaintiff to consult an attorney to address Plaintiff's rights.
239. Defendant VCU is liable for consequential damages in the amount of attorney fees expended by Plaintiff to address Plaintiff's rights from the breach.

MANDATORY RECOVERY OF ATTORNEY FEES AND COSTS

1. Plaintiff incorporates by reference all previous paragraphs as if fully set forth herein.
2. Plaintiff is mandatorily entitled to recover their attorneys' fees and costs pursuant to provisions of Title VII.
3. Plaintiff is entitled to an award of attorney fees pursuant to the Equal Access to Justice Act, codified at 5 U.S.C. § 504, *et seq.*, 28 U.S.C. § 2412 *et seq.*, and 28 U.S.C. § 2412 *et seq.*

JURY DEMAND

4. Plaintiff hereby demands a trial by jury of all issues triable by a jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Declare that the acts, practices, and omissions complained of herein are unlawful and violate Title VII, Title IX and the United States Constitution;
- B. Permanently enjoin Defendant VCU, its officers, agents, servants, employees, attorneys, and all persons in active concert or participation with them, including the Individual Defendants,

from engaging in the unlawful conduct of discriminating against employees who are transgender or gender non-conforming;

- C. Order Defendant VCU to institute and carry out policies, practices, programs, and training which provide equal employment opportunities for employees who are transgender or gender non-conforming, and which eradicate the effects of the Defendants' past and present unlawful employment practices;
- D. Order other affirmative relief necessary to eradicate the effects of the Defendants' unlawful employment practices;
- E. Direct Defendants to pay for past and future compensatory pecuniary and non-pecuniary losses resulting from the unlawful practices complained of in the foregoing paragraphs, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation, in an amount to be determined at trial;
- F. Award Plaintiff's attorneys' fees, costs, and disbursements as provided by law; and
- G. Award such additional relief as justice may require.

Dated: February 10, 2020

Respectfully submitted

CVMAEA HALIM

/s/ Monica L. Mroz

Monica L. Mroz, Esq. (VSB # 65766)

Thomas E. Strelka, Esq. (VSB# 75488)

L. Leigh R. Strelka, Esq. (VSB # 73355)

STRELKA LAW OFFICE, PC

Warehouse Row

119 Norfolk Avenue, S.W., Suite 330

Roanoke, VA 24011

Tel: 540-283-0802

thomas@strelkalaw.com

leigh@strelkalaw.com

monica@strelkalaw.com

Attorneys for Plaintiff

s/ Jillian T. Weiss

Jillian T. Weiss, Esq.
Law Office of Jillian T. Weiss, P.C.
527 Hudson Street
P.O. Box 20169
New York, New York 10014
(845) 709-3237
Fax (845) 684-0160
jweiss@jtweisslaw.com

Attorney for the Plaintiff
(Pro Hac Vice Motion forthcoming)