

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BARRY MITNICK,	)	Civil Action No.
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
THE UNIVERSITY OF PITTSBURGH–	)	
OF THE COMMONWEALTH SYSTEM	)	
OF HIGHER EDUCATION,	)	FILED ELECTRONICALLY
	)	
Defendant.	)	JURY TRIAL DEMANDED

**COMPLAINT IN CIVIL ACTION**

AND NOW comes Plaintiff, Barry Mitnick (“Dr. Mitnick”), by and through undersigned counsel, and files this Complaint in Civil Action raising claims under the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq., Title VII, 42 U.S.C. § 2000e et seq., the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq., the Equal Pay Act, 29 U.S.C. § 206(d), Title IX, 20 U.S.C. § 1681 et seq., the Pennsylvania Wage Payment and Collection Law, 43 P.S. § 260.1 et seq., the Pennsylvania Whistleblower Law, 43 P.S. § 1421 et seq., and breach of contract, stating as follows:

**I. PARTIES**

1. Dr. Mitnick is an adult individual residing in Allegheny County, Pennsylvania.
2. The University of Pittsburgh–of the Commonwealth System of Higher Education (“Pitt” or “the University”) is a state-related institution of post-secondary education that maintains a place of business at 4200 Forbes Avenue, Pittsburgh, PA 15260.

**II. JURISDICTION**

3. The jurisdiction of the Court over matters in this Complaint is founded upon 28

U.S.C. § 1331, 28 U.S.C. § 1367(a), and 42 U.S.C. § 2000e-5(f)(3).

### **III. VENUE**

4. The facts related in this Complaint occurred in Allegheny County, Pennsylvania, in the Western District of Pennsylvania; therefore, venue is appropriate in this Court.

### **IV. ADMINISTRATIVE EXHAUSTION**

5. In March 2018, Dr. Mitnick filed an administrative charge, docketed at 533-2018-00993, with the U.S. Equal Employment Opportunity Commission (“EEOC”); this charge was cross-filed with the Pennsylvania Human Relations Commission (“PHRC”).

6. The aforementioned charge named the “University of Pittsburgh Katz Graduate School of Business,” which is a unit of the University, as the respondent and stated claims for sex, age, and association discrimination in addition to retaliation.

7. On June 8, 2018, the EEOC issued a “right to sue” notice with respect to the aforementioned charge, thereby giving Dr. Mitnick the right to bring his federal claims in court.

8. Dr. Mitnick will seek leave to file an amended complaint to include claims under the Pennsylvania Human Relations Act, 43 P.S. 951 et seq., when those claims are administratively exhausted.

### **V. FACTS**

9. Dr. Mitnick is currently a member of the faculty at the Katz Graduate School of Business (“Katz,” “the Katz School,” or “the School”), which is a component of the University.

10. Dr. Mitnick, who was born in 1947, is a male individual over forty years of age.

11. Dr. Mitnick was initially hired by Katz in 1978 and has a long and distinguished record of publication in his field, business ethics/business and society.

12. Dr. Mitnick has published over 100 books, articles, papers in proceedings, reviews, and other publications.

13. While at the Katz School, Dr. Mitnick has published two books, several monographs, and many articles in leading refereed journals and other publications in his field.

14. Dr. Mitnick won the Sumner Marcus Award, the highest career award in his field, as well as the Best Article Award of the International Association for Business and Society, the highest annual research award in his field.

15. Dr. Mitnick is recognized as a founder of agency theory (1973), which examines the relationship between principals and agents in business and in society in general.

16. Dr. Mitnick has headed the Social Issues in Management Division of the Academy of Management, the largest and most prestigious academic association in his field in the world, and was a finalist for the Faculty Pioneer Award of the Aspen Institute, a top international teaching award.

17. Dr. Mitnick's academic research on regulation, including his book on regulation, has been recognized as leading work in this area, and his work on agency theory has been incorporated into the curricula at the Katz School and throughout many fields of social science.

18. Dr. Mitnick's work has been translated into Spanish and has been studied in business schools and relevant departments throughout Latin America.

19. Per his original letter of contract (1978) (attached to this Complaint as "Exhibit A"), Dr. Mitnick was hired to teach courses on business and society/environmental influences on business, to do scholarly research, and to publish that research in "well-regarded refereed research journals, books, and monographs."

20. On Nov. 30, 1993, former Katz Dean H. J. Zoffer (“Dean Zoffer”) wrote to Dr. Mitnick regarding the reduction of his teaching load by three credits, stating that “[w]e do understand the nature of your research as being reflected in book length manuscripts and hope that the environment will now be even more supportive of your efforts.”

21. The aforementioned letter of contract indicated that Dr. Mitnick “would be expected to teach approximately two courses per term.”

22. The core and elective courses referred to in the letter were then three credits each, so this expectation was equivalent to eighteen credits per year.

23. The aforementioned expectation corresponded to two three-credit courses per academic term (at the time the Katz School operated on a calendar consisting of three academic terms per year); however this letter does not state Dr. Mitnick’s teaching load as a specific number of credits.

24. Pursuant to the aforementioned contract letter, Dr. Mitnick’s load would fall to twelve credits when the calendar changed from three to two terms, if courses remained at three credits, and potentially to a different number of credits if the credits per course changed.

25. After Dr. Mitnick arrived at the University, Katz School administrators told him repeatedly that he was expected to publish in journals, books, and monographs relevant to his new field, business and society, and not primarily in his previous field, public administration and political science, although publication in those areas could continue.

26. The Katz School administration later required Dr. Mitnick to publish in journals that were not specifically in his field because the School’s reward system was tied to publication in journals on the School’s “A-Journal List,” which includes no journals in Dr. Mitnick’s field and does

not reward books or monographs.

27. Inclusion of journals on the aforementioned “A-Journal List” is controlled by the Dean and is arbitrary.

28. While Dr. Mitnick would author multiple published and in-process academic books, the Katz School administration would only credit him with publishing his first book and did not credit him with his subsequent book nor fully support his research on additional books.

29. The importance of his academic work notwithstanding, Dr. Mitnick’s research output has been characterized unfairly as “modest,” and he has rarely qualified for the full teaching reduction and full summer research support normally granted to highly productive faculty.

30. Despite publishing three articles and editing a symposium in a single academic year in the top journal in his field, Dr. Mitnick was denied the research award and teaching reduction potentially available to all other faculty in the Katz School because they do have journals in their fields on the “A-Journal List.”

31. Even though his research has bolstered the international reputation of the Katz School, Dr. Mitnick is the only research-oriented faculty member at the School who has been denied graduate research assistants (“GSAs”), significantly impeding his research, and the only such faculty member without a journal in his field on Katz’s “A-Journal List.”

32. Successive deans have refused to add the three top journals in Dr. Mitnick’s field to the “A-Journal List” despite their recognition throughout the field itself as the top journals; however, when a female faculty member recently joined the Katz School in entrepreneurship, an additional journal from her field was added to the “A-Journal List.”

33. When another female faculty member joined the Katz School years ago from the

Psychology Department, the Katz School added her psychology journals and kept them on the “A-Journal List,” despite the fact that few or no other faculty in the School were publishing in those journals.

34. Katz School administrators have expanded the scope of the “A-Journal List” at the behest of other female faculty.

35. Despite the importance of his work, Dr. Mitnick’s salary has remained significantly below the median faculty salary at the Katz School, the median faculty salary for the University as a whole, and the median faculty salary in his field for faculty at comparable institutions.

36. The Katz School administration has failed to compensate Dr. Mitnick at a level commensurate with his work productivity.

37. Dr. Mitnick is one of the oldest faculty members at the Katz School, and there is a long term pattern at Katz of paying older faculty at lower rates.

38. For example, when the Katz School transitioned older faculty members from a three-term [two-term (eight month) plus summer term] to a two-term (nine month) year, Dr. Mitnick’s salary (which was calculated on the basis of three terms over eleven months) was cut to nine months, and was not folded fully into the nine month/two-term model in accord with this transition.

39. The Katz administration maintained, however, that Dr. Mitnick’s three term teaching load of six courses (interpreted as eighteen credits) now applied to the two terms.

40. Furthermore, the higher matching retirement benefits available to older faculty (which could be received over three terms rather than just two terms) were also cut; younger faculty members already on nine month salaries that included their full contract salary as well as retirement

benefits were not cut at the same time.

41. Dr. Mitnick's salary has been far below the comparable salaries of professors in his field of business ethics/business and society.

42. For example, for the 2013-2014 academic year, the mean salary of full professors of business ethics at an accredited public business school was \$190,300.00 at the 75<sup>th</sup> percentile and \$229,100.00 at the 90<sup>th</sup> percentile in data reported by the Association to Advance Collegiate Schools of Business ("AACSB"); the mean at a research institution like Pitt would have been higher.

43. In contrast, Dr. Mitnick's salary was \$111,534.00, which was less than half the salary of a professor with comparable international achievements in his or her field.

44. Dr. Mitnick's salary has been below that paid non-tenure-stream (term contract or "clinical") faculty who are hired primarily to teach rather than to do research and who sometimes do not have a terminal degree.

45. Dr. Mitnick's salary has been below that paid to assistant professors (a rank that is not tenured), below associate professors, as well as below full professors.

46. Moreover, even though he was ultimately promoted to the rank of full professor, Dr. Mitnick's salary was never adjusted to reflect successive promotions in rank; he never received a corresponding pay raise at the times of each of his promotions in rank, first to associate professor and then to full professor.

47. Dr. Mitnick unsuccessfully appealed the decisions denying him a salary increase; he requested that his salary be increased to at least \$200,000.00, since his achievements place him well over the mean/median for business school faculty in his field.

48. Because Dr. Mitnick's salary was so low, his summer support maximum is far below

the maximum available to his peers.

49. Even though University Policy No. 07-09-01 (which has been attached as “Exhibit B” to this Complaint) states that “[e]ach responsibility center must have explicit written policies regarding promotion increases for faculty and staff,” the Katz School has no such policy.

50. Unlike common practice at other academic institutions, Dr. Mitnick received no salary increments on account of any of his promotions, keeping his base salary tied to the lowest level of academic rank.

51. In the past, Dr. Mitnick was not properly credited for his entire course load for multiple years.

52. The University did not properly credit Dr. Mitnick for all of the credits he taught between 1981 and 2018.

53. With respect to the terms of his contract and reductions in load normally given to research faculty, Dr. Mitnick taught far in excess what of his colleagues were asked to teach; this includes—but is not limited to—a two-year period in which he was not compensated for two courses (six credits) that he taught as well as several other years in which the School refused to pay him for teaching that was completed in the MBA and doctoral programs; and many other such situations over many years.

54. The correction of these aforementioned errors would lead the Katz School to owe Dr. Mitnick in excess of 160 credits of teaching, or, using contractual language in which number of courses is calculated, in excess of 65 courses, which if compensated would now have to be paid to him as full salary plus retirement benefits.

55. Dr. Mitnick, whose academic specialty is business ethics, has been subjected to severe

harassment, abuse, and exclusion for years, in violation of University Policy No. 07-01-03 and the Faculty Handbook (which have been attached as “Exhibit C” and “Exhibit D” to this Complaint).

56. This harassment created an offensive work environment and academic environment which included being threatened with severe consequences for participating in activities normal to and even expected of faculty, being yelled at, being “auctioned” off to any group in the school, being told by the Dean and by the Katz School Doctoral Committee Chair that there was nothing of value in his field and being told his area was “shit” on multiple occasions by chaired faculty members, including a loud public outburst by a chaired professor while Dr. Mitnick was making an important presentation to the whole faculty on ethics courses.

