Filed in The District Court
of Travis County, Texas

SEP 13 2013
At 4:00 P M.
Amalia Rodriguez-Mendoza, Clerk

CAUSE NO. D-1-GN-11-003130

JAMES BOSWELL AND PRESIDENT, VETERANS HELPING VETERANS (INTERVENOR FOR THE TEACHER)

IN THE DISTRICT COURT

250th JUDICIAL DISTRICT

MICHAEL WILLIAMS, COMMISSIONER OF EDUCATION, IN HIS OFFICIALCAPACITY; SUSAN COMBS, TEXAS COMPTROLLER OF PUBLIC ACCOUNTS, IN HER OFFICIAL CAPACITY; TEXAS STATE BOARD OF EDUCATION

TRAVIS COUNTY, TEXAS

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MOTION FOR DECLARATIVE AND INJUNCTIVE RELIEF

1. JAMES BOSWELL now comes as a three time Whistle Blower in three Education different settings in Texas and request the court affirm that new funding does not fix fundamental flaws, that any Private Education Entity accepting State and Federal Funds is a "State" Actor, and that Retaliation in the Education Work Place will not be tolerated. Boswell makes an observation: Can an effective decision relative to education be made without factoring consideration "As the World Turns" and "Friday Night Lights" and the propensity for "football"?

2. BOSWELL last worked as a State employee at the Ector County Independent School District; prior to that in an education setting for the Texas National Guard; and before that - for Texas Christian University, as a

Major in the Army, Assistant Professor of Military Science. BOSWELL's non profit organization is VETERANS HELPING VETERANS. The appendix attached addresses the non profit organization's goals and objectives. Now, Boswell is ARMY MAJOR (Retired). Boswell earned his Commission in ROTC and graduated as a Distinguished Military Graduate (DMG), from the University of Texas (Austin), BS and certified in Secondary Education, and received his Masters in Public Administration from the University of North Texas. Boswell was immediately on scene regarding the massacre at LUBYs in his home town, Killeen Texas. Boswell is an exceptionally qualified Army Command and General Staff College Graduate with skills as planning, operations, decision making, and conflict resolution. Because Boswell has served in five of the Army's ten Divisions, Boswell prays that this court will hear his testimony as provided under oath in the appendix attached. Boswell was an honor graduate at the United States Army RANGER School.

3. This court's decision will reflect the most important education reform in Texas history, and the decision will even have greater impact and meaning if the court will consider these facts, findings, and recommendations in its debate and ruling. Intervenor's APPENDIX defines the magnitude of the problem and demonstrates a pattern of indifference, abuse and constitution violations in Texas. BOSWELL was an ROTC Instructor at a Private University (Texas Christian University), a Military Academy Instructor at Camp Mabry, and most recently the Senior Army Instructor at Ector County Independent

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School District (ECISD). As the Court has reopened its case, this intervenor ask that any reform consider the following - **THE COMMON TEACHER** – one who has the best interest of the student at heart, not for the money, but for the same reason many of us serve the military – a passion to make a difference. Many teachers give blood, sweat and tears, heart and soul, and not without frustration, political retaliation, disparate treatment, administrative bullying, and ineffective and inefficient self serving leadership. The smoking gun at Boswell's ISD was the TEA redacted Special Education Complaint Investigative Report dated May 15, 2012 - TEA sanction/probation for violation of/non-compliance with 34 CFR 300.600 (e). Solutions are not so easy.

4. The Texas Attorney General's Crime and Public Integrity Unit is grossly undermanned and underfunded. Not a day goes by without a fatality and casualty. My two female ROTC/JROTC cadets, five black, and two Latino's represent the KIAs (Killed in Action). Other casualties include the remaining 142 cadets at ECISD including special education, Limited English Proficiency (LEP), pregnant students, fathers of babies struggling with child support, the economically disadvantaged, student immigrants, and students having parents struggling with immigration issues. Examples show suicide tendency, membership in gangs, and crime.

5. Past indictments for Superintendents (EL PASO, DALLAS, AND ATLANTA Georgia) ISDS brought some districts down to their knees, while crime exists

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knowingly in most districts and is condoned by TRUSTEES. Although TEA published its finding pertaining to violation of C.F.R. 300.101 (see appendix page 9 para (6)), the District continues to break the law and is without oversight due to the lack of Texas TEA and AG resources.

6. The Texas Whistle Blower Act is in need of reform. It explicitly recognizes that a Private University is not a "State Entity". It does not recognize a cause of action for a private institution of higher learning and it offers restricted and limited authority to help the ISD teacher in trouble – trouble as in defending the constitution rights of students e.g. a quality education. It is the same argument as other plaintiffs, just articulated in a different way, besides funding. The qualified immunity clause is detrimental to education progress in Texas. After being denied two Writs of Certiorari from the United States Supreme Court, a price was paid; and therefore, this testimony should be of value, and not in vain. We are totally out of balance in Texas. There is a notable shift in authority and power to the school administrators due to qualified immunity, Texas Law, and management of the Texas Education Agency. Without sufficient oversight, the Administrator uses strategy to get away with egregious misconduct and abuse tolerated by the School Boards. This systematically has weakened Texas Education and has lowered our national ratings. ISD systemic flaws e.g. what was found in the Texas Education 2012 "Sunshine" Commissioner's report such as a conflict of interest will need to be addressed. As one Trustee acknowledges,

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"our system lacks an equitable forum". This systemic flaw weakens Texas Education. It hinders progress.

7. We learned from PENN STATE that Trustees are not held accountable. First hand experience with ECISD Trustees and TCU Trustees reveal cases that these leaders are allegedly aiding and embedding crimes, and that their lead attorneys are subject to negligent misrepresentation. See Boswell letter to the NCAA. These situations breed corruption. Under these scenarios, education fraud and corruption not only exists but are viewed as norm and the role model for the impressionable new teachers, the new generation.

8. School Boards are rubber stamping compliance statements in accepting State and Federal Funds and then pointing the finger at state figureheads, the Comptroller, the Commissioner, and the Board of Education. Other states are more efficient. Whistle Blowers can make a difference but even at the federal level the shortfall is identified: At page 3 of the appendix, it states: "The court may note that 3 litigants of 226 survived as a prevailing party in the Federal circuit between October of 1994 to May of 2012. Education progress is hindered due to fraud and Texas has accepted mediocrity and complacency. Filing a grievance results in retaliation. Through means of retaliation, harassment and intimidation, sexual assault victims are scarred for life with very limited remedy. (See Appendix and exhibits pertaining to Sexual Assault of an ROTC cadet and Injury to a Child). This needs to be addressed across the education spectrum. Without

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living and breathing a duty to care, our education 54 billion dollar industry fails. Worse, the organization is divided by an "US" verses "THEM" as defined (google) by Teri Cowan, ECISD Teacher of the Year. (Resignation statement published by the Odessa American in 2012).

9. The Texas Commissioner will need an increase in power and to have a readily armed "Ranger" task force capable of entering an ISD on a moment's notice, unannounced, geared for education corruption. In May of 2012, intervenor participated in a lock down with law enforcement automatic weapons; however, the blame, the scape goat, was placed on an AFRO - AMERICAN student with no mention to the fact the Principal was removed from OHS in January 2012 amidst allegations of cheating on TAKS Exams, and manipulating the data for the ECISD report card. This Principal is now an ISD Superintendent in another District in Texas. The number of students pushed out of the system under her leadership reflects an injustice because often the high school drop out feeds the pipeline for crime and the drop out looks "to belong" and becomes a member of a gang, or contributes to another statistic to the District's pregnancy rate, a rate off all charts, leading Texas. Rather than to coach low performers to find value in an extracurricular activity, as JROTC, teachers, were instructed to give failing grades and remove border line students. This had an effect of an improved ECISD report card but at what expense – the deprivation of education opportunity.

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10. From the intervenor's perspective, Texans are not in support of Teacher Unions; however, isolated education judicial cases usually do not survive and are dismissed while the complainant suffers from career damage and damage to reputation. Joel Osteen says "have faith" but intervenor advises not to place your eggs in the judicial basket, until the system changes – thus the importance of the Texas Supreme Court ruling. Texas will need to strengthen laws in support of the teacher profession. Provide teachers with the power for creativity, speech, and accountability and this will impact the quality of education, expeditiously.

11. ISD Attorneys are aiding and embedding crime. It is a conflict of interest. Make an example of one of them and this will bring integrity to management. Like the military does after battle, conduct after action reviews, use ECISD, as a tool granting immunity for honesty. Place the bottom five percent on Judicial oversight in light of the conditions placed on the whistle blower, repetitive and continued discrimination and the imminent danger to the ISD population's safety, health and welfare. ISD Policy toward retaliation states:

> **Standard 2.7 The educator shall not retaliate against any individual who has filed a complaint ... or who provides information for a disciplinary investigation or proceeding under this chapter.**

12. It is meaningless without enforcement. Even when the community's out rage results in the resigning of the ECISD Superintendent and non reelection of four of the Trustees, who is responsible for the damage, the

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scars, or to the cadet that said "NO", "NO" "NO". Our culture must change in order that we may progress. We need to feel good about planting the seed. Angela Morris writes for the Texas Lawyer on April 24, 2013 that the proposed House Bill 328 would make suppressing evidence a felony offense with no statute of limitations. This would prevent many injustices in Education for those who are injured, wrongfully accused and wrongly convicted. In the intervenor's case, the education conspirators came forward ten years later after it was safe and after a retirement could be secured. See Appendix, exhibit B – the Bright affidavit. The Texas Penal Code §39.03 governs official oppression. The ruling before this court will be immensely improved if the court will address the question of Trustees' due diligence, as the former FBI Director did in Penn State, especially as it pertains to cheating on TAKS scores, employee misconduct and conflict of interests.

13. Boswell provides another court this excerpt:

> **"In the case of ECISD, reference is made to the former student "Montimere", 22 years old, with the two accounts of sexual assault. Do ISDs cover up for conflict of interest? The embarrassment facing ECISD was that the accused identification documents were found to be in the room, a room in a residence belonging to the Permian's basketball coach".**

Intervenor detected a deficiency through the experience of filing 12 grievances, and with the Odessa culture. It appears as if winning the state basketball championship was a justifiable reason for any neglect associated with having the responsibility for foster care and teaching of applicable citizenship and morals". Remember Friday Night Lights.

> **"These retaliation unlawful schemes, while they may fall below all radar detection concerning professional ethics and running a business, they eventually will have legal**

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consequence. As long as Dr. _____ reigns ECISD, and carries the status of acting superintendent, the expectation is that retaliation will continue and more whistle blowers, besides Carr and Boswell, will be terminated even with greater force. This will add to the community's lack of full confidence. It is reported the Chief of Staff was voted in at a vote of 4 to 3. The assertion remains that his memorandum January 13, 2011 and ECISD fraudulent response to the needs of special education has contributed to an ECISD probation, and sanction, and this is cause for court inquiry for indictment concerning tying raises to test scores and conflict of interest. For example, who has asked how many more girls "under age" has this student Montimere, 22 old, victimized under the same false pretenses that the Chief of Staff conveys in overseeing each of the Boswell's grievances. Remember the ECISD student allegedly was living with ECISD Coach _____ _____ and the student pleaded guilty to two counts of sexual assault and three counts of tampering with government records. The rumor that the Chief of Staff has violated the nepotism law .... requires inquiry".

14. Policies exist but are not enforced.

Conflict of Interest - Policies BBFA, DBD

Employees are required to disclose to their supervisor any situation that creates a potential conflict of interest with proper discharge of assigned duties and responsibilities or creates a potential conflict of interest with the best interests of the District. This includes the following:

- **A personal financial interest**
- **A business interest**
- **Any other obligation or relationship**
- **Nonschool employment**

Dismissal of Noncontract Employees - Policy DCD

Noncontract employees are employed at will and may be dismissed without notice, a description of the reasons for dismissal, or a hearing. It is unlawful for the District to dismiss any employee for reasons of race, color, religion, gender, national origin, age, disability, military status, genetic

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information, any other basis protected by law, or in retaliation the exercise of certain protected legal rights. Noncontract employees who are dismissed have the right to grieve the termination.

15. In summary, Intervenor challenges ISD practices. In June, 2013, the ECISD Board approved a package of a 3.5 million investment while having a history of disproving a JROTC activity bus for an extracurricular activity. "Can an ISD School Board partake in or condone discrimination?" Boswell reports in each of the grievances and to the authorities, that there is not a valid constitutional reason for extending discrimination to the students and the work place. Boswell's complaints rise to the level of constitutional infringement, and the 250th Judicial District Court of Travis County may be able to provide direction to all ISDs. Intervenor's constitutional challenges, on behalf of teachers, center on the First Amendment right of free speech and the broader Fourteenth Amendment concept of equal protection under the law. Acceptance of state and federal money shown in intervenor's copy of the ECISD financial plan is a governing factor for false claims and contrary to the National Defense Authorization Act of 1995, National Defense Authorization Act for Fiscal Year 1996, and the Omnibus Consolidated Appropriations Act, 1997 ... which state that no funds available under appropriations acts for any fiscal year for the Departments of Defense, Transportation (with respect to recruiting), Labor, Health and Human Services, Education, and Related Agencies may be provided by contract or grant (including a grant of funds to be

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available for student aid) to a covered school that has a policy or practice (regardless of when implemented) that either prohibits, or in effect prevents, the Secretary of Defense from obtaining, for military recruiting purposes, entry to campuses, access to students on campuses, access to directory information on students or that has an anti-ROTC policy". ECISD may not be the only Texas ISD who discriminated based on national origin and who targets students who had one or more parents struggling to become residents. Intervenor's research concluded the child ranked number "1" JROTC cadet of 142 and that the parents were law biding, clean, employed and paid taxes. When the female cadet felt the impact of the administration's bullying, her parents stated to the Senior Army Instructor that she (the daughter) expressed suicide. They were intimidated by the administration and disenrolled their child from OHS.

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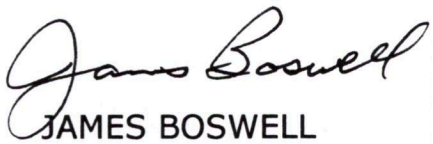
16. In summary, their appears to be Judicial momentum to really make a difference and a likelihood of a Texas Supreme court ruling. Texans will need to give the court a vote of confidence as the Court considers all sides of the controversy. Intervenor honors the input of plaintiff's and defendants testimony and expresses gratitude for making concessions and working together regarding a fix – the get well total package. May we look forward to the Education system being at a better place. As an aside for anyone advocating teachers being armed, arming ROTC instructors, Texas wide, may serve as a test case. ROTC instructors are certified and highly qualified and

may be counted on when the chips are down. Please rely on my leadership, my availability for an additional deposition, and direction on how I may be of service.



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PROPOSED ORDER

To All Board Of Trustees In the State of Texas

Notice of Posting. This notice is required to be endorsed and disseminated within all Texas Education Entities. The court has studied employee handbooks and the vestiges of discrimination, past and current, pertaining to Independent School Districts and other Education Entities. The court reminds education entities that retaliation is a form of discrimination and is against the law. Although violators will be held accountable, the burden and responsibility to change the education culture rests with each employee and through effective briefings and training on retaliation in the work place. There shall be no direct or inferred retaliation or discrimination against any student, program or educator. Let it be known that students remain the focus for quality education and that each education entity in the State of Texas is cautioned of the potential for judicial oversight. This action is deemed necessary in light of TSA conditions placed on recipients of state and federal education funds, and the imminent danger to the education population's safety, health and welfare.

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Signed Judge

THE HONORABLE JOHN K. DIETZ

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was delivered to Defendant's attorney for record and that the Judge's copy was provided by certified mail, return receipt requested, in a post office or official depository under the care and custody of the United States Postal Service; Coordinated on this day of August 20, 2013.

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BOSWELL APPENDIX TO ATTACHED LAW SUIT AMENDMENT PURSUANT TO THE FALSE CLAIMS ACT

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Exhibit A - James Boswell's deposition extracts signed July 26, 2013.

