

GEORGETOWN UNIVERSITY GRIEVANCE COMMITTEE

<i>Gary Peller,</i>)	
<i>Grievant,</i>)	
)	
<i>v.</i>)	
)	Case No. _____
<i>William M. Treanor,</i>)	
<i>Respondent.</i>)	
_____)	

NOTICE OF GRIEVANCE

Pursuant to the policies and the procedures set forth in the Georgetown University Faculty Handbook ("Handbook"), and as a faculty member of the Georgetown University Law Center, I hereby submit this Notice of Grievance.¹

This grievance concerns the adverse actions against me taken by William M. Treanor ("Treanor" or "Respondent") in his capacity as Dean of the Law Center and Executive Vice President of the University.

1. As a faculty member, I am obliged to "comply with all applicable department, program, school, campus, and University policies..." Handbook, (III)(C)(11). In light of this obligation, representations that I violated such policies harm my reputation regarding the discharge of my professional duties.

2. On February 16, 2016, Treanor stated to my colleagues, Professors Randy Barnett and Nick Rosenkranz, that I violated the Law Center's official policies regarding

¹ In light of the mandate that "[t]he Notice of Grievance shall contain a concise statement of the reasons that lead the faculty member to feel aggrieved...", Handbook, (III)(F)(7)(A)(1), no supporting evidence is included in this submission. This evidence will be provided to the Panel prior to any hearing on this matter.

distribution of communications by disseminating an electronic mail statement to all students and staff, and that I had no authorization to disseminate the communication.

3. Treanor's statements were false. I followed Law Center procedures and complied with Law Center and University policies in requesting and receiving authorization to send a communication to all students and staff.

3. On or about February 16, 2016, Treanor authorized Barnett and Rosenkranz to disseminate a response to my statement to all faculty, students, and staff, via the "campus broadcast" channel. Treanor, Barnett and Rosenkranz agreed among themselves to coordinate responses to my communication, so that Treanor's response would precede the Barnett and Rosenkranz response.

4. Barnett and Rosenkranz's response to my statement contained repeated assertions that I had violated applicable policies in disseminating my statement to all students, and that I had not received authorization to distribute my statement. Their response did not attribute this information to Treanor.

5. On February 17, 2016, Treanor caused these defamatory statements about me to be distributed to all faculty, students, and staff, by directing employees in the Information Technology Department to disseminate the Barnett and Rosenkranz response via the "campus broadcast" channel. In accordance with the agreement described in paragraph 3, Treanor's statement was distributed to all students, faculty and staff, and, after a short period, the Barnett and Rosenkranz statement was disseminated by staff of the Information Technology department to all students, faculty and staff via the campus broadcast channel.

6. Because of public interest in the matter, the defamatory statements have now been widely disseminated, in the United States and throughout the world, via newspaper accounts, online news reports, and other media, causing me harm with respect to my professional reputation for honesty, integrity, and fair dealing. Such a reputation is central to the work of any scholar, but it is particularly critical for scholars of law, whose professional and ethical norms mandate such conduct. This reputational injury also constrains full and meaningful participation in the rights and responsibilities of shared governance, as colleagues may be led to believe that I do not "play by the rules."

7. Treanor's conduct is grievable because it "significantly harms the faculty member in his or her professional capacity as a faculty member." Handbook, (III)(F)(2)(g).

8. Treanor concedes that he made the defamatory statements about me to Barnett and Rosenkranz and that he authorized their response containing the statements to all students, faculty and staff via the broadcast channel. He also concedes that he failed to contact me before making these assertions about my alleged wrongdoing. Upon information and belief, Treanor made the defamatory statements without conducting a reasonable investigation of the facts. Upon information and belief, prior to making the defamatory statements, Treanor failed to review the University's actual, written policies for dissemination of email.²

9. On February 18, 2016, after requesting that they retract their false representations regarding me, I learned from Professor Rosenkranz that he and Barnett had relied on statements made to them by Treanor when disseminating the defamatory statements

² The Law School's policy, which incorporates by reference the University's policy, is contained at <https://www.law.georgetown.edu/campus-services/ist/communications/LawCenterEmailLists.cfm>

that I had violated Law Center policies and lacked authorization to distribute my statement to all students.

10. On February 18, 2016, and February 21, 2016, I presented Treanor with written documentation that I sought and received authorization from George Petasis, Chief Information Officer of the Law Center, to distribute my communication to all students and staff as provided for in the Law Center's written policies. I requested that he retract the defamatory statements he made about me.

11. On February 21, 2016, I met with Treanor, along with Associate Dean Naomi Mezey and my colleague Mike Seidman. Treanor represented that he had reviewed the relevant documents, and that he had concluded that I had done nothing wrong. At the meeting, Treanor agreed promptly to provide me a statement confirming this fact.

12. Despite his agreement, Treanor has not retracted his false statements that I violated applicable policies and that I did not have authorization to disseminate my statement to all students.

13. Since our meeting, Treanor has proffered a series of justifications for his refusal to retract the defamatory statements he made about me. Treanor now insists that, although I complied with all written policies, I violated unwritten policies--nowhere contained in or referred to in the official statements of policies governing these matters, and never communicated to me or, to my knowledge, to any other member of the Law Center faculty and staff--that mandate that he alone enjoys unfettered discretion to authorize or deny authorization for such communications to be disseminated to all students.

15. The question of "authorization" under law is determined by objective manifestations rather than the secret or subjective intentions of actors.

16. Treanor's misconduct has violated my rights as a faculty member.

17. Because Treanor took these adverse actions in retaliation for my public criticism of his official performance, his misconduct violates the academic freedom and the shared governance rights that faculty members are guaranteed. Handbook (III)(C)(1).

18. Treanor's misconduct also obstructs the discharge of my duties. I am obliged to bring my "best judgment of what constitutes good teaching and research, and of the conditions that promote them, to bear on matters of academic policy..." Handbook (III)(C)(5)(2). Treanor's press release promoted conditions inimical to independent and critical thinking about legal issues. My statement sought to restore such condition. I should not have to suffer reputational injury as the cost of exercising my best judgment about such matters.

19. Treanor's misconduct also violates my rights to be treated "fairly, courteously and professionally" and to be "protected from arbitrary or capricious action..." Handbook (III)(C)(11)(B). Treanor's dissemination of false statements about my non-compliance with applicable policies and procedures, his refusal to correct the falsehoods when confronted with contrary documentation, his failure to comply with agreements he made to retract the defamatory statements, and his refusal to take responsibility for the mistake he made, constitute unfair, discourteous and unprofessional treatment towards me, and arbitrary and capricious administrative action.

WAIVER OF CONFIDENTIALITY

Pursuant to the Faculty Handbook (III)(F)(5), I hereby waive the confidentiality rights and duties that would otherwise apply in these proceedings.

RELIEF REQUESTED

I request that the Panel find that Respondent has violated my rights as a faculty member and that the Panel recommend to the Grievance Committee that Respondent be required 1) to make a clear and unequivocal public retraction of his defamatory statements that I violated Law Center policies or that I disseminated my statement to the community without authorization; and 2) to disseminate the retraction without delay to all faculty, staff and students of the Law Center.

Respectfully submitted,

/s/ Gary Peller

Gary Peller

DATED: March 21, 2016
Washington, D.C.