57. From 2009 until 2013, Dr. Mitnick was listed as “unaffiliated” with any faculty group at Katz; he was the sole fully active member of the Katz faculty listed this way.

58. When Dr. Mitnick was brought back into a regular faculty group, the School did not fully change its records, nor did it supply him with the same support as his senior colleagues.

59. Dr. Mitnick was not put on the School email distribution list for this group until late March 2016, excluding him from communications to and from the group, and his requests to the Dean’s office for adequate faculty budget support were ignored for four years.

60. Unlike every case of recruitment of senior faculty in one’s own discipline since he joined the School in 1978, Dr. Mitnick was excluded from direct participation in recruitment for the Zoffer Chair in Ethics and Leadership (“Zoffer Chair”), and threatened by then Katz School Dean John Delaney (“Dean Delaney”) with the most severe consequences if Dr. Mitnick were so much to as mention the search to “anyone, anywhere, anytime.”

61. The same threat was made by Prof. Audrey Murrell, who was centrally involved in

the search.

62. Dr. Mitnick had raised internal concerns regarding the potential misuse for donated funds that were earmarked for the Zoffer Chair by filling it, contrary to the donor's wishes, with a faculty member whose interests were not in business ethics.

63. Despite the fact that Dr. Mitnick repeatedly raised concerns for misuse of the funds, the Katz administration interviewed several candidates for the Chair who were not in business ethics, and made an offer to one of them (the offer was accepted by the candidate not in business ethics, who later declined the chair).

64. Despite the Katz School's practice to always notify relevant faculty of such meetings, Dr. Mitnick was not notified of an important Promotion and Tenure Committee Meeting in June 2017 for the prospective holder of the Zoffer Chair, which he then missed.

65. At a reception in 2017 to celebrate the Zoffer Chair and the successful history of ethics work at Katz, Dr. Mitnick, who was a central part of that historical success, was completely excluded from recognition.

66. For the past four years, Dr. Mitnick has been trying to get the listing of his publications in the online Faculty Accomplishment System ("FAS") used in annual reviews corrected by the Dean's office; the FAS list used in evaluations omits several publications authored by Dr. Mitnick, which omissions may have impacted his annual raises in the relevant years.

67. Currently, the Katz School administration claims that there are no records of Dr. Mitnick's evaluations in the relevant years and that they cannot determine whether the missing publications were included in his evaluations.

68. Throughout Dr. Mitnick's time at Katz, the administration has minimized his

achievements; for instance, Katz School administrators publicly humiliated, and engaged in abusive behavior towards, Dr. Mitnick for his advocacy and professional service on behalf of children with Down syndrome.

69. Dr. Mitnick and his wife have a son with Down syndrome, and his advocacy and professional service arises from this familial relationship.

70. Dr. Mitnick serves as the faculty advisor to the Pitt chapter of “Best Buddies,” a national advocacy program for individuals with intellectual disabilities.

71. Dr. Mitnick has written over twenty articles for Down syndrome journals.

72. More recently, Dr. Mitnick authored an article published in the *Pittsburgh Post-Gazette* that concerned matters relating to special needs individuals.

73. Former interim Katz School dean, and former Vice Provost, Andrew Blair (“Vice Provost Blair”) told Dr. Mitnick informally and verbally that the articles that he authored for the Down syndrome journals had been counted towards Dr. Mitnick’s 1997 application for promotion to the rank of full professor.

74. Notwithstanding the aforementioned informal statement, Dr. Mitnick is uncertain as to whether the articles he wrote for the Down syndrome journals were ever credited towards his promotion application.

75. Moreover, Dr. Mitnick was never told formally that he would receive credit for the Down syndrome articles that he authored, nor was he ever credited for those articles at any time after his promotion.

76. Shortly thereafter, when Frederick Winter (“Dean Winter”) was appointed Katz School Dean, Dr. Mitnick was accused publicly by Dean Winter, at Dean Winter’s very first meeting

of the entire faculty, of acting improperly when he wrote on topics related to special needs individuals.

77. Moreover, Dr. Mitnick was told at his annual review meetings that he should not waste time on such writing and that his writing in the area of special needs would not count at all in his evaluations; indeed, it would count against him.

78. At a meeting of the School's Board of Visitors, Dean Winter showed a slide with a full-page photo of Dr. Mitnick with the caption, "Advocate for Down Syndrome;" at the same time, Dean Winter was actively discouraging Dr. Mitnick's writing as well as service work in the special needs area, including special education.

79. Since then, the Katz School administration has discouraged Dr. Mitnick from writing about topics related to special needs individuals by refusing to give any credit for doing so.

80. Other faculty members at Katz who did research as well as professional service work outside the area of private business management, including in education and in health care management, were highly rewarded by Katz School administrators.

81. Dr. Mitnick has not been given proper material support from the University; for instance, on two separate instances (2003 and 2009) his storage space at the UPARC off-campus facility was been flooded due to failure of the University to maintain the HVAC system, and the space was infested with extremely high levels of toxic mold.

82. Dr. Mitnick was exposed to high levels of toxic mold over a period of many weeks.

83. Dr. Mitnick was also exposed to asbestos dust when a contractor supervised by the University removed asbestos-containing flooring from the storage area when he was present but was without proper protection.

84. Even though Dr. Mitnick had no control over the flooding, he was unfairly blamed for the damage and threatened with severe discipline, presumably including termination from the University, by the Associate Vice Chancellor for Business and Real Estate Eli Shorak in case of a repeat instance.

85. Even though he is one of the co-origators of agency theory, Dr. Mitnick has consistently earned less than his colleagues at the Katz School, and he sought review of his salary beginning in 2003 and on a regular basis since 2010.

86. The Katz School has treated Dr. Mitnick's claim to originate agency theory, a fact that if true would validate his request for a commensurate salary at the level of a chair, as humorous and has taken a dismissive view of this claim because of the date of its occurrence (1973, 1974) and his age.

87. In the letter of response to Dr. Mitnick's salary appeal received in December 2011, the appeals committee consisting of Dean Delaney, Associate Dean (now Vice Provost) Laurie Kirsch ("Dean Kirsch"), and Associate Dean Jeff Inman ("Dean Inman" or "Associate Dean Inman") claimed falsely that Dr. Mitnick had presented no evidence of creating agency theory, and misrepresented Dr. Mitnick's contributions in a variety of areas, including teaching.

88. The claim made by Dean Delaney, Dean Kirsch, and Dean Inman that there was no evidence that Dr. Mitnick was a founder of agency theory is in direct conflict with the letter dated Nov. 30, 1993, to Dr. Mitnick from Dean Zoffer in which he wrote that "I hope that this will make it possible for you to complete your book on theory of agency to help secure your position as a founder of that theory."

89. Prior to December 2011, Dean Kirsch, a member of the December 2011 Appeals

Committee that challenged Dr. Mitnick's origination of agency theory, attended Dr. Mitnick's invited presentation to the Katz Faculty on his research on agency, including its origin, and spoke to him after the talk and remarked that it was ironic for her to hear directly how agency began after studying it as a doctoral student years ago.

90. In their response letter, Dean Delaney, Dean Kirsch, and Dean Inman took the extraordinary step of doing a completely invalid citation analysis that purported to find no support for Dr. Mitnick's creation of agency theory.

91. Because Dr. Mitnick originated agency theory in his 1974 doctoral dissertation as well as in papers published in 1973 and 1975 (the latter published in the journal *Public Choice*), the claim levied by Dean Delaney, Dean Kirsch, and Dean Inman was equivalent to charging Dr. Mitnick of using his long service on the faculty, with relatively few colleagues with direct memories of Dr. Mitnick's achievements at the time he joined the faculty, to falsely represent his professional credentials.

92. In this letter, Dr. Mitnick was being subjected to the extraordinary abuse of being implicitly threatened with dismissal from the University.

93. The response letter was not forwarded to Dr. Mitnick until after thirty days, which is outside the time frame allowed for a response under the University procedures.

94. Dean Delaney, Dean Kirsch, and Dean Inman engaged in discriminatory behavior toward Dr. Mitnick, exploiting his age and the fact that his dissertation and early work occurred so long ago.

95. The Katz School's practice of sarcastic age discrimination continued in the response to Dr. Mitnick's salary appeal of March 21, 2016, which the School did not reply to until September

9, 2016; the response read, in pertinent part, that “Professor Mitnick’s salary does appear to be on the low side, albeit we also noticed that he came to Katz from Ohio State in 1978, so his contribution to agency theory was presumably taken into account at the time of the offer.”

96. The clear, tongue-in-cheek meaning is that he is elderly, coming here long time ago with a low salary that reflected his actual contribution to agency theory, which thus also must have been minimal.

97. Dr. Mitnick’s complaints have been met with sarcasm, and any response to his complaints as required by University policy have been bypassed or short-circuited; administrators have ignored his repeated requests to protect him from abuse and to correct the consequences of that abuse, contrary to explicit University policy (*see* Exhibit C and Exhibit D).

98. The metrics used to evaluate Dr. Mitnick’s scholarship lack any real validity in that they ignored the officially approved statement by the governing body of the leading association of Dr. Mitnick’s own field, used inappropriate comparisons, and were strongly influenced by reputational concerns not supported by University policies.

99. Associate Dean Inman and Associate Dean Rabikar Chatterjee (“Associate Dean Chatterjee”) informed Dr. Mitnick at his Annual Review on August 28, 2018, that he was expected, via the explicit design of the School’s incentive system for publication, that his (and, by implication, the faculty’s) primary focus should be to work to boost the School’s reputation, and not to primarily serve his contractually required tasks of doing high quality research, teaching in his discipline, and service appropriate to the University; this requirement imposed on Dr. Mitnick violates both his contract and his academic freedom.

100. At his Annual Review on August 28, 2018, Dean Inman verified that the deans had

never replaced the defective Association of Business Schools/Academic Journal Guide (“ABS/AJG”) UK ranking of journals, which had accidentally omitted the top journal in Dr. Mitnick’s field, *Business & Society*, with the corrected ABS/AJG list, so that *Business & Society* was not even considered for placement on the “A-Journal List;” Dean Inman confirmed that there were no plans to put any of the top journals in Dr. Mitnick’s field on the School’s “A-Journal List.”

101. Notwithstanding the terms set forth in his initial letter of appointment, the Katz School has refused to credit Dr. Mitnick for a book and several lengthy monographs in quality annuals and collections, including a well-reviewed book, *Corporate Political Agency: The Construction of Competition in Public Affairs*.

102. In the past, the Katz School administration refused to give Dr. Mitnick a sabbatical for which was he fully qualified, requiring instead that he teach far more than most of his colleagues.

103. During the course of his employment at Katz, Dr. Mitnick’s voice in institutional governance has been minimized; for instance, he was told by Dean Delaney that his input at faculty meetings is “not welcome.”

104. Dr. Mitnick routinely received no or minimal responses to important and substantive communications with Dean Delaney.

105. For instance, Dr. Mitnick received no response to a documented report to Dean Delaney that data used to terminate the doctoral major in Dr. Mitnick’s field was manipulated to yield a false result.

106. Furthermore Dean Delaney failed to respond to an urgent memo from Dr. Mitnick that a review by Prof. Audrey Murrell (“Prof. Murrell”) of his application for a grant from the BNY-Mellon Corporation grant had been falsified.

