

HAIRFIELD  MORTON
WATSON • ADAMS • SOMMERS
— Attorneys At Law —

July 25, 2012

VIA HAND DELIVERY

Yvonne G. Smith, Clerk
Henrico Circuit Court
4301 E. Parham Road
Henrico, Virginia 23273

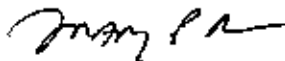
*RE: Douglas R. Morrissey, Administrator of the Estate of Kevin Morrissey v.
the Commonwealth of Virginia, et al.*

Dear Ms. Smith:

Please find enclosed for filing the original and one copy of the Complaint regarding the above-referenced matter in which we represent the Plaintiff, Douglas R. Morrissey, Administrator. Also enclosed is our firm check in the amount of \$346.00 to cover the filing fee.

Accordingly, please note that we are not requesting service of the Complaint at this time. Should you have any questions, please advise.

Sincerely,



Mary P. Adams
Stephen V. Sommers
Hairfield Morton, PLC

MPA\tsb

VIRGINIA:

IN THE CIRCUIT COURT OF THE COUNTY OF HENRICO

DOUGLAS R. MORRISSEY, Administrator and Personal Representative Of the Estate of Kevin Morrissey, Deceased	Plaintiff
V.	
The Commonwealth of Virginia <u>Serve:</u> Kenneth T. Cuccinelli, II Office of the Attorney General 900 E. Main Street Richmond VA. 23219	Defendant
John T. Casteen, III Former President, The University of Virginia	Defendant
Theodore H. Genoways, III	Defendant
Angelee Godbold Human Resources Consultant Manager The University of Virginia 918 Emmet Street Charlottesville, VA	Defendant
Alan S. Cohn, L.C.S.W. Former Director, Faculty and Staff Employee Relations The University of Virginia	Defendant



COMPLAINT

COMES NOW YOUR PLAINTIFF, Douglas R. Morrissey, Administrator of the Estate of Kevin Morrissey, Deceased, pursuant to Va. Code § 8.01-50, 1950 as amended, and as for his Complaint against the Defendants, jointly and/or severally, on the grounds and in the amount as hereinafter set forth, he does state as follows:

PARTIES

1. Kevin Morrissey, age 52, died on July 30, 2010 in Charlottesville, Virginia. At the time of his death, he was Managing Editor of the Virginia Quarterly Review (“VQR”) magazine.

2. The Plaintiff is Douglas R. Morrissey who qualified as Administrator of the Estate of Kevin Morrissey, Deceased, in the Circuit Court of the City of Charlottesville, Virginia on June 14, 2011.

3. The statutory beneficiaries of Kevin Morrissey are his Father, John (“Jack”) Morrissey, and his siblings: Mike Morrissey, Maria Morrissey, Douglas R. Morrissey and Terry Morrissey.

4. The Defendant, the Commonwealth of Virginia and the University of Virginia, collectively referred to as “UVA”, operates the University of Virginia which is a public university and agency of the Commonwealth of Virginia, and which conducts business throughout the Commonwealth including Charlottesville, Virginia and Henrico County, Virginia. UVA is liable to the Plaintiff pursuant to the Virginia Tort Claims Act

as the employer of its agents and employees who acted negligently and/or with gross negligence under the doctrine of *respondeat superior*.

5. The Defendant, John T. Casteen, III, was President of UVA from 1990 to July 30, 2010.

6. The Defendant, Theodore H. Genoways ("Genoways"), is a former member of the faculty of UVA and is a past Manager and Editor of the Virginia Quarterly Review ("VQR") where he worked from 2003 through May 31, 2012.

7. The Defendant, Angelee Godbold, is a Human Resources Consultant Manager at UVA and was employed in that capacity on July 30, 2010.

8. The Defendant, Alan S. Cohn, L.C.S.W., is the former Director of Faculty and Staff Employee Relations ("FEAP") in the Department of Human Resources ("HR") at UVA and was employed in that capacity on July 30, 2010.

