

IN THE CIRCUIT COURT, ELEVENTH
JUDICIAL CIRCUIT IN AND FOR MIAMI-
DADE COUNTY, FLORIDA

CASE NO.: 2024-

DIV:

CLAIRE OSBORN-WRIGHT

vs.

ST. THOMAS UNIVERSITY, INC.
Defendant

DAVID A. ARMSTRONG
Defendant

TARLIKA NUÑEZ-NAVARRO
Defendant

_____ /

COMPLAINT

Plaintiff, CLAIRE OSBORN-WRIGHT, by and through the undersigned counsel, hereby sues
DEFENDANTS ST. THOMAS UNIVERSITY, INC. (hereinafter “STU”), DAVID A.
ARMSTRONG (hereinafter, “ARMSTRONG”) and TARLIKA NUÑEZ-NAVARRO
(hereinafter “NUÑEZ-NAVARRO”) for Breach of Contract, Defamation, and Intentional
Infliction of Emotional Distress, and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. This is a civil action for damages in excess of \$100,000.00 exclusive of interest, costs and attorney’s fees.

2. Plaintiff Claire Osborn-Wright is an individual and resident of Broward County, Florida.
3. Defendant St. Thomas University, Inc., is a registered Florida Not For Profit Corporation with a principal address of 16401 NW 37 Avenue, Miami Gardens, FL, 33054.
4. Defendant David A. Armstrong is the President of St. Thomas University, is over the age of 18, and resides in Broward County, Florida.
5. Defendant Tarlika Nuñez-Navarro is the Dean of St. Thomas University College of Law, is over the age of 18, and resides in Broward, County, Florida.
6. Venue lies in this court because Defendants maintain their principal place of business or employment in Miami-Dade County, because the employment relationship between Plaintiff and Defendants exists in Miami-Dade County, and because the majority of the overt acts giving rise to the causes of action occurred in Miami-Dade County.

GENERAL ALLEGATIONS

7. Plaintiff is an Associate Professor of Law at St. Thomas University College of Law (STUCL), where she has been continuously employed since August 2020.
8. STUCL is a professional school of law operated by Defendant STU and accredited by the American Bar Association (ABA).
9. On October 24, 2022, prior to Plaintiff's 4:00 p.m. Wills & Trusts class, as she was setting up her classroom, a student asked Plaintiff if she had heard what had happened in then-Dean of Students John Hernandez' morning class that day. Plaintiff replied "no." This student then told

Plaintiff that he was a student in Dean Hernandez' class, and that, at the beginning of Dean Hernandez' class that morning, Dean Hernandez greeted the class and then said he had to excuse himself for a few minutes to handle an emergency. This student then said that Dean Hernandez had returned to his classroom approximately ten minutes later and reported to the class that the emergency had been resolved.

10. At approximately 4:45 p.m. the same day, a student, Mariela Hunt, approached Plaintiff with her cell phone and asked her to read a short message that appeared on Ms. Hunt's phone. The entire message read: **"I imagine This is going to get out to everyone in a few but don't go to school and tell anyone you know who's there to leave some dumb mother fucker legit threatened to shoot up the school."** Ms. Hunt then asked Plaintiff if she knew anything about this message. Plaintiff told Ms. Hunt about the male student who had shared with Plaintiff what had happened in Dean Hernandez' office. Plaintiff told Ms. Hunt that if the message had anything to do with St. Thomas University at all, it probably related to the incident in Dean Hernandez' class earlier in the day and that incident apparently had been resolved.

11. Plaintiff then carefully scrutinized the text with Ms. Hunt. She asked Ms. Hunt from whom she had received the above-highlighted text, and Ms. Hunt replied that the text had just automatically appeared on her phone. Plaintiff then asked her whether she had any reason to believe that the highlighted text referred to St. Thomas University, and Ms. Hunt replied "no." Finally, Plaintiff asked Ms. Hunt whether she personally had witnessed any threat of violence made by anyone connected with St. Thomas University or knew of someone else who claimed to have witnessed such a threat. Ms. Hunt replied "no." Plaintiff and Ms. Hunt discussed how even the person who had posted the highlighted language apparently had not witnessed any

threat of violence against St. Thomas University, as that writer did not identify any such perpetrator at St. Thomas University or elsewhere or provide any specific details – e.g., date, time, location – regarding a threat of violence. Plaintiff and Ms. Hunt then discussed how the text contained layers of hearsay and would make a good evidence exam, and Ms. Hunt walked away from Plaintiff’s podium laughing. Plaintiff was unaware that a false rumor of a possible threat of a school shooter was being circulated among some other law students at STUCL.

12. At 6:05 p.m. on October 24, 2022, then-Associate Dean Todd Clark, after having reviewed the above highlighted text that Ms. Hunt had shown to Plaintiff, sent the following email to the entire St. Thomas University College of Law community, with advance approval from then Law School Interim Dean John Makdisi and Defendant Armstrong:

I am sending this email to update everyone about some misinformation that is percolating around the school. We do not have any evidence of an active shooter. More importantly, we have not received any information about a shooting threat. We are in the process of investigating how and who facilitated the flow of the misinformation. If you have any questions or concerns, please feel free to contact me at anytime. Your safety is the administrations primary concern.

*Dean Todd Clark
Sr. Associate Dean
Academic Affairs*

13. Despite the University’s stated view that the texts reviewed by Plaintiff was “misinformation” and that there was no evidence of an active shooter threat, Defendant Armstrong ordered Interim Dean John Makdisi to place a written letter of reprimand in Plaintiff’s personnel file for “failure to timely report” information she had received about a “potential active shooter situation.” On June 30, 2023, in compliance with Defendant Armstrong’s direction, Interim Dean Makdisi sent an email to Plaintiff containing a written letter

of reprimand stating that she had violated Section 1.5.5 of the University Employee Handbook by failing to report to the Department of Public Safety or the University Administration the text that Ms. Hunt had shown her. The letter informed Plaintiff that this reprimand would be placed in her personnel file. (Exhibit A) The placement of this reprimand in Plaintiff's personnel file occurred nine months after Ms. Hunt had shown the text to Plaintiff.

14. A different law student in another class taught by Professor Lauren Gilbert had received the same text message and shared it with Professor Gilbert. Professor Gilbert was also reprimanded by Interim Dean Makdisi at the direction of Defendant Armstrong for having failed to report the text to the Department of Public Safety or the University Administration. A third law school faculty member received a written reprimand for having locked the doors of his classroom during his late afternoon class on October 24, 2022, without first having received permission from the University Administration to do so. However, after a successful appeal, the University ultimately removed the reprimand from this third faculty member's personnel file.

15. Plaintiff met with Interim Dean John Makdisi on July 13, 2023. At this meeting, he explained to her that he did not possess the power to change the conclusion that she had violated University rules and policies, which conclusion was reflected in an Investigative Report that the University Compliance Department had compiled, but that he could reduce her reprimand to a warning, and he did so. Plaintiff then asked for a copy of the Investigative Report to which Interim Dean Makdisi had referred. He refused to provide her with this Report. Interim Dean Makdisi also told Plaintiff that she could appeal the placement of the warning in her personnel file, and he directed her to the University Handbook containing the grievance/appeal procedures.

16. Plaintiff appealed the placement of the warning in her personnel file, following the grievance procedures to the letter. First, she met with the Director of Human Resources, Monica Middleton. Ms. Middleton explained that she did not possess the power to change any of the conclusions stated in the Investigative Report or change the penalty that Interim Dean Makdisi had imposed. She stated that she only possessed the power to place in Plaintiff's personnel any further documents that Plaintiff would like to place there.

17. Plaintiff then appealed the placement of the warning in her file to the University Provost Michelle Johnson-Garcia on July 18, 2023, and the Faculty Senate Committee on Academic Freedom, Contracts and Rank on September 20, 2023. The University Director of Compliance, Mark St. Louis, attended the meeting between Provost Johnson-Garcia and Plaintiff. When Plaintiff met with Provost Johnson-Garcia, the Provost stated to Plaintiff that it was not "a big deal" to receive a warning in one's personnel file and she wondered why Plaintiff was taking the time and effort to appeal her warning letter. Plaintiff replied that she strongly believed that it was not possible that she had violated Section 1.5.5 of the University Employee Handbook and furthermore she aspired to be a Dean at a Law School someday and she believed that having such a warning in her personnel file at St. Thomas University could preclude her from obtaining such a position. The Provost declined to grant the appeal.

18. Plaintiff then appealed to the Faculty Senate Committee on Academic Freedom, Contracts and Rank. Plaintiff had requested a meeting before the Faculty Senate Committee during the summer of 2023. However, contrary to the deadlines specified in the University's grievance procedures, she was informed that she could not meet with the Committee until after the fall 2023 semester had commenced and a new such Committee had been formed. The appeal was

heard on September 20, 2023. The Faculty Senate Committee also declined to remove the warning from Plaintiff's file.

19. St. Thomas University violated several provisions in its grievance procedures during Plaintiff's appeals. Plaintiff set out these violations in an October 26, 2023, letter to Provost Johnson-Garcia. Provost Johnson-Garcia told Plaintiff to specify those violations to President Armstrong in her appeal to President Armstrong, and Plaintiff did so. Perhaps the clearest procedural violation was that a member of the Senate Faculty Committee, Professor Debbie Goodman, was allowed to vote on her case, despite the fact that she was not present when Plaintiff made her presentation to the Committee. In addition, the Faculty Senate issued its decision late and provided its decision to Provost Johnson-Garcia, rather than to Plaintiff, another procedural violation.

20. On August 17, 2023, Plaintiff attended a "Welcome Back Party" for faculty members at Defendant Armstrong's residence. Defendant Armstrong was aware that Plaintiff had been vigorously pursuing every available avenue to appeal the placement of the warning letter in her file. At the party, Defendant Armstrong had a private conversation with Plaintiff. During this conversation, he told her that having a warning in her personnel file at St. Thomas University was "no big deal" and he asked her why she was making such a big deal of the warning by pursuing an appeal. Plaintiff explained that she had researched the relevant issues for hundreds of hours and she sincerely believed that it was not possible that she had violated any University rule or policy. As she had with Provost Garcia-Johnson, she also mentioned that she aspired to be a Dean at a Law School someday and she believed that having such a warning in her personnel file at St. Thomas University could prevent her appointment as a Law Dean. President

Armstrong repeatedly urged her to drop her grievance and to simply accept the warning in her file. He promised that she would be rewarded for doing so with tenure and promotion to Associate Law Dean at St. Thomas but threatened that there would be negative consequences to her career if she proceeded with challenging the warning in her file.

21. During this private conversation, Defendant Armstrong also repeatedly stated that the warning in her file was “not about you” at all, which Plaintiff understood to mean that Defendant Armstrong’s goal was not to punish Plaintiff, but rather to punish Professor Lauren Gilbert, as he was trying to build a paper trail of actions that would justify dismissing her from her position as a tenured faculty member (which he later did, see related case 2024-018216-CA-01). When Plaintiff tried to extricate herself from the private conversation, Defendant Armstrong’s parting words to her were to urge her “to think about what I said and see what you can do for us.” Based on Defendant Armstrong’s comments, Plaintiff was made to understand that the reason that Defendant Armstrong had ordered that Plaintiff and another faculty member were to be punished was to make it appear that the reprimand of Professor Gilbert was fair and consistent with the punishment of other faculty members. Professor Gilbert had also filed a grievance over the letter placed in her file and Defendant Armstrong wanted Plaintiff to drop her grievance and accept her warning so that he would have a basis for treating Professor Gilbert more harshly, and potentially terminate her for her actions related to the false active shooter rumor and for refusing to accept blame or accountability for those actions.

22. Plaintiff was badly shaken by Defendant Armstrong’s attempts to bully and intimidate her and his threats to harm her career if she did not capitulate to his demands, as well as his efforts to enlist her in his plot to build a case for termination of Professor Lauren Gilbert. The next day,

she contacted Professor Gilbert and another faculty colleague by text or email and telephone to describe the incident at President Armstrong's home and describe how distressed she was.

Plaintiff also met with Interim Dean Makdisi and explained to him what had happened to her at President Armstrong's home.

23. Despite her concern about the adverse consequences to her career, Plaintiff pursued her appeal of the reprimand before the Faculty Senate Committee and to Defendant Armstrong personally, which angered Defendant Armstrong. Defendant Armstrong denied her appeal.

24. At the same time that Plaintiff was pursuing her appeals of the warning in her personnel file, she was also in the process of applying for tenure at STUCL. She submitted her tenure application on September 15, 2023.

25. The tenure process for STUCL faculty is set forth in the STUCL Faculty Handbook. (Exhibit B). This process requires the Faculty Committee on Tenure, Promotion, and Reappointment (Committee) to conduct a comprehensive review of the candidate's record of teaching, research and scholarship and service to the school and broader community. In addition, the Committee is tasked with gathering external reviews of the tenure candidate's scholarship from well-regarded scholars with expertise in the candidate's area(s) of scholarship. The Committee then votes on whether the candidate meets STUCL's published standards for tenure and prepares a detailed report and recommendation describing how the candidate does or does not meet these standards.

26. The Committee voted by a supermajority, 5-2, to recommend that Plaintiff be awarded tenure, and provided a lengthy and detailed report supporting their recommendation to the

recently appointed Dean of STUCL, Defendant Tarlika Nuñez-Navarro, on or about March 25, 2024. No dissenting opinion or minority report was included.

27. According to the mandatory procedures set forth in the Faculty Handbook, the next step in the process was for the Dean to prepare her own “independent” recommendation “stated in terms of the standards of teaching, scholarship and research, and service” and to submit that recommendation, along with the Committee’s recommendation to the President (Defendant Armstrong). According to the schedule set forth in the Handbook, this recommendation should have been submitted by April 15, 2024. After the Dean submitted her recommendation to the President, the President would make a final recommendation to the Board of Trustees who would make the decision on whether to grant the candidate tenure.

28. On information and belief, Defendant Armstrong directed Defendant Nuñez-Navarro not to support Plaintiff’s application for tenure. Following, Defendant Armstrong’s direction, Defendant Nuñez-Navarro prepared a letter, dated April 12, 2024, which purported to be her recommendation, recommending against the granting of tenure. (Exhibit C)

29. The recommendation letter of Defendant Nuñez-Navarro was not “stated in terms of the standards of teaching, scholarship and research, and service” as required. In fact, the letter made no reference to the tenure standards in the STUCL Handbook. The letter also contained numerous false and defamatory statements regarding Plaintiff’s employment record at STUCL.

30. On information and belief, Defendant Armstrong recommended that the Board of Trustees deny Plaintiff’s tenure application for reasons unrelated to the tenure standards for law faculty members in the STUCL Handbook.

31. On July 1, 2024, Dean Nuñez-Navarro emailed Plaintiff's to advise her that her tenure application was unsuccessful. (Exhibit D). Attached to her email was a letter from Defendant Armstrong, dated June 27, 2024, addressed to Plaintiff, informing her that her tenure application was "unsuccessful." Neither the letter from Defendant Armstrong nor the email from the Dean offered any reasons for the denial. (Exhibit D)

32. On July 3, 2024, Plaintiff wrote a follow up email to the Dean requesting to know whether the Dean and the President had supported her application, and if not, why not? She also asked to be provided any reasons for the denial of her application. (Exhibit E)

33. On July 11, 2024, Dean Nuñez-Navarro responded, but she did not actually address any of the questions posed by Plaintiff. She declined to state what her recommendation was, or what the President's recommendation was. Dean Nuñez-Navarro told Plaintiff that she had a right to appeal by sitting down and discussing the matter with Defendant President Armstrong, but did not provide any reasons for the decision. (Exhibit E)

34. On September 17, 2024, Plaintiff wrote to Dean Nuñez-Navarro formally requesting a copy of Dean Nuñez-Navarro's independent recommendation, so that she could fashion an appropriate appeal. (Exhibit F)

35. On September 18, 2024, Dean Nuñez-Navarro replied, incorrectly stating that she was not required to share her independent recommendation, citing to a non-applicable provision in the law faculty handbook. (Exhibit F)

36. On September 18, 2024, the undersigned counsel wrote to Dean Nuñez-Navarro explaining why she was obligated to provide her recommendation both under the STUCL Faculty

Handbook and the STU University Employee Handbook. The letter informed Dean Nuñez-Navarro that if she did not voluntarily provide a copy of her recommendation by a specific deadline (September 20, 2024 at 5:00 p.m.), that Plaintiff would file suit against the University in order to obtain it. (Exhibit F)

37. Dean Nuñez-Navarro did not respond to this communication or comply with the demand to produce a copy of her recommendation.

38. On September 30, 2024, the undersigned counsel wrote to STU's General Counsel regarding the Dean's refusal to provide a copy of her recommendation.

39. On October 10, 2024, in response to undersigned counsel's letter of September 30, STU's General Counsel provided a copy of Defendant Nuñez-Navarro's April 12, 2024, recommendation.

40. On October 22, 2024, Plaintiff submitted a written appeal of her tenure denial to the University through the University's General Counsel (G). As of the date of filing this complaint, the University has not acted on the appeal.

COUNT I – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

41. Plaintiff realleges and incorporates herein by reference the allegations contained in paragraphs 1-40 as if fully set forth herein.

42. Defendants' actions were intentional and/or constituted reckless conduct.

43. Defendants' conduct was outrageous.

44. As a result of Defendants' conduct, Plaintiff has suffered severe emotional distress.

45. The actions of Defendants constitute intentional misconduct within the meaning of Florida Statute 768.72. As such Plaintiff is entitled to punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendants for severe emotional harm, and all other damages suffered as a consequence of Defendant's intentional and/or reckless and outrageous acts, including punitive damages, as well as prejudgment interest, costs, attorneys' fees, and all such further relief the Court deems appropriate and just.

COUNT II – BREACH OF CONTRACT

46. Plaintiff realleges and incorporates herein by reference the allegations contained in paragraphs 1-45 as if fully set forth herein.

47. The rights, duties and benefits of law faculty members at STU are set forth in the STUCL Faculty Handbook (Exhibit B) and the St. Thomas University Employee Handbook. Both documents are incorporated into Plaintiff's contract of employment.

48. Candidates for tenure are to be evaluated solely on the tenure standards set forth in Exhibit B.

49. By recommending that Plaintiff be denied tenure for false reasons which were unrelated to the tenure standards, Defendants have breached Plaintiff's contract.

50. By intentionally disregarding the terms of Plaintiff's contract as set forth in the Handbook, with the intent to deny her the status of tenure that she had earned, the actions of Defendants

constitute intentional misconduct or gross negligence within the meaning of Florida Statute 768.72. As such Plaintiff is entitled to punitive damages.

51. By denying Plaintiff tenure, she has lost earnings, as tenure is typically accompanied by a raise in salary, as well as job security. Denial of tenure has also harmed Plaintiff's professional reputation and harmed her future career prospects within legal academia.

WHEREFORE, Plaintiff demands judgment against Defendants for damages suffered as a consequence of Defendant's breach of contract, including lost earnings, damage to her professional reputation, and emotional harm, plus punitive damages, as well as prejudgment interests, costs, attorneys' fees, and all such further relief the Court deems appropriate and just.

COUNT III – BREACH OF CONTRACT

52. Plaintiff realleges and incorporates herein by reference the allegations contained in paragraphs 1-51 as if fully set forth herein.

53. Defendants punished Plaintiff for pursuing a faculty grievance against what she considered to be an unjust and unfair warning.

54. Pursuant to the St. Thomas University Employee Handbook, "Retaliation against an employee for participating in the Grievance process in good faith" is prohibited.

55. Defendants retaliated against Plaintiff for participating in the Grievance process in good faith by denying her tenure in breach of the express and implied terms of her contract. The acts of the Defendants constitute intentional misconduct or gross negligence within the meaning of Florida Statute 768.72. As such Plaintiff is entitled to punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendants for damages suffered as a consequence of Defendant's breach of contract, including emotional harm, plus punitive damages, as well as prejudgment interests, costs, attorneys' fees, and all such further relief the Court deems appropriate and just.

COUNT IV – BREACH OF CONTRACT

56. Plaintiff realleges and incorporates herein by reference the allegations contained in paragraphs 1-55 as if fully set forth herein.

57. As an employee of Defendant STU, Plaintiff is entitled to a copy of any documents in her personnel file, including any documents related to her job performance, such as personnel evaluations, as explicitly stated in the St. Thomas University Employee Handbook. Defendant Nuñez-Navarro's April 12, 2024 recommendation on her tenure application qualifies as a personnel file and the University had no right to withhold it from July 3, 2024 when she first requested it, until October 10, 2024, when it was provided to the undersigned counsel. Failure to provide the document (Exhibit C) in a timely manner was a breach of contract.

58. Pursuant to Exhibit B, Plaintiff has the contractual right to appeal her tenure denial, particularly when the Dean does not join in the recommendation of the Tenure, Promotion and Reappointment Committee to recommend tenure. In order to appeal the Dean's recommendation, the Plaintiff must have access to the document so that she can respond to its contents, rebutting arguments made therein, disputing factual errors, correcting misleading statements and providing additional context, where needed. By refusing to provide a copy of the

Dean's recommendation in a timely manner, the Defendants breached Plaintiff's contract and temporarily deprived her of the right to a meaningful appeal.

59. Defendant Armstrong is an attorney licensed to practice law in the State of Ohio, and a former General Counsel of a University. Dean Tarlika Nuñez-Navarro is a member of the Florida Bar, and a former Circuit Court Judge in Florida. As such, both Defendant Armstrong and Dean Nuñez-Navarro are capable of understanding their contractual obligations to Plaintiff. Given that the undersigned counsel provided a clear explanation of the contractual basis for the requirement to produce a copy of the Dean's tenure recommendation regarding Plaintiff, Defendants' refusal to do so constitutes intentional misconduct or gross negligence within the meaning of Florida Statute 768.72. As such Plaintiff is entitled to punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendants for damages suffered as a consequence of Defendant's breach of contract, including emotional harm, plus punitive damages, as well as prejudgment interests, costs, attorneys' fees, and all such further relief the Court deems appropriate and just.

COUNT V - DEFAMATION/DEFAMATION PER SE

60. Plaintiff realleges and incorporates herein by reference the allegations contained in paragraphs 1-59 as if fully set forth herein.

61. Plaintiff is a private figure.

61. Exhibit C the tenure recommendation letter signed by Defendant Nuñez-Navarro, dated April 12, 2024, contains multiple false and defamatory statements, including the following statements:

“her behavior at our institution has raised serious concerns among faculty members and administrators alike. Instances of security breaches and administrative protocols not being followed are in her record. Such behavior not only undermines the environment of excellence we strive to foster at St. Thomas University College of Law, but also raises doubts about Professor’s Wright’s suitability for a permanent faculty position.”

“there are several concerns that have arisen during her tenure at St. Thomas University and in her interactions within our own institution.”

“Professor Wright’s record at St. Thomas University reveals inconsistencies in her performance, particularly in the areas of scholarly output. It is imperative that a candidate demonstrate consistent dedication to both research and teaching, qualities that seem to have been lacking in Professor Wright’s case.”

62. On information and belief, there were no instances of security breaches or “administrative protocols not being followed” in Plaintiff’s record, and she had engaged in no behaviors which raised any doubts about her suitability for a faculty position. Furthermore, there were not “several concerns” that had arisen regarding Plaintiff. There was no evidence of lack of consistent dedication to both research and teaching in her record, or “inconsistencies in her performance” of a nature that would justify denying Plaintiff tenure.

63. This letter (Exhibit C) was provided (published) to Defendant Armstrong who, on information and belief, published the letter to the Board of Trustees of St. Thomas University, knowing the contents of the letter to be false and defamatory.

64. These false and intentionally misleading statements constitute defamation per se because the statements impute to the Plaintiff “conduct incompatible with the proper exercise of her profession,” namely, that of being a law professor.

65. The actions of Defendants constitute intentional misconduct within the meaning of Florida Statute 768.72. As such, Plaintiff is entitled to punitive damages.

WHEREFORE, Plaintiff demands judgment against Defendants for damages to her reputation, severe emotional harm, and all other damages suffered as a consequence of Defendant’s defamatory acts, including punitive damages, as well as prejudgment interest, costs, attorneys’ fees, and all such further relief the Court deems appropriate and just.

DEMAND FOR TRIAL BY JURY

Plaintiff demands trial by jury for on all issues so triable.

PRAYER FOR RELIEF

Having set forth her claims against Defendants, Plaintiff prays as follows:

- A. For judgment against all Defendants, jointly and severally, in an amount to be proven at trial;
- B. For presumed damages against all Defendants, jointly and severally;
- C. For punitive damages against each Defendant in amount to be determined by the trier of fact according to the principles and limits of Florida law;

- D. For recovery of attorney's fees and costs as authorized by applicable law;
- E. For pre- and post-judgment interest as authorized by applicable law; and
- F. For such other relief as the Court deems just and proper.

Respectfully submitted this 20th day of November, 2024.

/s/ David Frakt
DAVID J. R. FRAKT
Counsel for Petitioner
FL BAR #0110040
1943 Rose Mallow Lane
Fleming Island FL 32003
(904)788-6082
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Exhibits Attached:

- A. Written Reprimand of Plaintiff from Interim Dean John Makdisi dated June 30, 2023
- B. Excerpts of STUCL Faculty Handbook - Tenure and Promotion Procedures
- C. Defendant Dean Nuñez-Navarro's Tenure Recommendation Letter dated April 12, 2024
- D. July 1, 2024 Email from Defendant Dean Nuñez-Navarro to Plaintiff with attached letter from Defendant President Armstrong dated June 27, 2024.
- E. July 3, 2024 Email from Plaintiff to Defendant Dean Nuñez-Navarro's and Defendant Dean Nuñez-Navarro's July 11 response.
- F. September 17, 2024 E-mail from Plaintiff to Defendant Dean Nuñez-Navarro, Defendant Dean Nuñez-Navarro's response dated September 18, 2024, and email and letter from Plaintiff's Counsel to Defendant Dean Nuñez-Navarro dated September 18 and September 19, 2024.
- G. Appeal of tenure denial from Plaintiff's Counsel to Defendant President Armstrong dated October 22, 2024.

EXHIBIT A

From: Makdisi, John <jmakdisi@stu.edu>
Sent: Friday, June 30, 2023 2:04 PM
To: Osborn-Wright, Claire C. <CCWright@stu.edu>
Cc: St Louis, Mark <MSTLouis@stu.edu>; Pati, Roza <rpati@STU.EDU>
Subject: Written Reprimand

Professor Osborne-Wright:

This is a Written Reprimand for your violation of the St. Thomas University Employee Handbook, section 1.5.5, concerning Workplace Violence and Threats. This section outlines employee reporting obligations concerning threats or acts of violence at the University.

On October 24, 2023, after receiving information about a potential active shooter situation at the College of Law, you failed to timely report such information to Public Safety, College of Law leadership, or University administration.

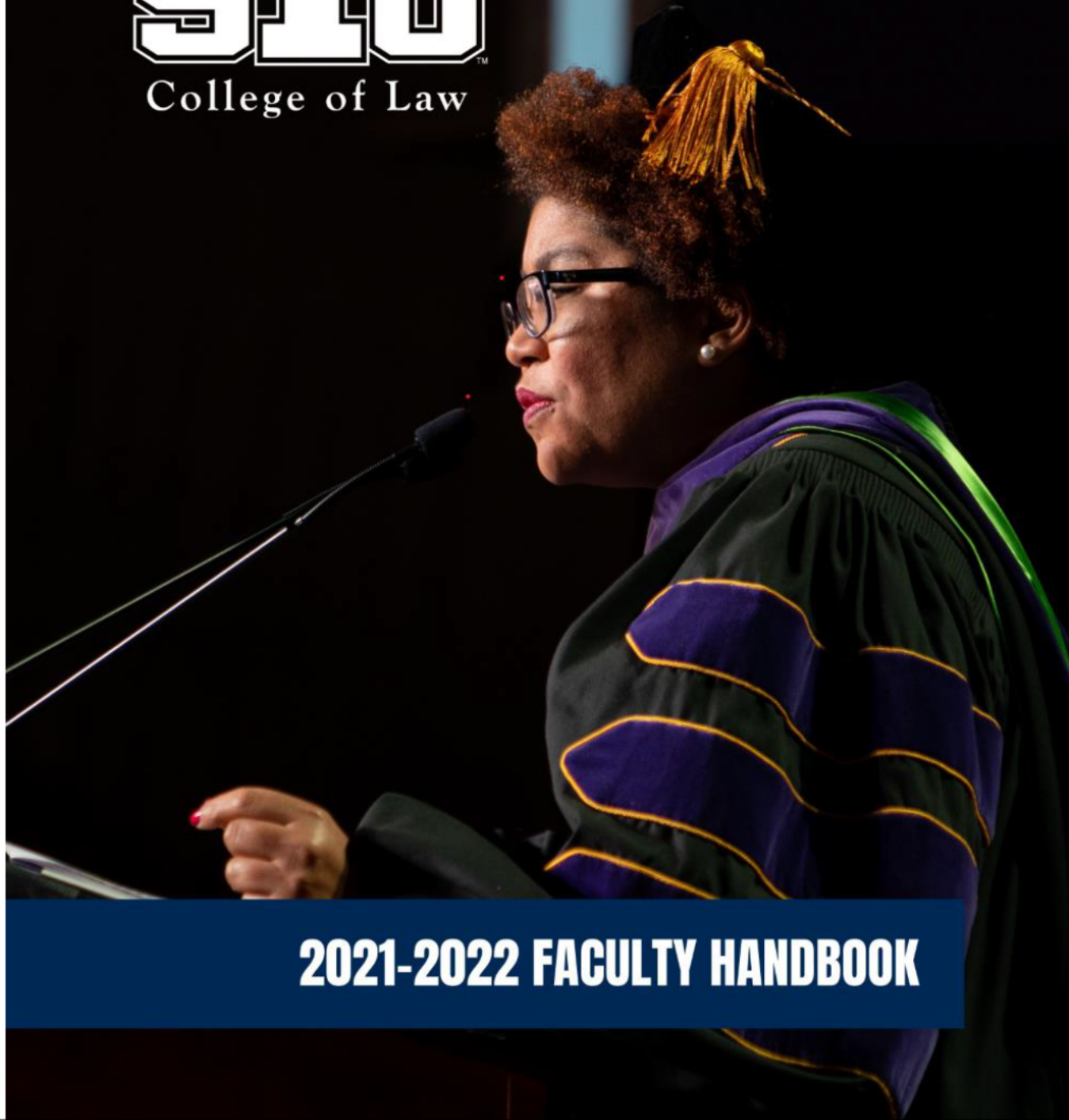
A copy of this letter will be added to your personnel file in Human Resources.

Sincerely,

John Makdisi | Interim Dean & Emeritus Professor
College of Law
St. Thomas University
Benjamin L. Crump College of Law
16401 NW 37th Avenue
Miami Gardens, FL 33054
(O) 305.623.2374 | (C): 561.849.0993
jmakdisi@stu.edu
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EXHIBIT B



2021-2022 FACULTY HANDBOOK

ST. THOMAS UNIVERSITY SCHOOL OF LAW

FACULTY HANDBOOK

2021-2022

St. Thomas University School of Law provides equality of opportunity in legal education for all persons, including faculty and staff (with respect to recruitment, hiring, retention, promotion, tenure, compensation, benefits, terms and conditions of employment, termination, and the like) and students (including applicants for admission, enrolled students, and graduates). St. Thomas University School of Law also provides its students and graduates with equal opportunity to obtain employment.

Discrimination in connection with any of these purposes on the basis of race, color, religion, national origin/ancestry, sex, gender (including identity and expression), sexual orientation, gender (including identity and expression), disability (including anyone having a positive HIV/AIDS status or perceived as having such), age, pregnancy (including pregnancy-related medical conditions), marital or familial status, or any other category that is or becomes protected by law is strictly prohibited.

St. Thomas University School of Law reserves the right to change, without notice, statements in this handbook concerning rules, policies, fees, curricula or other matters. Statements in this handbook should not be construed as the basis of a contract between a faculty or staff member and the Law School or the University.

Revised 9/28/2021

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THE MISSION OF ST. THOMAS UNIVERSITY

St. Thomas University is an urban, student centered, Catholic university with rich cultural and international diversity, dedicated to developing leaders who contribute to the economic and cultural vitality of the regions they serve.

THE MISSION OF THE LAW SCHOOL

St. Thomas University School of Law trains and graduates lawyers capable of applying legal principles to address and solve problems of an increasingly complex and changing society. The rigorous academic program of the Law School emphasizes lifelong learning and scholarship in a personalized, caring environment under Catholic auspices with a diverse student body and faculty. To this end, the Law School remains committed in teaching, scholarship, and service, to fostering a public order of human dignity, to training lawyers sensitive to the needs of the region's underrepresented communities, and to expanding access to professional opportunities which includes active partnerships with business, government and the South Florida Community.



LAW SCHOOL GOVERNANCE POLICY

Preamble

Responsibility for the instruction of students and governance of St. Thomas University School of Law vests in its Dean and faculty. This is recognized by the commitment to law school governance as stated in President O'Neill's memorandum, "Memorandum of Understanding Pursuant to the American Bar Association Standards 203, 204 and 205 concerning Law School Governance" of January 20, 1986. The welfare of the institution and the design and provision of professional training in a rigorous course of study is entrusted to the Dean and the law faculty by the University. The Dean and the faculty of law strive for excellence in preparation of students for admission to the bar, in competence for professional responsibilities, and in instruction in jurisprudence and other higher branches of the law to qualify students for service to the courts, legislatures, administrative agencies, and society in its manifold interests. In order to constitute procedures whereby the Dean and faculty of law may deliberate together in a collegial spirit of mutual respect and effectiveness and may collectively administer their trust, the faculty of law has promulgated this policy on Law School Governance. Pursuant to Standard 201, ABA Standards for Approval of Law Schools, the dean and the faculty shall each have a significant role in determining educational policy. This policy statement on governance sets forth those roles.

ARTICLE I

GOVERNANCE OF THE SCHOOL OF LAW

Section 1. DEAN

- A. The Dean of the School of Law is the head of the faculty and responsible for the leadership and guidance of the School of Law.
- B. The Dean provides academic leadership, counseling both students and faculty, and is responsible jointly, with the full faculty, for developing law school policy and programs.
- C. The Dean has full responsibility in his or her sound discretion for the day-to-day operation of the School of Law, including negotiating contract terms with faculty, retaining adjunct instructional staff, hiring and supervision of staff, preparing the budget and applying and deploying law school resources to best serve the law school, scheduling classes and arranging teaching commitments among faculty, directing law school fund-raising, facilitating placement of law graduates in employment, encouraging student activities, and appointing of Associate and Assistant Deans.
- D. The Dean chairs meetings of the faculty and serves ex officio on all faculty committees with the right to be represented by a delegate. The Dean represents the faculty and law school to the University, alumnae and alumni, bench, bar, and community.

- E. The University President, upon nomination by the Dean Search Committee convened by the President and in accordance with Standard 205 of the ABA Standards for the Approval of Law Schools, appoints the Law School Dean.

Section 2. **THE FACULTY**

- A. The faculty is responsible for determining the requirements for all academic degrees granted by the law school, for arranging the curriculum, for developing recruitment and admission policies, for granting or withholding of academic degrees, for recruiting of new faculty, and for advancing scholarship, teaching, and service to the university, legal community, and public.
- B. The faculty has principal responsibility for policy making in law school governance as provided herein and is responsible jointly with the Dean for developing law school policy and programs.

Section 3. **ADVANCEMENT OF PUBLIC POLICY**

- A. The Dean and faculty share joint responsibility for assuring that the School of Law honors the highest standards of teaching, research and scholarship, and service to St. Thomas University, the legal community, and the public.
- B. The Dean and faculty share joint responsibility for assuring that the law school provides equal opportunity to all persons who are or may be a part of the law school.
- C. The Dean and faculty share joint responsibility for assurance that the School of Law complies with all applicable provisions of law and is fully accredited.
- D. The Dean and faculty share joint responsibility to assure that the School of Law operates to enhance the quality, strength, and reputation of St. Thomas University as a Catholic university.

ARTICLE II

FACULTY COMPOSITION AND VOTING

Section 1. **COMPOSITION**

- A. **Faculty.** The faculty of the School of Law, which is entitled to participate and vote in law school matters, shall consist of the full-time faculty, meaning all persons holding appointments as Professors, Associate Professors or Assistant Professors of Law. Adjunct faculty is excluded. Visiting faculty members are not excluded from voting and participating in faculty meetings, except for personnel matters.
- B. **Instructional Staff.** The instructional staff of the School of Law shall consist of all persons holding appointments as Professor Emeritus, Professor, Associate Professor, Assistant Professor, Adjunct Professor, affiliated faculty not holding law faculty rank, visiting faculty, and Lecturer in Law. Except for persons with appointments as Professors, Associate Professors, Assistant Professors or visiting

faculty, the members of the instructional staff are not normally invited to vote under these rules, except as the faculty may specifically provide.

C. Appointments.

- (1) The President pursuant to the recommendation of the Dean and the faculty of the School of Law shall make appointments to the full-time faculty and as Professor Emeritus.
- (2) The Dean shall make appointments to the position of Visiting Professor, Adjunct Professor, and Lecturer in Law.
- (3) The faculty shall adopt Tenure, Promotion, and Reappointment Regulations governing the retention, termination, promotion, and tenure of faculty and instructional staff.

Section 2. VOTING

Each member of the faculty, whether visiting or not, shall have one vote, and a majority of those present shall be required to adopt any motion or resolution, except as otherwise provided herein. Visiting faculty shall not be entitled to vote on personnel matters. Faculty members who are on leaves of absence (including those on sabbatical) do not vote.

**ARTICLE III
MEETINGS**

Section 1. TIME OF MEETINGS

The scheduling and agenda procedures for regular and special faculty meetings are as provided herein.

A. Regular Meetings

- (1) A meeting of the faculty shall be called by the Dean or the Dean's representative no later than the second week of classes of each semester. The Dean shall fix the time for the regular faculty meetings for that semester. Thereafter-regular meetings shall be held at such times, provided, however, that the Dean may cancel a meeting by prior notice, unless two-thirds of the faculty members object thereto. No regular faculty meetings shall be held between the end of the spring semester and one week prior to the start of the fall semester.
- (2) An agenda shall be prepared by the Dean and distributed to all members of the faculty at least three days before each regular faculty meeting. Items not on the agenda shall be considered only for the purpose of reference to the appropriate committee, and no item which does not appear on the faculty meeting agenda prepared by the Dean shall be submitted for action by the faculty in a faculty meeting, unless two-thirds of those present and voting agree that the matter cannot be postponed until the next regular faculty meeting or special faculty meeting. In preparing the agenda, the Dean shall follow the Policy on Law School Governance. Items included on the agenda prepared by the Dean cannot be

considered out of order in a faculty meeting unless a majority of the faculty so decide.

B. Special Meetings

The Dean, or the Dean's representative, as he or she shall deem necessary, may call special meetings, at such times as required. In addition, the Dean shall call a special meeting whenever requested to do so by a two-thirds vote of the faculty, or by a written request submitted to the Dean by at least six faculty members stating the matters to be considered at the meeting. When a special meeting is called, each faculty member shall be given as much prior notice of it as is feasible under the circumstances.

C. Special meetings between the end of the spring semester and prior to commencement of the fall semester.

Special meetings between the above stated semesters may be convened by the Dean or the Dean's delegate, provided that at least two-thirds of the faculty members shall be present. These meetings may dispose of such business as a majority present and voting shall declare cannot reasonably be postponed until the following fall semester. In no case shall any change in these faculty rules or in the Tenure, Promotion and Reappointment Regulations be made at such a meeting. Any actions approved at a special meeting are subject to review by the full faculty at its first fall meeting.

Section 2. PLACE OF MEETINGS

All regular and special faculty meetings shall be held at the School of Law unless for good cause and with due written notice the Dean designates another site.

Section 3. CONDUCT OF MEETINGS

All regular and special meetings of the faculty shall be governed by the following provisions:

- A. **Presiding Officer.** The Dean or his designee shall preside at any regular or special meeting of the faculty.
- B. **Quorum.** One-half of the faculty shall constitute a quorum for the purpose of transacting business at any regular or special faculty meeting, except summer meetings as designated above. No faculty member on a leave of absence (including a faculty member on sabbatical) shall be counted for the purpose of establishing a quorum.
- C. **Voting.** Voting shall be called by a show of hands in favor, opposing, or abstaining. A majority of those present and voting may resolve to proceed by a roll call vote. Any member of the faculty may require a secret ballot on any issue presented for a vote. Unless otherwise specified, any question voted upon shall require a simple majority of those present and voting for adoption.
- D. **Vote by member not present.** A faculty member must be present at a regular or special faculty meeting to cast a vote in that meeting.

- E. **Attendance by non-faculty members.** Attendance at regular and special faculty meetings shall be limited to members of the visiting or regular faculty, Deans, and to those whom the faculty may from time to time resolve to invite.
- F. **Rules or procedure.** The provisions of *Robert's Rules of Order, Revised*, govern procedures and debate at faculty meetings except where inconsistent with express provisions of the Policy on Law School Governance. The faculty may designate one of its members to act as a Parliamentarian, to advise the presiding officer and the faculty on the applicability of the Policy on Law School Governance and *Robert's Rules of Order, Revised*, to any questions before the faculty.

Section 4. **MINUTES OF MEETINGS**

Minutes shall be kept of all faculty meetings as provided herein:

Preparation of Minutes. At the beginning of the first faculty meeting of each semester, the faculty shall designate a secretary to prepare written minutes of each regular and special faculty meeting. These minutes shall include a copy, with the attachments of all committee reports and recommendations and other documents presented at the meeting. One copy of the minutes shall be included in the office files of the School of Law, and one copy shall be given to each faculty member. The minutes shall be prepared and distributed within one week after each faculty meeting.

ARTICLE IV

STANDING COMMITTEES OF THE FACULTY

Section 1. **DESIGNATION AND APPOINTMENT OF MEMBERS**

The Standing Committees of the faculty shall be those designated in Section 3 below, provided, however, that the faculty by a two-thirds vote of those present at a regular faculty meeting may abolish any standing committee designated herein, and may constitute any other or new standing committees. The members and chairpersons of each standing committee shall be named annually by the Dean. The Dean shall solicit requests of the faculty members for designation on specific committees.

Section 2. **PROCEDURES**

- A. **Reference of a matter to a faculty committee (or committees).** Any faculty member, by written request, may refer a matter to the chair of a faculty committee. If such chair accepts the matter for assignment, the matter shall immediately be placed upon the committee agenda for investigation. In the

event that the chair declines the request, the matter may be proposed at any faculty meeting and shall be placed upon a faculty committee agenda if the matter receives the endorsement of five faculty members. Faculty committee agenda items shall be distributed to all law school faculty members on a regular basis.

B. Operating procedures for faculty committees.

- (1) All matters referred to committees are to be fully investigated by that committee. Investigation includes solicitation of and an opportunity to provide oral and/or written submissions of data by parties affected by the matter and may also include independent study by members of the committee. All faculty committee meetings shall be open to faculty and Deans.
- (2) A faculty committee chair, or his designee, shall prepare a written report summarizing the findings of the investigation, noting the viewpoints of affected parties, and setting forth recommendations for faculty action, if any, which have been approved by a majority of the faculty committee. Reports of findings and recommendations by any member of the faculty committee who dissents from the majority position shall likewise be prepared in writing. Majority and minority positions shall likewise be prepared in writing. Majority and minority reports shall be promptly submitted to all faculty members. Reports shall be placed upon the agenda for the next regular or special faculty meeting.

C. Procedures for faculty disposition of matters raised in faculty committee reports.

- (1) Majority reports by faculty committees, which contain recommendations for action, may be moved for adoption by any faculty committee member subscribing thereto; minority reports shall be similarly treated.
- (2) Interim reports from a faculty committee may be called for at any faculty meeting, but no action shall be taken thereon unless the faculty committee reporting requirements herein contained have been complied with.
- (3) From time to time it may be appropriate for the faculty to consider and decide urgent matters which may have been previously referred to a faculty committee. In this event, the faculty committee reporting procedures herein contained may be dispensed with upon the two-thirds concurring approval of the faculty present at the faculty meeting.

Section 3. CHARGES TO STANDING COMMITTEES.

The Standing Committees, and the charges as to their responsibility and role, are as provided herein:

A. Academic Standing Committee

The members of this committee shall be responsible in the first instance for assuring that each student meets the attendance and performance standing required for the degree of *Juris Doctor*, and such other degrees or certificates as the School of Law may confer. This committee shall:

- (1) Initiate and propose to the faculty all changes in the academic standards and regulations of the law school;
- (2) Determine petitions for readmission or other relief by students who have failed to meet the standards;
- (3) Determine the recipients of honors, prizes and awards;
- (4) Decide Academic Integrity Policy, in cooperation with the Student Bar Association; and
- (5) Report annually, and otherwise as required, to the faculty.

B. Administration & Budget Committee

This committee shall include members of the tenured faculty, the Law Librarian, and the Dean or his representative. This committee shall:

- (1) Provide advice and guidance to the Dean concerning the law school's budget, administrative policies and operational guidelines, including the use or development of facilities and the provision of all other support services.
- (2) Serve as the Planning Committee of the faculty, for both long-range and short-range purposes including preparation of all steps necessary to achieve and maintain membership in the Association of American Law Schools and all aspects of accreditation by the American Bar Association; and
- (3) Report regularly to the faculty.

C. Admissions Committee

Principal responsibility for the recruitment and matriculation of students rests with this committee, one member of which shall be the Director of Admissions. This committee shall:

- (1) Formulate for approval by the faculty and administer standards for admissions into the J.D. program of the law school;
- (2) Determine the recruitment policy and financial aid policies of the law school and review the administration of the financial aid budget of the law school; and continually review the equal opportunity policies of the school as they involve recruitment and admission of the students and act to further wherever possible those policies; and
- (3) Report annually, and otherwise as required, to the faculty.