107. Dr. Mitnick, who usually taught a course overload either by requirement or to make up for the salary reduction under Dean Delaney, was denied adequate support to complete his research.

108. Dr. Mitnick's success with respect to the mentoring of doctoral students went unrecognized, notwithstanding the fact that six of his students won, or were finalists for, seven awards for best dissertation.

109. On February 25, 2016, Dr. Mitnick received notice of his salary for the upcoming academic year; his salary was still significantly less than what was paid to his colleagues in the Katz School.

110. In March 2016, noting that his salary was at least \$100,000.00 per year below scale, Dr. Mitnick appealed the salary decision to the Katz School Salary Review Committee ("Salary Review Committee"); however, this appeal was ultimately unsuccessful.

111. Even while acknowledging that Dr. Mitnick's salary is below market, current Katz School Dean Arjang Assad ("Dean Assad") denied Dr. Mitnick's salary appeal.

112. In his annual reports for 2015-17, Dr. Mitnick noted that, contrary to University policy, Katz has subjected him to a hostile environment, thereby making it impossible for him to conduct his research and discharge his duties as a faculty member at Katz.

113. Dr. Mitnick supplied Dean Assad with documentation regarding the history of hostile and abusive conduct that he experienced; however, Dean Assad largely ignored this documentation for almost two years.

114. Even though he denied him a salary market adjustment for the 2017-18 academic year, in August 2017, Dean Assad, upon reviewing the history of abuses and harassment of Dr.

Mitnick, told him at the annual review meeting that he would have filed formal grievances on a couple occasions, thereby validating the prior complaints.

115. While he was given a single “market adjustment” of 13.94% for the 2016-17 academic year, Dr. Mitnick’s 2017-18 salary of \$137,770.65 remained below the mean salary of a non-tenured Katz assistant professor in 2016, \$141,977.00, a mean lowered by the salaries of a number of non-tenure stream clinical faculty members in Katz who have lower salaries because of their clinical status, and below that of a full professor at Katz in 2016, \$193,987.00, a mean significantly reduced by the fact that it includes Dr. Mitnick’s salary.

116. If he had not been given the aforementioned “market adjustment,” Dr. Mitnick would have been paid less than a newly hired non-tenure stream clinical faculty member in his own field at Katz.

117. One female faculty member, a chaired associate professor in marketing, was listed in an online article on what top business school professors get paid as among “the top professors drawing high salaries” in the U.S.; the top ten above her are listed with salaries all over \$500,000.

118. According to information obtained from a Right to Know Disclosure, at least one other female faculty member at Katz, Diane Denis (“Prof. Denis”), made over \$400,000.00 for the 2017 Fiscal Year.

119. Dr. Mitnick is currently assigned to teach twelve credit hours; this would have been reduced by three credits if he had received a faculty research award from the three articles and the edited symposium that he published in one academic year in the journal *Business & Society*.

120. Dr. Mitnick’s twelve credit teaching load was calculated based on the assumption that his base load is eighteen credits.

121. According to the Katz School administration, Dr. Mitnick's level of research warrants a reduction in load of six credits from eighteen to twelve credits.

122. However, per his employment contract, Dr. Mitnick's base load for two terms is four, not six courses, equivalent to twelve credits or less.

123. Depending on how many credits are assigned to the courses, a reduction of six credits then would bring Dr. Mitnick's assigned load from twelve to six credits.

124. With the faculty research award of three credits from publishing three articles in a top journal in a single year, Dr. Mitnick's assigned load should have fallen, contractually, to three credits.

125. The School violated Dr. Mitnick's contract every year since the change to nine months (since the 2012 fiscal year), and owes him compensation in the form of proportional salary plus retirement benefits.

126. Dr. Mitnick was assigned additional courses in the past because he did not publish in journals on the "A-Journal List," despite the fact that the list has no journals in his field; however, his salary was not adjusted upward to compensate him for this overload.

127. On September 29, 2017, Dr. Mitnick was again denied a salary increase that would put his compensation at a level commensurate with his colleagues at Katz.

128. Dr. Mitnick appealed the salary decision on October 27, 2017; his appeal was denied by Dean Assad in a letter dated December 6, 2017, apparently without the required formation of a salary review committee.

129. Dean Assad repeated from previous communications that "matters referring to prior years (and in some cases, decades), which form a large part of your appeal letter, are outside the scope of annual review and will not be addressed."

130. Dean Assad's refusal even embraced administrative errors as well as policy errors in Dr. Mitnick's teaching load assignments.

131. In his letter dated December 6, 2017, Dean Assad claimed that the treatment of Dr. Mitnick did not continue a hostile environment, but, whether he intended it or not, the hostility towards Dr. Mitnick has persisted.

132. Dr. Mitnick has asked for redress on these issues in meetings with Katz School administrators as well as in the context of formal salary appeals; nothing has been done to actually remedy the events and conditions described.

133. The Katz School administration did not treat either the March 2016 appeal (the later date of the appeal is because the salary letter triggering this appeal was late due to the University budget), or the October 2017 appeal seriously.

134. Repeated direct appeals by Dr. Mitnick to the office of the University Provost have been unsuccessful; even when investigative action was explicitly authorized by former Provost James Maher and delegated to Vice Provost Blair, no action was taken by his office, contrary to University policy.

135. Dr. Mitnick asked three successive Vice Provosts to ask the Provost to take action; they would not permit Dr. Mitnick to even speak directly to the Provost.

136. Dr. Mitnick met with Dean Inman in December 2017 to try to understand the process used to construct the new "A-Journal List" to take effect in 2019.

137. Dean Inman verified that the process of comparison to construct the list began with the schools in two athletic conferences of which the University is a member, as well as involving other metrics (two of which he was unfamiliar with) and rankings, with the ranking of the University

of Texas at Dallas—which has no ethics journals—having a prime influence.

138. The rankings upon which the new metrics will be based are strongly criticized in the literature and have no external validity, even though other business schools frequently copy them.

139. The rankings include that of the newspaper *The Financial Times*, which is done by journalists with no academic expertise.

140. The use of “reputational norms” to evaluate faculty is outside of the normal operating procedure at the University, and does not appear in any University policy or in its Faculty Handbook as a requirement.

141. The process of revising the “A-Journal List” was not responsive to faculty comments and requests (the deans say in a videotaped faculty meeting that they explicitly excluded all suggestions from the Katz School faculty) and was arbitrary.

142. Dr. Mitnick is one of the oldest faculty members at the Katz School, and he is paid considerably less than his colleagues; faculty members who are female and/or significantly younger than Dr. Mitnick are paid more than him.

143. Other older faculty members at the Katz School experienced similar ageist discrimination when the School changed from “eight month” (actually three term) to nine month salaries; these were the oldest faculty members who joined the School when it had a three term calendar, and their salaries were cut as a result of the change.

144. The fact that Dr. Mitnick has been at the University since 1978 and his salary is still below that paid to assistant professors suggests the extreme nature of the bias in his salary, which is far below even a common standard for salary compression published by the American Association of University Professors (often seen when a faculty member has been at the same school for a long

time).

145. Dr. Mitnick, a full professor, is about 40 years older than the mean age of the tenure stream assistant professors at Katz (about 32 years old), all of whom are untenured, yet his salary is less than all or almost all their salaries, per remarks made by Dean Inman at Dr. Mitnick's annual review meeting on August 28, 2018, and his salary is less than the mean salary for assistant professors even when clinical assistant professors, who make substantially less than tenure stream assistant professors, are included.

146. About half the tenure stream assistant professors in Katz are female, so Dr. Mitnick's salary is also below all or almost all the female assistant professors as well, as well as below associate and full professors who are female.

147. Moreover, Dr. Mitnick's salary is significantly lower than what is paid to other professors within his comparison groups both inside and outside of the University.

148. For the 2017 Fiscal Year, the average salary paid to women at the Katz School who had the rank of full Professor was close to the \$190,800-\$195,800 range, as calculated from public University data; this is more than Dr. Mitnick's salary for that same period.

149. Considering that Katz School salaries are higher than those paid to faculty in other academic units (the mean salary paid to faculty at rank of full professor by the Katz School is \$200,002.00, while the average salary paid to full professors across all disciplines in the University is \$153,000.00), Dr. Mitnick's salary is low.

150. Dr. Mitnick has also raised concerns with Katz School administrators regarding their representations to outside accrediting bodies.

151. For instance, in a letter to Dean Assad dated March 26, 2018, Dr. Mitnick pointed out

errors in the instrument used to collect required data for the “Assurance of Learning” metric for the core ethics course in the maintenance of accreditation report presented to the Association to Advance Collegiate Schools of Business (“AACSB”); the School decided to include the bad data and conceal its errors from the AACSB.

152. In the aforementioned letter, Dr. Mitnick raised concerns regarding misrepresentation by Katz in prior accreditation reports submitted by the Katz School to the AACSB.

153. Dr. Mitnick also pointed out that, in a 2004 *New York Times* article, the Katz School had claimed falsely that professors at Katz were required to take a course in business ethics.

154. Prior to the date of the letter, on March 22, Dr. Mitnick contacted Katz administrator Karri Rogers in order to point out omissions in the report presented to the AACSB regarding his accomplishments.

155. Moreover, Dr. Mitnick was subjected to dangerous working conditions at the UPARC facility; female and/or significantly younger faculty were not exposed to similarly dangerous working conditions.

156. Dr. Mitnick has variously experienced harassment, removal from the regular faculty, and diminution, among other adverse actions, throughout his employment at Katz.

157. Dr. Mitnick was paid less than his colleagues on account of his gender, age, and his disability advocacy.

158. Dr. Mitnick was paid less, and was subjected to adverse employment actions, because of his association with his special-needs son.

159. Dr. Mitnick was subjected to adverse employment actions on account of his gender, age, and disability advocacy/association.

160. These aforementioned adverse actions are continuing.

161. Dr. Mitnick demands a jury trial.

## VI. COUNTS

**COUNT I: DISCRIMINATION ON THE BASIS OF AGE**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq.**

162. The preceding paragraphs are incorporated as if set forth at length herein.

163. Dr. Mitnick is over forty years old, and as such is a member of the ADEA protected class.

164. Dr. Mitnick is qualified for his position as a member of the Katz School faculty.

165. Dr. Mitnick has been compensated unfairly at levels that are considerably less than the mean salary paid to his colleagues at the Katz School and that are far below the mean salary for professors with comparable achievements at other comparable universities.

166. In that he is being paid significantly less than the Katz School mean salary, it is possible to infer that Dr. Mitnick's compensation is significantly less than what is paid to his younger colleagues at the Katz School.

167. Based on information and belief, Dr. Mitnick is paid significantly less than similarly situated younger employees.

168. Based on information and belief, the University's justification for the pay disparity is a pretext for age discrimination.

169. Dr. Mitnick has been evaluated less fairly than his younger colleagues.

170. The aforementioned pay disparity and the unfair evaluations constitute adverse

employment actions.

171. Dr. Mitnick was treated unfavorably, and was subjected to adverse employment action, on account of his age.

172. Dr. Mitnick seeks all remedies and damages permitted under the ADEA, including back pay, damages for lost prospective future employment, damages for prospective harm in his present position, liquidated damages, front pay, injunctive and declaratory relief, and payment of his litigation costs, including reasonable attorneys' fees, plus pre-judgment and post-judgment interest.