Exhibit B - James Boswell's consumer complaint sent to the Texas Attorney General, affidavit signed August 8, 2013.

Exhibit C – Extracts of the Honorable Magistrate Judge's "preliminary" findings of facts and recommendations signed August 7, 2013.

Exhibit D - Boswell's letter to the National Collegiate Athletic Association, dated August 9, 2013.

Exhibit E – Boswell's complaint to the Office of Civil Rights (Dallas, Tx) dated August 19, 2013.

Exhibit F – Boswell's letter to Major General Jeffery Smith Commanding General of Ft. Knox and U.S. Army Cadet Command August 9, 2013.

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CERTIFICATION

State of Texas

County of Tarrant

Before me, the undersigned notary public, this day, personally, appeared James Boswell to me known, who being duly sworn according to law, deposes the following as an affidavit in support of a claim with the provisions of the False Claims Act.

In accordance with Texas Rule of Appellate Procedure 52.3 (1) (A), the following documents are provided:

Exhibit A - James Boswell's deposition extracts signed July 26, 2013.

Exhibit B - James Boswell's consumer complaint sent to the Texas Attorney General, affidavit signed August 8, 2013.

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and that these documents are true and correct copies of the same. I sign, while under oath, this affidavit in the presence of a notary.

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INTRODUCTION

Whistle Blower or Relator defined by the False Claims Act (FCA) is James Boswell. Boswell is also the President of a non profit organization, Veterans Helping Veterans. In 2012, before a wrongful termination, relator served as the Chaplain and 1st Vice President of the American Legion, Post 430, as an active member in the Rotary Club, Lions Club and Veterans for Foreign Wars (VFW).

Vets helping Vets is a non-profit, public interest organization dedicated to helping Veterans do the following:

a) obtain education and veteran benefits

b) maximize their success in an appearance before Armed Services'

Administrative Boards

c) overcome education fraud and abuse

d) combating fraud against the government

e) protecting public resources through public-private partnerships

Early on, regarding the whistle blower efforts concerning misconduct in the education industry, the relator received the endorsement and support of the United States Senate Armed Services Committee. This letter from Senator Sam Nunn is a document to the pending law suits in Boswell v TCU in United States Northern District Court in Texas (**Case 4:13-CV-00208-Y)** February 11, 2013 and to Boswell v ECISD in the United States Western District Court in Texas **(Case 7:12-CV-00108-RAJ)** October 29, 2012.

Now relator request to amend these law suits by this sealed document presented separately to 1) the USWDC of Texas to adjudicate the claim against Ector County Independent School District and 2) to the USNDC of Texas to adjudicate the claim against Texas Christian University.

Relator notes the Administrative ruling concerning TCU, in the relator favor:

MILITARY WHISTLEBLOWER INVESTIGATION, FORMER MAJOR JAMES. D. BOSWELL, U.S.ARMY H94L56226017 where the DOD Inspector General interviews the Deputy Assistant Secretary of the Army for Review Boards and Equal Employment Opportunity Compliance and Complaints (page 165 of court document Case 4:13-CV-00208-Y) which states:

"he now believes he made the wrong decision and characterized it as "arbitrary" and contrary to the principles of equity he generally employed in similar circumstances.

Footnote 9 "In Mr. Boswell's case, the fact he engaged in whistle blowing activity is not in dispute"

This new FCA claim is based on excerpts of the aforementioned Exhibit A, B, C, D, E and F and serve as the initial evidence of education corruption, fraud and abuse. The relator notes that he is the original source of the claims.

Relator is a University of Texas 1973 Distinguished Military Graduate, with a teacher certification in Secondary Education, and a 1991 Public Administration (MPA) graduate of the University of North Texas, and a 2010 certified United States Army ROTC Instructor. Realtor is an honor graduate of the United States Army Ranger School. Realtor's career highlights and experience include a total of military service equating to twenty-two years (Major to Sergeant and back to Major), five years instructing at the University level, and three years at the High School level.

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Relator's experience with education corruption includes two wrongful terminations, one at the University level teaching ROTC and one at the high school level teaching JROTC. In both experiences, realtor participated in investigations as a witness in violation of Title IX of the education Amendments of 1972, which prohibits discrimination on the basis of sex. Realtor witnessed the administration's bullying concerning assault and sexual assault resulting in female cadets leaving the ROTC program. Following the assaults and the discharge of the female victims, realtor filed retaliation complaints and these complaints had a causation effect to termination and injury. These institutions' injury, intimidation, and harassment continues today, and effects the realtor's retirement and senior privileges and benefits, including realtor's veteran benefits in violation of the the United States Department of Education office of Civil rights – Region VI policy on OCR complaint processing procedures paragraph entitled **Prohibition Against Intimidation or Retaliation** page 6.

Relator request to testify before the next Legislative, Executive, or Judicial hearing concerning the FCA, education fraud, waste and abuse, and on the subject of bullying and sexual assault and to address three issues in testimony that will be beneficial to any presiding President or Judge.

The importance of reform is already so eloquently addressed in the history of the writing and passing of the False Claims Act and with the passing of the Whistle Blower Enhancement Act of 2012. The court may note that 3 litigants of 226 survived as a prevailing party in the Federal circuit between October of 1994 to May 2012.

Relator's testimony is relative to the Committee on the Judiciary and the Committee on Government Oversight and Government Reform concerning the relevancy of: a) the law and procedures that govern the Department of Justice's decision-making process with regard to intervention in qui tam cases; b) the whistle blower's personal experiences with regard to those intervention decisions and how they deter whistle blowers from coming forward, and c) the relator's importance on the analogy of the Texas Whistle Blower Act and the False Claims Act by the **5th Circuit's case in Michael Riddle** v. DYNCORP ET. AL. No 11-10155 filed January 5, 2012 which provides:

"The FCA prohibits making fraudulent claims for payment to the United States. 31 U.S.C. § 3729(a). To enforce this prohibition, the FCA creates a cause of action for any person retaliated against by his employer for attempting to prevent an FCA violation. 31 U.S.C. § 3730(h)".

"The FCA provides, in pertinent part: Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other

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manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent or associated others in furtherance of an action under this section or other efforts to stop 1 or more violations of this sub chapter" 31 U.S.C. § 3730(h)(1).

After the relator reports his April 2, 2012 findings to the Secretary of Education (SOE) and to the SOE's Inspector General in a follow up report November 20, 2012, the Americans for Prosperity published a media article June 19, 2013, entitled "ECISD Clearly Has More Money Than Sense" addresses that the District gave a $ 100, 000.00 public relations contract to a family member of someone who had promoted their last successful bond package. ECISD school board voted to spend 3.25 million to partner to build a $ 27 million, 234 – unit luxury apartment complex investment package and this has resulted in State District Judge John Dietz reopening a case pertaining to ECISD. The relator reports continuing violation of the use of state and federal funds.

Before this testimony, the relator reviewed the correspondence with the Secretary of the Education, Arnie Duncan, with Assistant Attorney General Thomas Perez, with Cadet Command, Army General, Major General Jeffery Smith and with Texas Attorney General, Gregg Abbott, recommending intervention, and returning funds due to non compliance with 10 U.S.C. 983, 20 U.S.C, applicable DOD regulations, the False Claims Act and Dodd-Frank Act.

Concerning ECISD, Relator's report to the ECISD police and to the Texas Rangers concerning illegal ECISD fund raisers, denial of education funds, and misapplication of fiduciary property, violate ECISD policy and Ector County health codes. Relator grievance number 2 and correspondence to the Ector County prosecution attorney confronted topics such as cheating on TAKS exams, misapplication of $ 800,000 of transportation funds, mutilation of ECISD pigs at the Agriculture farm resulting in five animal fatalities, and numerous student causalities for the No Child Left Behind Act. Community outrage can not be ignored due to the community ousting of all four Trustees up for reelection in July 2013, and subsequent resignation of the superintendent. Ector County will continue to lead the nation in high school pregnancy unless all three branches of government intervene.

Concerning TCU, TCU misplaced priority on sports and indifference to sexual assault and Title IX is reported to the NCAA (See Exhibit D).

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FALSE CLAIMS ACT COMPLAINT FORMAT

1. Relationship. I am a relator who worked at both education facilities, Ector County Independent School District and Texas Christian University in the capacity of Reserve Office Training Corp Program (ROTC) instructor.

2. I testify against **two education entities.**

Ector County Independent School District located in Odessa, Texas

Texas Christian University located in Ft. Worth, Texas

3. Both Entities have an agreement/contract with Department of Defense, and the Department of Education, and specifically receive Department of Defense money pertaining to ROTC grant and funding, either in the form of scholarship money, funding and/or Department of Defense and Department of Education grants. Furthermore, entities were required to commit to equal opportunity opportunities and compliance criteria. Entities reference literature and Board of Trustee policy require that an employment applicant will receive consideration for employment without regard to age, disability, marital, or parental status, national origin, citizenship, race, color, religion, sex, sexual orientation, or political affiliation.

a. I provide twelve grievances against ECISD that show discrimination and retaliation for opposing discriminatory conduct based on age, disability, parental status, national origin, citizenship, race, color, religion, and sex. On August 7, 2013, the Honorable Magistrate Judge of the United States Western District Court of Texas filed a report and recommendation which included that "the undersigned recommends that the following claims should not be dismissed at this stage of litigation:

(1) Plaintiff's claim asserting violations of the Fourth Amendment under 42 U.S.C. § 1983; and

(2) Plaintiff's claim asserting First Amendment retaliation under 42 U.S.C. § 1983".

b. Relator has filed a lawsuit against Trustees Texas Christian University and a grievance and consumer complaint against TCU that shows the elements of an FCA action, discrimination and retaliation for opposing discriminatory conduct based on age, race, sex, and political affiliation.

4. The exact amount of each federal grant, subgrants, or subcontracts is requested through discovery. In both cases the amount of funds is greater than $ 6,000,000.00 per year for the last three years.

a. The relator points to ECISD's financial plan Federal Awards as $ 38,828,468.00 and Total Government Revenues as $ 244,279,830.00 and the itemization of state and federal funds. The victim source includes the Department of Defense and Department of Education funds, received since October 1, 2010.

b. The relator points to Texas Christian University response and

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admission to discovery to receiving approximately $6,000,000.00 per year. The victim source includes the Department of Defense and Department of Education funds, received since October 1, 2010.

c. In April 2012, the relator was a state employee, employed at Ector County Independent School District. The relator provided a whistle blower complaint on April 2, 2012 by letter to The Secretary of Education, the Texas Governor and Texas Rangers. Correspondence to the Secretary of Education required using a whistle blower format that specifies the entities. **The realtor lists ECISD and TCU as separate entities.** After this the April 2, 2012 letter to the law enforcement agency, the Texas Rangers interviewed the relator and promised to make contact with the entities. Afterwords, the following retaliation actions occurred:

1. The relator received an ECISD termination letter dated April 17, 2012 and this was causation for a retaliation claim and injury.

2. The relator received a TCU letter dated December 10, 2012 in retaliation for protected First Amendment Free Speech for asserting (1) Plaintiff's claim asserting violations of the Fourth Amendment under 42 U.S.C. § 1983; and (2) Plaintiff's claim asserting First Amendment retaliation under 42 U.S.C. § 1983". The letter violates the Texas Constitution and provides for disparate treatment because the No Trespassing order is without due process. This is causation for a retaliation, harassment, and intimidation claim and Veteran student education claim for discrimination. The relator has incurred injury.

3. Secretary of Education declined to accept an invitation to investigate or prosecute the case by letter, January 13, 2013. Relator regards this declination as an exhaustion of all administrative remedy, and relator files a timely FCA action within two years and a Frank Dodd violation within 3 years.

Relator notes The False Claims Act provides:

> **"that a private party, referred to as a qui tam plaintiff or relator, may bring a False Claims Act cause of action on behalf of the United States by filing a complaint under seal and serving the complaint and disclosure of material evidence and information on the United States. 31 U.S.C. § 3730(b). The False Claims Act then provides the United States with sixty days, plus any extensions granted by the court for "good cause" shown, to investigate the relator's allegations while the case remains under seal and decide whether to intervene in the case, or, in other words, to join the case as a party and take over the litigation. Id. The case remains under seal until the deadline for government's decision on intervention. Id. At the end of this period of time, the United States must notify the court whether it wishes to intervene in the lawsuit. Importantly,**

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when the government decides not to intervene in a case, it is neither resolving the case nor dismissing the case. The False Claims Act contains a "private attorney general" provision that permits the qui tam plaintiff to proceed with the litigation on his or her own following a government declination. 31 U.S.C. § 3730(b).

Although the Constitution entrusts the Executive with the duty to "take Care that the Laws be faithfully executed." U.S. Const., Art. II, § 3, court cases reveal a consistency of declination and as the U.S. Supreme Court held in Heckler v. Cheney:

"an agency's decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency's absolute discretion." Heckler v. Cheney, 470 U.S. 821, 831 (1985).

The federal courts have addressed the question of what it means for the Department of Justice to have virtually "unfettered discretion" over a prosecutable decision in a False Claims Act case. Justification includes: preventing the release of classified information; protecting national security; and, conserving scarce law enforcement resources.

In this case, it is recommended that the attorney investigator draft a memorandum for the Director of the Commercial Litigation Branch to submit to the Assistant Attorney General for the Civil Division.

Relator asserts in ECISD he had 25 special education students and many students were left behind and not afforded equal opportunity to participate in the JROTC federal program. This was in violation of the No Child left Behind Act and Title IX. Females and minorities were affected more than males and Caucasians. Relator submitted a grievance addressing this issue.

Relator asserts that at TCU and ECISD that a number of students and workforce contract employees were injured. Essentially, a number of critics complained and were terminated, falsely accused as a pretext and arrested. See exhibit B.

A number of employees were involved in the discriminatory practice and conspiracy to fraudulently accept the government's funding knowingly. While the program agency is generally in the best position to assess whether it has been a victim of false claims and whether broader programmatic concerns and priorities argue for or against pursuit of the qui tam case, please recognize the inherent conflict of interests.

As example, in Texas funding for the crime and public integrity task unit was cut in 2013. With limited resources, the governing political enforcement now must pick and choose which cases to accept, and this breeds political retaliation or the perception of cashing in of political favors. See the Monitor May 8, 2013 "La Joya

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ISD settles for $1.5 million in lawsuit alleging political affiliation. Over a period of ten years, regardless of the political affiliation, this has a damaging effect to the intent of the False Claims Act. Politics and race are factors to a claim.

It may take three months, due to the scarcity of resources at the Investigating Department, to respond but please consider the importance and the damage to the justice system and to the tax payer. In this case, the Department of Defense is affected because the same leaders in charge of discriminating also have the discretion to select ROTC recipients. This is where minorities and females fall short widening the gap for equality. **Relators must understand that the Department of Justice intervenes in only about 20 percent of filed qui tam cases**. This relator's experience in three whistle blower actions is that a conflict of interest occurs in making its intervention decisions, based on broad programmatic and political interests. Therefore, the relator request the Department of Justice intervene or expressly allow the case to proceed with the relator litigating on behalf of the Government.

With the Independent School District, ECISD, and Private University, TCU, the relator makes the observation of cover up, official oppression, and suppression of evidence. The Board of Trustees of these entities have been apolitical and highly unethical in their decision-making; they also have been intelligent and careful to cover up for any mistakes and to, as a pretext, take adverse employment actions against a critic as a routine pattern of conduct.

The relator asserts that by allowing these cases to proceed, this will exemplify that the False Claims Act serves the public interest. It will also bear facts showing how the entities are out of compliance with professional responsibility and ethical obligations, and how fund compliance is managed as a "rubber stamp" on staff recommendations.

To be successful, this relator has establish the violation of a regulation, and has demonstrate that the agency considered compliance with the regulation to be a prerequisite for the defendant to be entitled to receive the funds, the regulatory noncompliance is a "material" to the government's payment decision. These entities "knew" that its' claims were false under the regulations and program instructions governing the agency program.

