

District Court, City & County of Denver, Colorado
1437 Bannock Street
Denver, CO 80202

Plaintiff(s): Ward Churchill, an individual,

v.

Defendant(s): University of Colorado, Regents of the University of Colorado, a Colorado body corporate, Weldon A. Lodwick in his capacity as Chairman of the Privilege and Tenure Committee of the University of Colorado Faculty Senate, Pete Steinhauer in his capacity as Regent, Paul Schauer in his capacity as Regent Jerry Rutledge, in his capacity as Regent, Tom Lucero in his capacity as Regent, Pat Hayes in his capacity as Regent, Gail Schwartz in her capacity as Regent, Steve Bosley in his capacity as Regent, Cindy Carlisle in her capacity as Regent, Michael Carrigan in his capacity as Regent, and Hank Brown, in his capacity as President of the University of Colorado.

Attorneys for Plaintiff:

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Case No. 06 CV _____

Div.: _____ Ctm: _____

COMPLAINT & JURY DEMAND

COMES NOW Plaintiff, Ward Churchill, by and through his attorneys, Lawlis & Bruce, LLC and Killmer, Lane & Newman, LLP, and respectfully submits the following as his Complaint and Jury Demand in this action. For the reasons set forth below, and because it is in the interest of justice, the relief sought herein should be granted and judgment should enter in favor Plaintiff.

GENERAL ALLEGATIONS

1. Plaintiff Ward Churchill is a citizen and resident of Boulder, Colorado.
2. Defendant University of Colorado is a Colorado State constitutional entity located and operating in Denver, Colorado. The University President's office is located in Denver, Colorado
3. Defendant Regents of the University of Colorado is a constitutional body, a Colorado body corporate, and is the governing body of the University of Colorado.
4. Defendant Weldon A. Lodwick is joined herein in his capacity as Chairman of the Privilege and Tenure Committee of the University of Colorado Faculty Senate.
5. Defendants Pete Steinhauer, Paul Schauer, Jerry Rutledge, Tom Lucero, Pat Hayes, Gail Schwartz, Steve Bosley, Cindy Carlisle, and Michael Carrigan are the University Regents and are joined herein in their official capacities
6. Defendant Hank Brown is joined herein in his capacity as President of the University of Colorado. (Defendants shall be collectively referred to herein as the "University".)
7. The University is a state actor.
8. Venue is proper in this Court pursuant to Rule 98 of the Colorado Rules of Civil Procedure in that Defendants, or any of them, reside in Denver, Colorado.
9. This court has jurisdiction over the parties and claims set forth herein

CLAIM FOR RELIEF (Breach of contract)

10. Plaintiff hereby incorporates the preceding paragraphs as if stated, fully, herein.
11. Plaintiff and Defendants entered into an employment agreement whereby Plaintiff is a tenured Professor for the University of Colorado.
12. Plaintiff is a current employee of the University.

13. In connection with this employment, Plaintiff and Defendants are in the process of scheduling and conducting dismissal for cause proceedings.
14. Defendants have policies and procedures that are in place and have been in place during the time of the Plaintiff's employment.
15. The policies and procedures set forth the method for conducting a dismissal for cause case, such as Plaintiff's.
16. Defendants, through words and conduct, demonstrated a willingness to be bound by its policies and procedures.
17. Plaintiff has been aware of the University's policies and procedures throughout his employment.
18. Plaintiff performed as required under the parties' agreement.
19. Notwithstanding Plaintiff's performance, Defendants breached the terms of the agreement by failing to comply with the terms of the agreement.
20. Defendants failed to perform follow its internal procedures, rules and policies governing its dismissal for cause process.
21. Defendants failed to "contribute up to \$20,000.00 of the reasonable fee of an attorney for services directly related to the representation" of Plaintiff in his dismissal for cause case, and/or demonstrated a clear and definite intention not to perform this promise.
22. Defendants failed to take any steps to ensure that counsel would be available to Plaintiff.
23. As a direct and proximate result of the Defendants' breach of contract, Plaintiff has suffered damages and losses.

CLAIM FOR RELIEF
(Breach of contract)

24. Plaintiff hereby incorporates the preceding paragraphs as if stated, fully, herein.
25. Defendants breached the express covenant of good faith and fair dealing set forth in their agreement.
26. As a direct and proximate result of the breach of contract, Plaintiff has suffered damages and losses.

ALTERNATIVE CLAIM FOR RELIEF
(Breach of Contract)

27. Plaintiff hereby incorporates the preceding paragraphs as if stated, fully, herein.
28. Defendants, through their written policies, procedures, and representations, made an offer to Plaintiff to contribute up to \$20,000.00 of the reasonable fee of an attorney for services directly related to the representation of Plaintiff in his dismissal for cause case
29. Plaintiff's performance and adherence to the University policies and procedures constituted an acceptance of and consideration for the offer.
30. Plaintiff's adherence to the University policies and procedures, and Defendants' unjust failure to abide by its own policies and procedures, directly caused Plaintiff to incur damages.

ALTERNATIVE CLAIM FOR RELIEF
(Breach of Implied Contract)

31. Plaintiff hereby incorporates the preceding paragraphs as if stated, fully, herein.
32. Plaintiff was aware of the University's written policies and procedures throughout his employment.
33. Plaintiff reasonably understood that the University was offering the written policies and procedures as part of the terms and conditions of his employment, and with that understanding, he continued his employment with the University.
34. Plaintiff performed according to the University policies and procedures with the reasonable expectation that Defendants would contribute up to \$20,000.00 of the reasonable fee of an attorney for services directly related to the representation of Plaintiff in the event of a dismissal for cause case.
35. The University requested and accepted Plaintiff's performance expecting to contribute \$20,000.00, or under such circumstances that it reasonably should have known that Plaintiff was expecting a contribution of up to \$20,000.00 of the reasonable fee of an attorney.
36. Defendants failed to contribute any sums towards the reasonable fee of an attorney and to comply with its policies and procedures, and directly caused Plaintiff to incur damages as a result

ALTERNATIVE CLAIM FOR RELIEF
(Promissory estoppel)

37. Plaintiff hereby incorporates the preceding paragraphs as if stated, fully, herein.
38. The University published, circulated, and distributed its written policies, including its claim that it would contribute up to \$20,000.00 of the reasonable fee of an attorney for services directly related to the representation of Plaintiff in his dismissal for cause case.
39. The University was aware of its publications; however, Plaintiff had no reason to know that the University would apply certain provisions of its policies and procedures, without applying other provisions.
40. Plaintiff has reasonably relied on the promises made by the University to his detriment, and under circumstances that make it unfair and unjust not to enforce the University's promise.
41. Plaintiff has relied on the promises made by the University, and it would be manifestly unjust not to enforce the University's promise.

CLAIM FOR RELIEF
(Due Process—Procedural)

42. Plaintiff hereby incorporates the preceding paragraphs as if stated, fully, herein.
43. Plaintiff has a constitutionally protected property and/or liberty interest arising from each term, actual or implied, of his employment or other contract(s) with the University, as set forth in, or evidenced by, the parties' acts and words, the rules and policies of the University of Colorado, its employee handbooks and manuals, the Laws of Regents, and the Bylaws and publications of the Faculty Senate.
44. The University established policies and procedures in connection with its dismissal for cause proceedings, which were more stringent in favor of its professors, such as Plaintiff, than due process would otherwise require.
45. The University failed to comply with these policies and procedures.
46. The University denied Plaintiff a reasonable chance of succeeding if and when Plaintiff avails himself of the opportunity to defend himself at the dismissal for cause proceeding.
47. Defendants deprived Plaintiff of life, liberty or property without due process of law in violation of the Colorado Constitution and U.S. Constitution.

CLAIM FOR RELIEF
(Due Process-Substantive)

- 48 Plaintiff hereby incorporates the preceding paragraphs as if stated, fully, herein.
- 49 Defendants deprived Plaintiff of his property arbitrarily, so as to offend notions of fairness and due process in violation of the Colorado Constitution and U.S. Constitution.

A JURY TRIAL IS DEMANDED

WHEREFORE, Plaintiff demands judgment against Defendants, and relief including:

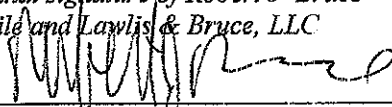
- A. Damages in an amount to be proven at trial;
- B. Prejudgment and postjudgment interest;
- C. Attorneys' fees;
- D. Costs; and
- E. Such other and further relief as this court deems just and proper.

DAIED this 21 day of October, 2006

LAWLIS & BRUCE, LLC

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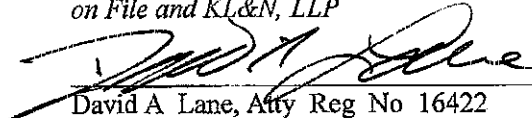
*Original signature of Robert J Bruce
on File and Lawlis & Bruce, LLC*


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