**COUNT II: HOSTILE WORK ENVIRONMENT ON THE BASIS OF AGE**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq.**

173. The preceding paragraphs are incorporated as if set forth at length herein.

174. Dr. Mitnick is over forty years old, and as such is member of the ADEA protected class.

175. Dr. Mitnick is qualified for his position as a member of the Katz School faculty.

176. Dr. Mitnick has been subject to a hostile work environment in that he has been subject to severe harassment, abuse, and exclusion in violation of University policy.

177. This hostile work environment includes, but is not limited to, being threatened with severe consequences for participating in activities normal to and even expected of faculty, being yelled at, being “auctioned” off to any group in within the Katz School, being told by the Dean and by the Katz School Doctoral Committee Chair that there was nothing of value in his field and being told his area was “shit” on multiple occasions.

178. Dr. Mitnick was exposed to a specific incident of ageist hostility when Katz School

administrators took a dismissive view of his role in the development of agency theory and noted that Dr. Mitnick started his work in this area over forty years ago.

179. Dr. Mitnick was subjected to a hostile work environment, was paid significantly less than his colleagues, and was paid far below the mean salary for professors with comparable achievements at other comparable universities, on account of his age.

180. Dr. Mitnick seeks all remedies and damages permitted under the ADEA, including back pay, damages for lost prospective future employment, damages for prospective harm in his present position, liquidated damages, front pay, injunctive and declaratory relief, and payment of his litigation costs, including reasonable attorneys' fees, plus pre-judgment and post-judgment interest.

**COUNT III: DISCRIMINATION ON THE BASIS OF GENDER**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of Title VII, 42 U.S.C. § 2000e et seq.**

181. The preceding paragraphs are incorporated as if set forth at length herein.

182. Dr. Mitnick is a male, and as such is a member of a class protected by Title VII.

183. Dr. Mitnick is qualified for his position as a member of the Katz School faculty.

184. Dr. Mitnick's salary of \$137,770.65 is unfairly low, being considerably less than the mean salary for female full professors at Katz in the 2017 Fiscal Year, which was close to the \$190,800-\$195,800 range, as calculated from public University data, and far below the mean salary for professors with comparable achievements at other universities.

185. Dr. Mitnick has been paid significantly less than his colleagues, on account of his gender.

186. Based on information and belief, Dr. Mitnick is paid significantly less than similarly

situated female employees.

187. Based on information and belief, the University's justification of the pay disparity is pretext for gender discrimination.

188. Dr. Mitnick has been evaluated less fairly than his female colleagues.

189. Currently, the mean annual salary for female full professors at Katz is close to the \$190,800-\$195,800 range, as calculated from public University data, while Dr. Mitnick's salary is only \$137,770.65.

190. The aforementioned pay disparity and the unfair evaluations constitute adverse employment actions.

191. Dr. Mitnick was treated unfavorably, and was subjected to adverse employment action, on account of his gender.

192. Dr. Mitnick seeks all remedies and damages permitted under Title VII, including back pay, damages for lost prospective future employment, damages for prospective harm in his present position, compensatory damages for emotional pain and suffering, injunctive and declaratory relief, and payment of his litigation costs, including reasonable attorneys' fees, plus pre-judgment and post-judgment interest.

**COUNT IV: HOSTILE WORK ENVIRONMENT ON THE BASIS OF GENDER**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of Title VII, 42 U.S.C. § 2000e et seq.**

193. The preceding paragraphs are incorporated as if set forth at length herein.

194. Dr. Mitnick is a male, and as such is a member of a class protected by Title VII.

195. Dr. Mitnick is qualified for his position as a member of the Katz School faculty.

196. Dr. Mitnick has been subject to a hostile work environment in that he has been subject to severe harassment, abuse, and exclusion in violation of University policy.

197. This hostile work environment includes, but is not limited to, being threatened with severe consequences for participating in activities normal to and even expected of faculty, being yelled at, being “auctioned” off to any group in within the Katz School, being told by the Dean and by the Katz School Doctoral Committee Chair that there was nothing of value in his field and being told his area was “shit” on multiple occasions.

198. Dr. Mitnick was exposed to a specific incident of hostility when Katz School administrators took a dismissive view of his role in the development of agency theory and noted that Dr. Mitnick started his work in this area over forty years ago.

199. Dr. Mitnick was subjected to a hostile work environment, and paid significantly less than his colleagues, on account of his gender.

200. Dr. Mitnick seeks all remedies and damages permitted under Title VII, including back pay, damages for lost prospective future employment, damages for prospective harm in his present position, compensatory damages for emotional pain and suffering, injunctive and declaratory relief, and payment of his litigation costs, including reasonable attorneys’ fees, plus pre-judgment and post-judgment interest.

**COUNT V: DISCRIMINATION OF THE BASIS OF GENDER**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of the Equal Pay Act, 29 U.S.C. § 206(d)**

201. The preceding paragraphs are incorporated as if set forth at length herein.

202. The Equal Pay Act prohibits employers from paying employees significantly less than

similarly situated employees of the opposite sex.

203. Dr. Mitnick is a male, and as such is a member of a class protected by the Equal Pay Act.

204. Dr. Mitnick is qualified for his position as a member of the Katz School faculty.

205. Dr. Mitnick has been compensated unfairly at levels that are considerably less than the mean salary paid to his colleagues at the Katz School and far below the mean salary for professors with comparable achievements at other comparable universities.

206. Dr. Mitnick's salary of \$137,770.65 is unfairly low, being considerably less than the mean salary for female full professors at Katz in the 2017 Fiscal Year, which was close to the \$190,800-\$195,800 range, as calculated from public University data, and far below the mean salary for professors with comparable achievements at other universities.

207. Based on information and belief, Dr. Mitnick is paid significantly less than similarly situated female employees.

208. Based on information and belief, the University's justification of the pay disparity is pretext for gender discrimination.

209. Dr. Mitnick was paid significantly less than his female colleagues on account of his gender.

210. Currently, the mean annual salary for female faculty at Katz is close to the \$190,800-\$195,800 range, while Dr. Mitnick's salary is only \$137,770.65.

211. The aforementioned pay disparity constitutes a violation of the Equal Pay Act.

212. Dr. Mitnick seeks all remedies and damages permitted under the Equal Pay Act, including back pay, damages for lost prospective future employment, damages for prospective harm

in his present position, injunctive and declaratory relief, and payment of his litigation costs, including reasonable attorneys' fees, plus pre-judgment and post-judgment interest.

**COUNT VI: ASSOCIATIONAL DISCRIMINATION**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.**

213. The preceding paragraphs are incorporated as if set forth at length herein.

214. Dr. Mitnick has a disabled son with Down syndrome.

215. Dr. Mitnick has been public about his son's condition, and he has engaged in advocacy activities on behalf of individuals and families affected by Down syndrome.

216. On account of his public association and involvement with a disabled individual, his son, Dr. Mitnick is a member of a class protected by the ADA.

217. Dr. Mitnick has been singled out for criticism for his advocacy on behalf of individuals and families affected by Down syndrome.

218. Dr. Mitnick has been compensated unfairly at levels that are considerably less than the mean salary paid to his colleagues at the Katz School and that are far below the mean salary for professors with comparable achievements at other universities.

219. In that he is being paid significantly less than the Katz School mean salary, it is possible to infer that Dr. Mitnick's compensation is significantly less than what is paid to most of his colleagues who do not have a public relationship with a disabled individual.

220. Dr. Mitnick has been evaluated less fairly than his colleagues who do not have an association with any disabled family members.

221. The aforementioned pay disparity and the unfair evaluations constitute adverse

employment actions.

222. Dr. Mitnick was treated unfavorably, and was subjected to adverse employment action, on account of his association with a disabled individual.

223. Dr. Mitnick was subjected to a hostile work environment, and paid significantly less than his colleagues, on account of his relationship with a disabled individual.

224. The aforementioned hostile work environment and the pay disparity were precipitated by Dr. Mitnick's relationship with disabled individuals and constitutes associational discrimination.

225. Dr. Mitnick seeks all remedies and damages permitted under the ADA, including back pay, damages for lost prospective future employment, damages for prospective harm in his present position, compensatory damages for emotional pain and suffering, injunctive and declaratory relief, and payment of his litigation costs, including reasonable attorneys' fees, plus pre-judgment and post-judgment interest.

**COUNT VII: ASSOCIATIONAL DISCRIMINATION/HOSTILE WORK ENVIRONMENT**

**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth System of Higher Education**

**Violation of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.**

226. The preceding paragraphs are incorporated as if set forth at length herein.

227. Dr. Mitnick has a disabled son with Down syndrome.

228. Dr. Mitnick has been public about his son's condition, and he has engaged in advocacy activities on behalf of individuals and families affected by Down syndrome.

229. On account of his public association and involvement with a disabled individual, his son, Dr. Mitnick is a member of a class protected by the ADA.

230. Dr. Mitnick has been subject to a hostile work environment in that he has been subject

to severe harassment, abuse, and exclusion in violation of University policy.

231. This hostile work environment includes, but is not limited to, being threatened with severe consequences for participating in activities normal to and even expected of faculty, being yelled at, being “auctioned” off to any group in within the Katz School, being told by the Dean and by the Katz School Doctoral Committee Chair that there was nothing of value in his field and being told his area was “shit” on multiple occasions.

232. Furthermore, Dr. Mitnick has been singled out publicly in front of the entire Katz faculty for criticism for his advocacy and writing on behalf of individuals and families affected by Down syndrome, and for a period of years his annual evaluations were negatively affected by his advocacy for, and writing on, Down syndrome.

233. Dr. Mitnick was subjected to a hostile work environment on account of his relationship with a disabled individual.

234. The aforementioned hostile work environment was precipitated by Dr. Mitnick’s relationship with disabled individuals and constitutes associational discrimination.

235. Dr. Mitnick seeks all remedies and damages permitted under the ADA, including back pay, damages for lost prospective future employment, damages for prospective harm in his present position, compensatory damages for emotional pain and suffering, injunctive and declaratory relief, and payment of his litigation costs, including reasonable attorneys’ fees, plus pre-judgment and post-judgment interest.

**COUNT VIII: DISCRIMINATION ON THE BASIS OF GENDER**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of Title IX, 20 U.S.C. § 1681 et seq.**

236. The preceding paragraphs are incorporated as if set forth at length herein.

237. Title IX prohibits gender discrimination on the part of any educational institution that receives federal funding.

238. Pitt is an educational institution that receives federal funding and, as such, is subject to the provisions of Title IX.

239. Dr. Mitnick is a male, and as such is a member of a class protected by Title IX.

240. Dr. Mitnick is qualified for his position as a member of the Katz School faculty.

241. Dr. Mitnick has been compensated unfairly at levels that are considerably less than the mean salary paid to his colleagues at the Katz School and far below the mean salary for professors with comparable achievements at other comparable universities.

242. In that he is being paid significantly less than the Katz School mean salary, Dr. Mitnick's compensation has remained significantly less than what is paid to his female colleagues at the Katz School.

243. Dr. Mitnick has been paid significantly less than his colleagues, on account of his gender.

244. Dr. Mitnick has been evaluated less fairly than his female colleagues.

245. Currently, the mean annual salary for female faculty at Katz is close to the \$190,800-\$195,800 range, while Dr. Mitnick's salary is only \$137,770.65.

246. The aforementioned pay disparity and the unfair evaluations constitute adverse

employment actions.