Both lead attorneys for Texas Christian University and Ector County Independent School District signed correspondence alleging violations and yet accepted the money. The realtor's dependence on these signatory authority and Education Institution's literature give rise to a claim of **negligent misrepresentation.**

At ECISD the Chief of Staff memo dated January 13, 2011 citing "legally indefensible" and the Texas Education Agency citing violation of 34 C.F.R., sanctioning ECISD, and placing ECISD on a probation status for a year is evidence of acknowledgment. ECISD acceptance and approval of the Financial plan, and

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disclosure for compliance without explanation of **the violations are important** omissions. This employee reasonably believed, before the retaliation discharge, problems occurred with the ECISD Total Expenditures of Federal Awards as $ 38,828,468.00 and Total Government Revenues as $ 244,279,830.00 (ECISD Financial report, page 19). Grievances 1-12 were provided to ECISD showing the following evidence:

(1) gross mismanagement of an agency contract or grant relating to covered funds;

(2) a gross waste of covered funds;

(3) a substantial and specific danger to public health or safety related to the implementation or use of covered funds;

(4) an abuse of authority related to the implementation or use of covered funds; and

(5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

(6) Texas Education Agency report 068-901 FY 2011-2012 in complaint 20127439 May 25, 2012 makes a conclusory statement that ECISD violates the free appropriate public education under 34 CFC 300.101.

Plaintiff filed suit October 29, 2012 highlighting that: "Defendant engages in fraud and violates this court's consent order settlement agreement which required defendant to eliminate the vestiges of past discrimination to extent practical". "Defendants pursue a pattern or practice of retaliation against their perceived critics by subjecting them to baseless criminal actions, unfounded accusations, or merit less administrative actions, by placing employees on administrative leave, frequently harassing them, and engaging in adverse employment actions, reprimands and termination on the basis of retaliation for being a witness to the discrimination statutes". Para 12 f, states Plaintiff cites misconduct concerning program fraud, fraud reported to the state and federal authorities April 2, 2012 and to the Odessa District Attorney September 17, 2012 pg H-23. ECISD was provided copies of these reports and was given fair notice.

Likewise, at TCU the pattern of sexual assaults are legally indefensible and the number of law suits implicating fraud without full disclosure in the Clery Act, together in corroboration with a documented conspiracy effort to remove the whistle blowers, while students and complainants continued to be injured. The NCAA has warned TCU about the pattern of violations.

Relator hopes to see a United States District Court equity action and 5th Circuit support with heavy reliance on the the U.S. Department of Defense Military

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Whistle Blower Inspector General Report, and rather than working with a defendant to address the problem while continuing to provide financial assistance, the Court is requested to provide a large punitive damage award to remedy the future safety for students and critics of fraud.

The FCA prohibits making fraudulent claims for payment to the United States. 31 U.S.C. § 3729(a). To enforce this prohibition, the FCA creates a cause of action for any person retaliated against by his employer for attempting to prevent an FCA violation. 31 U.S.C. § 3730(h). At the time relator complained about Texas Christian University's fraudulent actions, on April 2, 2012, the relator was a public employee working for the State of Texas.

The relator notes that Texas Christian University recommended that the United States Army terminate the relator's contract previously and at the time the relator was a federal employee with an ROTC assignment at TCU. The Secretary of the Army accepted the Department of Defense Military Whistle Blower Reprisal Investigation and attempted to make the relator whole again, but without Texas Christian University corporation as addressed in the December 2012 correspondence. In fact, TCU complicates the adverse employment action with more retaliation – the no trespassing letter again violating the constitution amendments. In Riddle, the district court applied the limitations period contained in the TWA, which creates a cause of action for public employees who are retaliated against for reporting unlawful conduct by their employer or other public employees. TEX. GOV'T CODE ANN. § 554.002. **The TWA did not protect Boswell in former actions against TCU. Boswell relies on the phrase from 5th Circuit's "Riddle" "In the light of Texas's status based whistle blower regime".**

Relator is now a prospect employee and prospect graduate student to TCU. The relator chooses to resume graduate work and to be a student activist and to run for election on the student Senate committee to help reform the current verbiage in the Employment 2012/2013 handbook as articulated in the consumer complaint filed with the Texas Attorney General Exhibit B.

Irregardless, the District Court may see the value in the application of Fifth Circuit ruling in an Equity Action in Turner v. Pleasant, 663 F.3d 770 (5th Cir. 2011)

> **"For an independent action in equity to survive, "the injustice to be remedied must be so severe as to overcome the purposes for the doctrine of res judicata." Emphasizing the historic context of this case and the developed allegations of fraud brought to light by the House Judiciary Committee's report, the Fifth Circuit concluded that**

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the plaintiffs had alleged plausible facts to support the action in equity. The Court therefore reversed the district court's dismissal ruling and remanded the case",

Riddle v. Dyncorp Int'l Inc., 666 F.3d 940 (5th Cir. 2012), applies:

"The Court found that the two-year period applicable to personal injuries was the more closely analogous Texas statute of limitations."

The Court noted that Texas recognizes a cause of action for wrongful discharge when a person is terminated for refusing to commit an illegal act.

Relator asserts the No Trespassing action December 10, 2012 not only violates the constitutional 1st Amendment and Forth amendment clauses but causes the relator and his non profit organization Veterans helping Veterans personal injury. Under the terms of employment and Texas Labor Law, "blacklisting" is a form of retaliation and discrimination. The relator's letter requesting an audience with the Texas Christian University Trustees and similarly in the meeting with the Ector County School Board of Trustees concerning the wrongful termination discharge action provided the notice that this FCA action would be forthcoming.

Under the Department of Defense governing contract, compliance with policies defining "non discriminating" and "safe environment" are prerequisite to the entities entitlement to financial assistance.

The "materiality" standard is met. Any Civil Fraud Section cursory examination of these entities practices would have revealed the entities non-compliance. Until there is an indictment for aiding and embedding, the current culture in favor of continuance of fraud and abuse appears to favor the institutions and represent clear conflict of interest to the founders of the False Claims Act, the Whistle Blower Enhancement Act, the No Child Left Behind Act, and the Dodd-Frank Act.

As Riddle discusses, the Texas Whistleblower Act, carefully examined was not designed to offer remedy for the relator in a False Claims Act.

Without any since of aggressiveness by Federal and State actors, the 54 billion dollar education industry remains most futile ground for the violators of the American Reinvestment and Recovery Act. Civil Conspiracy and attorney negligent misrepresentation is ignored. The relator had "direct and independent knowledge" of the allegations and had provided that information to the Government before amending the law suit to include a false claims act violation. Thus far, the relator's allegations of fraud have not been disclosed by the media. The relator was an insider within the Education institutions operation level. He was required to submit and operate an ROTC budget.

The relator asserts that the entities exercised official oppression and suppression

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of evidence. The reason is because the relator had such a clear, direct and independent knowledge and unique perspective of the facts underlying the case. This danger to defendant's was reason for false arrest and death threat.

The education entity retaliation and response mechanisms in multiple fashions deter others and whistle blowers from bringing qui tam cases. Evidence of the relator colleagues' fear of reprisal is significant. It is unlikely for a relator to prevail under the current culture of legal challenge, the inequities, and the broader programmatic concerns of the Civil Rights Division and the Department of Justice's enforcement of fraud. Under the law, the Department of Justice does not prevent the relator from pursuing a case.

The following documents show the relation between the two education entities, ECISD and TCU.

Live testimony to the ECISD School Board

Boswell read ahead packet to the ECISD School Board making numerous references to the employment at TCU.

Boswell document dated April 2, 2012 to the following authorities: Texas Rangers, The Governor of Texas, The Secretary of Education, and US Army Cadet Command, all of which point to fraud and acceptance of federal money.

Boswell Deposition taken July 3, 2013.

This deposition at Exhibit A provides insight to the case

page 112.15

A. When I was a whistle blower at Texas Christian University, concerning the sexual assault, date rape, I was ordered to - - I was ordered to go to the hospital and sign in for psychiatric evaluation.

page 71.5

Q. Do you understand what fraud is ...

page 71.9-14

A. Yes, Sir. if you were to Google on the internet the indictment from the superintendent of El Paso and the indictment from the

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superintendent of the Atlanta school district, and you compare that with some of the things that were going on in ECISD, then my conclusion is that ECISD has committed fraud.

page 71.19-21

A. By reporting fraud, that -- that warranted a response from ECISD, which is basically the retaliation. And when you look at my Plaintiff Exhibit 3 ...

page 71.21

A. sentence that says this misalignment of instructional setting and assessment has placed the Special Education students in the ECISD into a position that is not best for them or legally defensible by the District.

page 116.6-8

Q. And as a matter of fact, the federal courts have basically said that you're a lawsuit bully with the way that you bullied, TCU right?

page 116.9

A. I don't interpret it that way, sir. The reason why the lawsuits got dismissed was because of statute of limitations. That's the main reason. When the statute of limitations, you know, you only have like so many years to file the lawsuit, and when the evidence is oppressed and suppressed, then that's a tactic that some entities use.

page 118.1

A. Senator Sam Nunn read my documentation and ... said it was in the view of public interest that my case needed to be looked at for reporting a sexual assault.

page 118.12

A. After Penn State, I wanted the Board of Governors to see the proof of the sexual assault, the statement that she made, the lie detector polygraph examination, that she took, and all that was like evidence ...

page 131

James Boswell and notary signature

Relator asserts the No Trespassing action December 10, 2012 violates

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the constitutional 1st Amendment and Forth Amendment clauses and is cause for the relator's personal injury.

As for claims against ECISD, EXHIBIT C Pages 31 – 36 summarizes the claims which survive:

To establish a prima facie First Amendment retaliation claim under 42 U.S.C. § 1983, a plaintiff must show: (1) he suffered an adverse employment decision; (2) the speech dealt with a matter of public concern; (3) his protected interest in speaking on matters of public concern outweighs the employer's interest in efficiency; and (4) his speech motivated the adverse employment decision. Haverda v. Hays Cnty, No. 12-51008, 2013 WL 3753964, at *6 (5th Cir. July 17, 2013); Strotter v. Univ. of Tex. at San Antonio, 508 F.3d 812, 825 (5th Cir. 2007); Beattie v. Madison Cnty Sch. Dist., 254 F.3d 595, 601 (5th Cir. 2001).

Plaintiff pleads sufficient factual allegations taken as true to survive Defendants' Motion to Dismiss and assert a First Amendment retaliation claim against Defendants under section 1983. See Ashcroft v. Iqbal, 556 U.S. 662, 678–79 (2009) (citing Bell Atlantic Corp. v. Twombly, 550 U.S. 554, 555–58 (2007)); Hale v. King, 642 F.3d 492, 499 (5th Cir. 2011). As an initial matter, Plaintiff pleads facts showing that he suffered an adverse employment action when his employment with ECISD was terminated. Beattie v. Madison Cnty Sch. Dist., 254 F.3d 595, 601 (5th Cir. 2001); (Doc. 23 at 4).

Plaintiff also pleads enough facts taken as true to support an allegation that his speech was a matter of public concern. See Iqbal, 556 U.S. at 678–79; Beattie, 254 F.3d at 601.

Plaintiff's supplemental pleading and the copies of the actual grievances now on file with this Court set forth an array of allegations of ECISD misconduct ranging from cheating on the TAKS test to discriminatory practices against minority students. (Id.). Plaintiff also describes participating in a public meeting where he alleged misapplication of $800,000.00, in funds by ECISD. (Doc. 2 ¶ 45 at 16; Doc. 23 at 4–5; Doc. 28 at 7). Additionally, Plaintiff alleges that he submitted complaints to a variety of governmental agencies while employed with ECISD regarding issues of discrimination and misapplication of fiduciary property. (Doc. 2 ¶ 53 at 19, ¶ 68 at 23–24; Doc. 2-2); see supra at 6–7. Based on the aforementioned, Plaintiff pleads facts sufficient to show facial plausibility that his speech was on issues of public concern. See Iqbal, 556 U.S. at 678–79. Plaintiff's factual allegations concerning ECISD's misconduct, set forth in his internal grievances to ECISD and complaints to various governmental agencies, accepted as true, present enough factual content to assert that his protected interest in speaking on matters of public concern outweighs ECISD's interest in efficiency. See id; Beattie, 254 F.3d at 601. Plaintiff also presents enough facts, taken as true under the liberal pleading standard afforded a pro se plaintiff, to assert that his speech on issues of public concern lead to the retaliatory adverse

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employment action. See Iqbal, 556 U.S. at 678–79; Beattie, 254 F.3d at 601. Specifically, Plaintiff alleges that after he provided the Texas Rangers on April 2, 2012, ... See Strotter v. Univ. of Tex. at San Antonio, 508 F.3d 812, 825 (5th Cir. 2007) (a section 1983 claim for First Amendment retaliation requires a showing that protected speech was causation for the adverse employment action).

Lastly, Plaintiff alleges enough facts taken as true to support an allegation that Defendants' actions were an official policy for section 1983 liability through custom. See Iqbal, 556 U.S. at 678–79; Harris v. Victoria Indep. Sch. Dist., 168 F.3d 216, 22d (5th Cir. 1999); Webster v. City of Houston, 735 F.2d 838, 841 (5th Cir. 1984).

Plaintiff asserts that he was a victim "for complaining about constitutional infringements" and that "ECISD unlawfully discriminates against outspoken teachers." (Doc. 2 ¶ 50 at 18). Plaintiff further alleges that "Defendants pursue a pattern or practice of retaliation against their perceived critics by subjecting them to . . . meritless administrative actions, by placing employees on administrative leave, frequently harassing them, and engaging in adverse employment actions, reprimands and termination on the basis of retaliation for being a witness to . . . discrimination . . . ." (Id. ¶ 12 at 6). Plaintiff also asserts that employees who file complaints or grievances are targeted by the administration and subject to harassment. (Id. ¶ 23 at 10–11). Plaintiff alleges that he was a victim of such retaliation and provides descriptions of others who experienced similar actions by ECISD. (Id. ¶ 50 at 18). In addition, Plainitiff pleads facts to show that he was personally placed on administrative leave. (Id. ¶ 45 at 16; Doc. 28 at 7).

Based on the aforementioned, and under the liberal pleading standard afforded a pro se litigant, Plaintiff has pleaded sufficient factual matter, accepted as true, to support a section 1983 claim that Defendants' official policy via custom is facially plausible. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (citing Bell Atlantic Corp. v Twombly, 550 U.S. 554, 570 (2007)); Harris v. Victoria Indep. Sch. Dist., 168 F.3d 216, 22d (5th Cir. 1999).

In summary this affidavit has detailed sufficient factual matter, accepted as true, to support a False Claim Act cause of action, and an indictment per the Texas business and commerce chapter 15 Conspiracy in restraint of trade, a claim under the provisions of the Texas Deceptive Trade Practices Consumer Protection Plan, a tort against the lead attorney's for TCU and ECISD concerning negligent misrepresentation and for political retaliation, violation of the Dodd-Frank Wall Street Reform and Consumer Protection Act, violation of 10 U.S.C. 2102 (b) (1) reference (e). Appendix 5, para.5.2.3.and U.S.C. 983, concerning discrimination pertaining to military contracts, Title IX as implemented by 34.C.F.R. and 106.8 b because female ROTC cadets are deprived from the ROTC program due to the aforementioned entity misconduct.

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James Boswell

James D. Boswell

Subscribed and sworn to before me this 19 day of August, 2013.