FACTS

1. Kevin T. Morrissey ("Morrissey") was born on December 19, 1957 and died on July 30, 2010 of a self-inflicted gunshot wound. Morrissey resided at 105 Monticello Street, #301, in the City of Charlottesville, Virginia. At the time of his death, Morrissey was employed by UVA as the Managing Editor of the Virginia Quarterly Review where he had worked since 2004. In addition to being Managing Editor in June, 2010, Morrissey's duties included managing VQR personnel and financial matters.

2. The Virginia Quarterly Review ("VQR") is a literary magazine founded in 1925 at UVA and is published four times annually in January, April, July and October.

3. On July 30, 2010, VQR operated under a unique arrangement as it reported directly to President John T. Casteen, III. VQR had an internal bank account but also had a separate bank account and credit card with its own Taxpayer Identification Number outside of the University. All expenses were paid through University accounts. On August 1, 2010 VQR became a part of the office of the Vice President of Research, Thomas C. Skalak.

4. Theodore H. Genoways, III ("Genoways") is the former Editor of VQR where he worked from July 1, 2003 to May 31, 2012. Other members of the staff in July 2010 were Waldo David Landers Jaquith (Web editor); Mary W. "Molly" Mintum (Assistant to the Editors); Sheila M. McMillen (Circulation Coordinator); and Alana M. Levinson-LaBrosse, (Development and Outreach Manager). Jaquith resigned on July 26, 2010. Following Morrissey's suicide, the remaining staff members left VQR permanently.

5. Genoways was on a leave of absence from VQR from May 24, 2010 through August 20, 2010. During his leave, Genoways designated Morrissey as Managing Editor.

6. In May, 2010, John T. Casteen, III announced his retirement as President of UVA, effective July 30, 2010. The President informed VQR that the literary magazine would no longer report directly to his office and that VQR would need to find another department.

7. As editor of VQR and both a supervisor and manager, Genoways management style had been the subject of repeated complaints to the University dating back as early as 2005.

8. The University was fully aware of the complaints as well as a formal grievance action that had been made regarding Ted Genoways.

9. On June 15, 2010, Genoways informed the staff that VQR would be moving from the President's office to the Office of Vice President for Research headed by Thomas C. Skalak and that the move was to be completed by August 1, 2010.

10. In the days and months prior to July 30, 2010, Morrissey repeatedly contacted University officials both by telephone and by e-mail regarding Genoways' hostile management style. On Friday, July 2, 2010, Morrissey spoke with Angelee Godbold ("Godbold"), Human Resources Consultant Manager, by phone regarding his concerns about Genoways after which Morrissey met with her in her office. No remedial action was taken by UVA.

11. On Tuesday, July 6, 2010, Morrissey sent a follow up e-mail to Godbold regarding Genoways' faults as a manager, including his failure to complete UVA's required classes for managers, including mandatory ones. Godbold responded in an e-mail to Morrissey on July 6, 2010 in which she stated she would "share her concerns" with Alan S. Cohn ("Cohn"), Director of Faculty and Employee Relations.

12. On July 19, 2010 at 2:25 a.m., Genoways, who was still on leave from VQR, sent an e-mail to Morrissey marked "Urgent and Confidential" complaining that Morrissey had engaged in "unacceptable workplace behavior". The e-mail states "*I have*

a report that you have engaged in unacceptable workplace behavior.....Do not report to work today or for the rest of the week". The e-mail goes on, *"Failure to comply with any of these instructions may be considered serious misconduct and lead to disciplinary action"*. Genoways sent the same above e-mail separately to Waldo Jaquith, VQR web editor. Both were admonished not to discuss the e-mail.

13. Genoways had worked with Morrissey for years and knew that Morrissey suffered from depression. Genoways knew that summarily banning Morrissey from the office without any prior notice or justification would upset Morrissey especially since Genoways had given Morrissey additional responsibilities while Genoways was on leave.

14. On July 19, 2010 at 7:43 a.m., and now working from home, Morrissey e-mailed both Genoways and Angelee Godbold in Human Resources stating that he was unaware of any unacceptable workplace behavior on his part. Human Resources told Morrissey that Genoways' e-mail violated policy at UVA. Genoways agreed to a meeting with staffers from the President's office as well as Human Resources scheduled for July 26, 2010.