247. Dr. Mitnick was treated unfavorably, and was subjected to adverse employment actions, on account of his gender.

248. Dr. Mitnick seeks all remedies and damages permitted under Title IX, including back pay, damages for lost prospective future employment, damages for prospective harm in his present position, compensatory damages for emotional pain and suffering, injunctive and declaratory relief, and payment of his litigation costs, including reasonable attorneys' fees, plus pre-judgment and post-judgment interest.

**COUNT IX: HOSTILE WORK ENVIRONMENT ON THE BASIS OF GENDER**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of Title IX, 20 U.S.C. § 1681 et seq.**

249. The preceding paragraphs are incorporated as if set forth at length herein.

250. Title IX prohibits gender discrimination on the part of any educational institution that receives federal funding.

251. Pitt is an educational institution that receives federal funding and, as such, is subject to the provisions of Title IX.

252. Dr. Mitnick is a male, and as such is a member of a class protected by Title IX.

253. Dr. Mitnick is qualified for his position as a member of the Katz School faculty.

254. Dr. Mitnick has been subject to a hostile work environment in that he has been subject to severe harassment, abuse, and exclusion in violation of University policy.

255. This hostile work environment includes, but is not limited to, being threatened with severe consequences for participating in activities normal to and even expected of faculty, being

yelled at, being “auctioned” off to any group in within the Katz School, being told by the Dean and by the Katz School Doctoral Committee Chair that there was nothing of value in his field and being told his area was “shit” on multiple occasions.

256. Dr. Mitnick was exposed to a specific incident of hostility when Katz School administrators took a dismissive view of his role in the development of agency theory and noted that Dr. Mitnick started his work in this area over forty years ago.

257. Dr. Mitnick was subjected to a hostile work environment, and paid significantly less than his colleagues, on account of his gender.

258. Dr. Mitnick seeks all remedies and damages permitted under Title IX, including back pay, damages for lost prospective future employment, damages for prospective harm in his present position, compensatory damages for emotional pain and suffering, injunctive and declaratory relief, and payment of his litigation costs, including reasonable attorneys’ fees, plus pre-judgment and post-judgment interest.

**COUNT X: RETALIATION FOR EXERCISE OF PROTECTED ACTIVITIES**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq.**

259. The preceding paragraphs are incorporated as if set forth at length herein.

260. Dr. Mitnick is over forty years old, and as such is member of the ADEA protected class.

261. Dr. Mitnick is qualified for his position as a member of the Katz School faculty.

262. Dr. Mitnick has been subject to a hostile work environment in that he has been subject to severe harassment, abuse, and exclusion in violation of University policy.

263. Dr. Mitnick has also been compensated unfairly at levels that are considerably less than the mean salary paid to his colleagues at the Katz School and that are far below the mean salary for professors with comparable achievements at other comparable universities.

264. The aforementioned hostile work environment and the pay disparity were precipitated by Dr. Mitnick's age, and as such constitute age discrimination.

265. Dr. Mitnick complained of this discriminatory treatment to Katz School administrators to no avail.

266. Moreover, the discriminatory treatment of Dr. Mitnick continued after he made the aforementioned complaints.

267. Dr. Mitnick's complaints regarding adverse treatment constitute activities protected by the ADEA.

268. The continued discriminatory treatment of Dr. Mitnick constitutes retaliation for his exercise of protected activities.

269. Dr. Mitnick seeks all remedies and damages permitted under the ADEA, including back pay, damages for lost prospective future employment, damages for prospective harm in his present position, liquidated damages, front pay, injunctive and declaratory relief, and payment of his litigation costs, including reasonable attorneys' fees, plus pre-judgment and post-judgment interest.

**COUNT XI: RETALIATION FOR THE EXERCISE OF PROTECTED ACTIVITIES**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.**

270. The preceding paragraphs are incorporated as if set forth at length herein.

271. Dr. Mitnick has a disabled son with Down syndrome.

272. Dr. Mitnick has been public about his son's condition, and he has engaged in advocacy activities on behalf of individuals and families affected by Down syndrome.

273. On account of his public association and involvement with a disabled individual, his son, Dr. Mitnick is a member of a class protected by the ADA.

274. Dr. Mitnick has been subject to a hostile work environment in that he has been subject to severe harassment, abuse, and exclusion in violation of University policy.

275. Dr. Mitnick has also been compensated unfairly at levels that are considerably less than the mean salary paid to his colleagues at the Katz School and that are far below the mean salary for professors with comparable achievements at other comparable universities.

276. Dr. Mitnick has been singled out for his advocacy on behalf of individuals and families affected by Down syndrome.

277. The aforementioned hostile work environment and the pay disparity were precipitated by Dr. Mitnick's relationship with disabled individuals and constitutes associational discrimination.

278. Dr. Mitnick complained of this discriminatory treatment to Katz School administrators to no avail.

279. Moreover, the discriminatory treatment of Dr. Mitnick continued after he made the aforementioned complaints.

280. Dr. Mitnick's complaints regarding adverse treatment constitute activities protected by the ADA.

281. The continued discriminatory treatment of Dr. Mitnick constitutes retaliation for his exercise of protected activities.

282. Dr. Mitnick seeks all remedies and damages permitted under the ADA, including

back pay, damages for lost prospective future employment, damages for prospective harm in his present position, compensatory damages for emotional pain and suffering, injunctive and declaratory relief, and payment of his litigation costs, including reasonable attorneys' fees, plus pre-judgment and post-judgment interest.

**COUNT XII: VIOLATION OF PROTECTED FREE SPEECH RIGHTS**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of 42 U.S.C. § 1983**

283. The preceding paragraphs are incorporated as if set forth at length herein.

284. The University is a state actor that acted under the color of law to deny Dr. Mitnick his protected rights to free speech.

285. Dr. Mitnick engaged in protected speech when he engaged in research in his main area of scholarly interest, business ethics/business and society.

286. Dr. Mitnick further engaged in protected speech when he raised concerns regarding the possible misuse of funds earmarked for the Zoffer Chair.

287. Dr. Mitnick further engaged in protected speech when engaged in advocacy on behalf of individuals and families affected by Down syndrome.

288. Dr. Mitnick was also not credited properly for the articles that he wrote for Down syndrome journals but rather was penalized for both those articles as well as for his advocacy on behalf of individuals with special needs.

289. Academic research, complaints about the misuse of funds, and advocacy on behalf of the disabled constitute constitutionally-protected speech.

290. At his Annual Review on August 28, 2018, Dean Inman verified that the deans had

never replaced the defective ABS/AIG UK ranking of journals, which had accidentally omitted the top journal in Dr. Mitnick's field, *Business & Society*, with the corrected ABS/AIG list, so that *Business & Society* was not even considered for placement on the "A-Journal List;" and Dean Inman confirmed that there were no plans to put any of the top journals in Dr. Mitnick's field on the School's "A-Journal List."

291. When he engaged in the aforementioned speech Dr. Mitnick was acting outside the scope of his duties.

292. The adverse employment actions—including, but not limited to, effective teaching overloads and diminished salaries—that Dr. Mitnick experienced constitute retaliatory actions that were the result of the University's attempt to retaliate against him for the exercise of his protected right to free speech.

293. Dr. Mitnick seeks all remedies and damages permitted under 42 U.S.C. § 1983, including back pay, damages for lost prospective future employment, damages for prospective harm in his present position, compensatory damages for emotional pain and suffering, injunctive and declaratory relief, and payment of his litigation costs, including reasonable attorneys' fees, plus pre-judgment and post-judgment interest.

**COUNT XIII: VIOLATION OF THE PENNSYLVANIA WAGE PAYMENT AND  
COLLECTION LAW**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth  
System of Higher Education**  
**Violation of the Pennsylvania Wage Payment and Collection Law**

294. The preceding paragraphs are incorporated as if set forth at length herein.

295. In order to state a claim for violation of the Pennsylvania Wage Payment and Collection Law ("PaWPCL"), a plaintiff must have been employed by the defendant during the

relevant time period, s/he was entitled to unpaid wages, and the defendant failed to timely and unconditionally pay his/her wages.

296. Dr. Mitnick is currently employed by the University.

297. Per agreement, the University is to compensate Dr. Mitnick wages for each course that he teaches.

298. Over the course of his career, Dr. Mitnick taught over sixty-five courses for which he did not receive any compensation.

299. Dr. Mitnick has a contractual right to be compensated for teaching the aforementioned sixty-five courses.

300. By failing to compensate him for the aforementioned sixty-five courses, the University breached its underlying agreement with Dr. Mitnick.

301. The University's breach constitutes a violation of the PaWPCL.

302. Dr. Mitnick seeks all damages available to him under the PaWPCL, including actual damages, liquidated damages equal to 25% of his unpaid wages, relevant costs, and attorneys' fees.

**COUNT XIV: RETALIATION IN VIOLATION OF THE PENNSYLVANIA  
WHISTLEBLOWER'S LAW**

**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth  
System of Higher Education**

**Violation of the Pennsylvania Whistleblower Law, 43 P.S. § 1421 et seq.**

303. The preceding paragraphs are incorporated as if set forth at length herein.

304. As a state-related institution, Pitt receives funding from the Commonwealth of Pennsylvania.

305. Any entity that receives funding the Commonwealth of Pennsylvania is an employer subject to the terms of the Pennsylvania Whistleblower's Law.

306. Any violation of a code of ethics designed to protect the interests of the employer and/or the public constitutes wrongdoing subject to the Pennsylvania Whistleblower's Law.

307. Per the Pennsylvania Whistleblower's Law, an employer may not retaliate, in terms of pay or the terms and conditions of employment, against an employee who engages in a disclosure of wrongdoing.

308. In a letter dated March 26, 2018, Dr. Mitnick disclosed to Dean Assad that there were multiple misstatements in several maintenance of accreditation reports submitted by the Katz School over time to the relevant accreditation body, the AACSB.

309. The aforementioned misstatements constitute a potential violation of ethical norms applicable to business schools.

310. Dr. Mitnick's disclosure of these misstatements to Dean Assad is an activity protected by the Pennsylvania Whistleblower Law.

311. The adverse employment actions-including, but not limited to, effective teaching overloads and diminished salaries and Dean Assad's refusal to provide correction and compensation constitute retaliatory actions by the University for Dr. Mitnick's disclosure.

312. The University's actions in this regard are contrary to the Pennsylvania Whistleblower Law.

313. Dr. Mitnick seeks all appropriate remedies available under the Pennsylvania Whistleblower's Law, including liquidated damages and interest.

**COUNT XV: BREACH OF CONTACT**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of Pennsylvania Common Law**

314. The preceding paragraphs are incorporated as if set forth at length herein.

315. In order to state a claim under Pennsylvania law for a breach of contract, a plaintiff must prove (1) the existence of a contract, including its essential terms, (2) a breach of a duty imposed by the contract, and (3) damages flowing from that breach.

316. Per his original letter of contract, Dr. Mitnick was hired to teach courses on business and society/environmental influences on business, to do research, and to publish that scholarly research in “well-regarded refereed research journals, books, and monographs.”

317. The aforementioned letter of contract indicated that he “would be expected to teach approximately two courses per term.”

318. The core and elective courses referred to in the aforementioned letter were then three credits each, so that this expectation was equivalent to eighteen credits per year; this corresponded to two three-credit courses per academic term (at the time the Katz School operated on a calendar consisting of three academic terms per year).

319. The aforementioned letter of contract does not state Dr. Mitnick’s teaching load as a specific number of credits.

320. Per the contract, Mr. Mitnick’s load would fall to twelve credits when the calendar went from three to two terms, if courses remained at three credits, and potentially to a different number of credits if the credits per course changed, but at any rate he would not be expected to teach more than “approximately two courses per term,” regardless of their credit status.