Notary Public

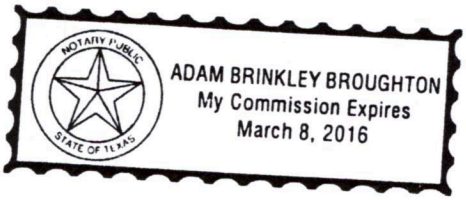

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Exhibit A

TO THE RELATOR'S CLAIM PURSUANT TO THE FALSE CLAIMS ACT

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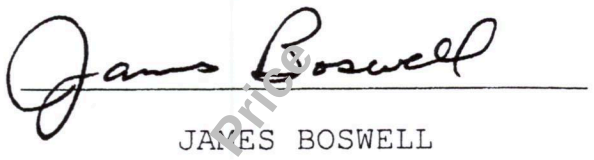
PENGAD 800-631-6989
PLAINTIFF'S EXHIBIT
FCA A

I, JAMES BOSWELL, have read the foregoing deposition and hereby affix my signature that the same is true and correct, except as noted above.



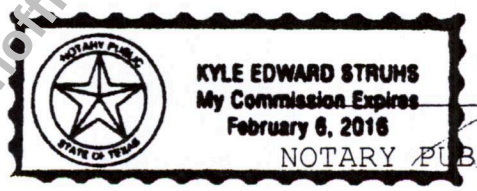
JAMES BOSWELL

THE STATE OF TEXAS)

COUNTY OF Tarrant)

Before me, Kyle Struhs, on this day personally appeared JAMES BOSWELL, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 26th day of July, A.D., 2013.



NOTARY PUBLIC FOR THE STATE OF TEXAS

My Commission expires: Feb 6th 2016

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A. No, sir.

Q. Okay. Mr. Boswell, you've also alleged in your live pleadings a violation for fraud.

A. Yes, sir.

Q. Do you understand what fraud is what exactly -- strike that.

Explain to me what exactly you allege is your cause of action.

A. Yes, sir, if you were to Google on the internet the indictment from the superintendent of El Paso and the indictment for the superintendent of the Atlanta school district, and you compare that with some of the things that were going on in ECISD, then my conclusion is that ECISD has committed fraud.

Q. Okay. How -- help me understand, then, Mr. Boswell, how their fraudulent, what you allege as fraudulent conduct brings damage to you under the tort theory that you've alleged.

A. By reporting fraud, that -- that warranted a response from ECISD, which is basically the retaliation. And when you look at my Plaintiff Exhibit 3 to the document that you just referred to as second amendment pleadings --

Q. Uh-huh.

A. -- and you see that -- you read that one

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sentence that says this misalignment of instructional setting and assessment has placed the Special Education students in the ECISD into a position that is not best for them or legally defensible by the District. This has been discussed with all district leaders on multiple occasions.

So what we're saying here is that the Special Education program knowingly has been neglected and now you've got teachers out there that are basically going to raise a flag and say, "I'm going to file a grievance on this". And then what happens to them? They get -- if they -- I can tell you what happened to me, retaliation.

MR. CRUTCHER: And again, objection, nonresponsive.

Q. (BY MR. CRUTCHER) And Exhibit Number 3 that you just pointed out, Mr. Boswell --

A. Uh-huh.

Q. -- who is that document between?

A. That is -- that document is between Dr. Sanchez, from H.D. Sanchez to the principals.

Q. Okay. That document's not to you?

A. No.

Q. Okay.

A. But it was delegated -- it got distributed.

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that you filed several grievances they've been heard and people just disagreed with you and you just can't accept that disagreements, can you?

A. Grievance number 5 was heard. There was one other grievance that was heard. That's it. Two out of 12? Where are the grievances? You have a policy in ECISD that you don't respond to grievances like you're supposed to.

MR. CRUTCHER: Objection, nonresponsive.

Q. (BY MR. CRUTCHER) I don't believe there's a question on the table, Mr. Boswell.

A. Okay.

Q. Mr. Boswell, have you ever been diagnosed with or treated for any sort of mental illness?

A. When I was a whistle blower at Texas Christian University, concerning the sexual assault date rape, I was ordered to go to a -- I was ordered to go to the hospital and sign in for psychiatric evaluation.

Q. So that would be a yes to my question?

A. No, because my attorney got involved, and I didn't have to go.

Q. Okay. Have you ever been treated for a mental illness?

A. No.

Q. Have you ever taken medicine for a mental

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all my lawsuits.

Q. Okay. Filing unbased, frivolous lawsuits against entities that can cost them lots of time and money, that can be another form of bullying, can't it?

A. I don't feel my lawsuits are frivolous, sir.

Q. And as a matter of fact, the federal courts have basically said that you're a lawsuit bully with the way that you bullied TCU, right?

A. I don't interpret it that way, sir. The reason why the lawsuits got dismissed was because of Statute of Limitations. That's the main reason. When the Statute of Limitations, you know, you only have like so many years to file the lawsuit, and when the evidence is oppressed or suppressed, then that's a tactic that some entities use.

Q. So you recognize and agree with the Statute of Limitations, Mr. Boswell, correct?

A. Yes, sir, unless they're told. And maybe in one case on the tort actions, it may be told.

Q. Okay. Now, you filed a federal lawsuit against ECISD as well, correct?

A. Yes, sir.

Q. Can you tell me what's different about that lawsuit versus this lawsuit?

A. Yes, sir.

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Senator Sam Dunn read my documentation and went to my behalf. He's the one that said that basically it was in the view of public interest that my case needed to be looked at for reporting a sexual assault. And on the Department of Defense side, IG investigation, they actually ruled in my favor, retaliation. They found retaliation.

Q. And through the TCU lawsuits, you cried whistle blower, but that was never to be founded to the point to where you're not welcome at TCU anymore, right?

A. Oh, I've got a -- that was the reason for the most recent lawsuit is that I wanted go back after Penn State, I wanted to go back to the board of governors, I wanted them to hear my case again. I want the board of governors to see the proof of the sexual assault, the statement that she made, the lie detector polygraph examination that she took, and all that was like evidence, but because of the Statute of Limitations expired, the court wouldn't look at it.

However, the administration court at the Department of Defense did look at it. As a matter of fact, senator Sam Dunn says that in his letter. He says even those the Statute of Limitations has expired, I would like for Mr. Boswell to have, you know, a careful consideration relook and then they relooked at it and

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Exhibit B

TO THE RELATOR'S CLAIM PURSUANT TO THE FALSE CLAIMS ACT

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PENGAD 800-631-6989
PLAINTIFF'S EXHIBIT
FCA B

BOSWELL APPENDIX 6

CONSUMER COMPLAINT FORM

Boswell Affidavit and Certification

Notarized August 15, 2013

WITH 3 EXHIBITS

Exhibit A LETTER from Army Lieutenant Colonel James Bright

Exhibit B LETTER from Marine Colonel Don Ezell

Exhibit C LETTER from Shauna Boswell

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GREG ABBOTT
Attorney General of Texas

File#:

Consumer Complaint Form

- The information you report on this form will be used to help us investigate violations of consumer laws.
- **The Attorney General's Office does not resolve individual consumer complaints.**
- This complaint and the information you provide are records open to the public under Texas Law.
- We may send a copy of this form to the Business, so **please write legibly and use black ink only.**
- Please attach copies of any documents necessary to explain the transaction but **do not send original documents.**
- The Attorney General's Office will contact you if additional information is needed.

Consumer Information		**Business or Individual Complaint is Against**
Name: James Boswell		Name: Texas Christian University
Address: 414 Morrison Drive		Address: 777 Main ST Suite 1300
City: Euless		City: Fort Worth TX
State: Texas Zip: 76039		State: Texas Zip: 76102
Home Phone: (817) 896 4137	Work Phone: ( )	Phone: (817) 336 8651
Email address: JBosRanger@aol.com		Person you dealt with: Attorney Rory Divin
Age ☐Under 19 ☐20-29 ☐30-39 ☐40-49 ☐50-59 ☐60-64 ☐65or over		Website or Email address: rdivin@mcdonaldlaw.com

1. Initial contact between you and the business:
   - ☐ Person came to my home
   - ☒ I went to company's place of business
   - ☐ I received a telephone call from business
   - ☐ I telephoned the business
   - ☐ I received information in the mail
   - ☐ I responded to radio/television ad
   - ☐ I responded to printed advertisement
   - ☐ I responded to a Website or e-mail solicitation
   - ☐ I responded to a solicitation in a language other than English (What language?)_____
   - ☐ Other _____

2. Where did the transaction take place?
   - ☐ At home
   - ☒ At business
   - ☐ By mail
   - ☐ Over the phone
   - ☐ Over the computer
   - ☐ Trade Show or Hotel
   - ☐ Other _____

3. Date(s) of Transaction(s)
   10 December 2012

4. Did you sign a contract?
   - ☐ Yes (please enclose a copy)
   - ☒ No

5. How much did the company/individual ask you to pay? NA

6. How much did you actually pay? $ 0 ☐ Cash ☐ Credit Card ☐ Loan ☐ Check
   ☐ Bank Account Debit ☐ Wire Transfer ☐ Money Order ☐ Cashiers Check ☐ Debit Card
   Date(s) of Payment: NA

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7. Have you contacted another agency or attorney about this complaint? ☑ Yes ☐ No
If yes, list name and address of the agency or attorney.
TWC forwarded complaint to the consumer protection division after Feb 13, 2013

8. What action was taken by this agency or attorney?
None so far

9. Please describe your complaint in detail (attach extra sheets if necessary).
SEE Attached

10. Have you complained to the business? ☐ No ☑ Yes If yes, when? _____
What was the business' response?
A NO Trespassing ACTION dated December 10, 2013

11. Have you been sued in relation to this transaction?
NO

Texas law prohibits us from giving legal advice or opinions or acting as your personal attorney. If you desire legal advice, we suggest you consider contacting a private attorney to discuss your complaint.

In signing this complaint I understand that the Attorney General does not represent private citizens seeking the return of their money or other personal remedies. I am filing this complaint for informational purposes only.
The above statements are true and accurate to the best of my knowledge.

Signature James Boswell Date August 8, 2013

Please return this form to: Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

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Certification

State of Texas

County of Tarrant

Before me, the undersigned notary public, this day, personally, appeared James Boswell to me known, who being duly sworn according to law, deposes the following:

My name is James D. Boswell and I am capable of making this affidavit, all facts stated in this affidavit are within my personal knowledge, and the facts in this affidavit are true. In accordance with Texas Rule of Appellate Procedure 52.3 (1) (A), the letter from Lieutenant Colonel James Bright (Exhibit A to the appendix) and the letter from Marine Colonel Don Ezell (Exhibit B to the appendix) and the letter from Shauna Boswell (Exhibit C to the appendix) are true and correct copies of the same. I sign, while under oath, this affidavit in the presence of a notary.

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INTRODUCTION

I am the President of Veterans Helping Veterans - a non profit organization. Texas Christian University (TCU) is a "non profit corporation," a business entity that is incorporated under the laws of this state. In a business, whether it be real estate or banking, the consumer will want to know about the transaction, the disclosures, any possible scams. There are many ways to kill your competitors to continue a scam - through silence and intimidation, threats, slander and defamation. TCU is Veterans Helping Veterans non-profit business competitor. In business, you have a choice:

Sir, would you like to buy this house?

Mrs., Would you like to bank with us: We will ensure the safety of your retirement money.

Parents, Are you comfortable that TCU is the University for your daughter?

Our Texas Attorney General, Greg Abbott advocates "the best consumer protection is widespread public awareness of consumer rights and common scams". Boswell files a Texas Deceptive Trade Practices Consumer Protection Act (DTPA) complaint against TCU. Boswell is a consumer of education services and a non profit helper for education services, and head of a business. The business is to help Veterans receive

their benefits such as education and to help them appear before the Army Board for Correcting Military Records (ABCMR) or Army Discharge Review Board (ADRB), or before a VA medical board. Boswell was successful at the first two boards and has yet to appear before the VA. Most veterans require help, resources, and can not afford to hire a lawyer. Vets Helping Vets will try to get a Veteran help.

Behind every business is an inspiration, a history. TCU is Veterans Helping Veterans non- profit business competitor. But the tactics used appears as unfair. One way to kill your competitors is through discrimination and this deserves an investigation.

BAD BUSINESS PRACTICE

SHE was the most promising ROTC cadet for being a United States Army General Officer yet she is precluded from her dream to be a career officer in the Armed Services.

See Exhibit C "I often wondered about the emotional difficulty this female student must have suffered". "I would like to describe..." Basically, before dad's discharge, I lived stress free. I won most attractive and varsity cheer leader". I had a great life. Due to dad's discharge, I had to move away."

In Business, decisions are made – good and bad ones.

TCU has made false and negative accusations toward Boswell, and others. The ROTC Corps of Cadets were assembled at TCU. They were given a letter and told:

"Major Boswell was relieved from his duties" Sergeant Major Vyers will step in and take over. (court document page 223). TCU Dean writes "Major Boswell lost his perspective of appropriate faculty-instructor relationship". Major Boswell, due to several incidents indicating a lack of judgment …

In the above scenario, TCU left out one important omission, a salient one for all DADS, that the Corps of Cadets would be missing a cadet: She is precluded from participation from ROTC and this is in violation of Title IX. She was allegedly raped by the Senior Army Instructor, Sergeant Major Vyers, who was investigated for sexual assault and adultery. "Who will step in and take over?" No. Not the alleged rapist.

Veterans do not always receive a fair shake. If you doing your job and you love your country, you will have a black eye. It only takes a few lessons to understand the importance of integrity and fairness. With a little update in education, Veterans make outstanding employees. That was my undelivered message in my request to TCU Board of Trustees, dated November 21, 2012.

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ATTORNEY GENERAL OPINION No. GA-0969 September 24, 2012

Dissemination of Attorney General opinion No. GA-0969 September 24, 2012 is a prime example of how we can help. Boswell is an education consumer advocate for others. Boswell represents Veterans who might have difficulty with University Administrations in exercising veteran education benefits. Boswell has not only earned the right for veteran education benefit and to operate a business, but has proven his passion for accommodation for Veterans - veterans who also may be hurting from Post Traumatic Stress Disorder (PTSD) as defined by the Texas Civil Rights Projects "Justice for Veterans Campaign" with funding from the Texas Bar Foundation. Boswell's credibility is established by the attached affidavits. Boswell is a Vietnam Era Veteran who served in "Five" of the 'Ten" separate Army Divisions over 22 years. The Bright and Ezell affidavits attest to injustice at TCU, and to Boswell's level of commitment to students while Boswell was assigned to TCU as a Major in the Army with a 4 year ROTC assignment. Colonel USMC (ret) Ezell is a war hero: He request: "Texas Christian University bear responsibility for these wrongful actions". The Texas Civil Rights Project's in creating the Justice for Veterans Campaign recommend 1) a safety plan and 2) to enlist help of others. Boswell raises legal and business issues, and requests Attorney General intervention to deal with the same type of sexual assault prevalent at the Armed Service Academies. Boswell raises business practices, specific to Texas Private University ROTC programs and specific to Independent School District's JROTC programs.

"Does the Commissioner of Higher Education Texas Higher Education Coordinating Board or the Texas Commissioner of Education have power to enforce whistle blower retaliation against a Private University in Texas?"

"What is the threshold, the bar for the Attorney General intervention concerning white collar crime?"

"How will the newly-enacted Dodd-Frank Wall Street Reform and Consumer Protection Act be implemented as a consumer watch dog at a Private University in Texas?

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BACKGROUND

Boswell, family members and student victims spent many years of life suffering from Post Traumatic Stress Disorder and recovering from the loss of economic benefits from the alleged Texas Christian University (TCU) violation of the DTPA. Boswell joined the TCU marketing plan, a plan that promised benefits and an opportunity to earn education opportunity free of discrimination. Boswell's peers earned a higher level education Master's degree and Doctorate degree from TCU but they were complacent concerning the unfair business practice and they were able to reap their reward for being silent. But

when you are a Marine, a Navy Seal, or Army Ranger, you are held to a higher standard. Boswell enrolled as a TCU graduate student, but the inspiration came to a halt when Boswell was barred from campus, as soon as Boswell witnessed the handling of the TCU business and marketing plan concerning sexual assault and discrimination issues. Boswell became an unprotected whistle blower unknowingly and was targeted for TCU retaliation as evidenced by a series of TCU overt actions. TCU still engages in civil conspiracy to sustain the unlawful business practices. TCU's education service plan gives an appearance of a scam and a fraud. Many consumers are at risk and are economically damaged by signing this service agreement. Boswell was one who has documented how he and his family were harmed. Since Boswell can not be on TCU campus, any more, his business is damaged. Your investigator may asks these questions: Are other Veterans, other Venders allowed on campus? Are TCU employees allowed friends and family to visit? Why the no trespassing order? Boswell is confident that your investigation will determine the reason.

BOSWELL'S ALLEGATIONS

Boswell asserts TCU continues to perform unlawful and unfair, deceptive trade practices to preserve a 1.2 billion dollar endowment. TCU attorney's have taken the lead in the civil conspiracy. Boswell alleges political retaliation and violation of 42 U.S.C. 1983 because Boswell was a student and is prohibited from entering the TCU property so that his business may defend American Principles, solicit the truth concerning any benefit denial, pursue remedy, and help members of a protected class, mostly of a minority race and female gender, and veterans – subject to disparate treatment. TCU engages in unfair competition and deceptive business practices and therefore, has breached its fiduciary duty and duty of care to properly supervise, control, and discipline employees and students in failing to provide a safe environment as outlined in the employee handbook. When Boswell performed as an independent contractor and contractee, TCU failed to enforce its own rules resulting in Boswell being unprotected from TCU abuse. This makes it even more vulnerable for a high school graduate. Boswell alleges that TCU violates the Federal False Claims Act which prohibits making fraudulent claims for payment to the United States 31. U.S.C. Sect 3729 (a). Boswell alleges the TCU December 10, 2012 letter of no trespassing is a continuation of overt acts designed to discipline, harass and punish Boswell in violation of applicable law. The law applies to: "any person retaliated against for attempting to prevent an FCA violation of 31 U.S.C." The FCA provides that any employee, contractor or agent shall be entitled all necessary relief to make that … whole again, if … discharged, demoted, suspended, threatened, harassed or in any other manner discriminated. For these reasons, Boswell alleges that TCU's attorneys have committed errors of negligent misrepresentation under these circumstances. The TCU directive to cease and desist communications violates good business practice and the Texas

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Constitution. Boswell relied on this misrepresentation. Can the TCU Board of Trustees completely ignore violations of the DTPA? Can a grieving student or employee arbitrarily be prohibited from speaking to a Trustee?

UNCONSCIONABLE ACTS UNDER THE DTPA – Count 1

TCU provides Boswell with a no trespassing action effective December 10, 2012 and has publicly took advantage of "consumers" lack of knowledge, ability, experience, or capacity to a grossly unfair degree. Boswell and other TCU students relied on information in the TCU student handbook which contains false, misleading, and deceptive information. All references pertaining to grievance procedures and reporting violations via "faculty members having sex with students", sexual harassment and assaults, discrimination, and remedy for reprisal and retaliation are misleading. Boswell shows his reliance on TCU services by agreement and or contract and they were breached. TCU publishes advertisement, letters and guidelines. To Boswell and to his family detriment, Boswell relied on this literature. Within days of Boswell's discovery of the DTPA violation, and report to the Army Inspector General law enforcement authority, pertaining to consumer safety issues e.g. the alleged rape and alleged felony offenses as Texas law 32.45, TCU directed Boswell's termination. Boswell was performing duties in a dual capacity. He was a faculty member of the University with a Title of Assistant Professor of Military Science. He also was encouraged to acquire a masters degree, tuition free. Army LTC Bright speaks of the crime and admits to being one of the TCU conspirators, "but while under orders" See Exhibit A. He was ordered to place Boswell and daughter under unlawful arrest, and false imprisonment, to confiscate all evidence regarding Boswell's allegation and Boswell's proof of the felonious offenses. Boswell's brief case and all contents was confiscated and not returned in violation of Texas Law regarding search and seizure. Concerning the false imprisonment, the child passenger, Exhibit C, one of four in the military sedan, vividly describes two men in uniform who escorted Boswell and 12 year old daughter to the Navy Hospital so Boswell could be additionally discredited by psychiatric evaluation. Boswell, his wife and two daughters suffered harm from the horrifying terror of this unconscionable act, acts which were committed without any consideration for due process. Boswell's house foreclosure and bankruptcy action came later. After the discharge from TCU Boswell was demoted from "Major to Sergeant" and served for seven years in this capacity until the heroes finally emerged – representing the Army Air Force and Marines (United States Senator Sam Nunn, and an Air Force POW). Additional TCU overt Acts included: 1) the unauthorized changing of Boswell's semester student grades given to ROTC students. 2) placing the accused of sexual assault in charge of Boswell's classes 3) disappearance of Boswell's key witness who could substantiate felonious misconduct 4) a subsequent Army Colonel death threat to Boswell 5) Boswell's discharge from active duty as an Army officer 6) TCU cover up. .

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FIGHT FOR SURVIVAL

The Boswell discharge was rescinded with the help of Senator Sam Nunn and by Military Whistle Blower Reprisal Investigation Former Major James D. Boswell, U.S. Army H94L56226017 June 19, 1995 with the help of seventy-two including a Texas County Judge and a three star Army Lieutenant General. The administrative ruling authority states "he now believes he made the wrong decision and characterized it as "arbitrary" and "contrary to the principles of equity". TCU does not admit to any wrong doing or find it necessary to account for lost years in the Boswell life. Therefore, Texas is criticized for the record on criminal justice, on education, and on the number of false imprisonments.

TEXANS RESPOND

In 2010, the United States Army Cadet Command reemployed Major Boswell to West Texas - Odessa Texas, near Midland. The Principal of Odessa High School believed in Boswell and is a professional reference while Boswell tried to find help. The Texas legislature was inspired by a history of testimonies, equal to Boswell's, and passed the Tim Cole Act where many who were falsely accused were released due to DNA results. This act apparently does not provide remedy for Boswell. The Austin Director of the Texas Rangers received the April 2, 2012 Boswell correspondence, and he personally telephoned Boswell with laudatory comments concerning the Marine Colonel's resume at exhibit B. "In spite of institutional reprisal, Mr. Boswell continued to serve the military, with reduced rank and income, as a sergeant in the Texas National Guard. His actions exemplify outstanding patriotism". Boswell received his requested interview form the Midland Texas Ranger agent and this will have a positive effect. Boswell relies on the goodness in Texans to prevent a recurrence of fraud in the education industry. Boswell's exhibits A, B, and C substantiate the TCU conspiracy, fraud and injury. Lieutenant Colonel James Bright Exhibit A describes: He "believes there is a criminal connection". Boswell believes this Deceptive Business Action is a case for the Attorney General to intervene and to impose the continuing violation doctrine based on two additional overt acts in 2012 – failing to host Boswell's JROTC high school ROTC program and the issuance to Boswell – a no trespassing letter. 10 U.S.C.2102(b)(1), Reference (e). Appendix 5, para 5.2.3 states: The Secretary of the Military Department shall: "enter into a contract as a condition of providing an ROTC scholarship" and 6.1.1.4 "certify that it does not discriminate …" Boswell believes the TCU compliance, the certification, is fraudulent. Boswell believes TCU violates Title IX as is implemented by 34. C.F.R and 106.8 b. because a female ROTC cadet was allegedly raped, and TCU's actions show that the business was indifferent. She for what ever reason was excluded from participation in ROTC. Military experience has its rewards: We look at after action reviews to fix our systemic problems: We are persistent. Thus far

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the United States Department of Education has not provided a favorable response. So why was there such a delay in Boswell's reinstatement to active duty? Boswell's answer is that employees – witnesses to white collar crime fear retaliation and loss of earnings. Lieutenant Colonel Bright retired and only when he entered this "safe haven" where TCU could not harm this officer or his family was he willing to sign his affidavit after a miracle event. Most soldiers understand the importance, especially before battle, for faith and belief in a higher supreme being – GOD. GOD has continued to intervene. Evidence is an unlikely meeting between Boswell and Bright (the escort of Boswell to the psychiatric ward). Boswell expected he would never meet up with Bright again but did 13 years later unexpectedly at Ft Hood Texas, several miles from both of our residents, during the same retirement physical, at the hospital and ward, at the same time. TCU conspiracy is now broken! But the political climate is not ready for a break through.

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FALSE, MISLEADING, DECEPTIVE UNLAWFUL ACTS DTPA Count 2

First, TCU exaggerated and misrepresented the benefits of being a student or as an agent or component of a Department of Defense contract. TCU causes confusion or misunderstanding as to the source, sponsorship, approval, or certification of services. See the 2012/2013 employee handbook. Boswell was given information that TCU's oversight authority was the Texas Coordinating Board of Education governed by the Texas Commissioner of Education and this had a false implied meaning corroborated by TCU correspondence. TCU is not a state entity and as a private entity is not subject to the Texas Whistle Blower Law. Even as a higher institution of learning who accepts federal state and federal funds, Boswell has not found an oversight willing to take a stand. To receive Veteran Affairs money and assistance TCU is suppose to be accessible. The Attorney General is asked to define TCU's "duty of care and responsibility", and justify the TCU exclusion from the Texas Whistle Blower Act (TWBA). The courts are clear: This nullifies the accountability process and gives birth to misleading representation and fraud. It is a necessity that the TCU publish a consumer protection disclosure and explicitly state the disclosure in any advertisement, service or contract agreement (like a warning in the cigarette ad's). Per "Department of Defense Instruction", Number 1215.08, June 26, 2006, Subject Senior Reserve Officer's Training Corps (ROTC) Programs, TCU has a contract with the Department of Defense and is eligible and accepts state and federal funds.

FACTS CONCERNING TCU INDIFFERENCE TO CRIME

Fifth Circuit Ruling July 27, 2013 No 12 – 10592 allows for conviction for alleged conspiracy to commit theft from a program receiving federal funds and that proof of the federal funds element may be established through unchallenged testimonial evidence

without corroborating documentary evidence (Texas Lawyer August 5, 2013 page 13). The TCU employee and student handbook, as written in 2012-2013, is a deceptive representation. Boswell witnessed TCU BUSINESS with unlimited legal resources, doing what was expedient and convenient and indifferent to crime - a plan which would allow: 1) a TCU employee to rob cadets and take money out of the cookie jar 2) TCU to defraud the federal government and 3) TCU to be indifferent to discrimination, sexual assault, and violation of penal codes. This plan is not a viable option for those in leadership positions, especially for an Honor Graduate of the US Army Ranger School. Bright (Exhibit A) states "Major Boswell was the only one of courage … " Besides goggling the internet - James Boswell and TCU – there are other victims who allege TCU fraud, cover up of TCU athletes misconduct, and TCU Breach of Contract. By current contract, TCU's business has credible DOD sponsorship, and approval, but the denial of the Odessa High School's JROTC organization on TCU campus in 2012 because of its Senior Army Instructor "Major Boswell" is an overt act which infringes upon DOD non discrimination policy. Based on judicial rulings in favor of TCU, TCU net worth, and the steady financial backing from wealthy donors, TCU's integrity may never be seriously questioned, but this has bred corruption. The fraud goes on because of the isolation of the activities from the Board of Trustees – those who have the wisdom to look at the big picture regardless of political influence and wealth. As soon as the Chairman of Trustees refused certified mail and communications were closed, this was to Boswell a red flag similar to PENN State. Boswell had to take a beating, and live through the pain and of each of the retaliatory events to establish credibility to influence the change. A fair reading of the TCU published literature is that consumers may participate in education services and the consumer will receive certain benefits and treatment of a particular high standard. This service is severely degrading by false or misleading representation of facts and TCU's indifference to potential crime on campus. The Texas Commissioners' 2012 Sunset Report addresses the issue of "conflict of interest" but the power lies in the court and with the Governor. In this complaint TCU obviously wishes to protect the business from embarrassment; but, and some point it must be recognized as a white collar crime and a conspiracy.

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TCU AND ARMY ROTC AGREEMENT

TCU advertises "federal ROTC scholarships" with the meaning that the process for selection and execution will be fair, non discriminating and without unlawful interference. TCU's advertisement is with an intent to attract a reasonable expectancy public demand, and by accepting a scholarship or employment at TCU, the candidate will be provided a tuition price reduction or tuition free service upon signing the agreement, with benefits. Boswell drew the line with TCU when Boswell was directed to dis-enroll two cadets and terminate arbitrarily their individual ROTC cadet contracts (Wiley and Hobbs) without due process. The agreement confers or involve rights,

remedies, or obligations which TCU does not provide or enforce and this is believed to be in violation of law. TCU knowingly makes false or misleading statements of prejudice and fact concerning the duty for care in rendering compliance and non discrimination disclosures and therefore misrepresented Texas and Federal oversight authority and law. Boswell addressed the racial bias and the public became aware of the media coverage, recently, of the sexual assault allegation when two TCU athletes (with questionable backgrounds) were accused of rape of a student in the TCU dorm a few. TCU's settlement out of court for alleged 5 million but TCU denies wrongdoing. Boswell is victim that TCU has denied education opportunity to Veterans while accepting funding, scholarship, veteran assistance and grants.

MISUSE OF FUNDS IN VIOLATION OF SECTION 1553 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

TCU Business calls for "full time TCU scholarship recruiters" to sell the TCU business and plan agreement. These individuals are paid with the use of federal funds. The consumer "buys in" to the recruiter sale with TCU's promise or representation that the consumer will have the right to receive compensation or consideration in many forms for furnishing to TCU the names of other prospective consumers. Boswell witnessed the vulnerability of new cadets and was providing the affidavit and polygraph of a cadet sexually assaulted by a TCU faculty member. Boswell makes a "credible" inference based on facts that a freshman student might find her self into a dorm room or other environment where an illicit sex act may occur. Boswell references the ROTC case, and two cases concerning athlete misconduct all of which give appearance of TCU fraudulent use of funds in violation of 10 U. S.C. 983. TCU fails to disclose information concerning the illicit University measures to suppress evidence and concerning the official oppression for a complainant. The use of law enforcement to protect the TCU image is a part of of this complaint.

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THE SERVICE AGREEMENT

TCU induced Boswell into making a four year commitment and made a promise for a reward of a tuition free Doctorate degree. Boswell relied on this feedback to program job security and residency for his family. He and his family accepted the services contract based on good faith. But TCU has demonstrated bad faith as when TCU requested Boswell violate the law. Boswell provided a 22 allegation consumer report to authorities identifying "misrepresentation" and "fraudulent" business practices. TCU failure to disclose discriminatory treatment to minorities and females and related information concerning reprisal and retaliation was intended to induce the consumer into a transaction which the consumer would not have entered had the information been disclosed. Many other consumers have made similar contracts for TCU services.

EXHAUSTION OF ADMINISTRATIVE REMEDY

Per the Texas Business and Commerce Code section 1.202 (notice and knowledge), Boswell hand delivered, on November 21, 2012, his whistle blower complaint to the TCU Chief of Staff. Boswell requested that TCU return the education funds, 6 million dollars per year of state and federal funds received, under the provisions of the American Recovery and Reinvestment Act (ARRA) of 2009, and that the deceptive practice be a TCU Board of Trustee agenda item. TCU's response letter, dated December 10, 2012, states: "Notice is hereby given that you are not to come on or about the TCU campus or any property owned by TCU" and "to immediately cease and desist communications with TCU, its faculty, administration, and Board of Trustees".

REQUEST FOR ATTORNEY GENERAL ACTION

As a prerequisite to filing a suit seeking damages under this Act, the consumer must send a registered or certified letter of written notice telling the seller what is wrong and asking for the amount of your damages. The notice must advise in reasonable detail of the consumer's specific complaint and the amount of damages. Boswell did this and TCU responded within 60 days of receiving the Boswell letter, completing administrative remedy. Boswell now request that the Section Chief for white collar crime and public integrity unit, the Consumer Protection Division and Civil Rights Division perform separate investigations for public enforcement. Boswell's private remedy is limited. Civil Practice and Remedies Code Title 2, Trial and Judgment 41.002 addresses applicability. Boswell meets sec. 41.003 standards for recovery of exemplary damages results from gross negligence, fraud, malice. Per sec. 41.005, the public integrity division is asked to evaluate whether TCU avoided punitive damages by omission of evidence concerning the Boswell civil rights allegations, breach of laws governing constitutional amendments, search and seizure and violation of privacy regarding the potential felony offenses section 22.04 injury to a child, section 32.45 misapplication of fiduciary property, 32.47 fraudulent destruction, removal or concealment of evidence, and the mysterious disappearance of a key witness with an inference relating to false imprisonment and/or murder section 19.02.

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POLITICAL RETALIATION

TCU denies certain liberties and protections to critics who file grievances and Boswell complained to the Honorable Texas Governor Rick Perry on April 2, 2012, to the US Department of Education dated November 20, 2012 6a "At TCU, violation of Texas Law 32.45"; loosing eligibility of Defense contracts per 10 U.S.C. 983. Boswell complains that any judicial procedure without the DOD and TCU is perjury by omission. Agreement. TCU has made this a political issue. TCU cites that there is "no relationship" and that Boswell "had a well rounded fear that the Republican Party and its

presidential nominee have demonstrated felonious conduct". This statement is extreme and prejudicial and will be damaging to any future judicial hearing. The damage is a harmful error because it diverts the DTPA complaint to a reading about politics. Boswell alleges TCU political retaliation for the no trespassing order as TCU punishment for corresponding with Governor Perry April 2, 2012 and filing suits 1) against the Honorable George Bush and the Texas National Guard and 2) against the Honorable Jeb Bush regarding voter intimidation. TCU is unfairly enriched by taking advantage of consumers by deterring Whistle Blowers and Business Competitors and minorities and females are proportionately more effected. TCU education services, grants, aide, funding fail to meet the provisional conditions for operation and financial compliance and for compliance with state and federal law. It is alleged there is a wider gap concerning treatment of issues regarding race and gender. Boswell is confident that the Attorney General knowledge from the oversight of the La Joya ISD in Texas and settlement for $ 1.5 million in May 2013 will be applied to other deserving patrons.

BOSWELL'S ISOLATION FROM TCU BOARD OF GOVERNORS GIVE REASON FOR MISTRUST AND MEMORY OF PENN STATE

For the record, had Boswell been asked "Is there anyone who might have reason to harm you or a family member". The answer is only someone associated with the TCU conspiracy. Too much has happened to preclude TCU from overstepping its boundaries. Boswell understands that TCU alleged violation of the penal codes have escaped accountability and the statute of limitations have expired except with the possibility of the injury to a child violation. TCU does not help with statements such as this one: "No one in privity with TCU acted unlawfully toward Boswell". Yet, both daughters lived thru the horror of the false imprisonment. The Attorney General may find and confirm fraud. The investigations are requested to examine TCU's business practice of the 2012 denial of education and denial of Veteran access as to whether the DTPA alleged violation is committed "knowingly," and committed "intentionally," and if so, any financial remedy for the Boswell family and Veterans Helping Veterans may be increased. As an aside, Boswell's daughter recently lost her boy friend, a business graduate from SMU, age 38. He allegedly died from consuming a Human Growth Hormone pill. Boswell's family has experienced enough grief from the injury from TCU. Boswell seeks damages incurred as a result of DTPA violations including.

Economic and mental anguish damages;

Additional damages; non-economic, exemplary, compensatory, and future

An injunction;

A restoration order;

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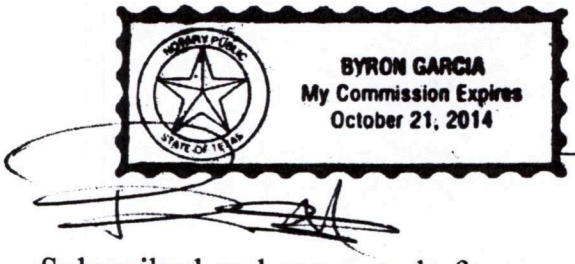
Revocation of a defendant"s license or certificate to do business; and TCU's accreditation as a Texas Private University

Court costs and attorney's fees. (Boswell represents himself now as Pro Se and released his attorney due to the continued inability to pay)

Interest; or

Any other relief that the court deems proper.



James D. Boswell

Subscribed and sworn to before me this 8 Day of August, 2013.

Notary Public

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BOSWELL APPENDIX to Boswell Certification

8 9 0 B

notarized August ~~15~~, 2013

WITH 3 EXHIBITS

Exhibit A LETTER from Army Lieutenant Colonel James Bright

Exhibit B LETTER from Marine Colonel Don Ezell

Exhibit C LETTER from Shauna Boswell

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James G. Bright
ACofS G3/PTM
III Corps and Fort Hood
Fort Hood Texas 76544
8 March 1999

RECEIVED
AUG 08 2008
Labor Law 6

Assistant Secretary of Army
Manpower and Reserve Affairs
111 Army Pentagon, Washington D.C. 20310-0111

Subject: Reopen case Docket # AC 95-08841: Army Board for Correcting Military Records, Army Officer Major James Boswell

Dear Honorable Sara Lister:

I hope this letter will correct an injustice. It is on behalf of James Boswell who received retirement orders December 17 1998.

By way of introduction, I'm LTC James G. Bright, Texas Army National Guardsman, Title 10 AGR. Some few years' back, I was assigned as the executive officer for MG Jack D'Araujo, the Director of the Army National Guard and had the distinct pleasure on occasion to interface with you on Army issues. I recently declined acceptance for Battalion Command and I regret, even though I was under orders, that I was a participant in the University's and Army conspiracy to remove this outstanding officer from an ROTC assignment and from active duty. After learning the truth, I am committed to just and positive action.

My first AGR assignment was as an Associate Professor of Military Science, Texas Christian University. In the fall of 1986 Major Boswell and I were colleagues. I witnessed a gross injustice perpetrated against Major Boswell and his family. My Professor of Military Science, the Dean for Army ROTC Affairs, and former commander of Major Boswell conspired with an intent to harm Major Boswell. Major Boswell shows evidence of perjury and reprisal from his TCU and former commander concerning their testimony at the Army's retention hearing. Due to conduct unbecoming of an officer, issues as an adulterous affair, there is ample motive why the conspirators wished harm on Major Boswell. Truth may have ended the University and military official's careers.

It is my testimony that Major Boswell's due process was violated and Army and Texas Christian University officials failed in their assessment and proceeded to hastily cover-up the situation. Major Boswell, tenaciously, reported violations of military and university policy dealing with sexual harassment and misconduct, discrimination concerning minority students and cadre, and misapplication of fiduciary property.

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PENGAD 800-631-6
EXHIBIT
A

Subject: Reopen case Docket # AC 95-08841 Page 2

Major Boswell epitomized character, moral courage and dedication. An Army Inspector General and a DOD Whistle Blower Report reflect that Major Boswell addressed violations to the University and Army violations. Major Boswell, in fact, confided with me before reporting the offenses. He swore a solemn oath to support and defend the constitution. When the chips were down, the University and Army Chain of Command appeared to ignore compliance with law. Major Boswell was the only one of courage to do his duty at great expense to his career and to his family. Now, twelve years later, partial justice prevails with the Army's Chief, Appeals and Correction Branch letter of notification, subject ABCMR Proceedings, dated December 14, 1998.

I submit to you that Major Boswell's retirement has been miscalculated: In equity, he deserves direct promotion and retirement at minimum in the grade of O-5 (Lieutenant Colonel). Major Boswell's attorney, via letter to the ABCMR, reveals the correction is shallow. Removing one report card fails to compensate for lost opportunity, schooling, awards and damages. In Major Boswell's case, it is impossible for a special promotion board to do justice based on the record.

Now, I firmly believe there is a criminal connection between three events: (1) Reprisal - a black Sergeant Major's removal from TCU (2) Major Boswell's tragedy and (3) the sudden and unexpected disappearance from TCU of a black supply sergeant. He had completed an approximate eighteen years of military service.

It is significant that the former Chairman of the United States Senate and Committee on Armed Services writes the ABCMR requesting "careful review and serious consideration in light of strong public policy" and that several General Officers recommended Major Boswell be promoted. Meanwhile while soldiers make sacrifices, TCU reveals, through discovery, that the University is enriched through federal funds of an estimated six million dollars per year. Please review the enclosures and reopen this case. Thank you for your consideration.

Sincerely,

James G. Bright
Lieutenant Colonel, Infantry
Chief of Training

11 enclosures
cf: Senators Kay Hutchison and Phil Gramm

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RECEIVED
AUG 08 2008
Labor Law 6

DON DEARL EZELL
ALUMNUS, TEXAS CHRISTIAN UNIVERSITY
6309 S. HULEN
FT. WORTH TX 76115

RECEIVED
AUG 08 2008
Labor Law 6

August 27, 1998

CHAIRMAN & MEMBERS OF THE BOARD OF TRUSTEES
Texas Christian University, Ft. Worth Texas 76129

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At the request of former TCU faculty member and graduate student, Mr. James D. Boswell, I have thoroughly interviewed Mr. Boswell and examined a chain of unfortunate events which occurred at Texas Christian University. These events happened while Major Boswell was assigned as an Associate Professor of Military Science in the Army ROTC program at Texas Christian University. My curiosity and interest for fairness and justice for students and faculty, past, present and future, prompted several weeks of intense study, thus far at no expense. I have assessed and evaluated what I know to be a complete record of Mr. Boswell's case file. As member of the Addison Randolph Clark Society and in the interest of the integrity of our institution, I urge each member to consider my testimony concerning a very complex and difficult decision and conclusion involving an injustice which should be corrected and adjudicated favorably in Mr. Boswell's behalf.

The foregoing information is provided, only, to validate my competency as an ombudsman. A summary of my background includes: Retired Colonel with an active duty retirement from the United States Marine Corps; Attended Texas Christian University on a football scholarship, a letterman, earning a BS and Ed M degrees; Served as a Professor of Naval Science at Duke University; Coached football and taught high school; Served in the Directorate of Public Affairs, Secretary of Defense; Survived three tours in Vietnam; Commanded two Marine Regiments, the 11th Marine Regiment and 13th Marine Regiment; Authorized to wear 27 decorations with seven battle stars; Personal awards include the Legion of Merit, Bronze Star, Meritorious Service Medal, Naval Commendation Medal, Purple Heart, and two RVN Crosses of Gallantry.

Research included study of court documents currently on file in the Northern District Federal Court, Texas as of August 20, 1998, a DOD

EXHIBIT
B

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military whistle blower reprisal investigation dated July 1995, the Army conclusion that Mr. Boswell's discharge from the Army is declared null and void dated May 1997, comparison of Mr. Boswell's case to other whistle blower cases, detailed analysis of literature concerning articles, government documents and reports, and consideration of numerous statements prepared by a variety of distinguished citizens, and recommendations from three General Officers and thirteen Colonels which categorically and emphatically, recommend Major Boswell for retention and promotion to Lieutenant Colonel.

I am prepared to join others in articulation of expert testimony. My distinct and affirmed conclusion is that Mr. James Boswell reported several actions of impropriety by the Professor of Military Science at TCU in 1986. He subsequently was wronged and harmed by the institutions of Texas Christian University and the United States Army. I recommend that Texas Christian University recognize and bear responsibility for these wrongful actions and bring this case to a satisfactory closure. I contend that there is not a more honorable and qualified leader, today, to command or train our sons and daughters for the next conflict, than Mr. James D. Boswell. Mr. Boswell is a graduate from the University of Texas, Austin (BS ED) and from the University of North Texas (Masters in Public Administration). I think we should be honored to have this courageous soldier return to TCU as an Army Lieutenant Colonel. Former Major Boswell served our country faithfully under the most difficult circumstances. In spite of institutional reprisal, Mr. Boswell continued to serve the military, with reduced rank and income, as a Sergeant in the Texas National Guard. His actions exemplify outstanding patriotism.

Respectively,

Don D. Ezell

DON DEARL EZELL
COLONEL USMC (ret)

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cf:
Members, TCU Board of Trustees
TCU General Council
Chancellor, Texas Christian University

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14

PRESIDENT,
DISCHARGE REVIEW BOARD

13 MARCH 1993

I am writing this statement in support of my dad, former Major Jim Boswell, in support of an appeal to the Discharge Review Board, Board for Correction of Military Records, and any subsequent administrative or legal hearing.

On this date, I am 18 years old, and a Senior in high school. On the date of dad's discharge, April 12, 1989 I was 14, and the day, dad was removed from Texas Christian University, December 19, 1986 I was 12. I would like to describe how dad's removal from the University, and subsequent discharge has impacted on my life.

It was during Christmas school break that I visited dad's ROTC detachment and the campus of Texas Christian University. I was encouraged at an early age to develop interest in ROTC and University Activities. For the most part I enjoyed the activities my dad had planned for me, and wasn't fooled about dad's desire to recruit me into the University scene. Nevertheless, his intentions were good.

But on 19 December, 1986 this turned out to be one of the most confused experiences of my life. It was about noon time when I returned from the campus library, when it appeared that something was wrong. Dad was packing a box and briefcase and was moving his stuff out of the office. I kept asking what was wrong. He said something to the effect that he would not be working here any more and that there was a misunderstanding. He seemed really sad, and so did students and other people in uniform. Two men in uniform escorted us into an army car which was lime green and off white. My dad and I sat in the back seat. I was on the right. When I looked at my dad, I saw he was sad and I started crying. We then went to Long John Silvers. Dad went to the bathroom and the two men followed him. We then went to the hospital, and I sat in the car with one of the men in uniform. Dad went in with the other man to sign in for psychiatric evaluation. I wondered why these men were taking us to the hospital. Later we returned to TCU.

After reading the first allegation of the Inspector General Report (dated April 10, 1987), an allegation which dad had reported one day prior to his removal, I am sure that the Sergeant Major had sexual intercourse with the female cadet. Even though she repeatedly said no, and this statement by polygraph was truthful, the incident as written in the report could not be substantiated. Even in the opinion of the investigators, a sex act occurred. Dad reported this irregularity to the Office of the Inspector General and University Authorities.

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PLAINTIFF'S EXHIBIT C
PENGAD 800-631-6989

Continuation of Statement 13 March 1993

I often wondered about the emotional difficulty this female student must have suffered.

My conclusion is that I am proud of my dad. In spite of losing what was most important to him, he did what I believe was right, and was seeking fairness and justice for this student.

So how has this impacted on my life? Basically, before dad's discharge, I lived stress free. I was given $250 a month and had free medical benefits. I won most attractive and was a varsity cheerleader. I had a great life. Due to dad's discharge, I had to move away. I have struggled to create the life, I once had. On top of that, I had to worry about the financial damper and the emotional effect caused by the results of how the Army has dealt with the whole situation.

It is my firm belief that if the Army would have faced up to the problem rather than hiding, most of this would have never happened.