15. On July 19, 2010, Godbold told Waldo Jaquith that Genoways had no authority to ban anyone from VQR offices and instructed him not to respond to [Genoways'] e-mail. Jaquith also spoke with Joan Fry that day.

16. On July 20, 2010 Waldo Jaquith had a discussion with staff members in the President's office regarding Genoways' e-mail and asked Joan Fry to intervene. A meeting was set for July 26, 2010, with Genoways, Morrissey, Alan S. Cohn ("Cohn") L.C.S.W. from Faculty and Staff Employee Relations, and Godbold. Fry told Jaquith she did not

want Genoways to know that the President's office has been alerted so that she would not be attending.

17. On July 20, 2010, Morrissey sent an e-mail to Godbold again saying he had no idea why he was banned and expressing concern over the University's lack of protection for him. Morrissey asked "Does Ted have the authority to do this?" Godbold responded by telling Morrissey to "go along with the ban to avoid being labeled insubordinate".

18. On July 21, 2010, Morrissey e-mailed Joan Fry in the President's office expressing frustration with the University's lack of response and likening the situation to the incident with a former VQR staff member who was allegedly forced out of VQR by Genoways several years prior. Morrissey stated he felt the University and Human Resources had no oversight or control over Genoways.

19. On July 22, 2010 Morrissey e-mailed Godbold about the ramifications of filing a possible grievance against Genoways. Godbold did not respond.

20. On July 23, 2010, VQR staffer Molly Mintum met with Godbold in HR about the toxic work environment, the banning of Jaquith and Morrissey, and other concerns. Godbold told Mintum that VQR was treated with "kid gloves" and "was the President's baby" and Godbold went on to describe the office as "dysfunctional and poorly managed".

21. On July 26, 2010, Kevin Morrissey met with Nancy A. Rivers and Ted Genoways. Morrissey asked Genoways why he was being banned from VQR; however, Genoways gave no explanation.

22. On July 26, 2010, following that meeting, a VQR Staff member informed the President's office that Morrissey was possibly suicidal.

23. The next day, July 27, 2010, Genoways was called to the President's office regarding the complaints. Genoways was reprimanded and instructed not to retaliate and not to harass the staff.

24. On July 27, 2010, Morrissey e-mailed Nancy Rivers in the President's office reminding her that during the meeting, Genoways still did not provide any explanation as to the nature of the alleged unacceptable workplace behavior. Morrissey asked Rivers about filing a grievance against Genoways. Rivers did not respond.

25. On July 26, 2010, Mintum spoke with Godbold. Godbold told her that "they (the staffers) were working in an unsafe environment" and that "Nancy Rivers was on this".

26. On July 26, 2010, Jaquith spoke to Nancy Rivers who told Jaquith to apologize to the VQR staff on behalf of the President's office for Genoways' actions.

27. On July 29, 2010, Morrissey again e-mailed Nancy Rivers stating that he had trouble contacting Genoways and asking whether he could make decisions on behalf of the magazine. Rivers did not respond.

28. On July 29, 2010, Mintum met with Angelee Godbold for over two hours about the seriousness of the situation at the magazine, which included a brief conversation with Cohn. Mintum told Godbold and Cohn she had concerns about Morrissey's mental state and said that Genoways was subjecting all of the staff to psychological abuse, but

particularly Morrissey. Neither Cohn nor any other UVA official either in Human Resources or the President's office reached out to, or contacted Morrissey regarding reports of his being suicidal and/or under stress due to the actions of Genoways.

29. On July 30, 2010 at 9:47 A.M., Genoways e-mailed Morrissey and Minturn, accusing Morrissey of ignoring a plea for help involving a Mexican journalist such that the journalist's life was put at risk. The e-mail so upset Minturn that she left the office in tears and went directly to the President's office. After recounting the incident to officials in the President's office, Minturn was directed to report directly to Alan Cohn. Alan Cohn diagnosed Minturn with post-traumatic stress syndrome and advised her to take immediate medical leave.

30. On July 30, 2010, before discovering that Morrissey had shot himself, Jaquith e-mailed Rivers in the President's office about Genoways. Rivers responded by telling Jaquith that Minturn was actually at the President's office and said "If anything escalates into a situation where their safety is being threatened, please call the police immediately even if the threat is given over the phone... Leave the office if needed".

31. On July 30, 2010, around 11:30 A.M., Kevin Morrissey was found dead in the coal tower from a self-inflicted gunshot wound to the head. He had just read the last of three (3) e-mails sent to him by Genoways.

32. As a direct and proximate result of the emotional distress caused by Genoways, Morrissey was not of sound mind when he took his own life on July 30, 2010.

33. Between July 6 and July 30, 2010, Morrissey contacted UVA officials at least twenty-five times seeking protection and/or the promise of remedial action regarding Ted Genoways; however, UVA did not suspend, remove or discipline Genoways .

34. On July 26, 2011, a notice of claim was filed against the Commonwealth of Virginia, pursuant to the Virginia Tort Claims Act Va. Code §8.01-195.1 (1950), as amended, a copy of which is attached hereto and made a part hereof and referred to as Plaintiff's Exhibit "A".

COUNT ONE
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
BY TED GENOWAYS

35. All preceding paragraphs are incorporated herein by reference.

36. Genoways was Morrissey's direct supervisor. He and Kevin Morrissey had a special relationship in that Genoways, having hired Morrissey after the two worked together in Minnesota, was intimately aware that Morrissey suffered from depression. When he hired Morrissey in 2005, Genoways assured Morrissey that he would not treat him harshly.

37. When Genoways banned Morrissey from his office via e-mail on July 19, 2012, Genoways knew that there was no substance to the allegation that Morrissey had engaged in unacceptable workplace behavior and that a false accusation would greatly upset Morrissey. Genoways, on leave and out of the office, was aware that Morrissey was

under a great deal of stress trying to meet a deadline of July 30, 2010 to transition the magazine from the President's office to the office of the Vice President for Research.

38. On or after July 19, 2012, Genoways discovered that Morrissey had complained to UVA about the e-mail and Genoways unauthorized actions. Genoways immediate reaction was to intentionally harass and retaliate against Morrissey despite being specifically warned not to do so by UVA, including but not limited to, officials in the President's office.

39. Genoways collective conduct towards Kevin Morrissey was malicious, willful and intentional, and done with a high degree of probability that emotional distress would be the result of such behavior.

40. The conduct of Genoways was extreme and outrageous and beyond the bounds of decency in society.

41. As a direct and proximate result of the intentional infliction of emotional distress caused by Genoways, Morrissey died and his father and his siblings have suffered damages as stated herein.

COUNT TWO
INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS BY UVA/ THE
COMMONWEALTH OF VIRGINIA

42. All preceding paragraphs are incorporated herein by reference.

43. UVA was on notice regarding Genoways' treatment of Kevin Morrissey, yet failed to take action to prevent him from harming Kevin Morrissey.

44. At all times relevant hereto, Genoways was an employee of UVA acting within the scope of his employment. As such, under the doctrine of *respondeat superior*, UVA is liable for the intentional infliction of emotional distress to Morrissey caused by Genoways.

45. As a direct and proximate result of the intentional infliction of emotional distress by UVA and its employees, officers and agents, Kevin Morrissey died, and his father and his siblings have suffered damages as stated herein.

COUNT THREE
NEGLIGENCE AND GROSS NEGLIGENCE OF TED GENOWAYS
And UVA

46. All preceding paragraphs are incorporated herein by reference.

47. As Editor of VQR, Genoways was a member of the faculty at UVA and Morrissey's employer and direct supervisor.

48. Genoways and Morrissey had a special relationship in that Genoways, having hired Morrissey after the two worked together in Minnesota, was intimately aware that Morrissey suffered from depression.

49. Genoways owed a duty to Kevin Morrissey to follow all personnel policies and procedures at UVA that apply to Faculty and staff regarding the management of employees, including but not limited to, the policies and procedures at UVA's Standards of Conduct and those contained in the Virginia Personnel Act in Va. Code §2.2-2900, (1950 as amended). This policy states that corrective or disciplinary action should only be taken

against an employee of the University for unacceptable behavior or performance when "methods such as coaching or general performance feedback have not been successful". In addition, UVA Human Resources' policy states "Contact your Human Resources Representative before taking disciplinary action to help you decide whether discipline is the best option for problem-solving in a particular situation".

50. Genoways breached that duty owed to Morrissey when he ignored the policies and procedures established by UVA regarding employee discipline as he never counseled or coached Morrissey regarding his workplace performance. UVA has a form no 129-01-004 (Revised 7/10/07) entitled "Written Notice" which Genoways failed to complete and provide to Morrissey either on or after 7/19/10.

51. As a manager, Genoways owed a duty to Kevin Morrissey to follow established University policy regarding Preventing and Addressing Retaliation under its Equal Opportunity Programs (EOP) effective May 27, 2008, policy no. HRM-010. This policy prohibits retaliation against any University employee. The protected characteristics/statuses include "family medical" information. Morrissey was in a protected class as he suffered from depression which Genoways had known about for years beginning when they both worked together in Minnesota prior to coming to VQR.

52. Genoways mistakenly believed that Morrissey had mistreated Alison Levinson-Labrosse during a VQR staff meeting on or about July 14, 2010 when Genoways was not present. Upset about the "mistreatment", Genoways retaliated by banning Morrissey from the VQR offices on July 19, 2010.

53. After banning Morrissey, University officials met with Genoways and told him specifically "not to retaliate".

54. Despite being instructed not to retaliate, Genoways retaliated a second time when he sent an e-mail to Morrissey on July 30, 2012 accusing Morrissey of putting the life of a Mexican journalist in danger, which he knew would upset Morrissey under the circumstances.

55. Genoways breached that duty owed to Morrissey when he ignored the policies and procedures established by UVA regarding retaliation.

56. As a manager, Genoways owed a duty to Kevin Morrissey to follow established University policy known as Preventing and Addressing Discrimination and Harassment under its Equal Opportunity Programs (EOP) effective April 8, 2008, policy no. HRM-009. Morrissey was in a protected class as he suffered from depression which Genoways had known about for years beginning when they both worked together in Minnesota prior to coming to VQR.

57. After July 19, 2010, Nancy Rivers confirmed that Genoways had been instructed to stop harassing the staff. Despite that warning, Genoways harassed Morrissey a second time on July 30, 2010 when he falsely accused him of putting the life of a Mexican journalist at risk given the atmosphere at that time.

58. Genoways breached that duty owed to Morrissey when he ignored the policies and procedures established by UVA regarding harassment.

59. Genoways was negligent as he (i) failed to follow established UVA policies and procedures regarding his unauthorized discipline of Morrissey and to comply with Va. Code §2.2-2900 referred to as the Virginia Personnel Act; (ii) by retaliating against Morrissey when instructed not to by UVA and in violation of UVA policy; (iii) by

harassing Morrissey when instructed not to by UVA in violation of UVA policy; (iv) negligent in the performance of his ministerial duties, and (v) grossly negligent in that his conduct was willful and wanton and done with an utter disregard and with reckless indifference for the safety and well being of Kevin Morrissey.

60. As a direct and proximate result of the negligence and gross negligence of Ted Genoways, Morrissey died and his father and his siblings have suffered damages as stated herein.

61. At all times relevant hereto, Genoways was an employee of UVA acting within the scope of his employment. As such, under the doctrine of *respondeat superior*, UVA is liable for the negligence and gross negligence of Ted Genoways.

COUNT FOUR

NEGLIGENCE AND GROSS NEGLIGENCE OF JOHN CASTEEN, III, ANGELEE GODBOLD, ALAN S. COHN and UVA FOR THE DEATH OF KEVIN MORRISSEY

62. All preceding paragraphs are incorporated herein by reference.

63. VQR reported directly to the Office of the President, John T. Casteen, III.

64. John T. Casteen, III, Angelee Godbold, and Alan S. Cohn, L.C.S.W. were faculty and staff members at UVA in July 2010 and as such owed a duty to Kevin Morrissey to ensure that the University's established protocols and policies were adhered to and enforced including (i) the handling of personnel matters and (ii) any reports or threats of suicide by members of the UVA community.

65. Over the years he was employed at VQR, Morrissey complained about Genoways' abrasive management style. On July 6, 2010, Morrissey e-mailed Godbold about why Genoways did not have to take required classes for managers, including mandatory ones.