321. This contract between the University and Dr. Mitnick did not specify a time period for performance and hence is a continuing contract.

322. Dr. Mitnick performed his duties under the contract by teaching business courses at the Katz School and by publishing scholarly research.

323. Notwithstanding Dr. Mitnick's performance, the University failed to appropriately credit him for research completed and for additional courses beyond the "approximately two courses per term" that he taught and denied him any release due to him for this excess activity.

324. The failure to grant the release that he had earned led to Dr. Mitnick being assigned what was tantamount to a teaching overload.

325. Per comments made by Dean Inman at his annual performance review on August 28, 2018, the University considers Dr. Mitnick's teaching load to be eighteen credits, which under Dr. Mitnick's current nine month contract, which has two terms, would set the correct base teaching load as four courses, or in estimated equivalent credits, twelve rather than eighteen credits.

326. Because it assigned him what was tantamount to a teaching overload, the University breached its contract with Dr. Mitnick.

327. Dr. Mitnick suffered damages as a consequence of the aforementioned breach.

328. Dr. Mitnick seeks all appropriate remedies available under Pennsylvania law for breach of contract, including liquidated damages and interest.

**COUNT XVI: BREACH OF CONTACT**  
**Plaintiff Barry Mitnick v. Defendant The University of Pittsburgh—of the Commonwealth**  
**System of Higher Education**  
**Violation of Pennsylvania Common Law**

329. The preceding paragraphs are incorporated as if set forth at length herein.

330. In order to state a claim under Pennsylvania law for a breach of contract, a plaintiff must prove (1) the existence of a contract, including its essential terms, (2) a breach of a duty imposed by the contract, and (3) damages flowing from that breach.

331. Under Pennsylvania law, employer policies and employee handbooks may give rise to a contractual relationship between employers and employees.

332. The University's internal policies and procedures set forth a set procedure regarding faculty raises.

333. The University's internal procedures further provide that faculty members be protected from harassment.

334. By failing to provide a proper mechanism for adjusting his salary, both on an annual basis and when Dr. Mitnick was renewed, promoted in rank, and tenured, and by failing to protect him from harassment, the Katz School violated internal University procedures.

335. The failure of the Katz School administration to abide by University procedures amounts to a breach of its contract with Dr. Mitnick.

336. Dr. Mitnick suffered damages as a consequence of the aforementioned breach.

337. Dr. Mitnick seeks all appropriate remedies available under Pennsylvania law for breach of contract, including liquidated damages and interest.

Respectfully Submitted,

LIEBER HAMMER HUBER & PAUL, P.C.

s/James B. Lieber

James B. Lieber

PA I.D. No. 21748

Thomas M. Huber

PA I.D. No. 83053

Jacob M. Simon

PA I.D. No. 202610

5528 Walnut Street

Pittsburgh, PA 15232

(412) 687-2231 (tel.)

(412) 687-3140 (fax)

May 19, 1978

PERSONAL AND CONFIDENTIAL

Dr. Barry M. Mitnick

[REDACTED]  
Columbus, Ohio [REDACTED]

Dear Dr. Mitnick:

This letter constitutes an invitation to you to join the faculty of the Graduate School of Business of the University of Pittsburgh as of September 1, 1978. In our opinion the University and our School have a bright future and excellent prospects for continuing strong support from the Pittsburgh industrial-financial community. My colleagues have asked me to convey to you their enthusiasm at the possibility of your joining us at Pittsburgh.

We would like to offer you the position of Assistant Professor of Business Administration at a salary of \$21,000 for two terms. As you may know, two terms at our School are equivalent to approximately seven and one-half months. Your initial appointment as an assistant professor would be for a three year period. Should you teach during the third term of any year or be supported from School research funds, your additional salary for that period, assuming you are supported for full-time service, would be at the rate then stipulated by the University for such services. This rate is currently one-third of your base salary, which would then suggest a total annual rate of \$28,000. An indication of the University's current fringe benefits is being sent by separate mail. Following acceptance of this invitation, the Office of the Provost will prepare a formal appointment letter.

Our expectations with regard to your teaching would be that you would provide courses primarily in the business and society (environmental influences on business) area at both the graduate and undergraduate levels. Inasmuch as most of our courses are at the graduate level and we offer only graduate degrees, it is expected that most of your teaching would be in our MBA programs, and eventually in the doctoral program. This will include such courses in the MBA program as Business and Society I and II. To the extent you participate in our undergraduate programs, you would be teaching such courses as Environmental Influences on Business. Descriptions of the courses you will be asked to teach may be found in the catalogue of the School.

To the extent appropriate, and where scheduling and student demand permit, we would also encourage you to teach elective courses which may be consistent with your background and interests. In addition, to the degree that your interests and the needs of the School coincide, we would also encourage you to teach courses in the underlying disciplines of management as well as the functional fields.



Harry M. Mitnick  
May 19, 1978

However, it is our expectation that your major thrust would remain in the business and society (environmental influences on business) area. Finally, as you continue to develop, you will have an opportunity to consider offering doctoral seminars in your areas of expertise.

You would be expected to teach approximately two courses per term. Our faculty teach in both the day and evening programs and the average teaching assignment normally provides for courses in these programs on a roughly equal basis. You would also be encouraged to broaden your interests in whatever directions seem appropriate, consistent with the needs of the School and your own desires. We would expect that you would interact with other members of the faculty in pursuing teaching, research and consulting activities. The location of the University of Pittsburgh provides opportunities for these activities which are unparalleled countrywide.

We maintain as low a teaching load as indicated because of our commitment to research and in order to give our faculty sufficient time to engage in research activities. Faculty members are permitted a maximum of one day per week of private consultation. However, they are expected to make substantial amounts of time available for student counselling and to provide regular office hours several times during each week. In addition to satisfactory service in teaching and community activities (both professional activities and University responsibilities), we ask that members of our faculty commit themselves to a program of scholarly publication of research findings reflecting appropriate methodologies and problem analysis. Depending on the nature of the material, such results should appear in well-regarded refereed research journals, books and monographs. As a further aid to the development of your research dimension, the School's administration stands ready to work with you to make it possible to qualify at an early date for a faculty research grant involving full or partial release from teaching responsibilities during a given term. Such grants are awarded on the basis of recommendations from the faculty research committee. However, it is not uncommon for relatively new faculty to receive such awards, and we would actively support your request for such funds.

We are naturally anxious to learn of your decision as soon as possible. We would hope to hear from you by June 7th and ask that you contact us by that time regardless of whether you are able to make a decision, so that we may discuss extending the offer, should that be appropriate. Let me know by phone or letter if this invitation omits any important details or is in any other way unsatisfactory to you. We would welcome an opportunity to talk with you about any problems that may be remaining.

If you are able to accept this invitation, we will need three written references from colleagues or others who may be able to certify to your background and capacities. If these references are already on file with us, no

M. Mitnick

May 19, 1978

further action on your part is required. If they are not, we will appreciate your arranging to have them sent at your earliest convenience.

I will look forward to receiving your favorable response.

Sincerely yours,

H. J. Zoffer  
Dean

ms

June 7, 1978

PERSONAL AND CONFIDENTIAL

Dr. Barry M. Mitnick

[REDACTED]  
Columbus, Ohio [REDACTED]

Dear Barry:

Confirming Dean Blair's discussion with you, I am pleased to amend our previous offer letter to you, modifying your base salary for two terms to \$22,000 and your compensation for three terms, should you follow normal practice and either teach or research under School sponsorship for a third term, to \$29,333. We hope that this increase annually of \$1,333 in your annual compensation plus an additional \$500 for moving expenses, bringing that figure to \$1,000, will provide evidence to you of our interest in having you as a part of our organization and in minimizing any inconvenience and cash outflow which may result from your dislocation.

As a senior assistant professor we will follow your progress with anticipation that your advancement in the near future will follow directly from your contributions to this environment in teaching, research and community service. We sincerely hope we may have the pleasure of working with you in the near future.

Sincerely,

H. J. Zoffer  
Dean

rk



# University of Pittsburgh

*Joseph M. Katz Graduate School of Business and  
College of Business Administration  
Office of the Dean*

Carlton G. Ketchum Suite  
372 Mervis Hall  
Pittsburgh, PA 15260  
412-648-1500  
Fax: 412-648-1552

January 5, 2011

Dr. Barry Mitnick

[REDACTED]  
Pittsburgh, PA [REDACTED]

Dear Barry:

I am writing to offer you the option to convert your 8-month faculty contract to a 9-month contract. As you may recall, I have talked about this issue with the Executive Committee and at several faculty meetings. I am offering the conversion for three primary reasons. First, tenure stream faculty hired since 1998 have been offered a 9-month contract. This approach will continue with all new tenure stream and tenured hires. It is helpful to have everyone on the same kind of contract. Second, the 9-month contract appears to be the industry standard. For example, for annual salary surveys for AAU and AACSB, the school is asked to convert salaries into 9-month salaries for reporting purposes. Third, although no plans are in place to change requirements for summer support, it is possible that the requirements will change at some point in the future. If that were to happen, fairness dictates that all faculty members at the school have the same portion of salary at risk if summer support were not achieved in any particular year. Currently, individuals on 8-month contracts have more "at-risk" compensation than individuals on 9-month contracts.

Accordingly, the school is offering the 27 faculty members on 8-month contracts an option to convert to a standard 9-month contract. If you choose to convert, the total 9-month salary including summer support will be identical to your existing 8-month salary with summer support. Individuals who convert their 8-month contracts will, however, receive an additional month's pay as part of their contract academic year salary. This change will mean that summer support will be paid as two-ninths of the 9-month academic year salary in the future.

Under your current 8-month contract, your academic year salary is \$95,472 and your summer support (if earned) is \$31,824 (for a total of \$127,296). If you choose to convert to a 9-month contract, your academic year salary will be \$104,151, and your summer support (if earned) will be \$23,145 (for a total of \$127,296). If you choose to convert, the conversion will take place on September 1, 2011 and any FY12 salary increase will apply to your converted contract.

It is your option to convert to a 9-month contract or to remain on an 8-month contract. If you choose to remain on an 8-month contract and requirements for summer support change at some future date, you will have more "at-risk" pay than faculty on 9-month contracts.

Please let Ron Magnuson know by February 15, 2011 whether you wish to convert to a 9-month contract. If you do not provide a response, it will be assumed that you prefer to stay on an 8-month contract. If you have any questions, please let me know.

Thanks for your consideration.

Best regards,

  
John T. Delaney  
Dean



# University of Pittsburgh

*Joseph M. Katz Graduate School of Business and  
College of Business Administration  
Office of the Dean*

Carlton G. Ketchum Suite  
372 Mervis Hall  
Pittsburgh, PA 15260  
412-648-1500  
Fax: 412-648-1552

**TO:** Ronald A. Magnuson  
Director of Administration  
372 Mervis Hall

**DUE:** February 15, 2011

**RE:** Option to convert to a 9-month contract or remain on an 8-month contract

Select One:

I choose to convert to a 9-month contract, effective 9-1-11

I choose to remain on an 8-month contract

Barry M. Mitnick

NAME (Print)

Barry M. Mitnick

NAME (Signature)

2/15/11

DATE

**UNIVERSITY OF PITTSBURGH POLICY 07-09-01**

**CATEGORY:** PERSONNEL  
**SECTION:** Salary Administration  
**SUBJECT:** Salary Increase  
**EFFECTIVE DATE:** September 16, 1994a  
**PAGE(S):** 4

The University's total annual expenditure for compensation is a complex function of a number of factors, including the number of faculty and staff; the relative number of faculty and staff of different ranks or classifications, years of service, and status (e.g., full-time and part-time); fringe benefit rates; and the size of annual salary increases.