D. Faculty Recruitment Committee

This committee shall make recommendations to the faculty with respect to appointments to the full-time faculty. This committee shall:

- (1) Manage and carry out the screening and identification of potential faculty candidates;
- (2) Organize their recruitment, including the interviewing of visiting candidates;
- (3) In all respects assure maximum possible faculty participation in the interview and appointment process;
- (4) Make recommendations to the faculty of all candidates for full-time faculty positions;
- (5) Report to the faculty.

E. Curriculum Committee

Primary responsibility for the structure and pattern of legal education at the law school shall vest in this committee. The committee shall:

- (1) Review the curriculum of the law school and constantly strive to improve its contents, quality and structure;
- (2) Receive, review and recommend to the faculty any proposed changes, additions or alterations in curriculum from individual members of the faculty, Deans, members of the instructional staff, faculty committees, or students, or initiate any such change, additions or alterations *sua sponte*;
- (3) Ensure that courses do not overlap in content;
- (4) Review credit hour weighing of courses and make recommendations to the faculty;
- (5) Ensure that all matters relating to course content and curriculum policy are reviewed by the Curriculum Committee prior to report to the faculty;
- (6) Serve as an overseeing body to regularly review the level and quality of work carried out in seminars and independent study projects; and
- (7) Report to the faculty regularly.

F. Library Committee

The care and support of the Law Library and library staff are the duty of this committee, which shall be chaired by a faculty member named by the Dean. This committee shall:

- (1) Formulate and propose to the faculty all basic library policies, particularly acquisitions policies;
- (2) Develop and keep current a plan for library development;
- (3) Review all matters of operation and use of the Law Library, including advice to the administration and Budget Committee on the requirements of the law library budget;
- (4) Solicit, channel and assign priorities to requests for book purchases from faculty members and students;
- (5) Oversee and determine policies for the faculty law library and report to the faculty regularly; and
- (6) Recruit, screen and identify potential candidates for law librarian, including interviewing of visiting candidates and assuring maximum faculty participation in the interview and appointment process, and recommend a person to the faculty for appointment as law librarian.

G. Promotion and Tenure Committee

This committee shall be composed of all tenured members of the faculty. The Committee shall have such authority as delegated to it by the faculty in the Regulations Governing Tenure, Promotion and Reappointment or otherwise, or as delegated to it by the Dean.

[Adopted by Faculty in September 1984; amended April 1988 to include definition of service. Amended in September 1994 to include four junior Faculty members as voting members of the Tenure, Promotion, and Reappointment Committee.]

[Amended April 2000 to include Tenure Standards for the Director of the Law Library. Section VI (A) amended November 20, 2002 to include Standards and Procedures for Termination of a Faculty Member for Cause as it pertains to tenured LL.M. Faculty members.]

[Amended May 2004 to Section IV.3.G, "Promotion and Tenure Committee", removing non-tenured faculty members from the Committee.]

H. Technology Governance Committee

This committee shall formulate policy on the use of technology within the curriculum.

I. Long-Term Contract (LTC) Faculty Committee

The LTC Committee shall be appointed by the tenured, tenure-track, and long-term contract faculty. It shall consist of (a) the Director of Legal Writing, (b) tenured/tenure-track faculty, and (c) non-administrative long term contract faculty teaching under a three to five-year contract. A majority of the members of the LTC Committee shall be tenured/tenure-track faculty.

[Approved by Faculty, March 2017]

J. Philanthropy Committee**K. Distinguished Speakers Committee****L. Catholic Identity Committee**

ARTICLE V AD HOC COMMITTEES

The faculty may constitute and disband such *Ad Hoc* Committees as from time to time may be required. In doing so, it shall specify the exact charge to the *Ad Hoc* Committee, the membership size, and the length of time for the Committee's existence. *Ad Hoc* Committees shall be constituted by, and adhere to the same procedures as do the Standing Committees, *mutatis mutandis*.

ARTICLE VI UNIVERSITY COMMITTEES

Law faculty and Deans shall serve on such University committees or undertake special assignments as may from time to time be requested by the Trustees, President or university administration. Such service shall be considered by the Dean when making assignments of law school responsibilities and committee work. Faculty members and Deans serving on University committees shall report about their activities to the law school faculty at regular intervals, but at least annually.

ARTICLE VII
EFFECTIVE DATE, AMENDMENT AND CONSTRUCTION

Section 1. Effective Date

This policy shall come into effect immediately upon adoption by a majority of the faculty, and the approval by the President of the University.

Section 2. Consistency with other Regulations

The provisions of this policy shall comply with and be interpreted in harmony with the standards of American Bar Association and the Association of American Law Schools. Nothing in these rules shall be construed in a manner inconsistent with any applicable Rules of the American Bar Association or the Association of American Law Schools.

[Approved by Faculty on September 3, 1986.]

At the conclusion of the AALS Conference, the Committee votes to invite the highest-ranked candidates to interview on campus. Committee members arrange the candidates' flights, lodging, and interviews with faculty members. At the conclusion of the on-campus interviews, Committee members contact the candidates' references. Findings are then reported at the next faculty meeting where the entire faculty deliberates and selects the candidates they find acceptable for appointment. The Dean adds his recommendations on these candidates and the names are then sent to the President for his approval.

TENURE, PROMOTION AND REAPPOINTMENT

PREAMBLE

The academic rank of each member of the faculty reflects accomplishment and merit, in teaching, in scholarship and research, and service. Academic appointment carries with it the assurance of academic freedom. The rank of each faculty member carries such privileges and recognition as the University, Law School and legal profession may from time to time accord it. Promotion involves a judgment by a faculty member's peers, joined in by the Law School's Dean, that the faculty member's performance in teaching, scholarship and service meets defined standards of accomplishment. Designation of rank and specification of salary and other matters relevant to rank are defined in a written contract between each professor and the University.

Academic tenure is the right of a faculty member to appointment on a continuing basis. It is a contractual relationship between the faculty member and the University, which assumes a strong moral commitment between the parties, mutual service and support between the University and each faculty member. Academic tenure is a guarantee of academic freedom, specifically in freedom of teaching, research, and of public service commitments. Tenure affords a sufficient degree of economic security to make service on the Law School faculty attractive to persons of ability.

These regulations are adopted for the purpose of assuring an environment of academic freedom and excellence, and securing the benefits thereof. They embrace the spirit expressed by the U.S. Supreme Court in its observation that: "Our nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers involved. That freedom is, therefore, a special concern of the First Amendment..." *Keyishian v. Board of Regents*, 358 U.S. 589 (1967). In furtherance of these values, policies and purposes, the following regulations are adopted.

FULL-TIME FACULTY

I. Application

These regulations shall govern all decisions on the promotion, tenure, retention, and termination, of members of the faculty of law of the University. Proposals for

changes in these regulations may be made by the University President, Officers, Deans and faculty members, but shall be acted upon only following recommendation of the faculty of the Law School.

Contracts

The terms and conditions of every appointment shall be stated in writing and be in the possession of both the faculty member and University before an individual's appointment to the law faculty is consummated. These procedures shall be incorporated by reference into each faculty member's contract. Each non-tenured faculty member should be given a contract generally for a term of years sufficient to afford a fair opportunity to demonstrate the qualifications which would entitle such faculty member for consideration for a recommendation for renewal, for promotion in rank or for tenure.

II. Standards for Faculty Rank and Tenure

- A. **Professor.** The rank of Professor is to be accorded to persons who have manifestly achieved excellence in teaching, scholarship and research, and service. Scholarship sufficient to evidence such excellence should include substantial publication, such as publication of articles of high quality in recognized professional journals, or the substantial equivalent, as in publishing books. The rank should normally be reserved for persons with at least seven years of teaching experience, at least two of those seven years at St. Thomas University School of Law.
- B. **Associate Professor.** The rank of Associate Professor is to be accorded to persons who have substantially demonstrated high quality in teaching, scholarship and research, and service. Scholarship sufficient to evidence such excellence should include publication, such as articles of high quality in recognized professional journals or substantial equivalent. The rank should normally be reserved for persons having at least three years of teaching experience, at least two of those three years at St. Thomas University School of Law
- C. **Assistant Professor.** The rank of Assistant Professor is the entry level rank for members of the faculty of the School of Law. It is to be accorded to persons holding the LL.B. or J.D. degree with an excellent academic record and offering evidence of potential for accomplishment and promise of achievement in teaching, scholarship and research, and service.
- D. **Adjunct Faculty**
 - 1. **Adjunct Professor of Law.** The rank of Adjunct Professor of Law is to be accorded to persons of substantial and acknowledged accomplishments and excellence such as Judges, Legislators, Practitioners, Scholars, Diplomats,

Government Officers of other legal callings, and former full professors of law at St. Thomas University or full professors at other A.B.A. accredited law schools, who are invited to teach on a regular basis as adjunct faculty. This rank is not one subject to consideration for promotion or tenure.

2. **Lecturer in Law.** The rank of Lecturer in Law is to be accorded person(s) of recognized accomplishments and excellence in scholarship and research, contributions to the legal community and public, or other evidence of widely recognized distinction. Such persons shall be invited to teach on a regular basis as adjunct faculty. This rank is not one subject to consideration for promotion or tenure.
- E. **Tenure.** Tenure shall normally be granted only to persons holding the rank of Professor of Law or Associate Professor of Law and who have demonstrated outstanding performance in teaching, scholarship and research, and service. Scholarship should normally be demonstrated by substantial publication, such as articles of high quality in recognized professional journals or the substantial equivalent, as in publishing books. Tenure carries with it the expectation that the person will continue to achieve excellence in teaching and promise of continued excellent scholarship including publication of quality law review articles or the equivalent at regular intervals, and will continue to serve actively in the law school.
- F. **Reappointment.** Reappointment for a year or a term of years should normally be granted only to those who have made reasonable progress toward satisfying the requirements for tenure.

III. Standards of Teaching, Scholarship and Research

- A. **Teaching.** Appraisal of teaching performance shall be based upon appropriate classroom visitations by other faculty members and a review of the course syllabi and teaching materials prepared by the candidate. Effective teaching comprehends classroom instruction and a broad range of faculty-student relationships, including ready availability of each teacher to students in the faculty member's office, after class, and otherwise as in advising and encouraging co-curricular and extra-curricular student activities. These include the following traits in the teacher: command of the subject matter, familiarity with advances and developments in the area taught, ability to organize materials and present them with force and logic capturing the attention of the students, ability to arouse curiosity on the part of the students toward further and more independent learning, ability to stimulate students in creative work, ability to prepare a sound and effective examination or other analysis of student comprehension and maintenance of a high standard of achievement, of fairness, and of sound judgment in grading.

- B. **Research & Scholarship.** Appraisal of accomplishment in research and scholarship shall be based on a close reading of published articles or works and obtaining the professional opinions and independent review of recognized authorities in the field of the published articles or works. A commitment must be demonstrated to original research and legal scholarship and a demonstrated ability to produce and publish scholarly work of high quality. The ability to critically analyze, synthesize, and expound sophisticated factual and legal subjects shall be shown. Participation on panels, in conferences, lectureships, preparation of statutes and codes, book reviews and other evidence of scholastic commitment and recognized ability shall be considered and weighed as such works may merit.
- C. **Service.** The American Bar Association Standard 402(B) defines a full-time faculty member as "one who during the academic year devotes substantially all working time to teaching and legal scholarship, has no outside office or business activities and whose outside professional activities, if any, are limited to those which relate to major academic interests or enrich the faculty member's capacity as scholar and teacher, or are of service to the public generally, and do not unduly interfere with one's responsibility as a faculty member."

The faculty recognizes that service activities provide opportunities for their growth and development as teachers and scholars. The faculty also notes in determining whether outside activities are properly limited that the following factors, among others, are of importance:

1. The extent to which the field of outside activity coincides with the faculty member's major fields of interest as a scholar and teacher;
2. The character of the outside activity as a source of novel or enriching experience that can be utilized in his or her capacity as an educator;
3. The extent to which the field of outside activity is of service to the public generally;
4. The degree to which the demands of and time spent in the outside activity interfere with the faculty member's regular presence at the law school for classes, for faculty meetings, for law school committee meetings and work, and with his or her availability for consultation and interchange with other faculty, in advising and counseling students and in undertaking fair share of the duties and responsibilities with the co-curricular and extra-curricular activities sponsored by the law school.

Service to the law school includes service to the university and community. Outside activities receive no preference over the criteria for teaching or research and scholarship for promotion and tenure consideration.

[Part C adopted by the Faculty - April 1988.]

- D. No recommendations for promotions to Associate Professor or Professor and no recommendations for tenure shall be made unless the requisite achievement in such teaching, research and scholarship and service is evidenced, as defined above in the relevant definitions.

IV. Tenure Standards for the Director of the Law Library

- A. **Appointments.** The Director of the Law Library shall ordinarily hold concurrent appointments as Director and as a member of the faculty subject to the tenure standards and process set forth in this document.
- B. **Appointment as Director.** The appointment to the position of Director is an administrative appointment made by the Dean with the advice of the faculty and governed by a contract between the Law School and the Director.
- C. **Appointment as Faculty Member.**

Faculty appointment. Upon the recommendation of the faculty, a person appointed as Director shall be appointed to the faculty in a tenure-track or tenured status at an academic rank appropriate to the person's experience and qualifications.

Academic rank and duties. Such an appointment shall be in the rank of assistant, associate, or full professor. The direct teaching responsibilities of the position will be confined to library-related instructional programs except as otherwise assigned by the Dean. The academic duties of the Director shall include other law school and public service responsibilities as assigned or agreed upon by the Dean.

Promotion and tenure. A person appointed under this section shall be considered for reappointment to the tenure track, appointment with tenure, and promotion in accordance with the process provided for other members of the faculty (*see* Faculty Handbook, Faculty Regulations Governing Tenure, Promotion and Reappointment), except that the following special conditions shall apply:

The law library plays a central role in the educational and scholarly mission of the law school. Effective administration of the library is essential to the successful performance of that mission. Consequently, the Director of the Law

Library is necessarily involved, either directly or indirectly, in teaching and scholarship, as well as in the administration of the law library. However, the nature of the Director's participation in teaching and scholarship will be different from that of the teaching faculty. Therefore, the Director shall be evaluated for tenure under five criteria: (a) effectiveness as Director of the Law Library; (b) contribution to the educational function of the law school; (c) scholarship; (d) other service to the law school; and (e) service to the broader community.

- 1. Effectiveness of Performance as Director of the Law Library.** The primary responsibility of the Director of the Law Library is the administration and management of the law library. The Dean, as supervisor of the Library Director, evaluates the effective administrative performance of the Director as part of the contract for the position of Director. The faculty's role, as part of the tenure process, is to determine whether the Director is administering the library in a manner that serves the Law School's educational and scholarly mission. In evaluating compliance with these criteria, the faculty shall consider the Director's responsibility to:
 - a. develop and maintain a library collection and information research services adequate to the needs of a law school, consistent with the library budget;
 - b. ensure that library operations effectively support instruction and research at the law school;
 - c. develop services for different library patron groups (including faculty, students, and the broader legal community);
 - d. direct the planning process for the library and define library goals to support the mission of the law school in coordination with faculty and administration.

- 2. Contribution to the Educational Function of the Law School.** The Director is not expected to teach substantive law courses and the teaching of such courses is not a condition of tenure for the Library Director. Nevertheless, the Director is expected to contribute to the law school's educational functions. Activities which could satisfy this criterion include, but are not limited to:
 - a. contribution to the research and writing program and advanced research courses;
 - b. other participation in classroom instruction as assigned by the Dean;
 - c. library orientation programs for students and faculty;
 - d. organization of or participation in seminars, lectures, talks, or workshops for library patron groups;
 - e. continuing education for the library staff;
 - f. teaching students and faculty, formally and informally;

- g. supporting faculty teaching and research;
 - h. staying abreast of and nurturing technological advances designed to enhance the educational mission of the school and the research and scholarly output of the faculty.
- 3. Scholarship.** Appraisal of accomplishment in research and scholarship shall be based on a close reading of published articles or works and obtaining the professional opinions and independent review of recognized authorities in the field of published articles or works. A commitment must be demonstrated to original research and legal scholarship and a demonstrated ability to produce and publish scholarly work of high quality. It is recognized that the Director may publish in fields, formats, and journals that are different from the usual faculty member's publications, including, for example, research and publications concerning law library management, information sources and services, and law or law library-related bibliographies. Within the context of these publications, the ability to critically analyze, synthesize, and expound subjects relating to law librarianship shall be shown. Participation on panels, in conferences, lectureships, preparation of statutes and codes, book reviews and other evidence of scholarly commitment and recognized ability shall be considered and weighed as such works may merit.
- 4. Service to the Law School.** As is true for all tenured faculty members, the Director is expected to participate in activities that will contribute to the improvement of the law school. Many of the activities relevant to the criterion concerning effectiveness of performance as Director will be relevant to this criterion as well. Additional activities that will be considered to determine satisfaction of this criterion include, but are not limited to:
- a. support of the educational and scholarly activities of the teaching faculty and students;
 - b. service on regular and special committees;
 - c. participate in the recruitment of faculty, students, and staff;
 - d. participate in the governance of the law school; and
 - e. attend and participate in faculty colloquia, lectures on campus, and other school functions.
- 5. Service to the Broader Community.** Every faculty member, including the Director, is expected to provide professional service to communities beyond the law school. As with service to the law school, many of the activities relevant to the criterion concerning effectiveness of performance as Director will be relevant to this criterion. Other activities that will be considered to determine satisfaction of this criterion include, but are not limited to:

- a. participate in library and professional organizations;
- b. serve as a member of a team of experts, task force, or review committee to evaluate law school or other libraries;
- c. organize and participate in professional workshops, seminars, and meetings;
- d. represent the law school in the professional library community;
- e. serve as an officer or board member of a non-profit organization; and
- f. other participation in the library and legal professions.

[Section IV was adopted by the Board of Trustees on April 6, 2000]

V. Procedures Governing Decisions as to Tenure, Promotion and Reappointment.

A. Authority to Make Recommendations

The authority to make recommendations to the Dean and University President as to tenure, promotion and reappointment of a faculty member, shall be vested in a committee composed of all tenured members of the faculty.

[Approved by the Faculty, March 20, 2004 removing non-tenured faculty from Authority to Make Recommendations]

B. Time of Consideration.

- a. The Law School subscribes to American Association of University Professors standards, pursuant to which tenure may be granted during a probationary period, which shall not exceed seven calendar years, with notification of a decision as to tenure being made in the sixth year. Except in the case of individuals with extraordinary qualifications as a judge, legislator, government officer, diplomat, scholar or practitioner, candidates for tenure should have at least five years of law school teaching experience, with at least two of those five years at the Law School. In computing years of teaching service credit shall be given: (1) for all calendar years at the rank of Assistant Professor or higher at the Law School; and (2) for regular service at the equivalent rank or higher at other law schools accredited by the American Bar Association, not exceeding three years. A member of the faculty will not normally be considered for promotion in rank or for tenure until the expiration of at least two years of teaching at the Law School.
- b. Any faculty member may request consideration for promotion or tenure whenever that faculty member believes he or she has attained the qualifications set forth in these regulations, whether or not the appropriate committee has acted to review and make a recommendation. Such request shall be made to the Dean, who upon receiving it shall promptly convene a meeting of the relevant committee. Except during the year preceding the last one year of the probationary period, consideration for tenure can occur only with the faculty

- member's consent. Consideration for promotion at any time can occur only with the faculty member's consent.
- c. Consideration of candidates for promotion in rank may be undertaken apart from tenure decisions, and *vice versa*.
 - d. The relevant committee shall consider whether or not to recommend reappointment of a non-tenured faculty member more than one year prior to expiration of his or her contract.
 - e. Any faculty member may request of the Dean that the time periods set forth in these regulations be tolled for the period of time encompassing a leave of absence, or the first two years of care of a newborn child by such faculty member, or so much of the period of time represented by a faculty member's service as a Dean or other Administrative law school officer.

VI. Procedures for Tenure, Promotion and Reappointment Committees

- A. For purposes of undertaking the evaluation and review required by these regulations, tenure, promotion and reappointment committee(s) may designate and appoint subcommittees to make specific inquiries and to report on the candidate's qualifications.
- B. A subcommittee shall consist of at least three persons, one of whom shall be designated chairperson by the full committee.

[Deletion of "The selection of subcommittee members shall be mutually agreed between the faculty member under consideration and the committee." approved by the Faculty, March 20, 2004.]

- C. The chairperson of a committee shall give reasonable notice to the faculty member under consideration of his or her opportunity to submit to the committee any materials that the faculty member deems relevant. The faculty member shall have the right to appear before the committee and the committee likewise may, in its discretion, ask the candidate to appear before it.
- D. Committee members shall visit classes being taught by the candidates as appropriate. In cases where a subcommittee has been designated, each of its members shall carry out such visitations, but, any member of the committee may also visit one or more classes. Each committee member shall give the candidate reasonable notice that he or she plans to visit a class.
- E. The chairperson of each committee shall compile and distribute to committee members the candidate's resume, such samples of the candidate's scholarly work as the chairperson deems appropriate, and any other relevant materials.

- F. The committee may, in its discretion, seek outside evaluation of the candidate's scholarly work by qualified professionals, provided, however, that such outside reviewers are approved in advanced by the full committee.

[Added "provided, however, that such outside reviewers are approved in advanced by the full committee.", and deleting "The policy and practice of the Committee has been to seek outside review of scholarships in every case involving tenure review.), approved by the Faculty, March 20, 2004]

- G. After full consideration of the candidate's teaching, scholarly work, and service activities, and the findings and reports of the subcommittee if such has been designated, the committee shall vote on the appropriate recommendation to be made. A written report of such recommendation, together with a detailed statement of the reasons therefore, shall be forwarded to the Dean, together with such supporting materials as the committee deems appropriate.
- H. The Dean shall forward such recommendations, reports and materials to the University President, adding also the Dean's own independent recommendations, stated in terms of the standards of teaching, scholarship and research, and service stated above. The University President shall act upon the recommendations, provided, however, that the granting of tenure is reserved to the Trustees upon recommendation by the President.
- I. All written reports of a committee, or subcommittee, shall be available for inspection by the candidate, and maintained by the Dean.
- J. Notice of a decision not to reappoint a non-tenured faculty member shall be given no less than one year prior to the effective date of the termination.
- K. Any faculty member may appeal the decision of a committee not to make a favorable recommendation as to promotion or reappointment to the committee of the tenured faculty. The committee of tenured faculty will review the candidate's qualifications and take such action as in its discretion may be appropriate in the circumstances.
- L. Appeals from a negative decision of the committee of tenured faculty or from a failure of the Dean to join in the recommendation of the relevant committee shall be made to the University President following such procedures as the University shall provide.

VII. Standards and Procedures for Termination of a Faculty Member for Cause

- A. **Tenured Faculty Members.** Once tenure is acquired, a contract of continuing employment exists which may be terminated only for adequate cause. In the case of a tenured faculty member hired to teach primarily in an LL.M. program, that faculty

member's employment may be terminated for cause if the LL.M. program for which that faculty member was hired to teach is terminated or substantially modified. In case of termination for cause of a continuous appointment, or where facts may be in dispute, the affected faculty member shall be informed in writing of any charges or facts and shall have the right to both the Informal and Formal procedures approved by the Committee on Academic Freedom and Tenure of the Association of American Law Schools (December 27, 1967), set forth in the *Model Code of Procedure for Academic Freedom and Tenure* 21 J.L. EDUCATION 222-34 (1968), and incorporated herein by reference. Faculty members on continuous appointment who are dismissed for reasons not involving moral turpitude shall receive their salaries from the date of notification of dismissal, whether or not they are continued in their duties at the institution.

- B. **Non-Tenured Faculty Members.** Termination for cause may take place whenever cause is found. Review procedures shall be the same as those followed in determining reappointment, as set forth in Section V, sub-section C.12.
- C. **Suspension of a Faculty member** during the term of his or her contract, or of a tenured faculty member at any time, is justified only if immediate harm to such faculty member or others is threatened. Any such suspension should be with salary.

VIII. Faculty with Administrative Posts

Tenure may be granted only to a Professor or an Associate Professor, and not to an Assistant Professor, Adjunct Professor or Lecturer in Law. Persons who hold concurrent faculty and administrative appointments may obtain tenure or promotion only in their faculty capacities. Administrative rank is not subject to these regulations, being a matter for the Dean to determine with respect to each administrative or decanal position. The regular faculty member who accepts an administrative position retains academic rank and tenure if awarded previously. Administrators are encouraged to continue teaching, writing and research, and service to the extent possible.

IX. Construction and Interpretation

In accord with ABA Standard 201, these regulations provide that the Dean and Faculty shall have the responsibility for formulating and administering matters of retention, promotion and tenure. Any matter of construction or interpretation of these regulations shall be submitted to the Committee of all tenured Faculty for a ruling on meaning.

In accord with Association of American Law School's Standards in Section 6-5(c), these regulations provide for Faculty appointments or changes in Faculty status, including promotions, tenure designations, and renewal or termination of term appointments.

Interpretation of these regulations shall be in accord with the plain meaning of all terms and with reference to the commentary and interpretive decisions where appropriate of the American Association of University Professors, the American Bar Association and the Association of American Law Schools.

[Adopted by Faculty in September 1984; amended April 1988 to include definition of service. Amended in September 1994 to include four junior Faculty members as voting members of the Tenure, Promotion, and Reappointment Committee.]

[Amended April 2000 to include Tenure Standards for the Director of the Law Library. Section VI (A) amended November 20, 2002 to include Standards and Procedures for Termination of a Faculty Member for Cause as it pertains to tenured LL.M. Faculty members.]

SCHEDULE

To establish a schedule of review for tenure, promotion, and reappointment that provides clear notice to faculty candidates of the timing of the review process, maximizes the time available to them to fulfill the standards of performance, ensures the opportunity to conduct a full and fair review, and complies with the *“Faculty Regulations Governing Tenure, Promotion, and Reappointment”* presently in force, the Tenure, Promotion, and Reappointment Committee [herein “The Committee”] adopted the following schedule at its meeting of April 16, 2002.

<i>DATE*</i>	<i>ACTION</i>
September 15	Deadline for candidate to submit completed application for tenure, promotion, reappointment, or some combination thereof, to the Chair of the Tenure, Promotion, and Reappointment Committee (the “Committee”). The candidate’s application must specify whether or not his or her student evaluations will be available to Committee members. If available, Committee members may view them in the Dean’s Office, but may not copy, record, or discuss the evaluation contents with persons outside of the Committee.
October 1	Deadline for the Committee meeting to approve the subcommittees proposed by the Chair. In proposing fair and reasonable subcommittees, the Chair shall consider a candidate’s preferences as well as the interests of the Law School and the relative burden of subcommittee assignments among Committee members in reaching a mutual agreement with the candidate about the composition of her or his subcommittees.
October 1 – November 15	Time period in which Committee members may review a candidate’s fall classes. By establishing this time period, the obligation of a Committee member to provide reasonable notice to a candidate prior to observing his or her class is deemed to be met, provided however, that if a Committee member shall, in a given academic year, provide additional notice of class visitation to one candidate, then equivalent notice shall be provided to all of the candidates whose teaching the Committee member evaluates.
October 15	<p>Deadline for a candidate’s Scholarship Subcommittee to finalize a list of impartial and knowledgeable outside reviewers of each tenure candidate’s scholarship. In devising the list, the Subcommittee shall consider potential reviewers proposed by the candidate and by any Committee members.</p> <p>With respect to outside review of a candidate’s scholarship, deadline for the candidate to submit her or his scholarship to the Committee Chair and for the Committee Chair to submit it to the Dean’s Office</p>

	for placement in the candidate's file.
October 31	<ul style="list-style-type: none"> • Deadline for securing outside reviewers. • Deadline for submitting scholarship to outside reviewers.
January 15	With respect to scholarship that shall be considered by the Committee, deadline for a candidate to submit her or his scholarship to the Committee Chair and for the Committee Chair to submit it to the Dean's office for placement in the candidate's file.
January 15– January 31	Time period in which Committee members may review a candidate's spring classes. By establishing this time period, the obligation of a Committee member to provide reasonable notice to a candidate of intent to observe candidate's class however, that if a Committee member shall, in a given academic year, provide additional notice of class visitation to one candidate, then equivalent notice shall be provided to all of the candidates whose teaching the Committee member evaluates.
January 31	Deadline for receipt of outside reviews of scholarship.
February 15	Deadline for the Subcommittees to submit their reports to the Committee Chair.
February 17	Deadline for Committee Chair to distribute the Subcommittee reports to Committee members.
February 28	Deadline for the Committee meeting to deliberate and vote on the candidates' applications for tenure, promotion, reappointment, or some combination thereof.
March 15	Deadline for the Chair of a candidate's Scholarship Subcommittee to submit a report to the Committee Chair on the Committee's deliberation and vote on the candidate.
March 17	Deadline for the Committee Chair to distribute to Committee members the Subcommittee reports on the Committee's deliberation and vote on the candidates.
March 25	Deadline for the Committee meeting to deliberate and vote on the final Committee reports.
March 31	Deadline for submission to the Dean of the Committee's final reports on candidates.
April 15	Recommended deadline for the Dean to submit his or her recommendations on candidates, and the Committee's

	recommendations on candidates, to the University President.
End of April	With respect to tenure decisions, the University President submits to the Board of Trustees her or his own recommendation, as well as those of the Committee and the Dean.

* If a specified deadline falls on a weekend or holiday, the deadline shall shift to the next weekday. Note: Candidates are responsible to know the information contained herein and meeting all applicable deadlines. A candidate should address questions regarding the review process to the Committee Chair

TENURE PROMOTION AND REAPPOINTMENT COMMITTEE'S GUIDANCE REGARDING APPLICATIONS

The Committee on Tenure, Promotion, & Reappointment (the “Committee”) has prepared this guidance regarding applications.

Sec. 1. Jurisdiction. The Committee reviews the applications of members of the tenure-track, untenured faculty only. The Committee also may adjudicate complaints regarding termination or interference with the rights of tenured and tenure-track law faculty guaranteed by its regulations. The Committee does not review members of the visiting faculty, instructors, legal writing faculty, or adjunct faculty.

Sec. 2. Membership of Committee. The Committee is comprised of members of the tenured faculty and no longer includes any member of the untenured faculty. Candidates should address any question about the review process to the Chair of the Committee and to the Dean.

Sec. 3. Role of the Dean. The Dean is a member of the tenured faculty entitled to participate and vote during Committee deliberations like any other tenured faculty member. The Dean is also charged in the regulations to submit an independent recommendation to the President. The Dean is not required to share the contents of this independent recommendation with the Committee.