66. Morrissey also complained to Godbold after he was banned from the office by Genoways on July 19, 2010. On July 20, 2010, Angelee Godbold told Morrissey that Genoways' e-mail violated policy at UVA and that Genoways had "no authority" to ban anyone from VQR offices.

67. In response to the complaints by Morrissey and other VQR staff members regarding Genoways, various staff members of the President's office, including Joan Fry, Nancy Rivers, Linda Birckhead and Carol Wood, arranged a meeting with Genoways, Morrissey and Waldo Jaquith. Alan Cohn and Angelee Godbold were also requested to attend.

68. Upon information and belief, Joan Fry told Waldo Jaquith she did not want Genoways to know that the President's office has been alerted and that she (Fry) would not be attending. Angelee Godbold also did not attend the meeting because she never got an e-mail response from Genoways "authorizing" her to attend.

69. The meeting occurred on July 26, 2010 with Morrissey, Nancy Rivers and Genoways. At the meeting, neither Genoways nor Rivers explained to Morrissey why he had been banned from his office.

70. On July 27, 2010 Genoways was called to the President's office and was told by Nancy Rivers to stop his harassment of the VQR staff and not to retaliate.

71. That same day, Morrissey e-mailed Nancy Rivers in the President's office complaining that the meeting on July 26, 2012 did not include an explanation by Genoways as to what the unacceptable workplace behavior was and inquiring about filing a grievance against Genoways. Rivers did not respond about the procedure for filing a grievance nor did anyone from Human Resources.

72. On July 28, 2010, Nancy Rivers told Jaquith to apologize to the VQR staff on behalf of the President's office.

73. John T. Casteen, III, and Angelee Godbold, breached their duty owed to Kevin Morrissey and were negligent by (i) not requiring Genoways to take mandatory classes for managers that were required by UVA; by (ii) not forcing Genoways to comply with personnel policy and procedures regarding the progressive discipline of his staff including Kevin Morrissey, as outlined in UVA's Standards of Conduct and in Va. Code §2.2-2900, the Virginia Personnel Act; (iii) by allowing Genoways to avoid giving any written explanation or written notice to Morrissey as to why he removed him from his office on 7/19/10, despite Morrissey's request that he do so; and (iv) by allowing Genoways to remain as Editor when it was foreseeable that he could cause harm to Morrissey if he were allowed to continue remain at VQR as Morrissey's supervisor.

74. John T. Casteen, III, and Angelee Godbold, were grossly negligent in that their actions and failure to act were willful and wanton, and done with reckless indifference for the safety and well being of Kevin Morrissey.

75. As a direct and proximate result of the negligence and the gross negligence of John T. Casteen, III and Angelee Godbold, Kevin Morrissey died and his father and his siblings have suffered damages as set forth hereunder.

76. UVA has policies and procedures to deal with and respond to reported threats of suicide in the University community.

77. On July 23, 2010, VQR staff member Molly Minturn met with Angelee Godbold for over two hours and told her that Morrissey was suicidal and said that Genoways was subjecting all of the staff to psychological abuse, but particularly Morrissey.

78. On July 26, 2010, VQR staff member Sheila McMillen met with Angelee Godbold and Alan Cohn, the head of UVA's Faculty and Employee Assistance Program. McMillen reported she had concerns over Morrissey's mental health and feared he was suicidal.

79. The President's office had also been made aware that Morrissey was suicidal at least four days prior to his death.

80. On July 30, 2010, the President's office also was fully aware of just how dangerous the situation at VQR had become as Nancy Rivers sent an e-mail to Waldo Jaquith stating "If anything escalates into a situation where staff believes their safety is threatened, please call the police immediately even if the threat is given over the phone. *Leave the office if needed.*" This e-mail was sent prior to anyone being notified that Morrissey had died.

81. Alan S. Cohn, as a Licensed Clinical Social Worker in the State of Virginia and the head of UVA's Faculty and Employee Assistance Program, (FEAP) was a trained health care professional whose job was to provide crisis intervention to those in need of such services.

82. Alan S. Cohn was aware of that Morrissey was suicidal prior to July 30, 2010.

83. It was foreseeable that Morrissey might take commit suicide. Alan S. Cohn, Licensed Clinical Social Worker, owed a duty to Morrissey to act with due care in performing his job including, but not limited to, crisis intervention, contacting Morrissey directly to properly assess his mental state, referring him to a health care provider or hospital, having Morrissey involuntarily committed, and/or to take any and all such reasonable actions to come to the aid of Morrissey.

84. Alan S. Cohn breached his duty to Morrissey and was negligent (i) in his failure to take such reasonable and necessary steps to protect Morrissey; (ii) failure to report Morrissey's threat of suicide to the appropriate campus or local authorities or health care professionals ; (iii) negligent in his failure to intervene or take any action whatsoever; (iv) negligent in the performance of his ministerial duties and grossly negligent as his failure to act was willful and wanton and done with a reckless disregard for the safety and welfare of the life Kevin Morrissey.

85. John T. Casteen, III and Angelee Godbold breached their duty owed to Kevin Morrissey and were negligent in their failure to take such reasonable and necessary steps to protect Morrissey; (ii) failure to report Morrissey's threat of suicide to the appropriate authorities or health care professionals; (iii) negligent in their failure to

intervene or take any action whatsoever ; (iv) negligent in the performance of their ministerial duties and grossly negligent as their failure to act was willful and wanton and done with a reckless disregard for the safety and welfare of the life Kevin Morrissey.

86. As a direct and proximate result of the negligence and gross negligence of Alan S. Cohn, John T. Casteen, III, and Angelee Godbold, Kevin Morrissey died and his father and his siblings have suffered damages as set forth herein.

87. At all times relevant hereto, Cohn, Casteen, and Godbold were employees of UVA acting within the scope of their employment.

88. The Commonwealth of Virginia is liable under the doctrine of *respondeat superior*, for the acts of negligence and gross negligence of the University of Virginia, its agents, servants and/or employees while acting within the course and scope of their employment.

COUNT FIVE

NEGLIGENCE AND GROSS NEGLIGENCE OF JOHN T. CASTEEN, III and UVA FOR THE DEATH OF KEVIN MORRISSEY

89. All preceding paragraphs are incorporated herein by reference.

90. UVA requires all members of management, supervisors, faculty and University, classified and medical center staff, to successfully complete the University's non-discrimination, anti-harassment and anti-retaliation training every two years.

91. Despite that policy, UVA never required Genoways to complete those classes.

92. John T. Casteen III was in charge of supervising Ted Genoways and VQR.

93. UVA and John T. Casteen, III were aware that Genoways had had difficulty dealing with other faculty members and with his own employees over the years.

94. VQR enjoyed special status at the University in that there was no oversight by anyone other than Casteen. On July 23, 2010, Angelee Godbold (Human Resources) told Molly Minturn (VQR staff member) that VQR was treated with "kid gloves" and "was the President's baby" even though Godbold described the magazine as "dysfunctional" and "poorly managed".

95. UVA and John T. Casteen, III owed a duty to protect its employees' managers who are not in compliance with UVA's training requirements and whose prior actions haven shown a disregard for the policies and procedures established by the University including its Standards of Conduct.

96. It was foreseeable by UVA and John T. Casteen, III that Genoways' hostile management style, if left unchecked, could cause harm.

97. UVA and John T. Casteen, III owed a duty to Kevin Morrissey to use reasonable care in the selection, retention and supervision of its employees.

98. UVA and John T. Casteen, III breached the duty to Kevin Morrissey and were negligent and grossly negligent by failing to use reasonable care in the retention and

supervision of Genoways. As a direct and proximate result of said negligence, Kevin Morrissey died and his father and his siblings have suffered damages as set forth herein.

99. At all times relevant hereto, Casteen was an employee of UVA acting within the scope of his employment.

100. The Commonwealth of Virginia is liable under the doctrine of *respondeat superior*, for the acts of negligence and gross negligence of the University of Virginia, its agents, servants and/or employees while acting within the course and scope of their employment.

**PUNITIVE DAMAGES FOR INTENTIONAL, MALICIOUS, WILLFUL AND
WANTON MISCONDUCT AS TO ALL DEFENDANTS**

101. All preceding paragraphs are incorporated herein by reference.

102. Defendants' breached their duties of care owed to Kevin Morrissey and their conduct was knowingly, intentional, malicious, willful and wanton. They acted in conscious disregard for the rights of Kevin Morrissey, and/or acted with reckless indifference to the consequences to him at a time when the Defendants were aware that these actions would likely result in injuries to Kevin Morrissey.

103. Because the actions of defendants amount to a willful and wanton disregard for the welfare of Kevin Morrissey, punitive damages should be awarded to the Plaintiff to punish defendants for their actions, or lack thereof, and to serve as an example to prevent others from acting in a similar way. It is necessary and appropriate to punish, make an example of, and deter defendants with punitive or exemplary damages for their willful and malicious conduct.

DAMAGES

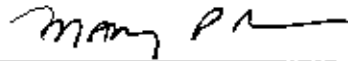
104. As a direct and proximate cause of actions of the Defendants, acting jointly and severally and as a direct and proximate result of the Intentional Infliction of Emotional Distress by Ted Genoways in Count One and/or the Intentional Infliction of Emotional Distress by UVA and the Commonwealth of Virginia in Count Two, and/or the Negligence and Gross Negligence of Ted Genoways in Count Three and/or the Negligence and gross negligence of John Casteen, III, Angelee Godbold, and Alan S. Cohn as stated in Count Four, and/or the negligence and gross negligence of John Casteen III and UVA/The Commonwealth of Virginia as stated in County Five, Kevin Morrissey died and the statutory beneficiaries including his father and his four siblings have suffered profoundly, including the following damages for which they are entitled to recover for: sorrow, mental anguish, and solace including the loss of society, companionship, comfort, guidance, kindly offices and advice of the decedent, as well as compensation for reasonably expected loss of income of the decedent and services, protection, care and assistance provided by the decedent.

105. Plaintiff reserves the right to amend these pleadings.

WHEREFORE, Plaintiff Douglas R. Morrissey, Administrator of the Estate of Kevin Morrissey, Deceased, requests that this Court enter judgment in his favor and against the Defendants, jointly and severally, in the amount **TEN MILLION DOLLARS (\$10,000,000.00)** in compensatory damages, **THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000.00)** in punitive damages, together with all costs of litigation, interest from the date of Kevin Morrissey's death, attorney's fees and any further relief that this Court may deem appropriate.

A TRIAL BY JURY IS DEMANDED.

DOUGLAS R. MORRISSEY
Administrator of the Estate
Of Kevin Morrissey, Deceased



Of Counsel

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— Attorneys At Law —



STEPHEN V. SOMMERS

ssommers@hmalaw.com

July 26, 2011

BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Attorney General Kenneth T. Cuccinelli, II
Office of the Attorney General
900 East Main Street
Richmond, VA 23219

RE: Notice of Claim of Douglas Morrissey and Mary Adams
Co-Administrators and Personal Representatives of the
Estate of Kevin Morrissey, deceased
Pursuant to the Virginia Code §8.01-195.6
Location: University of Virginia and Virginia
Quarterly Review
Date: July 30, 2010
Nature: Wrongful Death

To Whom It May Concern:

Pursuant of Virginia Code § 8.01-195.6 this letter serves to notify the Commonwealth of Virginia of a claim by Douglas Morrissey and Mary Adams, Co-Administrator and Personal Representatives of the Estate of Kevin Morrissey, deceased ("Claimants") at the University of Virginia and Virginia Quarterly Review. The undersigned has been retained to represent Douglas Morrissey and Mary Adams in this matter, and all further contact should be made through me.

Mr. Kevin Morrissey perished on July 30, 2010 by reason of the negligence of the University of Virginia, its agents, officer or employees in their failure to act and protect decedent from tortious behavior of University of Virginia employees. His death occurred on July 30, 2010 near the old Coal Tower in downtown Charlottesville.

Attorney General Kenneth T. Cuccinelli, II
July 26, 2011
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Thank you for your time and consideration in this matter, I look forward to hearing from the Commonwealth in short order.

Sincerely,

A handwritten signature in black ink, appearing to read 'SVS', with a long horizontal line extending to the right.

Stephen V. Sommers

SVS/sbk

Enclosure

cc: Mr. Douglas Morrissey