Salaries at the time of initial hire are determined primarily by market factors. What follows is a set of policy recommendations to provide a framework governing annual salary increases for faculty and staff, to be applied within the Planning and Budgeting System (PBS).

These recommendations provide some flexibility for particular units, within the context of policy decisions made centrally. The size of the total pool of funds for increases and the allocation of funds to particular responsibility centers are centrally determined. The distribution of funds to individuals within each unit, however, is to a significant degree left to local determination.

**I. THE ANNUAL POOL OF FUNDS FOR SALARY INCREASES**

Because faculty and staff are the University's most important resource, funding for compensation must receive a very high priority in the University's planning and budgeting. To assure competitiveness in attracting and retaining qualified and productive faculty, the University has set a goal of ensuring that average faculty salaries at the Pittsburgh campus are at or above the median (for each rank) of AAU universities; related goals have been established for faculty at the regional campuses and for faculty librarians. The Staff Classification and Pay Plan establishes salary ranges aimed at maintaining competitiveness in attracting and retaining qualified and productive staff.

The size of the total pool of funds for salary increases is determined as part of the annual operating budget by the Chancellor, with the active participation of the University Planning and Budgeting Committee (UPBC), and subject to approval by the Board of Trustees.

The total pool for salary increases has the following four components: 1) maintenance of real salary; 2) merit increases; 3) equity adjustments; and 4) market adjustments.

The portion of the total pool devoted to each of the four components is determined by the Chancellor, with the active participation of the UPBC, in response to needs for each purpose identified through the planning and budgeting system. The size of the total pool for increases should be sufficiently large to provide adequate funds for all four purposes.

**II. ALLOCATION OF SALARY INCREASE FUNDS TO RESPONSIBILITY CENTERS**

Funds for salary increases are allocated to responsibility centers on a uniform percentage basis for maintenance of real salary and for merit, and differentially for equity and market increases, based on demonstrated needs, documented in accordance with procedures established within the planning and budgeting system.

Maintenance of Real Salary.

1. Each unit will be allocated funds from the total pool to ensure the maintenance of real salary of each faculty or staff member performing satisfactorily.
2. The amount for maintenance of real salary allocated to each unit will be equal to the salaries of all faculty and staff in that unit times the percentage of the previous calendar



year's increase in the Consumer Price Index (CPI-W). Any modification of this percentage must be determined by the Chancellor, with the active participation of the UPBC.

#### Merit

1. Each unit will be allocated funds from the merit component of the total pool, to assure that every faculty or staff member whose performance is judged meritorious receives a merit increase in salary.
2. The amount for merit increases allocated to each unit will be a set percentage (the same for all units) times the salaries of all faculty and staff in that unit. The percentage is determined by the Chancellor, with the active participation of the UPBC

#### Equity

1. A systematic analysis should be undertaken to determine where and to what extent salary inequities exist (such as salary compression or differentials attributable solely to gender, race, or other inappropriate factors), and funds should be allocated each year to units where inequities are documented until they are removed.
2. Funds for equity adjustments to specific units are allocated by the Chancellor, with the active participation of the UPBC, in response to needs identified through the systematic analysis described above.

#### Market

1. Funds from the market component of the total pool are allocated to specific units by the Chancellor, with the active participation of the UPBC, on the basis of documented needs. Consideration might be given, for example, to school and departmental rankings in national salary profiles and to shifts in relative rankings of staff salaries in income profiles for various professional and technical personnel, both in Pittsburgh and in higher education generally.
2. A portion of the market component of the total pool will be placed in reserve for discretionary use by the Provost or the appropriate senior vice chancellor, to retain individual faculty and staff.

### **III. DISTRIBUTION OF SALARY INCREASES TO INDIVIDUALS WITHIN UNITS**

The salary increase received by each individual will become part of his or her base contract salary in subsequent years.

#### Maintenance of Real Salary

1. Each faculty or staff member performing satisfactorily will receive a percentage increase of the size determined for that year for maintenance of real salary.
2. For faculty, satisfactory performance is defined as having fulfilled the "common responsibilities" of faculty as articulated in the 1988 *Handbook for Faculty*: The role of individual faculty members in supporting the mission of the University will depend on the specific missions of their departments or schools. All faculty members, however, have certain common responsibilities: to commit themselves fully to their teaching obligations, to meet all of their classes as scheduled, to be available during specified office hours for consultation with students, to evaluate student performance promptly and fairly, to participate in the development of the programs of their departments and schools and of the University as a whole, to engage in scholarly activities, and, as appropriate, to support the University in its goal to render public service. (p. 42)

Criteria for satisfactory performance may be further specified for particular units, as jointly determined by the faculty and the head of the unit through collegial processes

3. For staff, satisfactory performance is defined as an Overall Rating of "Meets standards" on the Staff Performance Appraisal, indicating: "Work is fully satisfactory; employee consistently meets and occasionally may exceed performance standards."

#### Merit

1. For faculty, judgments of relative merit within a department or school should be made in accordance with explicit, written criteria and procedures determined jointly by the faculty and the head of the unit. Criteria should reflect the specific mission of the unit, and should recognize performance of high quality in teaching and service as well as in scholarship or research.
2. For staff, meritorious performance is defined as an Overall Rating of "Often" or "Consistently" "Beyond Standards," indicating: "Work performance often or consistently exceeds performance standards."
3. A responsibility center may decide that promotion should be accompanied by a related increase in salary, in addition to any other merit increase awarded in the year of promotion. Each responsibility center must have explicit written policies regarding promotion increases for faculty and staff.

#### Equity

1. Funds allocated to a unit for reasons of equity must be distributed among individuals in such a way as to address appropriately the inequities identified.

#### Market

1. Funds allocated to a unit for market considerations are distributed among individuals at the discretion of the head of the unit.

### **IV. NOTIFICATION OF SALARY INCREASES**

At the time of notification of salary for the coming year, each continuing faculty or staff member will be informed in writing of the basis for his or her individual salary increase. Persons whose performance has been judged unsatisfactory must be informed of the specific reasons for that judgment.

### **V. RECONSIDERATION OF SALARY DECISIONS**

Procedures should be developed within each responsibility center through which individual faculty and staff members can request reconsideration of decisions related to aspects of their salaries

### **VI. SCOPE**

This policy applies to contract salaries of all full-time faculty and part-time tenure-stream and tenured faculty, including faculty librarians, except for those in the School of Medicine, and to all regular full-time and part-time staff not covered by collective bargaining agreements. It does not include summer-term or overload payments paid to full-time faculty, or salaries of part-time non-tenure-stream faculty or part-time faculty librarians.

### **VII. OVERSIGHT**

The Senate Budget Policies Committee and the Staff Association Council, in consultation with the Provost and the appropriate senior vice chancellor, will monitor the implementation of this policy and report on that implementation annually to the University Senate and the Staff Association Council.

**UNIVERSITY OF PITTSBURGH POLICY 07-01-03**

**CATEGORY:** PERSONNEL  
**SECTION:** Recruitment  
**SUBJECT:** Nondiscrimination, Equal Opportunity, and Affirmative Action  
**EFFECTIVE DATE:** November 4, 2016 Revised  
**PAGE (S):** 3

**I. SCOPE**

This policy affirms the University of Pittsburgh commitment to nondiscrimination, equal opportunity, and affirmative action in admissions, employment, access to and treatment in University programs and activities, in accordance with federal, state, and local laws and regulations. (Titles VI and VII of the Civil Rights Act of 1964, as amended; Executive Order 11246, as amended by Executive Order 11375; Revised Order No. 4; the Equal Pay Act of 1963, as amended; the Rehabilitation Act of 1973, as amended; the Vietnam Era Veterans Readjustment Assistance Act of 1974; Titles VII and VIII of the Public Health Service Act; Title IX of the Education Amendments of 1972; the Americans With Disabilities Act (ADA) of 1990, and all other applicable discrimination laws and ordinances of the United States, Commonwealth of Pennsylvania, the City of Pittsburgh, or other applicable regional governance.) Due to its unique aspects, sexual harassment is excepted from the scope and is separately addressed under Policy 06-05-01, Sexual Misconduct.

**II. POLICY**

Nondiscrimination

The University of Pittsburgh, as an educational institution and as an employer, values equality of opportunity, human dignity, and racial/ethnic and cultural diversity. Accordingly, the University prohibits and will not engage in discrimination or harassment on the basis of race, color, religion, national origin, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity and expression, genetic information, disability, or status as a veteran. The University also prohibits and will not engage in retaliation against any person who makes a claim of discrimination or harassment or who provides information in such an investigation. Further, the University will continue to take affirmative steps to support and advance these values consistent with the University's mission.

Definition of Harassment

Harassment on the basis of a protected group status (i.e., due to an individual's race, color, religion, national origin, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity and expression, genetic information, disability, or status as a veteran) is a form of discrimination prohibited by this policy.

Harassment may occur through a wide range of conduct, such as by verbal, physical or electronic means when:

1. The conduct is severe or pervasive and objectively and subjectively has the effect of:
  - a. Unreasonably interfering with an individual's work or equal access to education; or
  - b. Creating an intimidating, hostile, or offensive work or academic environment; or
2. Such conduct, if repeated, is reasonably likely to meet the standard set forth in number 1 immediately above.

Harassment can occur on University premises or, under limited circumstances, off campus. It can occur between people of the same or different protected group statuses.



When constitutionally protected speech is implicated, this policy will be applied only to the extent consistent with the First Amendment. In addition to meeting the standard set forth above, to rise to the level of prohibited harassment when constitutionally protected speech is implicated, the law requires a tenable threat of material and substantial disruption of University operations or interference with the rights of others.

#### Affirmative Action

Responsibility for the implementation and monitoring of this policy and equal employment opportunity and affirmative action programs is delegated by the Chancellor to the Director of Affirmative Action, Diversity and Inclusion.

The Director of Affirmative Action, Diversity and Inclusion is responsible for:

- Updating policy statements and procedures concerning the University's Affirmative Action Program and ensuring that University policies conform with all applicable federal, Commonwealth, and local laws concerning nondiscrimination, equal opportunity, and affirmative action.
- Reviewing, assisting in the development, and monitoring programs established under the University's Affirmative Action Program.
- Facilitating the collection, maintenance, and analysis of all statistical data called for in this Program and/or in the Program's implementation guidelines.
- Coordinating the preparation of all required government reports which relate to equal opportunity and/or affirmative action programs within the University.
- Providing any technical and/or administrative assistance required to meet the responsibilities mandated by the University's Program or by applicable equal employment opportunity and/or affirmative action laws and regulations for all responsibility centers, divisions, departments, or individuals within the University.
- Providing staff, technical support and general assistance to affirmative action committees.
- Reviewing all hiring, promotion, transfer, compensation, tenure, advertising and/or publicity, admissions, financial aid, and institutional access policies within the University to help ensure that these comply with the requirements of federal, Commonwealth, and local laws and regulations and with University-wide policies relating to nondiscrimination, equal opportunity, and affirmative action.
- Implementing, assisting, or monitoring the grievance process in all cases where grievances related to discrimination matters arise within the University.
- Assuring that all official publications of the University contain a statement of the University's Nondiscrimination Policy Publication Statement.
- Preparing and updating the Affirmative Action Program of the University annually for the Chancellor's review and approval.