Sec. 4. Time of Consideration. Ordinarily, the Committee reviews a candidate for reappointment during the academic year prior to the final year of a contract for a term of years (e.g. the second year of a three-year contract). The Committee has no authority to reduce or to extend a faculty member’s probationary period. Whether a faculty member at the time of initial employment receives “teaching credit” shortening the candidate’s probationary period or during the probationary period receives a tolling of the period due to a leave of absence or other criteria set forth in the Committee’s regulations is solely within the discretion of the Dean. The Committee relies on the representations of the Dean regarding these contractual matters and does not review the faculty member’s individual contract. Where a candidate applies for tenure early, the Committee assesses whether the candidate meets the “extraordinary qualifications” criterion under the regulations as a threshold matter. If the Committee decides that the candidate does not meet that criterion, it does not consider the tenure application further.

Sec. 5. Recommendations Only. Under its regulations, the Committee only makes recommendations to the Dean and to the President regarding tenure, promotion, and reappointment.

Sec. 6. Annual Applications. The Committee considers applications for tenure, promotion, and reappointment on an annual basis in accordance with the schedule included herein, appended to the Committee's regulations. The Committee acts on these applications during that academic year, and applications may not be deferred or carried over into subsequent academic years. A faculty member seeking review must apply during the academic year in which review is sought in accordance with this Committee schedule in order to obtain such review. A potential applicant who does not do so is deemed to have waived the review and may not obtain a recommendation from the Committee.

Sec. 7. Application Form. The faculty's secretaries maintain a standard blank application form that enumerates items which, upon completion, should be included in the application for reappointment, tenure, or promotion. These include a description of the candidate's employment background; courses taught; bar admissions; enumeration of scholarship and scholarly activities; service activities for the law school, university, and broader community; professional and other honors; and description of remunerative outside work. The blank form is edited by the Associate Dean for Academic Affairs.

Sec. 8. Attachments. Attachments to the application are unnecessary with respect to items already contained in the candidate's Promotion and Tenure file, as such items may be incorporated by reference in the application. Candidates are charged to review their files before submitting their applications to insure that the following items are included: the syllabus for each of the classes taught at the Law School the final exam for each of the classes taught, activity reports solicited by the Dean on an annual basis, reports submitted to the Dean for law school committees the candidate has chaired, reprints or photocopies of scholarship (and, within the candidate's discretion, manuscripts of work in progress), and an up-to-date resume. The candidate should append any of these items not already included in the candidate's Promotion and Tenure file to the application. Although the candidate may include any other information that he or she desires, the Committee may choose not to review such additional items and may ignore any "candidate's statement" proposing language for the Committee's report. Preparation of such reports is a Committee, not a candidate, responsibility. After a timely application, the candidate is permitted to supplement the application with additional scholarship in accordance with the Committee's schedule.

Sec. 9. Student Evaluations. The Committee obtains the candidate's student evaluations from the Dean during consideration. A candidate may not prevent the Committee from reviewing such evaluations.

Sec. 10. Number of Copies. The candidate should provide the Dean with two copies of the application. The Dean will forward one copy to the Chair.

Sec. 11. Subcommittees. From year-to-year, the Committee may choose, but is not required, to designate subcommittees to make specific inquiries and to report on a candidate's application

prior to full Committee deliberations. When it does so, the Committee Chair will communicate with the candidate regarding the faculty composition of the subcommittees(s) so that such selection shall be as mutually agreed between the candidate and the subcommittee(s).

Sec. 12. Secret Ballot. Typically in recent years the Committee's voting during its deliberations has been by secret ballot. As a result, the Committee does not know how individual members voted.

Sec. 13. Draft and Final Reports. Draft reports of subcommittees or of the full Committee which have not been approved by the full Committee are confidential internal Committee documents which are not part of the candidate's record. Only final reports approved by the full Committee regarding a candidate's application are part of the record. The final reports are also confidential personnel documents, which become part of the candidate's Promotion and Tenure and Contract files.

Sec. 14. Disclaimer. The policies set out in this document are intended only as guidance. They are not intended, nor can they be relied upon, to create any rights enforceable by any party in litigation with the University or members of the Committee. The Committee may decide to follow the guidance provided herein, or to act at variance with the guidance based on an analysis of candidate-specific circumstances. The Committee also reserves the right to change this guidance at any time without notice.

[Approved by the Committee at its meeting of March 24, 2008]

EXHIBIT C

April 12th, 2024

Dear President Armstrong,

I am writing to address the matter of Professor Claire Wright's tenure candidacy for the position of Associate Professor of Law at St. Thomas University Benjamin L. Crump College of Law.

After thorough consideration and review of Professor Wright's record at St. Thomas University, as well as her conduct while at our institution, I am unable to recommend her for tenure status.

While Professor Wright possesses commendable academic qualifications and has demonstrated competency in certain aspects of her role, there are several concerns that have arisen during her tenure at St. Thomas University and in her interactions within our own institution.

Firstly, Professor Wright's record at St. Thomas University reveals inconsistencies in her performance, particularly in the areas of scholarly output. It is imperative that a candidate demonstrates consistent dedication to both research and teaching, qualities that seem to have been lacking in Professor Wright's case.

Moreover, her behavior at our institution has raised serious concerns among faculty members and administrators alike. Instances of security breaches and administrative protocols not being followed are in her record. Such behavior not only undermines the environment of excellence we strive to foster at St. Thomas University College of Law, but also raises doubts about Professor Wright's suitability for a permanent faculty position.

I understand the gravity of this decision and the importance of providing detailed justifications for my recommendation. Therefore, I am more than willing to discuss specific instances and provide additional information to support my opinion in person.

Thank you for your attention to this matter. Please do not hesitate to reach out if you require any further clarification or information.

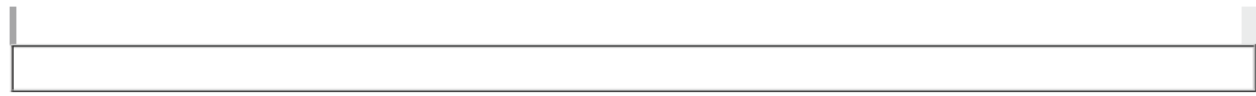
Sincerely,



Tarlika Nunez-Navarro
Dean, College of Law

EXHIBIT D

From: Claire Osborn-Wright <claire.osborn.wright@gmail.com>
Sent: Tuesday, September 24, 2024 6:00 PM
To: Claire Osborn-Wright <cosbornw@nova.edu>
Subject: Fwd: FW: Application for tenure as an Associate Professor of Law at St. Thomas University College of Law



From: Nunez Navarro, Tarlika T. <TNunezNavarro@STU.EDU>
Sent: Monday, July 1, 2024 3:26 PM
To: Osborn-Wright, Claire C. <CCWright@stu.edu>
Co: Veitch, Jeffrey D. <JefVeitch@STU.EDU>
Subject: Application for tenure as an Associate Professor of Law at St. Thomas University College of Law

Dear Professor Osborn-Wright,

I regret to inform you that your application for tenure as an Associate Professor of Law at St. Thomas University College of Law was unsuccessful. According to the law school's regulations governing tenure, reappointment, and promotion, the academic year 2024-2025 marks your mandatory tenure review.

Please find attached the letter denying your application for tenure and your faculty appointment letter dated June 30, 2023.

Sincerely,

Tarlika Nunez-Navarro | Dean and Professor of Law
Benjamin L. Crump College of Law
St. Thomas University
Benjamin L. Crump College of Law
16401 NW 37th Avenue
Miami Gardens, FL 33054
(O) 305.623.2324 |
TNunezNavarro@stu.edu
www.stu.edu/law



Osborn-Wright, Claire
Fall 2023.pdf





June 27, 2024

Claire Osborn-Wright
1731 Washington Place
San Diego, CA 92103

Dear Professor Osborn-Wright,

I regret to inform you that your application for tenure as an Associate Professor of Law at St. Thomas University College of Law was unsuccessful. Per your appointment letter, this 2024-2025 academic year you will have a mandatory tenure review. If not granted tenure through this mandatory review, then the 2025-2026 academic year will be your terminal year at St. Thomas.

I wish you success in your future endeavors.

Sincerely,

A handwritten signature in blue ink, appearing to read 'David A. Armstrong, J.D.', written in a cursive style.

David A. Armstrong, J.D.
President

EXHIBIT E

From: "Nunez Navarro, Tarlika T." <TNunezNavarro@stu.edu>
Date: July 11, 2024 at 11:29:36 AM EDT
To: "Osborn-Wright, Claire C." <CCWright@stu.edu>
Cc: "Veitch, Jeffrey D." <JeffVeitch@stu.edu>, "Ugalde, Marina" <mugalde@stu.edu>
Subject: **RE: Application for tenure as an Associate Professor of Law at St. Thomas University College of Law**

Claire,

I understand that this outcome is not what you had hoped for. In accordance with the Faculty Handbook, *the granting of tenure is reserved to the Trustees upon the recommendation of the President.*

Further, Section VI. Procedures for Tenure, Promotion, and Reappointment Committees, subsection L states: *"Appeals from a negative decision of the committee of tenured faculty or from a failure of the Dean to join in the recommendation of the relevant committee shall be made to the University President following such procedures as the University shall provide."*

If you choose to appeal this decision, you may do so by directing your appeal to the University President. He would be more than happy to sit down with you and discuss the matter further. I

President. I would be more than happy to sit down with you and discuss the matter. I have copied his assistant, Marina Ugalde, here to assist you with setting up a time.

I have also copied the relevant section of the faculty handbook below for your reference.

Have a wonderful day.

VI. Procedures for Tenure, Promotion and Reappointment Committees

A. For purposes of undertaking the evaluation and review required by these regulations, tenure, promotion and reappointment committee(s) may designate and appoint subcommittees to make specific inquiries and to report on the candidate's qualifications.

B. A subcommittee shall consist of at least three persons, one of whom shall be designated chairperson by the full committee.

C. The chairperson of a committee shall give reasonable notice to the faculty member under consideration of his or her opportunity to submit to the committee any materials that the faculty member deems relevant. The faculty member shall have the right to appear before the committee and the committee likewise may, in its discretion, ask the candidate to appear before it.

D. Committee members shall visit classes being taught by the candidates as appropriate. In cases where a subcommittee has been designated, each of its members shall carry out such visitations, but, any member of the committee may also visit one or more classes. Each committee member shall give the candidate reasonable notice that he or she plans to visit a class.

E. The chairperson of each committee shall compile and distribute to committee members the candidate's resume, such samples of the candidate's scholarly work as the chairperson deems appropriate, and any other relevant materials.

F. The committee may, in its discretion, seek outside evaluation of the candidate's scholarly work by qualified professionals, provided, however, that such outside reviewers are approved in advanced by the full committee.

G. After full consideration of the candidate's teaching, scholarly work, and service activities, and the findings and reports of the subcommittee if such has been designated, the committee shall vote on the appropriate recommendation to be made. A written report of such recommendation, together with a detailed statement of the reasons therefore, shall be forwarded to the Dean, together with such supporting materials as the committee deems appropriate.

H. The Dean shall forward such recommendations, reports and materials to the University President, adding also the Dean's own independent recommendations, stated in terms of the standards of teaching, scholarship and research, and service stated

above. The University President shall act upon the recommendations, provided, however, that the granting of tenure is reserved to the Trustees upon recommendation by the President.

I. All written reports of a committee, or subcommittee, shall be available for inspection by the candidate, and maintained by the Dean.

J. Notice of a decision not to reappoint a non-tenured faculty member shall be given no less than one year prior to the effective date of the termination.

K. Any faculty member may appeal the decision of a committee not to make a favorable recommendation as to promotion or reappointment to the committee of the tenured faculty. The committee of tenured faculty will review the candidate's qualifications and take such action as in its discretion may be appropriate in the circumstances.

L. Appeals from a negative decision of the committee of tenured faculty or from a failure of the Dean to join in the recommendation of the relevant committee shall be made to the University President following such procedures as the University shall provide.

Tarlika Nunez-Navarro | | Dean and Professor of Law
Benjamin L. Crump College of Law
St. Thomas University
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16401 NW 37th Avenue
Miami Gardens, FL 33054
(O) 305.623.2324 |
TNunezNavarro@stu.edu
www.stu.edu/law





From: Osborn-Wright, Claire C. <CCWright@stu.edu>
Sent: Wednesday, July 3, 2024 3:21 PM
To: Nunez Navarro, Tarlika T. <TNunezNavarro@STU.EDU>
Cc: Veitch, Jeffrey D. <JeffVeitch@STU.EDU>; Scarnecchia, Dan B. <dScarnecchia@stu.edu>
Subject: RE: Application for tenure as an Associate Professor of Law at St. Thomas University College of Law

Dear Dean Navarro:

Thanks for getting back to me on this. Of course, the Administration's denial of my application for tenure is a shock, in light of the Tenure Committee's long, detailed, very positive report recommending that the Administration grant me tenure.

As I'll be up for tenure again this coming academic year, I would greatly appreciate your answering the following questions, so that I can ascertain how I might have fallen short of the criteria for tenure at STU:

1. Did you support my tenure application? As you might recall, last August, in our "get-to-know-each-other meeting," you asked me how STU could retain someone as talented as I.
2. If you did not support my tenure application, why not, especially in light of the Tenure Committee's very positive report?
3. Did President Armstrong support my tenure application?
4. If President Armstrong did not support my tenure application, why not, especially in light of the Tenure Committee's very positive report?
5. What was the vote of the Board of Trustees on my tenure application? I can only surmise that the majority of Board members denied my application, and assuming that that is the case, why did they deny my application, especially in light of the Tenure Committee's very positive report?

Thank you very much,

Claire

From: Nunez Navarro, Tarlika T. <TNunezNavarro@STU.EDU>

Sent: Monday, July 1, 2024 3:26 PM

To: Osborn-Wright, Claire C. <CCWright@stu.edu>

Cc: Veitch, Jeffrey D. <JeffVeitch@STU.EDU>

Subject: Application for tenure as an Associate Professor of Law at St. Thomas University College of Law

Dear Professor Osborn-Wright,

I regret to inform you that your application for tenure as an Associate Professor of Law at St. Thomas University College of Law was unsuccessful. According to the law school's regulations governing tenure, reappointment, and promotion, the academic year 2024-2025 marks your mandatory tenure review.

Please find attached the letter denying your application for tenure and your faculty appointment letter dated June 30, 2023.


Sincerely,

Tarlika Nunez-Navarro | | Dean and Professor of Law
Benjamin L. Crump College of Law
St. Thomas University
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16401 NW 37th Avenue
Miami Gardens, FL 33054
(O) 305.623.2324 |
TNunezNavarro@stu.edu
www.stu.edu/law

<[image001.png](#)>

<[image002.png](#)>

EXHIBIT F

From: Claire Osborn-Wright cosbornw@nova.edu 
Subject: Fw: FW: Request for Independent Recommendation re: my Tenure Application
Date: September 18, 2024 at 6:22 PM
To: David Frakt david@theprofessorlawyer.com

CO

From: Nunez Navarro, Tarlika T. <TNunezNavarro@STU.EDU>
Sent: Wednesday, September 18, 2024 6:11 PM
To: Osborn-Wright, Claire C. <CCWright@stu.edu>
Cc: Ugalde, Marina <mugalde@stu.edu>
Subject: RE: Request for Independent Recommendation re: my Tenure Application

Claire,

Pursuant to the Rules and Procedures on Tenure, Promotion, and Reappointment in our Faculty Handbook, the Dean is not required to share the contents of their independent recommendation.

I reiterate what I stated to you in my previous email dated 7/11/24: in accordance with the Faculty Handbook, the granting of tenure is reserved to the Trustees upon the recommendation of the President.

Further, Section VI, Procedures for Tenure, Promotion, and Reappointment Committees, subsection L, states: "Appeals from a negative decision of the committee of tenured faculty or from a failure of the Dean to join in the recommendation of the relevant committee shall be made to the University President following such procedures as the University shall provide."

If you choose to appeal this decision, you may do so by directing your appeal to the University President. He would be more than happy to sit down with you and discuss the matter further. I have copied his assistant, Marina Ugalde, here to assist you with setting up a time.

I have also copied the relevant section of the Faculty Handbook below for your reference.

Have a wonderful evening.

Please find attached the highlighted references to the role of the Dean in our Rules and Procedures on Tenure, Promotion and Reappointment.

According to Section VI.H, "the Dean shall forward such [i.e. the Tenure, Promotion and Reappointment Committee's] recommendations, reports and materials to the University President, **adding also the Dean's own independent recommendations, stated in terms of the standards of teaching, scholarship and research, and service** stated above." Under Section VI.L, "[a]ppeals from a negative decision of the committee of tenured faculty or from a failure of the Dean to join in the recommendation of the relevant committee shall be made to the University President following such procedures as the University shall provide."

Section 3 of the Committee's Guidance Regarding Applications, describes the role of the Dean:

Role of the Dean. The Dean is a member of the tenured faculty entitled to participate and vote during Committee deliberations like any other tenured faculty member. **The Dean is also charged in the regulations to submit an independent recommendation to the President. The Dean is not required to share the contents of this independent recommendation with the Committee.**

Tarlika Nunez-Navarro | | Dean and Professor of Law
Benjamin L. Crump College of Law
St. Thomas University
Benjamin L. Crump College of Law
16401 NW 37th Avenue
Miami Gardens, FL 33054
(O) 305.623.2324 |
TNunezNavarro@stu.edu
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From: Osborn-Wright, Claire C. <CCWright@stu.edu>
Sent: Tuesday, September 17, 2024 3:08 PM
To: Nunez Navarro, Tarlika T. <TNunezNavarro@STU.EDU>
Subject: Request for Independent Recommendation re: my Tenure Application


Dear Dean Navarro:

In your last communication regarding the denial of my tenure application, you indicated that I could appeal your negative recommendation on my application to President Armstrong, and I plan to pursue such an appeal. However, in order for me to appeal your decision, I need to know why you recommended that St. Thomas University deny my application for tenure. To that end, if you would please provide me with a copy of your independent recommendation that you sent to President Armstrong in my case as soon as possible, I would greatly appreciate it.

Best Regards,
Claire

Claire Osborn-Wright | Associate Professor
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From: David Frakt david@theprofessorslawyer.com 
Subject: Fwd: Request for Independent Recommendation re: my Tenure Application
Date: September 18, 2024 at 11:06 PM
To: TNunezNavarro@stu.edu TNunezNavarro@STU.EDU
Cc: Robert J. Diaz rjd@jpfitzlaw.com, CCWright@stu.edu

DF

Dear Dean Nunez Navarro,

See the attached letter. Thank you for your prompt attention to this matter.

David Frakt
david@theprofessorslawyer.com
(904)788-6082

 The Professors' Lawyer

----- Forwarded message -----

From: Osborn-Wright, Claire C. <CCWright@stu.edu>
Date: Wed, Sep 18, 2024 at 6:16 PM
Subject: FW: Request for Independent Recommendation re: my Tenure Application
To: Claire Wright <claire.osborn.wright@gmail.com>

From: Nunez Navarro, Tarlika T. <TNunezNavarro@STU.EDU>
Sent: Wednesday, September 18, 2024 6:11 PM
To: Osborn-Wright, Claire C. <CCWright@stu.edu>
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Tarlika Nunez-Navarro | | Dean and Professor of Law
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From: Osborn-Wright, Claire C. <CCWright@stu.edu>
Sent: Tuesday, September 17, 2024 3:08 PM
To: Nunez Navarro, Tarlika T. <TNunezNavarro@STU.EDU>
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Best Regards,
Claire

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**Letter to Dean re Prof
Osborn Wright.pdf**
216 KB



David J. R. Frakt, Esq.
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September 19, 2024

Sent via email to tnuneznavarro@stu.edu

Dean Tarlika Nuñez-Navarro
St. Thomas University
Benjamin L. Crump College of Law
16401 NW 37th Ave.
Miami Gardens, FL 33054

Re: Request for Your Tenure Recommendation of Professor Claire Osborn-Wright

Dear Dean Nuñez-Navarro:

I have been retained by Professor Claire Osborn-Wright to advise her with respect to the tenure process at STU. It is my understanding that Professor Osborn-Wright was recommended for tenure by the Tenure, Promotion and Reappointment Committee. Professor Osborn-Wright is under the impression that you did not join in their recommendation, but rather recommended that her tenure application be denied. And of course, she was informed by President Armstrong that her application was denied. Professor Osborn-Wright has repeatedly requested to be provided with a copy of your written recommendation. She has also requested to be provided with a written explanation for the denial decision. Both you and President Armstrong have refused to provide a written explanation.

Professor Osborn-Wright has provided me with both your July 11, 2024 and September 18, 2024 e-mails denying her request for a copy of your “independent recommendation.” Your explanation for your refusal to provide this document is completely nonsensical.

In reviewing the College of Law Faculty Handbook, in part VI, Procedures for Tenure, Promotion and Reappointment Committees, Paragraph L, it is stated: *“Appeals from a negative decision of the committee of tenured faculty or from a failure of the Dean to join in the recommendation of the relevant committee shall be made to the University President following such procedures as the University shall provide.”* (emphasis added)

As Professor Osborn-Wright stated in her email to you on September 17, 2024, she plans to pursue such an appeal of your apparent “failure to join in the recommendation of the Tenure, Promotion and Reappointment Committee”. Given that there is a right to appeal your recommendation (assuming that it was contrary to the Committee’s recommendation), you obviously do not have the right to withhold that recommendation from the candidate. She must



The Professors' Lawyer

be able to respond to your stated reasons for your recommendation in her appeal.¹ Accordingly, I hereby demand on her behalf that you immediately provide her with your written recommendation to President Armstrong. And by immediately, I mean not later than Friday, September 20 at 5:00 p.m..

In repeatedly refusing to provide your recommendation to Professor Osborn-Wright, you have cited (and even highlighted in yellow) an irrelevant provision of the law faculty handbook, which states “The Dean is not required to share the contents of this independent recommendation with the Committee.” The Committee refers to the Tenure, Promotion and Reappointment Committee. It is true that you are not required to share your recommendation with the Committee and we are not asking you to do so. The tenure candidate is not the Committee. And she is clearly entitled to have it. As a former Judge, I am sure you can understand that one cannot appeal a decision without reference to the document explaining the decision. Think back to when you were on the bench. Imagine if you had dismissed a case on a motion and then notified the losing party that they had the right to appeal your decision, but that you would not state the basis for your ruling and would not be providing a written opinion (or that you would write one, but they couldn’t have it). This would obviously be a legal absurdity and grounds for you to be disciplined. + But that is exactly what you are doing by refusing to provide your written recommendation to Professor Osborn-Wright.

The theory behind the right to appeal in the Handbook is that the President, presented with two competing recommendations, one from the Committee, and one from you, presumably found your recommendation more persuasive, and therefore recommended to the Board that the tenure application be denied. Theoretically, if the appellant could point out errors in your reasoning in her appeal, and explain why the Committee’s recommendation was better supported and better reasoned, this might result in persuading the President that his recommendation was also in error and he might then reverse his recommendation to the Board, resulting in tenure being awarded. After all, the point of an appeal is to try to change the outcome. Of course, in this case, we know that this is a fantasy. Because we believe that you did not, in fact, make an independent recommendation. We believe that President Armstrong pressured you, and perhaps even directed you, to recommend against Professor Osborn-Wright receiving tenure, for reasons having nothing to do with the written tenure standards. We believe that you succumbed to this pressure against your better judgment. And we have to reason to believe that you now regret doing so. In any event, your recommendation really didn’t matter. The only reason President Armstrong wanted you to write a negative recommendation was to provide plausible cover for the decision that he had already decided upon.

I suspect that your “independent recommendation” is not actually “stated in terms of the standards of teaching, scholarship and research, and service” or at least is not limited to these categories, for the simple reason that Professor Osborn-Wright clearly exceeded the standards in these areas. We also know that President Armstrong’s reasons for denying Professor Osborn-Wright tenure have nothing to do with the tenure standards. Rather, President Armstrong ensured

¹ Incidentally, your “independent recommendation”, according to the Handbook, must be “stated in terms of the standards of teaching, scholarship and research, and service” as set forth in Section III. Failure to comply with this mandatory guidance would constitute one possible basis for appeal.

that Professor Osborn-Wright was denied tenure for reasons of personal pique and revenge having nothing to do with the merits of her tenure case. Specifically, President Armstrong was angry with Professor Osborn-Wright for appealing the official warning placed in her personnel file for her actions during the so-called “false active shooter incident”. In fact, at a party at President Armstrong’s house on August 17, 2023, President Armstrong made it clear in a private conversation with Professor Osborn-Wright that if she chose to drop her appeal that she would be rewarded, not only with tenure, but with appointment as Associate Dean of Academic Affairs in the near future. However, if she chose to appeal her future would not be “so brilliant.”

Why was President Armstrong so insistent that Professor Osborn-Wright drop her appeal? During her conversation with him on August 17, 2023, it became apparent that President Armstrong was really not interested in punishing Professor Osborn-Wright at all. Rather, his goal was to punish Professor Lauren Gilbert as part of an ongoing effort to build a sufficient case against Professor Gilbert to dismiss her. Indeed, President Armstrong repeatedly told Professor Osborn-Wright that the whole false active shooter incident “was not about her”, making it clear that it was about Professor Gilbert. During the course of this conversation, it became clear that the only reason Professor Osborn-Wright and another male faculty colleague were given warnings in the first place was to make it appear that the administration was acting in a fair and even-handed manner and not singling out Professor Gilbert. President Armstrong made it clear that having a warning in her file was “not a big deal” and would not harm her future career prospects, but making a big deal out of it by pursuing an appeal would be very damaging to her future career prospects at STU. However, as Professor Osborn-Wright made clear to President Armstrong that night, she was not going to accept being reprimanded when she had done nothing wrong. As a person of principle, she was not willing to accept blame for something she didn’t do nor was she willing to cooperate with President Armstrong’s plan to destroy Professor Gilbert just to advance her own career. For acting with integrity, she was denied the award of tenure that she had worked so hard for over many years and so richly deserved.

I am aware that President Armstrong is now attempting to portray his decision to deny Professor Osborn-Wright as based on a principle that tenure should not be granted to those who do not follow University policies. I am aware that he made a statement to this effect at a recent faculty meeting. Although he did not refer specifically to Professor Osborn-Wright, as the sole candidate to have been recently considered and denied for tenure, it was very obvious to everyone present that he was referring to her. There are several problems with this concept. First, there is nothing in the tenure standards that suggests that adherence to policy is a proper consideration in a tenure case. Presumably, a tenure-track professor who routinely violated policies would receive negative annual evaluations and would not be reappointed. If their policy violations were serious enough, they could be dismissed. So, it is highly unlikely that a faculty member who routinely violated policies would ever make it to tenure consideration. But in Professor Osborn-Wright’s case, notwithstanding the completely bogus warning letter in her personnel file, there is no actual evidence that she ever violated a campus policy. The stated basis for the warning, indeed the entire “false active shooter” investigation, is farcical. Even if one were to believe that Professor Osborn-Wright failed to exercise perfect judgment during this incident, this extremely minor blemish on an otherwise perfect record of teaching, scholarship and service, cannot credibly serve as a justification for denying tenure. President Armstrong’s hypocrisy in referencing violations of university policies is truly breathtaking. This after all is the man who personally

ordered that the confidential personnel records of Professor Gilbert be provided to the ABA Journal in direct contravention of a very clear University policy on the release of personnel files for the sole reason of humiliating her in retaliation for making him look like a fool. This is just one example of many that I could provide of his failure to comply with University policies.

Speaking of University policies related to personnel files. The STU Employee Handbook at 1.3.17 Personnel Records, clearly states that employees are entitled to review and copy the contents of their Personnel Files. The term Personnel Files means any official files relating to an individual's employment qualifications, working assignments, promotions, compensation, job performance, personnel evaluations" etc. Clearly, any recommendation related to tenure falls into this category, and there is no exception for tenure related documents. So, once again, the refusal of you and President Armstrong to provide your respective recommendations is an example of both of you not adhering to University policy.

I believe that President Armstrong may have persuaded you to go along with this gross injustice of denying tenure to Professor Osborn-Wright by telling you that she was going up for tenure early and would get another chance and that he would support her the second time-around. But even if you were to support Professor Osborn-Wright's tenure application this year and she was to be awarded tenure, this would not, in any way, make up for the harm that you and President Armstrong have caused, or excuse your inexcusable actions.

Let me be very clear about what is going to happen next so you have no illusions. You are going to give Professor Osborn-Wright a copy of your recommendation. If you did not actually write a recommendation, then you need to admit that. If you fail to do so within the time allotted, I will file suit next week which will include a demand that the recommendation be produced, among other demands. And I promise you that I will get that recommendation eventually. If you fail to produce it, I will also assist Professor Osborn-Wright in filing a formal complaint to the ABA, to be shared with the ABA/AALS joint inspection team regarding this incident, which will include a copy of this letter and request their assistance in securing a copy of your recommendation.

If I am correct that you succumbed to pressure from President Armstrong to write a negative tenure recommendation for Professor Osborn-Wright and you now regret that, I would urge you to come clean with me, with Professor Osborn-Wright, and with the ABA/AALS site team about this. With your help, I believe that we can rectify this injustice. Of course, I understand that it may be very humiliating to admit that you did something wrong under pressure from President Armstrong. But I promise you will feel much better about yourself if you do the right thing. I also understand that there is a risk that President Armstrong may fire you as Dean if you come clean. But I think that what is far more likely is that President Armstrong will be fired or forced to resign, as he should. In any event, a true leader does what is right, even when the consequences may be unpleasant. This is a chance for you to show what kind of leader you really are.

Thank you for your prompt attention to this matter. If you would like to discuss this matter directly, feel free to call me.

Respectfully,

David J. R. Frakt

David J. R. Frakt

Cc: Robert Diaz, STU General Counsel



EXHIBIT G

October 22, 2024

Memorandum for President David Armstrong

Re: Appeal of Denial of Tenure by Associate Professor Claire Osborn-Wright

President Armstrong:

Introduction: Pursuant to STUCL Faculty Handbook, Section VI L, I am writing to appeal the failure of Dean Tarlika Nunez-Navarro to join in the recommendation of the Tenure, Promotion and Reappointment Committee regarding my client Associate Professor Claire Osborn-Wright, which contributed to the ultimate decision to deny her tenure application. Had the Dean complied with her obligations under the STUCL Faculty Handbook, we are confident that she would have provided a strong positive recommendation and that tenure would have been granted. Therefore, please consider this to be an appeal of the entire tenure process and decision, which was tainted by the Dean's wholly improper, inaccurate and inappropriate letter.

Timeliness: Although I recognize that the tenure denial decision was made some months ago, there is no timeline provided in the STUCL Faculty Handbook for tenure appeals. Moreover, STU's General Counsel indicated that Professor Osborn-Wright was welcome to appeal. The Dean's Tenure Recommendation Letter, dated April 12, 2024, was provided to me by STU's General Counsel, on October 10, 2024 (less than two weeks ago, six months after it was written, and more than three months after Professor Osborn-Wright requested to be provided with the reasons for her denial), only after I threatened to file suit against STU for, among other things, failing to provide the Dean's recommendation, as required by multiple STU policies.

Standards: As you are well aware, the provisions of the STUCL Faculty Handbook related to tenure and promotion are explicitly incorporated by reference into law faculty members' contracts, and are therefore binding contractual provisions. After reviewing the Dean's letter, it has become clear that she singularly failed to follow the rules which govern tenure recommendations set forth in the STUCL Faculty Handbook.

There are at least two different handbook provisions that govern the Dean's tenure recommendations.

First, under the School of Law Ethical and Professional Responsibilities, Section III. Responsibilities to Colleagues, it is stated:

An evaluation made of any colleague for purposes of promotion or tenure should be based exclusively upon appropriate academic and service criteria fairly weighted in accordance with standards understood by the faculty and communicated to the subject of the evaluation.

As a fellow member of the faculty, the Dean is clearly a "colleague" for purposes of this paragraph.

Lest there be any doubt about the Dean's duties with respect to a tenure recommendation letter, the Handbook provides even more explicit guidance to the Dean in the Tenure, Promotion and Reappointment Policy at Section VI, H, where it is stated that "*the Dean's own independent recommendations*" shall be "*stated in terms of the standards of teaching, scholarship and research, and service.*"

The Dean's Tenure Recommendation fails to comply with both of these binding provisions. Firstly, her recommendation is not "based exclusively upon appropriate academic and service criteria fairly weighted in accordance with standards understood by the faculty and communicated to" Professor Osborn-Wright. Secondly, the recommendation is not "stated in terms of the standards of teaching, scholarship and research, and service." Indeed, there is no mention or reference of any kind in the recommendation to the tenure standards which the Dean was obligated to apply.

As a refresher, here are the standards that the Dean was required to apply:

Teaching. *Appraisal of teaching performance shall be based upon appropriate classroom visitations by other faculty members and a review of the course syllabi and teaching materials prepared by the candidate. Effective teaching comprehends classroom instruction and a broad range of faculty-student relationships, including ready availability of each teacher to students in the faculty member's office, after class, and otherwise as in advising and encouraging co-curricular and extra-curricular student activities. These include the following traits in the teacher: command of the subject matter, familiarity with advances and developments in the area taught, ability to organize materials and present them with force and logic capturing the attention of the students, ability to arouse curiosity on the part of the students toward further and more independent learning, ability to stimulate students in creative work, ability to prepare a sound and effective examination or other analysis of student comprehension and maintenance of a high standard of achievement, of fairness, and of sound judgment in grading.*

Research & Scholarship. *Appraisal of accomplishment in research and scholarship shall be based on a close reading of published articles or works and obtaining the professional opinions and independent review of recognized authorities in the field of the published articles or works. A commitment must be demonstrated to original research and legal scholarship and a demonstrated ability to produce and publish scholarly work of high quality. The ability to critically analyze, synthesize, and expound sophisticated factual and legal subjects shall be shown. Participation on panels, in conferences, lectureships, preparation of statutes and codes, book reviews and other evidence of scholastic commitment and recognized ability shall be considered and weighed as such works may merit.*

Service. *The American Bar Association Standard 402(B) defines a full-time faculty member as "one who during the academic year devotes substantially all working time to teaching and legal scholarship, has no outside office or business activities and whose outside professional activities, if any, are limited to those which relate to major academic interests or enrich the faculty member's capacity as scholar and teacher, or are of service to the public generally, and do not unduly interfere with one's responsibility as a faculty member."*

The faculty recognizes that service activities provide opportunities for their growth and development as teachers and scholars. The faculty also notes in determining whether outside activities are properly limited that the following factors, among others, are of importance:

- 1. The extent to which the field of outside activity coincides with the faculty member's major fields of interest as a scholar and teacher;*
- 2. The character of the outside activity as a source of novel or enriching experience that can be utilized in his or her capacity as an educator;*
- 3. The extent to which the field of outside activity is of service to the public generally;*
- 4. The degree to which the demands of and time spent in the outside activity interfere with the faculty member's regular presence at the law school for classes, for faculty meetings, for law school committee meetings and work, and with his or her availability for consultation and interchange with other faculty, in advising and counseling students and in undertaking fair share of the duties and responsibilities with the co-curricular and extra-curricular activities sponsored by the law school.*

Service to the law school includes service to the university and community. Outside activities receive no preference over the criteria for teaching or research and scholarship for promotion and tenure consideration.

Analysis of the Dean's Letter: To demonstrate the Dean's failure to follow the rules, I will discuss her treatment of each of the required areas of evaluation.

Teaching: There is no discussion of Professor Obsorn-Wright's teaching or the teaching standard. There are no references to the RPT committee's conclusions in this area and why she disagrees with them (if she does). There are no references to her annual evaluations in which she receives consistently excellent ratings for teaching. There are no references to classroom visitations, although she had several in her RPT file. There are no references to course syllabi or teaching materials, or any evidence that the Dean reviewed these. There is no discussion of her availability to students or her involvement in co-curricular and extra-curricular student activities, such as being faculty advisor to three different student organizations, and her frequent attendance at campus events. There are no references to her command of the subject matter, her ability to organize materials and present them, her ability to prepare sound examinations and grade fairly. There is no reference to or discussion of her consistently excellent student evaluation scores, which are among the highest of any faculty member. There is no reference to her recent Teacher of the Year Award. It is not clear whether the claim that she lacks "consistent dedication to both research and teaching" was intended to refer to her teaching or only her research. However, this claim is transparently false. Indeed, she has been consistently praised for her dedication to her teaching and its high quality. For example, the RPT Committee strongly praised her teaching, describing it as "outstanding" and "excellent".

Service: There is no mention in Dean Nunez-Navarro's letter of the standards for service or references to the RPT Committee's conclusions in this area and why she disagrees (if she does). Indeed, the word "service," one of the three required elements for tenure, is nowhere to be found in her letter. There is no discussion of Professor Osborn-Wright's outstanding service to the

university and community, which has been consistently and widely praised. For example, in a July 1, 2023, email, interim Dean John Makdisi (Dean Nunez-Navarro's immediate predecessor) wrote: "you continue to volunteer your time and talent in extraordinary ways. I commend you for these contributions to our school." And in Professor Osborn-Wright's contract renewal letter for 2023-2024, sent July 31, 2023, he noted her exceptional service on the Recruitment Committee, the Adjunct Faculty Review Committee, her Directorship of the Environmental Sustainability Certificate and her hosting an important conference related to the Supreme Court's *Dobbs* decision. Dean Nunez-Navarro ignored all of this.

Scholarship: While there is a brief statement regarding scholarship, the statement does not reference the standards and is not supported by any facts or examples. There is no support for the Dean's assertion that her scholarly output has been "inconsistent" or that she lacks dedication to research. There is no evidence that the Dean read any of her scholarship, much less engaged in a "close reading of published articles or works," as required. Indeed, there are no references to any of her articles or the fact that she had previously received tenure at another ABA-accredited law school. There are no references to the RTP Committee's conclusions regarding her scholarship or why she disagrees with them, if she does. There are no references to the letters from the external evaluators. There is no recognition that the first article she published while at STU - *Combating Climate Change Through Conservation Easements* - was recognized for its excellence with an "ELPAR" award - selected for reprinting in the August 2023 edition of the Environmental Law and Policy Annual Review (ELPAR) as one of the top 20 articles on an environmental law subject published between August 2021 and July 2022. In her contract renewal letter for 2023-24, issued shortly before Dean Nunez-Navarro was appointed Dean, Interim Dean Makdisi commended her for having another article - *Lest We Be Lemmings* - accepted for publication in the Oregon Law Review, a highly ranked journal. Interim Dean Makdisi also praised her as "one of our active publishers" and added "I was very impressed with your teaching when I sat in on your class." The statement that there are "inconsistencies in her performance, particularly in the areas of scholarly output" is vague, unsupported, untethered to the relevant standards and inconsistent with numerous documents in Professor Osborn-Wright's files and tenure portfolio.

In conclusion, the Dean's letter utterly failed to meaningfully address the standards for tenure and analyze whether Professor Osborn-Wright had met them. Had the Dean done so, she would have had no choice but to conclude that Professor Osborn-Wright easily met or exceeded all three standards.

Additional Concerns: What is perhaps even more troubling than the Dean's complete failure to state her recommendation "in terms of the standards of teaching, scholarship and research, and service" is the fact that the letter also includes extraneous and false commentary about irrelevant factors. As noted earlier, the handbook requires that such evaluations be "*based exclusively upon appropriate academic and service criteria fairly weighted in accordance with standards understood by the faculty and communicated to the subject of the evaluation.*" The only appropriate academic and service standards understood by the faculty and communicated to Professor Osborn-Wright are the standards for tenure in the STUCL Faculty Handbook.

The Dean's recommendation to deny tenure appears to be based primarily, if not exclusively, on her "conduct" and "behavior". No specific instances of problematic behavior or conduct are mentioned, but there are references to multiple "instances of security breaches and administrative protocols not being followed" in her record. This is a false statement. The only incident in her record of which either Professor Osborn-Wright or I am aware is a warning letter that was placed in her file for failure to notify the administration about a screenshot of a message shared with her during class by a student. The message read: **"I imagine This is going to get out to everyone in a few but don't go to school and tell anyone you know who's there to leave some dumb mother fucker legit threatened to shoot up the school."** Professor Osborn-Wright closely examined the screenshot with the student and together they determined that it contained multiple layers of hearsay, did not mention STU whatsoever, and did not constitute a threat of violence against STU. Within hours, her assessment was confirmed by Senior Associate Dean Todd Clark, who sent a school-wide email stating the following:

*I am sending this email to update everyone about some **misinformation** that is percolating around the school. We do not have any evidence of an active shooter. **More importantly, we have not received any information about a shooting threat.** We are in the process of investigating how and who facilitated the flow of the **misinformation.***

(Emphasis added) As you are aware, Section 1.5.5 of the University Employee Handbook states only that employees are expected to report a "threat of violence." Although it is true that she received a warning in her file for failing to report this misinformation, this isolated and very minor incident could not plausibly serve as the basis for denial of tenure. While reasonable people might disagree about whether it would have been preferable (and consistent with University policy) for her to report the text, this cannot reasonably be characterized as misconduct or bad behavior. Indeed, Interim Dean Makdisi has made it clear that he only issued the warning to her at your personal insistence and did so very reluctantly. According to former Senior Associate Dean Todd Clark, he strongly opposed issuing any warning or reprimand to Professor Osborn-Wright over this incident and strongly resisted your pressure to do so. It is no coincidence that the warning letter was issued to her on the day that Todd Clark departed Florida for his new position as Dean of the Delaware Law School – eight months after the incident occurred and seven months after completion of the investigative report on this incident. The claim that this incident "undermines the environment of excellence" at STUCL is not explained and makes no sense. Similarly, the assertion that this single incident "raises doubts about her suitability for a permanent faculty position" is nonsensical.

Another highly disturbing aspect of this letter is that it does not appear to reflect Dean Nunez-Navarro's actual opinion of the applicant. In her one and only personal meeting with Professor Osborn-Wright, Dean Nunez-Navarro informed her that Todd Clark had told her that Professor Osborn-Wright was a star and that she should do everything within her power to hold onto her. She then asked what she could do to hold onto Professor Osborn-Wright. Her contract was renewed and extended for three years after this incident and she has received what are believed to be the largest merit raises of any faculty member in recent years. For this academic year, the Dean has appointed her Chair of the Admissions Committee and reappointed her to the Faculty Appointments Committee. If she really believed that Professor Osborn-Wright was "undermining the excellence" of the school and had doubts about her suitability for a permanent

faculty position, she would not have given her critical responsibilities in the recruitment of faculty and students. Moreover, the Dean has reappointed her as Director of two certificate programs, the Certificate in Real Estate and the Certificate in Environmental Sustainability, two of the school's signature programs. Again, such important administrative functions would not be entrusted to someone who had repeatedly engaged in problematic behavior, as the Dean's letter asserts. In short, I believe that the entire faculty, and the entire administration of the law school and the University, including you, hold Professor Osborn-Wright's teaching, scholarship and service in high regard, and I am confident that she met the law school's standards for tenure, as concluded by the RPT Committee in their exhaustive 48 page report. I believe that you instructed Dean Nunez-Navarro to recommend denial of Professor Osborn-Wright's tenure in retaliation against her because she refused to drop her appeal of the warning letter which had been placed in her file. Professor Osborn-Wright appealed this letter because she believed she had done nothing wrong and therefore considered the letter to be unfair. She had a right, as a faculty member, to appeal this adverse personnel action (and not to be retaliated against for doing so). She was told repeatedly, including by Interim Dean Makdisi, Provost Johnson-Garcia, and you personally, that having a warning in her file was not a "big deal" and would have no negative impact on her future at STU. But, for reasons having to do with your efforts to terminate her law faculty colleague Professor Lauren Gilbert (who was given a reprimand related to the same incident), you made it very clear that it was very important to you personally that Professor Osborn-Wright drop her appeal. Indeed, at the "Welcome Back" party at your house on August 17, 2023, you made it clear that that she would be rewarded if she dropped the appeal, but that there would be negative consequences to her career if she refused your entreaties to do so. The evidence supports the conclusion that because Professor Osborn-Wright declined to give up her rights to appeal, you decided to retaliate against her by ensuring that her tenure application would be denied. While I understand that you may not wish to admit these allegations, I don't believe that is necessary for you to do so in order to grant this appeal. The only thing that you need to acknowledge is that the Dean's letter does not comply with the requirements of the Handbook, which is undeniable.

Conclusion and Next Steps: There is very little guidance in the Faculty Handbook about how an appeal of a tenure denial is supposed to be carried out. It has been suggested by Dean Nunez-Navarro that if Professor Osborn-Wright wants to appeal, she could just set up a personal meeting with you. Professor Osborn-Wright is not comfortable doing that and that would be a highly irregular process for a tenure appeal. It is important that there be a written record related to the appeal, and therefore I request that any response from the University to this appeal be in writing.

If the Dean is not recused, and she is directed to restate her Dean's recommendation, she must be explicitly instructed to provide an independent recommendation in compliance with the standards in the STUCL Faculty Handbook. When and if you present this matter to the Board of Trustees for a new vote on Professor Osborn-Wright's tenure application, we request to be given an opportunity to address the Board directly prior to the vote to ensure that they are appropriately apprised of the events that led to this appeal. (We may be willing to omit this step if you guarantee tenure will be granted, and made retroactive, with an appropriate increase in pay to the beginning of this academic year.) You should be advised that the ABA and AALS are already aware of the events that led to this appeal and that they are closely monitoring how the

Administration at STU chooses to respond to this appeal. And of course, if you continue to violate Professor Osborn-Wright's contractual rights, we reserve the right to sue STU, and you personally, for your breaches of contract and other causes of action.

Thank you for your prompt attention to this most urgent matter.

Sincerely,

David Frakt

David Frakt
Counsel for Associate Professor Claire Osborn-Wright