Shaunn Boswell

Shaunn Boswell

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Exhibit C

TO THE RELATOR'S CLAIM PURSUANT TO THE FALSE CLAIMS ACT

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PENGAD 800-631-6989
PLAINTIFF'S EXHIBIT
FCA C

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION

JAMES BOSWELL, **Plaintiff,**	§	
v.	§	**No. MO-12-CV-00108-RJ-DC**
ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT BOARD OF TRUSTEES, ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT, and HECTOR MENDEZ, **Defendants.**	§	

REPORT AND RECOMMENDATION THAT DEFENDANTS' MOTION TO DISMISS FOR PLAINTIFF'S FAILURE TO STATE A CLAIM BE GRANTED IN PART AND PLAINTIFF'S MOTION FOR DECLARATORY RELIEF BE DENIED

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BEFORE THE COURT is Ector County Independent School District Board of Trustees, Ector County Independent School District, and Hector Mendez' ("Defendants") Motion to Dismiss for Plaintiff's Failure to State a Claim or in the Alternative Motion for a More Definite Statement filed on November 19, 2012. (Doc. 10). Plaintiff James Boswell filed a *pro se* response to Defendants' Motion to Dismiss on November 29, 2012. (Doc. 12). Also before the Court is Defendants' Response to Plaintiff's Supplement to his *pro se* Complaint and Supplement to its Motion to Dismiss for Plaintiff's Failure to State a Claim filed on May 17, 2013 (Doc. 30). This case is before the United States Magistrate Judge for a Report and Recommendation by Order of Referral from the United States District Judge pursuant to 28 U.S.C. § 636(b)(1)(B). (Doc. 9). After due consideration of the pleadings and the applicable law, this Court recommends to the U.S. District Court that Defendants' Motion to Dismiss for Plaintiff's Failure to State a Claim be **GRANTED in part**. Specifically, the undersigned recommends that all claims except Plaintiff's Fourth Amendment claim under 42 U.S.C. § 1983 and

Plaintiff's Claims that survive Defendants' Motion to Dismiss

1. Plaintiff's 42 U.S.C. § 1981 and 42 U.S.C. § 1983 claims

Plaintiff alleges that "Defendants are engaged in continuing claims violating 42 USC [sic] 1981 and 42 USC [sic] 1983." (Doc. 2 ¶ 12 at 5). Plaintiff does not plead any facts in his Original Complaint or Supplemental Pleading directly connecting Defendants' actions to violations under 42 U.S.C. § 1981 or 42 U.S.C. § 1983. However, Plaintiff does assert violations of constitutional rights under the Fourth and First Amendments, respectively. (Doc. 2 at 46–47, 49). In the spirit of liberally construing a *pro se* complaint, this Court will examine Plaintiff's Fourth and First Amendment claims within the parameters of 42 U.S.C. § 1983. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

Plaintiff's claim that Defendants are violating 42 U.S.C. § 1981, however, is not supported by any factual allegations and cannot be liberally construed to state a claim under the Fourth or First Amendment. Plaintiff's allegation should be dismissed as a matter of law because a § 1981 claim does not provide a remedy for violation of rights guaranteed under § 1981 when the claim is pursued against a governmental entity. *See Oden v. Oktibbeha Cnty, Miss.*, 246 F.3d 458, 463–64 (5th Cir. 2001); *see also Washington v. City of Gulfport, Miss.*, 351 F. App'x 916, 918–19 (5th Cir. 2009) (not selected for publication). A plaintiff must assert a cause of action against state actors under 42 U.S.C. § 1983 to remedy violations under 42 U.S.C. § 1981. *Jett v. Dallas Indep. Sch. Dist.*, 491 U.S. 701, 703 (1989). "Section 1983 remains the only provision to expressly create a remedy against a person acting under color of state law." *Oden*, 246 F.3d at 463. Therefore, Plaintiff's § 1981 claim should be dismissed.

2. Plaintiff's 42 U.S.C. § 1983 claim under the Fourth Amendment

Plaintiff generally asserts that Defendants and their agents "have unreasonably searched, arrested, and detained persons in Ector County," thus "depriv[ing] persons of their rights under the Fourth Amendment[.]" (Doc. 2 ¶ 169–170 at 47). In Plaintiff's Supplemental Pleading he describes an

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incident in which his Fourth Amendment rights were allegedly violated when an "illegal use of police force [was used] to escort JROTC instructor off campus and to conduct a search without probable cause and warrant . . . ." (Doc. 23 at 5). Plaintiff's Original Complaint also provides the following:

> [T]wo police cars and two police escorts were present during the supervisors request for plaintiffs' building keys and government key to plaintiff's private JROTC office where government weapons and uniforms are stored. Although ECISD did not alert plaintiff of any alleged wrong doing concerning the computers, after the search was over, the officers kept the computer . . . ."

(Doc. 2 ¶ 67 at 23).

The Fourth Amendment guarantees that the "right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . . ." U.S. CONST. amend. IV. "Section 1983 allows a citizen to sue anyone who, 'under color of' state law or custom, violates the citizen's federal rights." *Zaffuto v. City of Hammond*, 308 F.3d 485, 488 (5th Cir. 2002). A violation of a governmental employee's rights under the Fourth Amendment is actionable in a suit pursuant to 42 U.S.C. § 1983. *O'Connor v. Ortega*, 480 U.S. 709, 712 (1987). However, the Fourth Amendment does not protect against all searches and seizures, only those which are unreasonable. *See Peterson v. City of Fort Worth, Tex.*, 588 F.3d 838, 844–45 (5th Cir. 2009). Reasonableness is measured "in objective terms by examining the totality of circumstances." *Ohio v. Robinette*, 519 U.S. 33, 39 (1996). Moreover, "Fourth Amendment rights are implicated only if the conduct of the [Defendants] . . . infringed 'an expectation of privacy that society is prepared to consider reasonable.'" *O'Connor*, 480 U.S. at 715 (quoting *United States v. Jacobsen*, 466 U.S. 109, 113 (1984).

Plaintiff pleads sufficient factual allegations taken as true to survive Defendants' Motion to Dismiss and assert a Fourth Amendment claim alleging violations of Plaintiff's right to be free from unreasonable search and seizure under 42 U.S.C. § 1983. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554, 555–58 (2007)). Plaintiff asserts that the

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police[9] acting under the direction of a supervisor searched his work office without probable cause or a warrant. (Doc. 2 ¶ 67 at 23; Doc. 23 at 5). "Searches and seizures by government employees or supervisors of the private property of their employees . . . are subject to the restraints of the Fourth Amendment." *O'Connor,* 480 U.S. at 715. The scope of a government employee's reasonable expectation of privacy is dependent on the work environment and is measured case by case. *See id.* at 717. Additionally, whether probable cause exists and a warrant is necessary to conduct a "work-related" search is dependent on whether the search is part of a criminal investigation or internal investigation. *See id.* at 719–726. Plaintiff's allegations of Fourth Amendment violations, liberally construed, state a claim that is facially plausible and dismissal at this stage of litigation would be inappropriate. *See Iqbal*, 556 U.S. at 678; *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (citing *Estelle v. Gamble*, 429 U.S. 97, 106 (1976)); *Hale v. King*, 642 F.3d 492, 499 (5th Cir. 2011).

3. Plaintiff's 42 U.S.C. § 1983 claim under the First Amendment

Plaintiff asserts allegations of retaliation for protected First Amendment speech. (Doc. 2 ¶ 187–88 at 49). Specifically, Plaintiff alleges:

> The Defendants, their agents, and persons acting on their behalf, including ECISD officers, have retaliated against persons in Ector County on the basis of protected speech, thereby chilled future protected speech. The retaliation against protected speech and the chilling of future speech engaged in by the Defendants, their agents, and persons acting on their behalf constitute a pattern or practice of conduct by ECISD and law enforcement officers that deprives persons of their rights under the First Amendment of the United States Constitution . . . .

(*Id.*). Throughout Plaintiff's pleadings he asserts his participation in alleged protected speech and retaliation by Defendants. (Doc. 2; Doc. 24).

---

[9]It is unclear whether Plaintiff is referring to the police department for Ector County or the ECISD police. However, Plaintiff alleges throughout his complaint that ECISD's police committed various unlawful acts. (Doc. 2 at 10, 22, 23, 25, 26, 42). Therefore, this Court views Plaintiff's reference to "police" as reference to ECISD police.

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To establish a *prima facie* First Amendment retaliation claim under 42 U.S.C. § 1983, a plaintiff must show: (1) he suffered an adverse employment decision; (2) the speech dealt with a matter of public concern; (3) his protected interest in speaking on matters of public concern outweighs the employer's interest in efficiency;[10] and (4) his speech motivated the adverse employment decision. *Haverda v. Hays Cnty*, No. 12-51008, 2013 WL 3753964, at *6 (5th Cir. July 17, 2013); *Strotter v. Univ. of Tex. at San Antonio*, 508 F.3d 812, 825 (5th Cir. 2007); *Beattie v. Madison Cnty Sch. Dist.*, 254 F.3d 595, 601 (5th Cir. 2001). If a plaintiff establishes the *prima facie* elements, then the burden shifts to the defendant to show by a preponderance of the evidence that the same adverse employment action would have occurred in the absence of the protected conduct. *Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle,* 429 U.S. 274, 287 (1977); *Haverda*, 2013 WL 3753964, at *6; *Beattie*, 254 F.3d at 601.

When asserting a First Amendment retaliation claim under section 1983 against a local governing body, such as a school board or school district, a plaintiff must show additionally that the governing body's alleged unconstitutional action "implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers." *Monell v. Dep't of Social Serv.*, 436 U.S. 658, 690 (1978); *Beattie*, 254 F.3d at 600 n.2. However, the governmental body may be sued "for constitutional deprivations visited pursuant to governmental 'custom' even though such a custom has not received formal approval through the body's official decisionmaking channels." *Monell*, 436 U.S. at 691. Thus "[t]o maintain a section 1983 claim against a municipality [such as ECISD], a plaintiff must show that officials acted in accordance with an official policy or custom." *James v. Texas Collin Cnty*, 535 F.3d 365, 375–76 (5th Cir 2008); *see also Harris v. Victoria Indep. Sch. Dist.*, 168 F.3d 216, 22d (5th Cir. 1999) (determining board of trustees of an independent school district

[10] *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968) (establishing balancing test and holding First Amendment violated when school teacher was discharged for openly criticizing Board of Education concerning its expenditures and revenue).

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was an official policymaker for purposes of section 1983 liability); *Jett v. Dallas Indep. Sch. Dist.*, 7 F.3d 1241, 1245 (5th Cir. 1998).

In *Webster v. City of Houston*, 735 F.2d 838, 841 (5th Cir. 1984), the Court defined official policy or custom for municipal liability, such as a school district's liability, in suits arising under section 1983. The Fifth Court articulated the following standard:

> A municipality is liable under § 1983 for a deprivation of rights protected by the Constitution or federal laws that is inflicted pursuant to official policy.
>
> Official Policy is:
>
> 1. A policy statement, ordinance, regulation, or decision that is officially adopted and promulgated by the municipality's lawmaking officers or by an official to whom the lawmakers have delegated policy-making authority; or
>
> 2. A persistent, widespread practice of city officials or employees, which, although not authorized by officially adopted and promulgated policy, is so common and well settled as to constitute a custom that fairly represents municipal policy. Actual or constructive knowledge of such custom must be attributable to the governing body of the municipality or to an official to whom that body had delegated policy-making authority. Actions of officers or employees of a municipality do not render the municipality liable under § 1983 unless they execute official policy as above defined.

Webster, 735 F.2d at 841.

Plaintiff pleads sufficient factual allegations taken as true to survive Defendants' Motion to Dismiss and assert a First Amendment retaliation claim against Defendants under section 1983. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554, 555–58 (2007)); *Hale v. King*, 642 F.3d 492, 499 (5th Cir. 2011). As an initial matter, Plaintiff pleads facts showing that he suffered an adverse employment action when his employment with ECISD was terminated. *Beattie v. Madison Cnty Sch. Dist.*, 254 F.3d 595, 601 (5th Cir. 2001); (Doc. 23 at 4).

Plaintiff also pleads enough facts taken as true to support an allegation that his speech was a matter of public concern. *See Iqbal*, 556 U.S. at 678–79; *Beattie*, 254 F.3d at 601. Specifically,

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Plaintiff presents facts that he filed twelve grievances with ECISD's human resource department, eight of which were filed before Plaintiff received his termination letter from ECISD's Board of Trustees.[11] (Doc. 23 at 4–7). Plaintiff describes each grievance and provides this Court with copies of the actual grievances filed with ECISD's human resource department. (Doc. 23 at 4–7; Doc. 28 at 1–7; Doc. 28-1 at 2, 5, 8; Doc. 28-2 at 1, 5–8, 10–11). Plaintiff's Supplemental Pleading and the copies of the actual grievances now on file with this Court set forth an array of allegations of ECISD misconduct ranging from cheating on the TAKS test to discriminatory practices against minority students. (*Id.*). Plaintiff also describes participating in a public meeting where he alleged misapplication of $800,000.00, in funds by ECISD. (Doc. 2 ¶ 45 at 16; Doc. 23 at 4–5; Doc. 28 at 7). Additionally, Plaintiff alleges that he submitted complaints to a variety of governmental agencies while employed with ECISD regarding issues of discrimination and misapplication of fiduciary property. (Doc. 2 ¶ 53 at 19, ¶ 68 at 23–24; Doc. 2-2); s*ee supra* at 6–7. Based on the aforementioned, Plaintiff pleads facts sufficient to show facial plausibility that his speech was on issues of public concern. *See Iqbal*, 556 U.S. at 678–79.

Plaintiff's factual allegations concerning ECISD's misconduct, set forth in his internal grievances to ECISD and complaints to various governmental agencies, accepted as true, present enough factual content to assert that his protected interest in speaking on matters of public concern outweighs ECISD's interest in efficiency. *See id; Beattie*, 254 F.3d at 601. Plaintiff also presents enough facts, taken as true under the liberal pleading standard afforded a *pro se* plaintiff, to assert that his speech on issues of public concern lead to the retaliatory adverse employment action. *See Iqbal*, 556 U.S. at 678–79; *Beattie*, 254 F.3d at 601. Specifically, Plaintiff alleges that after he provided the Texas Rangers on April 2, 2012,

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[11] Plaintiff's first eight grievances apply to his retaliation claims. Plaintiff's last four grievances were each submitted after Plaintiff's notice of termination, and thus the final four letters cannot be causation for his termination. *See Strotter v. Univ. of Tex. at San Antonio*, 508 F.3d 812, 825 (5th Cir. 2007) (a section 1983 claim for First Amendment retaliation requires a showing that protected speech was causation for the adverse employment action).

with a packet of information concerning school misconduct, he was informed by an ECISD employee that the employee spoke with the Texas Ranger about the complaint. (Doc. 2 ¶ 68 at 23–24). Plaintiff alleges that following his conversation with the ECISD employee, ECISD human resources proposed a letter of resignation. (*Id.*).

Lastly, Plaintiff alleges enough facts taken as true to support an allegation that Defendants' actions were an official policy for section 1983 liability through custom. *See Iqbal*, 556 U.S. at 678–79; *Harris v. Victoria Indep. Sch. Dist.*, 168 F.3d 216, 22d (5th Cir. 1999); *Webster v. City of Houston*, 735 F.2d 838, 841 (5th Cir. 1984). Plaintiff asserts that he was a victim "for complaining about constitutional infringements" and that "ECISD unlawfully discriminates against outspoken teachers." (Doc. 2 ¶ 50 at 18). Plaintiff further alleges that "Defendants pursue a pattern or practice of retaliation against their perceived critics by subjecting them to . . . meritless administrative actions, by placing employees on administrative leave, frequently harassing them, and engaging in adverse employment actions, reprimands and termination on the basis of retaliation for being a witness to . . . discrimination . . . ." (*Id.* ¶ 12 at 6). Plaintiff also asserts that employees who file complaints or grievances are targeted by the administration and subject to harassment. (*Id.* ¶ 23 at 10–11). Plaintiff alleges that he was a victim of such retaliation and provides descriptions of others who experienced similar actions by ECISD. (*Id.* ¶ 50 at 18). In addition, Plainitiff pleads facts to show that he was personally placed on administrative leave. (*Id.* ¶ 45 at 16; Doc. 28 at 7). Based on the aforementioned, and under the liberal pleading standard afforded a *pro se* litigant, Plaintiff has pleaded sufficient factual matter, accepted as true, to support a section 1983 claim that Defendants' official policy via custom is facially plausible. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp. v Twombly*, 550 U.S. 554, 570 (2007)); *Harris v. Victoria Indep. Sch. Dist.*, 168 F.3d 216, 22d (5th Cir. 1999).

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C. Plaintiff's Motion for Declarative and Injunctive Relief

On May 7, 2013, Plaintiff filed a Motion for Declarative and Injunctive Relief. (Doc. 29). Upon review, Plaintiff's Motion fails to identify what declaratory relief and/or injunctive relief he seeks from the Court. Declaratory Judgments may be granted by a federal court under the Declaratory Judgments Act. *See* 28 U.S.C. § 2201; *Aetna Life Insurance Co. v. Haworth*, 300 U.S. 227 (1937). Moreover, Plaintiff has failed to plead in any manner that declaratory relief or injunctive relief is appropriate at this stage of the litigation. This Court recommends that Plaintiff's Motion for Declarative and Injunctive Relief be **DENIED**.

III. Recommendation

After reviewing the pleadings and arguments of the parties and the relevant law, this Court recommends to the U.S. District Court that Defendants' Motion to Dismiss for Plaintiff's Failure to State a Claim be **GRANTED in part**. (Doc. 10; Doc. 30) The undersigned recommends that all of Plaintiff's claims be **DISMISSED WITHOUT PREJUDICE** for either lack of standing or for failure to state a claim upon which relief may be granted, with the exception of two specific claims. The undersigned recommends that the following claims should not be dismissed at this stage of litigation: (1) Plaintiff's claim asserting violations of the Fourth Amendment under 42 U.S.C. § 1983; and (2) Plaintiff's claim asserting First Amendment retaliation under 42 U.S.C. § 1983. In addition, the undersigned recommends that Plaintiff's Motion for Declarative and Injunctive relief (Doc. 29) be **DENIED**.

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Instructions for Service and Notice of Right to Appeal/Object

In the event that a party has ***not been served*** by the Clerk with this Report and Recommendation electronically, pursuant to the CM/ECF procedures of this District, the Clerk is **ORDERED** to mail such party a copy of this Report and Recommendation by certified mail. Pursuant to 28 U.S.C. § 636(b)(1), any party who desires to object to this report must serve and file written objections within fourteen (14)

days after being served with a copy. A party filing objections must specifically identify those findings, conclusions, or recommendations to which objections are being made; the District Court need not consider frivolous, conclusive, or general objections. Such party shall file the objections with the Clerk of the Court and serve the objections on all other parties. A party's failure to file such objections to the proposed findings, conclusions, and recommendations contained in this report shall bar the party from a *de novo* determination by the District Court. Additionally, a party's failure to file written objections to the proposed findings, conclusions, and recommendations contained in this report within fourteen (14) days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996).

SIGNED on August 7, 2013.

DAVID COUNTS
UNITED STATES MAGISTRATE JUDGE

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Exhibit D

TO THE RELATOR'S CLAIM PURSUANT TO THE FALSE CLAIMS ACT

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PENGAD 800-631-6989
PLAINTIFF'S EXHIBIT
FCA D

James Boswell
414 Morrison Drive
Euless Texas 76039
August 9, 2013

President
The National Collegiate Athletic Association
700 Washington Street
P.O. Box 6222
Indianapolis, Indiana 46206-6222

Request: NCAA Investigation - Texas Christian University Infractions

DEAR SIR:

On behalf of Patrick Tillman, former NFL Player who made national headlines when he gave up his lucrative sport career to join the U.S. Army Rangers, I ask that you investigate the manner in which TCU violates recruiting and operations, per your guidelines, and Texas Business and Commerce Chapter 15 Conspiracy in Restraint of Trade.

On September 23, 2005 media headlines show "NCAA finds Fraud at TCU; February 4, 2011 "Lawsuit accuses TCU of Fraud", and "turning a blind eye"; June 11, 2012 "TCU settles for 5 million", "Breech of Contract" claim; April 30, 2011 "Settlement reached in TCU suit over Rape charges. The allegations was that she was sexually assaulted by three Horned Frog Athletes". The NCAA has found that TCU infractions to be a pattern of willful violations. On August 9, 2013, allegations are made of no trespassing - retaliation, sexual assault – a 12 year old child injury – TCU coverup.

There is a similarity between Penn State Trustees being negligent and TCU lacking oversight. TCU cheats, lacks integrity, and is not a good role model. TCU violates the Clery Act and the 2008 whistle blower amendment, 20 U.S.C. 1982 and 1092, and Title IX by prohibiting student participation in extra curricula programs. TCU's ROTC cadet victim could not participate in sports competition. She had to leave the University and have an abortion.

The attached affidavit documents a TCU conspiracy, and an indifference to females, minorities, and Veterans – potential recruits for TCU marketing.

Thank you for your consideration in this matter.

James Boswell

James Boswell
jbosranger@aol.com

Unofficial copy Travis Co. District Clerk Velva L. Price

Exhibit E

TO THE RELATOR'S CLAIM PURSUANT TO THE FALSE CLAIMS ACT

Unofficial copy Travis Co. District Clerk Velva L. Price

PLAINTIFF'S EXHIBIT FCA E
PENGAD 800-631-6989

James Boswell

414 Morrison Drive

Euless, Texas 76039

JBosRanger@aol.com

817-896-4137

TO: Marvin Macicek **August 19,** 2013

U.S. Department of Education,
Office of Civil Rights
1999 Bryan Street, Suite 1620
Dallas, Tx 75201

Subject: Claim dated June 18 -19 2012 and this new retaliation claim

Dear Mr. Macicek May I meet with you please?

Attached is a request for follow up T-0279-TX-A-04-99-L and 453-2012-00864 and correspondence to the Secretary of Education, Inspector General and Civil Rights substantiating a Texas Christian University's pattern of indifference to Title VI, VII, and IX, retaliation law, and in violation of the continuing violation doctrine.

Please note the attached appendix 1 and 8 August and 19 August 2013 affidavits concerning violation of 42 U.S.C. 1983 and TCU failure to comply with equal employment consideration. I allege discrimination based on whistle blowing pertaining to my letter to Secretary Duncan April 2, 2012 and regarding age and political affiliation. For twenty-six years I have been denied equal opportunity and veteran education benefit opportunity and civil rights because I reported a sexual assault. The attached letter from TCU violates my constitutional rights.

Please acknowledge that my correspondence to Secretary Arne Duncan, April 2, 2012 and my EEOC request for investigation to you represent complaints against Texas Christian University. The TCU "no trespassing" letter dated December 10, 2012 constitutes evidence of the continuing violation doctrine. Please assign a case number and launch an investigation.

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The attached letters to the former FBI Director and Texas Veterans Commission outline systemic education corruption within Texas and point to violations of the False Claim Act. My attempt to establish accountability and recover funds per the American Recovery Reinvestment Act so far have failed. But, "in light of a strong public policy against whistle blower reprisal", your investigative and law enforcement arm may penetrate what I know to be a conspiracy to defraud the government. I have many documents on file that I can electronically send you.

Please also resolve a dispute that my whistle blower complaint June 18, 2012 involved violations regarding the American Reinvestment and Recovery Act and that at the time of disclosure I was a state employee at ECISD.

Sincerely,

James Boswell
Army Major (RET)

enclosures

Unofficial copy Travis Co. District Clerk Velva L. Price

McDonald
Sanders
A Professional Corporation
ATTORNEYS AT LAW

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Unofficial Copy Tarrant Co. District Clerk Velva L. Price

JAMES WEBB
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GREG S. HARGROVE
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RORY DIVIN
STUART B. LUMPKINS, JR.
GEORGE C. HARATSIS
RANDYL MEIGS
JOHN W. WRIGHT
NICHOLAS BETTINGER
RICHARD C. DEBERRY
JENNIFER N. LITTMAN
RUSSELL A. DEVENPORT
BRANDON R. WADE
BRITTANI W. ROLLEN
JUSTIN P. HUSTON
CRAIG P. BARBOLLA
DONALD A. KACZKOWSKI
MICHAEL C. WURTZ
KIMBERLY A. COLLIER
ANNE MOBERG
KATE WELLS

December 10, 2012

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Major James Boswell
414 Morrison Drive
Euless, TX 76039

Dear Major Boswell:

We are attorneys for Texas Christian University ("TCU").

I am writing in response to your letter of November 21, 2012, addressed to Dr. Victor J. Boschini, Jr., Chancellor, Mr. Clarence Scharbauer III, Chairman of the Board of Trustees, and the Board of Trustees of TCU and the enclosures.

First, with respect to your interest in employment at TCU, TCU does not maintain a position such as you are seeking and, at the present, is not adding any new positions. Second, regarding the whistleblower reprisal claim, such matter is strictly between you and the U.S. Department of Education.

Additionally, TCU respectfully declines your requests for meetings with Chancellor Boschini, Chairman Scharbauer, and the Board of Trustees.

You are correct that, on November 18, 1987, I sent you a certified letter notifying you to immediately cease and desist all communications with TCU, its faculty, administration and Board of Trustees. That notice still stands. Additionally, notice is hereby given that you are not to come on or about the TCU campus or any property owned by TCU without the express written permission of the Chief of Police of TCU. The TCU Police Department is being notified regarding the imposition of this no-trespass notice.

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ATTORNEYS AT LAW

Should you have any questions regarding this letter or need to communicate further regarding this or any other matter, such communication should be directed exclusively to me as TCU's legal representative.

Very truly yours,

Robert L. Ginsburg

RLG:ess
I:\09300\0004\LQ8853.DOCX

cc: Dr. Victor J. Boschini, Jr.
Chancellor
Texas Christian University

Mr. Clarence Scharbauer III
Chairman of the Board of Trustees
Texas Christian University

Steve McGee
Chief of Police
Texas Christian University

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James Boswell

414 Morrison Drive

Euless, Texas 76039

JBosRanger@aol.com

817-896-4137

TO: Texas Veterans Commission
8701 Bedford,Texas 76053

December 12, 2012

Subject: Whistle Blower Reprisal Claim and Systemic Discrimination

Dear Chairman Eliseo "Al" Cantu and Commissioners and Point of Contact for Employment, Mr. Robert Newsome

Texas Christian University attorney, Mr. Ginsburg's letter 12-10-2012, in acknowledgment of discrimination since November 18, 1987, verifies disparate treatment that comes after reporting violation of state and federal statutes. This is a severe blow to Veterans who fight, past, present and future - long and hard - to uphold the Constitution. In Tarrant County, at TCU, I receive a no trespass notice 19 days after my whistle blower report to the IG and letter of prohibition from speaking and meeting with TCU trustees. I have no criminal record and this year I was 1st Vice President for the American Legion, Troop 430, and a member of the VFW. I was guest speaker for Veteran's day activities in Ector County, 2010 and 2011.

Thank you for your assistance once again. The Texas Veterans Commission provided successful legal representation at my Army Discharge Review Board and showed a little girl's account, frightened, riding in military sedan, as - dad – TCU whistle blower of discrimination to females and minorities – was escorted to the Navy hospital. The Chief of Appeals, Army Board concluded favorable proceedings, 12-16-1998, and took steps to correct the reprisal from being removed while assigned to ROTC duty at TCU.

Due to renewed employment within ROTC Cadet Command and witnessing more discrimination as Texas state education authorities continue to violate statutes, I provided a 400 page whistle blower report 11-21-12 to the Department of Education IG complaining of discrimination continuing

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violations and a second retaliation experience. Seeking employment in Fort Worth, I requested an audience with the TCU Chancellor and TCU Board of Trustees to avoid a Texas scandal concerning children similar to PENN STATE. I hand delivered to the Chief of Staff, 11-21-12, a TCU letter, new evidence of corruption, also given to the Texas Rangers, and a request for consideration of reemployment. My request for remedy is more in line with the intent of the No Child Left Behind Act, more progressive with forethought for all future ROTC cadets, fair and equitable. TCU receives approximately 6 million dollars of federal funds per year for the last 25 years. The December 10, 2012 TCU response represents an alleged acknowledgment of the harassment for 25 years and is matter of public interest. These TCU actions remain the ethical reasoning and justification for the recovery of all federal funds provided to TCU due to fraud and abuse. I pray that you will start an investigation under the provisions of the American Recovery Reinvestment Act.

With kind regards and great respect,

James Boswell

James Boswell
Army Major (RET)

3 Enclosures

Mr. Boswell's cover page to the whistle blower report to Department of Education IG, November 20, 2012

Mr. Boswell's letter to TCU, November 21, 2012

TCU letter to Mr. Boswell, December 10, 2012

CF:

Attorney Robert Ginsberg, TCU

Department of Education IG

Texas Congresswoman Wendy Davis

United States Senate Armed Services Committee

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James Boswell

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Euless, Texas 76039

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TO: Freeh, Sporkin and Sullivan LLP
2445 M St NW Third Floor
Washington DC 20037

December 14, 2012

Subject: Whistle Blower Reprisal Claim and Systemic Discrimination

Dear Mr. Freeh:

Thank you for being the ultimate leader in resolving issues. As in PENN State, Education discrimination in Texas is ongoing for years. I am counting on your superb leadership to expose education issues in Texas.

The attached letters by Senator Sam Nunn and the current letter to the Texas Veterans Commission outlines systemic education corruption within Texas and in Tarrant county. Request your inquiry into the corruption and a request for a government whistle blower investigation report for your analysis under the provisions of the American Recovery Reinvestment Act.

I also wish you to correspond and interview the Chairman for the Texas Christian University Trustees, and TCU Chancellor on my behalf, and question the governance of the board, similar to the criticism which occurred for PENN State, "in light of a strong public policy against whistle blower reprisal".

Sincerely,

James Boswell
Army Major (RET)

enclosures

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Exhibit F

TO THE RELATOR'S CLAIM PURSUANT TO THE FALSE CLAIMS ACT

Unofficial copy Travis Co. District Clerk Velva L. Price

PENGAD 800-631-6989
PLAINTIFF'S EXHIBIT
FCA F

James Boswell
414 Morrison Drive
Euless Texas 76039
August 9, 2013

Major General Jeffery A. Smith
Commanding General U.S. Army Cadet Command and Ft. Knox
P.O. Box 995, Ft. Knox, Kentucky 40121

Subject: Disbarment of ROTC and JROTC organizations Texas Christian University: Texas Ector County Independent School District

Dear **Major General Jeffery A. Smith:**

May I please reference letters to the President of the NCAA, August 9, 2013 "On behalf of Patrick Tillman ..." and to US Army Cadet Command 01-25-13. A bold step on your part will correct the sexual assault Army dilemma with a concept that you give the benefit of doubt to the soldier and to the cadet verses the University, ISD, and Army Chain of Command.

Please examine fraud and acceptance of federal ROTC/JROTC program funds, and obligation of ISD and Universities to return funds due to noncompliance with federal statutes, per 10 U.S.C. 983 and applicable DOD regulations.

Sir, we wear the same tabs, and we had similar mentors. My awards and recommendations come from Generals: Crosbie E. Saint, John Shalikashvili, John Tilelli, Lieutenant General Neal Jaco, and Major General George Harmeyer. Major General Harmeyer will remember our hunting trip and the feeding of the Hell On Wheels Division venison chili. General Tililli will remember the penning of my major oak leafs and promotion party. Lieutenant General Jaco will remember a check he wrote for his pledge of $ 3.00 per hour for the twenty-six hours pertaining to the Division fund raiser a dance-a-marathon. (Didn't win but tied for first place because of the performance of a Marine SGM and his spouse, also a Marine). The marathon I am most proud of is my demotion from the A C of S, G-5, 2nd AD to Sergeant, Texas National Guard. This has served a "cause". I also was a Distinguished Military Graduate from ROTC – The University of Texas, Austin.

Thank you Sir, for your consideration in this matter. I hope to meet you.

Respectfully,

James Boswell

James Boswell
jbosranger@aol.com

Please stamp the copy in self addressed envelope and return

Unofficial copy Travis Co District Clerk Velva L Price

James Boswell

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August 21, 2013

Judge John K. Dietz
250th District Court
Travis County, Texas
Austin, Texas 78767

Re: Cause # D-1-GN-11-003130

Dear District Clerk:

Please accept this filing and the attached appendix and return the cover page stamped.

This involves the reopening of the case and new evidence thus far not considered.

Thank you so much for your assistance.

Sincerely,

James Boswell
PRO SE

CF: Attorney for Defendants Michael Williams, Susan Combs, and Texas State Board of Education

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