#### University Nondiscrimination Policy Publication Statement

The University of Pittsburgh, as an educational institution and as an employer, values equality of opportunity, human dignity, and racial/ethnic and cultural diversity. Accordingly, as fully explained in Policy 07-01-03, the University prohibits and will not engage in discrimination or harassment on the basis of race, color, religion, national origin, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity and expression, genetic information, disability, or status as a veteran. The

University also prohibits and will not engage in retaliation against any person who makes a claim of discrimination or harassment or who provides information in such an investigation. Further, the University will continue to take affirmative steps to support and advance these values consistent with the University's mission. This policy applies to admissions, employment, access to and treatment in University programs and activities. This is a commitment made by the University and is in accordance with federal, state, and/or local laws and regulations.

For information on University equal opportunity and affirmative action programs, please contact: University of Pittsburgh, Office of Affirmative Action, Diversity and Inclusion, Pamela W. Connelly, Associate Vice Chancellor, 500 Craig Hall, Pittsburgh, PA 15260 (412) 648-7860.

For complete details on the University's Nondiscrimination Policy, please refer to Policy 07-01-03. For information on how to file a complaint under this policy, please refer to Procedure 07-01-03.

#### Dissemination of the University of Pittsburgh's Nondiscrimination Policy Publication Statement

The University will inform all external recruiting sources, unions, contractors, other colleges and universities, organizations specializing in the recruitment of minorities and women, and other groups with whom it cooperates, of the University's Nondiscrimination Policy Publication Statement.

The Nondiscrimination Policy Publication Statement is to appear in all University course and program catalogs; student, faculty, and staff handbooks and policy manuals; brochures, pamphlets, magazines, and newsletters concerning educational programs, admissions, housing, financial assistance, employment, student life, and extracurricular activities; and grants, contracts, and purchase orders. Smaller publications such as fliers, posters, handouts, and bulletins pertaining to those areas cited above may carry either the Nondiscrimination Policy Publication Statement or the statement that, "The University of Pittsburgh is an affirmative action, equal opportunity institution." All advertisements for employment must include the notation "EEO/AA/M/F/Vets/Disabled" and/or a longer phrase approved by the Office of Diversity and Inclusion that satisfies the University's legal obligations for employment advertising and otherwise reflects the University's commitment to diversity and non-discrimination.

#### University Pay Transparency Policy Statement

The University of Pittsburgh will not discharge or in any other manner discriminate against employees or applicants because they have inquired about, discussed, or disclosed their own pay or the pay of another employee or applicant.

However, employees who have access to the compensation information of other employees or applicants as a part of their essential job functions cannot disclose the pay of other employees or applicants to individuals who do not otherwise have access to compensation information, unless the disclosure is (a) in response to a formal complaint or charge, (b) in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or (c) consistent with the contractor's legal duty to furnish information.

#### Dissemination of the Pay Transparency Policy Publication Statement

The above pay transparency policy statement or an electronic link to this Policy shall be included in all handbooks for University employees, including staff and faculty handbooks. The pay transparency policy statement shall also be posted electronically and in hard copy format in conspicuous places where other required notices are provided to applicants and employees.

### III. REFERENCES

Procedure 07-01-03, Non-discrimination and Anti-Harassment

Policy 06-05-01, Sexual Misconduct

Notice of Non-Discrimination

Faculty Handbook (/faculty-handbook) / II. Faculty Policies (/faculty-handbook/toc\_ch2)  
/ Anti-Harassment Policy Statement

# Anti-Harassment Policy Statement

## Notice of Non Discrimination

The University of Pittsburgh, as an educational institution and as an employer, does not discriminate on the basis of disability, race, color, religion, national origin, ancestry, medical condition, genetic information, marital status, familial status, sex, age, sexual orientation, veteran status or gender identity and expression in its programs and activities.

The University does not tolerate discrimination, harassment, or retaliation on these bases and takes steps to ensure that students, employees, and third parties are not subject to a hostile environment in University programs or activities.

The University responds promptly and equitably to allegations of discrimination, harassment, and retaliation. It promptly conducts investigations and takes appropriate action, including disciplinary action, against individuals found to have violated its policies, as well as provides appropriate remedies to complainants and the campus community. The University is committed to taking prompt action to end a hostile environment if one has been created, prevent its recurrence, and remedy the effects of any hostile environment on affected members of the campus community.

For complete details on the University's Nondiscrimination, Equal Opportunity, and Affirmative Action Policy (07-01-03) and Sexual Misconduct Policy (06-05-01), please visit <http://diversity.pitt.edu/affirmative-action/policies-procedures-and-practices> (<http://diversity.pitt.edu/affirmative-action/policies-procedures-and-practices>).

Katie Pope  
Title IX Coordinator  
500 Craig Hall, 200 S Craig Street, Pittsburgh, PA 15260  
[titleixcoordinator@pitt.edu](mailto:titleixcoordinator@pitt.edu) (<mailto:titleixcoordinator@pitt.edu>)  
412-648-7860

Handles or coordinates responses to inquiries regarding discrimination, harassment, or retaliation based on sex, sexual orientation, gender, and gender identity or expression.

Cheryl Ruffin  
Manager, Affirmative Action; ADA Coordinator  
500 Craig Hall, 200 S Craig Street, Pittsburgh, PA 15260  
[cruffin@pitt.edu](mailto:cruffin@pitt.edu) (<mailto:cruffin@pitt.edu>)



412-648-7860

Handles or coordinates responses to inquiries regarding discrimination, harassment, or retaliation based on disability, race, color, religion, national origin, ancestry, medical condition, genetic information, marital status, age, and veteran status.

Jane Volk

Director of Employee and Labor Relations

520 Craig Hall, Pittsburgh, PA 15260

[jvolk@pitt.edu](mailto:jvolk@pitt.edu) (<mailto:jvolk@pitt.edu>)

412-624-8138

Handles or coordinates responses to inquiries regarding discrimination, harassment, or retaliation based on disability, race, color, religion, national origin, ancestry, medical condition, genetic information, marital status, age, and veteran status, for cases involving staff members.

## FACULTY HANDBOOK

---

Faculty Handbook Overview (<http://provost.pitt.edu/faculty-handbook>)

I. The University of Pittsburgh ([/faculty-handbook/toc\\_ch1](/faculty-handbook/toc_ch1))

II. Faculty Policies ([/faculty-handbook/toc\\_ch2](/faculty-handbook/toc_ch2))

III. Academic Policies ([/faculty-handbook/toc\\_ch3](/faculty-handbook/toc_ch3))

IV. Research Administration ([/faculty-handbook/toc\\_ch4](/faculty-handbook/toc_ch4))

V. Faculty Compensation And Benefits ([/faculty-handbook/toc\\_ch5](/faculty-handbook/toc_ch5))

VI. University Academic Resources And Services ([/faculty-handbook/toc\\_ch6](/faculty-handbook/toc_ch6))

## OFFICE OF THE PROVOST()

University of Pittsburgh

Office of the Provost

801 Cathedral of Learning

412-624-4222

[provost@pitt.edu](mailto:provost@pitt.edu) (<mailto:provost@pitt.edu>)

[Academic Calendar \(/node/387\)](/node/387)

[Faculty Handbook \(/node/441\)](/node/441)

[Guidelines & Resources \(/node/641\)](/node/641)

Contact

Student Affairs:  
412-648-1006

Faculty Records:  
412-624-4232

Human Resources:  
412-624-7000

Financial Aid/Admissions:  
412-624-7488

Office of Research:  
412-624-7400

Office of the Registrar/ Academic Calendar:  
412-624-7600

Revised 08/24/18 Copyright 2018 Site by Communications Services Web team (<http://www.communications.pitt.edu/web>) Send feedback about this site (<https://www.pitt.edu/content/website-feedback>)



JS 44A REVISED June, 2009  
IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
THIS CASE DESIGNATION SHEET MUST BE COMPLETED

**PART A**

This case belongs on the (  Erie  Johnstown  Pittsburgh) calendar.

1. **ERIE CALENDAR** - If cause of action arose in the counties of Crawford, Elk, Erie, Forest, McKean, Venang or Warren, OR any plaintiff or defendant resides in one of said counties.
2. **JOHNSTOWN CALENDAR** - If cause of action arose in the counties of Bedford, Blair, Cambria, Clearfield or Somerset OR any plaintiff or defendant resides in one of said counties.
3. Complete if on **ERIE CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.
4. Complete if on **JOHNSTOWN CALENDAR**: I certify that the cause of action arose in \_\_\_\_\_ County and that the \_\_\_\_\_ resides in \_\_\_\_\_ County.

**PART B** (You are to check ONE of the following)

1.  This case is related to Number \_\_\_\_\_ . Short Caption \_\_\_\_\_
2.  This case is not related to a pending or terminated case.

**DEFINITIONS OF RELATED CASES:**

**CIVIL:** Civil cases are deemed related when a case filed relates to property included in another suit or involves the same issues of fact or it grows out of the same transactions as another suit or involves the validity or infringement of a patent involved in another suit

**EMINENT DOMAIN:** Cases in contiguous closely located groups and in common ownership groups which will lend themselves to consolidation for trial shall be deemed related.

**HABEAS CORPUS & CIVIL RIGHTS:** All habeas corpus petitions filed by the same individual shall be deemed related. All pro se Civil Rights actions by the same individual shall be deemed related.

**PART C**

**I. CIVIL CATEGORY** (Select the applicable category).

1.  Antitrust and Securities Act Cases
2.  Labor-Management Relations
3.  Habeas corpus
4.  Civil Rights
5.  Patent, Copyright, and Trademark
6.  Eminent Domain
7.  All other federal question cases
8.  All personal and property damage tort cases, including maritime, FELA, Jones Act, Motor vehicle, products liability, assault, defamation, malicious prosecution, and false arrest
9.  Insurance indemnity, contract and other diversity cases.
10.  Government Collection Cases (shall include HEW Student Loans (Education), V A Overpayment, Overpayment of Social Security, Enlistment Overpayment (Army, Navy, etc.), HUD Loans, GAO Loans (Misc. Types), Mortgage Foreclosures, SBA Loans, Civil Penalties and Coal Mine Penalty and Reclamation Fees.)

I certify that to the best of my knowledge the entries on this Case Designation Sheet are true and correct

s/James B. Lieber

Date: 09/06/2018

\_\_\_\_\_  
ATTORNEY AT LAW

NOTE: ALL SECTIONS OF BOTH FORMS MUST BE COMPLETED BEFORE CASE CAN BE PROCESSED.

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint. Class Action.** Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

ATTACHMENT

James B. Lieber, Esq.  
Lieber Hammer Huber & Paul, P.C.  
5528 Walnut Street  
Pittsburgh, PA 15232  
(412) 687-2231

Thomas M. Huber, Esq.  
Lieber Hammer Huber & Paul, P.C.  
5528 Walnut Street  
Pittsburgh, PA 15232  
(412) 687-2231

Jacob M. Simon, Esq.  
Lieber Hammer Huber & Paul, P.C.  
5528 Walnut Street  
Pittsburgh, PA 15232  
(412) 687-2231



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* The Univ. of Pittsburgh--of the Comm. Sys. of Higher Educ.  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: