ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENWOOD	)	FOR THE EIGHTH JUDICIAL CIRCUIT
	)	
Daniel Ball,	)	
	)	Case No.: 2019-CP-24-00277
Plaintiff,	)	
v.	)	
	)	AMENDED SUMMONS
Richard Cosentino, Individually, Richard Cosentino, President of Lander University, Lander University, Lander University Board of Trustees, and The Lander Foundation,	)	(Jury Trial Requested)
	)	
Defendants.	)	
	)	

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to respond to the Complaint in this action, a copy of which is herewith served upon you and to appear and defend by serving a copy of your Answer or other responsive pleading on the subscriber at her office, 1180 Sam Rittenberg Boulevard, Suite 120, Charleston, South Carolina 29407, within thirty days after the service hereof, exclusive of the date of such service, and if you fail to respond to the Complaint within the time aforesaid, the Plaintiff will apply to the court for judgment by default for the relief demanded in the Plaintiff's Complaint.

GRIMBALL & CABANISS, L.L.C.
By: *s/Laura C. Waring*
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ATTORNEYS FOR THE PLAINTIFF

Charleston, SC
Dated March 27, 2019

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COUNTY OF GREENWOOD	)	FOR THE EIGTH JUDICIAL CIRCUIT
	)	
Daniel Ball,	)	
	)	Case No.: 2019-CP-24-00277
Plaintiff,	)	
v.	)	
	)	AMENDED COMPLAINT
Richard Cosentino, Individually, Richard Cosentino, President of Lander University, Lander University, Lander University Board of Trustees, and The Lander Foundation,	)	(Jury Trial Requested)
	)	
Defendants.	)	
_____	)	

Plaintiff, complaining of the Defendants herein, would respectfully allege and show unto the Court that:

PARTIES AND JURISDICTION

1. The Plaintiff is a citizen and resident of the County of Greenwood, State of South Carolina, formerly employed as President of Lander University until his retirement in 2015.

2. Defendant Richard Cosentino is a citizen and resident of the County of Greenwood, State of South Carolina, currently employed as President of Lander University.

3. Defendant Lander University, hereinafter "Lander" is a public body in Greenwood County designated as one of the state universities in South Carolina by S.C. Code Ann. §59-101-10.

4. Defendant Lander University Board of Trustees, hereinafter "Lander Board" has the final authority and responsibility for the governance of Lander University. Authority to maintain financial management and accounting systems is delegated to the Board of Trustees by

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

S.C. Code Ann. §59-101-185. The Board consists of 17 members: one member from each of the state's congressional districts and eight members at-large, elected by the General Assembly; one member appointed by the Governor; and the Governor of South Carolina, ex officio, or his/her designee.

5. Defendant The Lander Foundation, hereinafter "Lander Foundation" created in 1948, is an independent, non-profit 501 (c) 3 organization responsible for receiving, managing and investing gifts for Lander's welfare. The policies and objectives of the Foundation shall in all respects be compatible with the policies and objectives of the Lander University Board of Trustees. The Lander Foundation is governed by a board made up of friends and alumni who are interested in the University's future and the future of higher education in South Carolina. Foundation work is carried out through committees. The full Board meets twice a year--in May and November--to deal with selected items of business and policy issues. The Executive Committee meets bi-monthly to conduct the business of the Foundation. The Executive Committee has all the powers of the board except the power to do anything that is inconsistent with board policy or with actions taken by the board. Any member of the Executive Committee who is also a paid employee of Lander University serves as a non-voting member of the Executive Committee. Members of this committee include the four officers of the Lander Foundation, the president of Lander University, the president of the Alumni Association and the chairs of the six standing committees.

6. All actions pertinent to this Complaint took place in and around Greenwood County, except where otherwise specified.

FACTS

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

7. Dr. Daniel Ball, hereinafter "Dr. Ball" has served in public education for fifty (50) years (45 of which in higher education) and is now retired, living in Greenwood.

8. Dr. Ball has been married to his wife Marjorie "Marge" Ball for fifty-three (53) years, and they have two adult sons and three grandchildren. They entertained, on average, two or three times a week while at Lander University, with one Christmas amassing over 600 visitors over the holiday in their personal residence.

9. Dr. Ball's credentials in education include a master's degree, doctoral degree, and upper-level positions as a professor and senior administrator in colleges and universities across five states.

10. Dr. Ball served as President of Lander University for fifteen years, from 2000-2015, the twelfth president in a long line of distinguished leaders. Each of his recent predecessors was honored with President Emeritus status and/or a facility named in his honor.

11. Under Dr. Ball's leadership, Lander grew in enrollment, in geographic footprint, in cutting edge programs and in international reputation. Lander established the first and only accredited Montessori teaching certification program in South Carolina, which in turn provided Montessori education to children throughout the state and nation. He also spearheaded efforts to found The Equestrian Center, a unique partnership between the University, The Lander Foundation, and Burton Center--a nonprofit, governmental agency providing services for people with disabilities and special needs. The current Lander website boasts that "Lander University Equestrian Center is the first university-based equestrian facility in South Carolina to offer academic, therapeutic and sporting opportunities for students and community members."

12. During Dr. Ball's tenure, two regional accreditations were performed by The Southern Association of Colleges and Schools Commission on Colleges, hereinafter "SACS."

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

SACS is the regional body for the accreditation of degree-granting higher education institutions in the Southern states. It serves as the common denominator of shared values and practices among the diverse institutions in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia and Latin America and other international sites approved by the SACSCOC Board of Trustees that award associate, baccalaureate, masters, or doctoral degrees. The Commission also accepts applications from other international institutions of higher education. During Dr. Ball's presidency, Lander was accredited both times without incident. Numerous other specialization accreditations were also achieved during Ball's tenure, including AACSB, NLN, CATE and others.

13. During Dr. Ball's tenure, numerous internal, external and government audits were conducted of all financial matters of Lander and its Foundation, and Dr. Ball and his cabinet were instrumental in rooting out problems when they arose, with the advice and counsel of licensed attorneys and auditors when needed. In his council [now called cabinet by present administration] were: Gary McCombs, Vice President for Business and Administration (employed by Lander June 2013-April 2016), Jeff May, Athletic Director (47 year employee of Lander), Vice President for Advancement Ralph Patterson (2010-2016), Provost David Mash, Vice President for Student Affairs Randy Bouknight, and Vice President of Governmental Relations Adam Taylor.

14. During Dr. Ball's tenure, in 2014, Brian Lamkin of the South Carolina Office of Inspector General (SCOIG) performed an investigation into alleged misconduct by a former staff member, in which Dr. Ball and Mr. McCombs cooperated and were complimentary of the SCOIG handling. The results of the investigation were published on the SCOIG website on July 31, 2014. After the criminal charges were adjudicated against the offending staff member, the

SCOIG published an amended heading indicating to the general public how the charges were resolved "[UPDATE - FINAL ADJUDICATION: On 8/14/2014, subject pled guilty in General Sessions Court - Greenwood County (Case #2014GS2401432), to one count of embezzlement of public funds of more than $10,000 and was sentenced to ten years in prison, which was suspended to five years of probation, 400 hours of community service, and the surrender of his State retirement account as part of a restitution agreement. See link for additional information."

15. Dr. Ball's accomplishments and impact while at Lander University were published in several articles, highlighting his open door policy, accomplishments, and bricks and mortar legacy. Chairman of the Board of Trustees Jack Lawrence said in a March 2, 2014 interview with the Index-Journal,"The board would have preferred that he continue to serve forever; but knowing that could not happen, we were able to persuade him to stay with us a year longer than he had planned to give us time to ensure a smooth transition to a new president." He also said of Dr. Ball, "His engaging manner, endearing spirit, driving enthusiasm and personal warmth make him not only a great president, but a very dear friend. History will show that Dan Ball is one of the best presidents Lander has ever had."

16. Dr. Ball received the Order of the Palmetto from Governor Nikki Haley in 2015, the highest civilian honor in South Carolina awarded for extraordinary lifetime service and achievements.

17. Dr. Ball led Lander University through the acquisition of major gifts and purchases of property as well as the economic downturn of 2008-2009. Each property transaction was conducted with advice and counsel of a licensed attorney, including longtime Lander counsel Kenneth Poston who currently enjoys a Martindale Hubbell rating of "Distinguished" and "High Ethical Standing." Independent financial audits were performed for Lander Board of

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

Trustees by professional auditors, including the firm of Elliott Davis Decosimo. All property acquisitions involving Lander University were approved by the State of South Carolina Commission on Higher Education, Budget and Control Board, and Bond Review Committee.

18. Dr. Ball enjoyed a reputation of respect and honor in his community, throughout the state, and throughout the United States' academic institutions of higher learning. In his retirement, he intended to spend time with family, travel, and continue his intellectual pursuits.

19. Under Dr. Ball's tenure, the estimated value of Lander Foundation assets grew from twelve ($12) million to more than twenty-five ($25) million dollars, including property acquired during his tenure and gifted to the State of South Carolina for Lander University. As a 501 (c) 3, The Lander Foundation was subject to audits--and its Board of Trustees owed a fiduciary duty to the Foundation to ensure compliance with government regulations.

20. During his tenure, Dr. Ball established several designated university fiscal accounts, including accounts for deferred maintenance, technology upgrades, furniture replacement, bond payment account, and an emergency account. Each of these accounts was known to and open to review by licensed financial auditors and the Lander Board of Trustees. Dr. Ball also donated to Lander regularly, including a ten year timeframe when he gave $3600 per year to Lander Foundation as unrestricted resources.

21. The day Dr. Ball retired as President, there were approximately eight to twelve million dollars available for the new president to use for the betterment of Lander.

22. Upon his retirement, the Lander Board of Trustees presented Dr. Ball with a resolution which noted that Ball led the most successful comprehensive campaign in Lander history, a six-year endeavor that exceeded its $15 million goal by $800,000. It praised his open-door policy and his personality and charisma, which made people feel welcome and comfortable

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

in his presence. His retirement dinner was attended by a representative of the Boedecker Foundation, which made a $20,000 scholarship gift to the Honors College to mark the occasion. Dr. Ball was given a one year paid sabbatical beginning July 1, 2015, as well as a contract buyout to be paid over a two-year period to follow (later amended to a four year period to assist Lander with cash flow). The contract buyout was directed by Board Chairman Jack Lawrence and was presented as a way to achieve a seamless, orderly transition from one president to the next.

23. Vice President Gary McCombs served as part of the search process for Dr. Ball's successor and spent several hours with candidate Richard Cosentino, whose resume included, among other things, "Ph.D., Engineering, Area of Research: Administrative and Academic ERP System Implementation in Higher Education The George Washington University; Washington, D.C." which is currently posted on Lander University's website.

24. Vice President McCombs stayed on when the new President Richard Cosentino took his position on July 1, 2015.

25. Within weeks of President Cosentino's arrival on campus, it became apparent from many of his comments that he held significant disdain for many within the Lander community.

26. President Cosentino told Vice President McCombs in the presence of others "I'm going to destroy Dan Ball!!"

27. President Cosentino told Vice President McCombs that Dan Ball had insisted on purchasing the TD Bank building in order to provide funds to finance the institution's purchase of his tenure property rights. He stated that he would have never purchased Dan Ball's tenure rights, instead insisting that "he walk across campus right by the president's office to teach his

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

classes." He stated that the Board wanted to "get rid of Dan Ball," relative to the purchase of Dan Ball's tenure rights. He used vulgar disrespectful body motions and gestures when speaking of Dan Ball.

28. In June 2017, President Cosentino stopped the $4875.00 monthly payment of Dr. Ball's contractual payment of his tenure rights, and Dr. Ball had to intervene to have his payment re-issued.

29. President Cosentino stated in the presence of McCombs on more than one occasion that he could have "Kenny Poston disbarred tomorrow," a statement he repeated in front of other people.

30. Myra Greene, recipient of the Grace Iler Norman Award, the highest award given a Lander Alumnus, was employed by Lander for twelve years, as adjunct faculty and as Director of Alumni Affairs until she retired in 2017, serving under Dr. Ball from 2003-2015 and President Cosentino from 2015-2017.

31. Sometime after he was hired, President Cosentino told Myra Greene that Dr. Ball had run through all of the money in the unrestricted Foundation accounts. He intimated that there was no money left in the accounts. He said he had met with Dr. Ball in his office and told him that if he had been his boss he would have "fired his ass because he was totally incompetent." Ms. Greene later came to find out that he had never had that meeting or conversation with Dr. Ball.

32. President Cosentino showed Ms. Greene various spreadsheets to try to convince her that Dr. Ball had run through the Foundation's money, and she understood his allegations to refer to criminal conduct.

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

33. In the Fall of 2016, a complaint was made to the South Carolina Office of Inspector General regarding the Lander Foundation which was reported in the Index-Journal as a "credible complaint that included misspending allegations of funds."

34. The OIG also conducted a "misconduct investigation based on misspending allegations of Foundation resources."

35. OIG investigator Edward Lopes told former Lander Foundation Board Member Wayne Carstens that Ball paid "200 and some thousand for his current house" and that "there was [sic] a lot of renovations done, a lot of stuff done and paid for with State money." Neither Lopes nor any other investigator discussed Ball's renovations with him and thus did not have any direct information from Dr. Ball about these renovations allegedly paid for with state funds.

36. Neither Dr. Ball nor Mrs. Ball used any state money for the renovations of their home.

37. Myra Greene heard President Cosentino say, referring to Dr. Ball's home, "We'll get that house."

38. As she was acting recording secretary of the Foundation Board meetings, on one particular occasion, Myra Greene heard President Cosentino state openly to the Foundation Board that this was a "hands behind the back handcuffs moment," implying criminal activity. He told the Foundation Board, "you are going to be so shocked when the report comes out." He directed Ms. Greene not to put those statements in the minutes, as well as other derogatory statements. She observed that the Board was alarmed by what Dr. Cosentino was telling them. One prominent board member John Pillman resigned shortly thereafter.

39. At another meeting, Ms. Green heard Dr. Cosentino admit to Foundation Board members that he had talked to other university presidents at a conference about the criminal

activity at his school and that an investigation was pending. She was surprised that he insisted that the Board members not discuss the matter after he had admitted to discussing it with presidents of other universities.

40. At some point in the investigation, an internal audit of financial records was conducted by Charles Schulze and Mr. Schulze told President Cosentino that he had not found any evidence of criminal activity in his audit.

41. On May 1, 2017 at 12:49 Dr. Ball wrote an email to Lander Board members Anne Walker, Bobby Bowers, Maurice Holloway, and Ray Hunt expressing that he believed his and Jeff May's lack of invitation to campus events was not an oversight. Dr. Ball stated, "One might dismiss this as an oversight, but I do not. Several recent retirees, who retired near the times when Jeff and I did, were invited. I am convinced it was a deliberate act toward Jeff, and perhaps me as well, and I wanted you to know. I tell you this because it is consistent with many of the things told to me directly from community members, as well as from Lander employees, that indicates a conscious effort to marginalize/discredit Jeff and me. I am not asking you to do anything. Just be aware of what is going on."

42. On May 2, 2017, Anne Walker sent Dr. Ball a forwarded email which originated from Ray Hunt to Ms. Walker, Bobby Bowers, and Maurice Holloway on May 1, 2017 at 2:40 pm, apparently in response to Dr. Ball's earlier email. Mr. Hunt stated, "With a pending legal matter regarding both Jeff and Dan I feel that it is best if we do not reply at all. It is in the IG's hands and we do not have any say so in the matter. We would look like fools to have them on campus with us knowing that there is a pending investigation. Just my two cents."

43. OIG investigators George Davis and Ed Lopes interviewed Jack Lawrence on January 24, 2017. They told him they would not normally publicize their report in the media but

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

would give a draft to the president to review. Mr. Lawrence expressed his concerns that he and other Board members had discussed giving Dr. Ball emeritus status. Mr. Lawrence said the Board might find it was too big of a risk to give Ball emeritus status. Mr. Lawrence was worried that they would end up with egg on their faces. Mr. Lawrence was worried about the negative publicity that might be caused by the report. OIG Investigators told Mr. Lawrence they did not want the investigation to cause negative publicity.

44. On Thursday June 15, 2017 the Index-Journal published the front page story by Matthew Hensley "OIG Blasts Lander Foundation" with the byline "Report details poor oversight, questionable financial reporting" which was continued on page 4A. Underneath the byline, the photographs and names of Dan Ball, Jeff May, Gary McCombs, and Ralph Patterson were printed, with the following text wrapped around Dr. Ball's photograph, "Lander University's foundation propped its operations up with funds from the very institution it is tasked with supporting while filing misleading financial statements that overstated contributions, according to a blistering state Office of Inspector General review that took issue with the foundation's oversight and leadership." As the paragraph carried over into the next column, beside the photograph of Jeff May, the text stated, "The review stemmed from a probe that was initiated by a 'credible complaint that included misspending allegations of funds' the report said, and the office conducted a related 'misconduct investigation based on misspending allegations of Foundation resources'." As the text continued beside the photograph of Gary McCombs, it stated, "Details of that investigation which have been presented to the boards of Lander and its foundation, have not been made public." The text continued beside the photograph of Mr. McCombs and then into the next column, wrapped beside the photograph of Ralph Patterson and onto the page 4A.

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

45. On Friday June 16, 2017, Index-Journal published the front page story by Matthew Hensley "OIG asks for SLED probe of Lander Foundation" which was continued on page 4A.

46. On the e-edition of the same June 16, 2017 Index-Journal article, a photograph was embedded of a person's shoulders seen from the back, wearing a shirt with "STATE SLED POLICE" on the back.

47. On the e-edition of the same June 16, 2017 Index-Journal article, one comment was posted by reader Steve Boatwright, which stated, "The big problem here is, any wrongdoing and just a slap on the hand. They should lose their retirement and serve time, regardless they are supposed to be leaders and are held to a higher standard." This comment remained posted as of January 24, 2019.

48. On June 18, 2017, the Index-Journal published an editorial "Lander University will move through storm" which stated, among other things, "if SLED determines there were no deliberate crimes committed that would be of some relief, especially since the university has just recently dealt with a now-former employee being charged with embezzling thousands of dollars."

49. On December 27, 2017 Dr. Ball emailed Lt. Pete Logan of SLED requesting an update on the status of the investigation, including but not limited to the following, "As you may remember, when we visited by telephone in November, you felt the Lander Foundation/Lander University Investigation would be completed by Christmas. My hope [sic] that is the case, so that my family, friends, and I can put this behind us."

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

50. On December 28, 2017 Lt. Pete Logan emailed Dr. Ball a reply, "The investigation has been completed and the report will be given to the Attorney. I suspect she will review the results after Christmas. Thanks and have a nice New Year."

51. On December 28, 2017, the Index-Journal published on Page 1A and continued on 4A its "Top Stories of 2017" with a summary of the June 15-16, 2017 articles under its "2017 HEADLINES" with the byline "OIG General Looks into Lander Foundation ."

52. On April 13, 2018 Eighth Circuit Solicitor David Stumbo wrote to Lt. Logan of SLED declining to recommend any criminal charges.

53. On May 7, 2018 Solicitor David Stumbo emailed Dr. Ball, among other things, that "I can assure you that SLED has closed its criminal investigation into the allegations, and I have closed my review of the matter as of April 13, 2018."

54. After May 7, 2018, Lander University made no efforts to undo its restriction against inviting Dr. Ball on campus. It also did not issue a press release or any public statement which would have exonerated its former President and cabinet and brought closure to the issue. It did not take the opportunity to clear his name or any others in subsequent press coverage.

55. On September 15, 2018 the Index-Journal published the front page article, "Lander combats fraud" which began, "Lander University is taking steps to prevent financial scandals such as those that surfaced in recent years from happening again." The article also detailed the incidents of former employee embezzlement and links the 2017 SCOIG report in the same paragraph. It said in part, "And last year, the inspector general wrote a scathing report that asserted the university's foundation propped its operations up with funds from the very institution it is tasked with supporting while filing misleading financial statements that overstated contributions." The article did not mention that there were no criminal charges brought as a

result of that report. A reasonable reader would conclude that the 2017 report also resulted in criminal proceedings, as the prior embezzlement incidents had brought.

56. To the outside world, it appeared that the criminal investigation against the prior administration was ongoing. Several social media posts have asked about the disposition but no Lander official has posted a reply or rebuttal.

57. On June 21, 2018 President Cosentino was quoted in the Index-Journal feature article "Lander University passes $78 million budget" stating, "We have more debt that I'd like, more debt than I would have allowed, and that affects our cash flow and it affects our ability to address things like salaries."

58. When the Ball's home went on the market in spring 2018, a prospective home buyer was asked why he would want to buy a house that former president Ball remodeled using state money for the remodel.

59. In his retirement, Dr. Ball's friends and family have continued to ask him when the investigation would be over, and he has endured further rumors and innuendo.

60. President Cosentino, upon information and belief, made statements to others in a social setting which accused Dr. Ball of unethical, immoral, or criminal conduct.

61. President Cosentino, upon information and belief, has represented to others that Dr. Ball attempted to call Jack Lawrence, former board chairman and current board member, when Dr. Ball has had no contact with Mr. Lawrence since July 2017.

62. As recently as December 2018, President Cosentino made statements to the Index-Journal which misrepresented the status of Dr. Ball's legal correspondence, which was considered in Lander Board of Trustees executive session behind closed doors and not in the open meeting on December 17, 2018. Thus, the only information provided to the Index-Journal

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

about the correspondence came directly from President Cosentino, who stated, "The things that (Ball) requested, I as president don't have the authority to give him." In doing so, he made Ball look unreasonable and litigious in the eyes of the public. President Cosentino omitted the essential fact that the primary request from Ball was for a heartfelt apology, however it may be delivered.

63. After an initial complaint was filed on March 15, 2019, the Index-Journal published an article on March 25, 2019, "Foundation probe closed without charges." The electronic version was called "SLED's Lander Foundation probe closed without criminal charges."

AS A FIRST CAUSE OF ACTION

DEFAMATION RICHARD COSENTINO, INDIVIDUALLY, AND AS PRESIDENT OF LANDER UNIVERSITY

64. Plaintiff repeats and re-alleges each allegation already stated above.

65. President Cosentino has a duty to act with reasonable care in making statements and representations about Lander and its former employees to others.

66. According to Lander policy, "The President is the chief executive officer of the University and chair of the faculty. He/she is vested to act for the Board of Trustees in administering the University, and he/she is responsible for achieving the stated purpose of the University and for its ongoing operations. To this end, the President shall have the foregoing general powers, the specific powers as defined elsewhere in this document, and all powers commonly associated with and required for the discharge of the duties of a chief executive of a university." Further, "The President shall serve as the official agent of communications between the Board of Trustees and the University: faculty, administrative officers, individual members of

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

the staff, University organizations, student organizations, and students. Further, "Generally, the President or his/her designee shall represent the University in its relationships with related associations, other institutions, the news media, government agencies, alumni, and the general public." Further, "The President is responsible for the orderly management of fiscal and personnel affairs and the auxiliary enterprises of the University, as well as for the maintenance and development of its financial and physical resources."

67. Lander has adopted "ETHICAL PRINCIPLES FOR SOUTH CAROLINA STATE GOVERNMENT SERVICE" which states in part, "Serving the public as an employee of South Carolina State Government requires an appreciation for and dedication to the basic principles of integrity, honesty, respect for others, fairness, and accountability. These principles are fundamental in providing good government and advancing the public interest and are central to and implicit in any personal, professional, or agency code of ethical conduct. Because protecting the public trust and strengthening public confidence in Government requires the highest standards of personal and professional conduct, State employees have an obligation to apply these ethical principles in their individual job duties and responsibilities.

> INTEGRITY: State employees should adhere to a personal code of conduct which supports the moral values necessary for good Government and advances the purpose and mission of the State, their profession and their agency.
>
> HONESTY: State employees should be truthful and sincere in all their interactions with the public and with each other. They should avoid even the appearance of wrongdoing and should confront and challenge unethical behavior.
>
> RESPECT FOR OTHERS: State employees should discharge their duties with care,

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

compassion, and concern for the well-being of all those they serve. They should recognize the inherent worth and dignity of all persons regardless of race, color, sex, age, religion, national origin, disability, social, or economic status.

FAIRNESS: State employees should make decisions in a fair, objective, and impartial manner.

ACCOUNTABILITY: State employees should take responsibility for their own actions and personal decisions and protect the public trust by upholding the constitutions and laws of the United States of America and the State of South Carolina."

68. President Cosentino admitted to Gary McCombs in the presence of others "I'm going to destroy Dan Ball!!"

69. President Cosentino made statements constituting slander *per se*, accusing Dr. Ball of criminal, unethical, and immoral conduct in various settings, both in the course and scope of his employment and outside the course and scope of employment in social settings.

70. President Cosentino made statements accusing Dr. Ball of unfitness for his profession, and otherwise insinuated that he was unfit for his profession, constituting slander *per se*.

71. These unprivileged defamatory statements, made with actual malice, proximately caused damage to Dr. Ball by lowering his reputation in the eyes of the community.

72. These statements damaged Dr. Ball as presumed by law with general damages in an amount to be determined by the trier of fact.

73. Section 15-78-70(b) of the South Carolina Code (2005) lifts the immunity normally enjoyed by governmental employees under the South Carolina Tort Claims Act if their actions constitute fraud, malice, an intent to harm, or a crime of moral turpitude.

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

74. President Cosentino is not covered by immunity since his actions were predicated by his admission that he was going to destroy Dan Ball.

75. Based upon the foregoing facts, Dr. Ball is informed and believes that he is entitled to the entry of judgment against the defendant for general or presumed damages and punitive damages in an amount to be determined by a trier of fact.

AS A SECOND CAUSE OF ACTION

ABUSE OF PROCESS BY RICHARD COSENTINO, INDIVIDUALLY, AND AS PRESIDENT OF LANDER UNIVERSITY

76. Plaintiff repeats and re-alleges each allegation already stated above.

77. President Cosentino instituted or caused to be instituted and/or continued original judicial proceedings through the Office of Inspector General, which then was turned over to SLED for investigation;

78. SLED and the Solicitor declined to file charges against Dr. Ball or any of the others involved.

79. President Cosentino made his intent known by admitting to others "I'm going to destroy Dan Ball!!" "We'll get that house" and by other actions evidencing his personal motivation and malice in instituting such proceedings.

80. President Cosentino pursued prosecution of Dr. Ball with an ulterior purpose, both in the course and scope of his employment and outside the course and scope of employment.

81. The proceedings lacked probable cause; and resulted in injury and damage to Dr. Ball's personal and professional reputation.

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

82. Dr. Ball is not invited to appear on campus, denied the status of honor of emeritus conferred on prior presidents, and is viewed as a criminal.

83. After numerous attempts were made to clear his name, Dr. Ball was forced to hire counsel to restore his reputation.

84. Based upon the foregoing facts, Dr. Ball is informed and believes that he is entitled to the entry of judgment against the defendant for attorney's fees, compensatory damages and special damages and in an amount to be determined by a trier of fact.

AS A THIRD CAUSE OF ACTION

NEGLIGENT MISREPRESENTATION BY RICHARD COSENTINO, INDIVIDUALLY, AND AS PRESDIENT OF LANDER UNIVERSITY

85. Plaintiff repeats and re-alleges each allegation already stated above.

86. President Cosentino has a duty to act with reasonable care in making representations about Lander and its former employees to others, including outside agents or governmental entities such as the Office of Inspector General.

87. President Cosentino acted negligently, grossly negligently, recklessly and in conscious disregard for Dr. Ball's rights by:

a. making statements and selecting the information provided to investigators, newspaper reporters, board members and the public which misrepresented the actions and conduct of Dr. Ball as a former university president and as a citizen.

b. failing to provide to the OIG the Lander Foundation bylaws/articles of incorporation and other documentation, including but not limited to email and written correspondence between Foundation Board members and leadership which detailed the efforts to provide orientation to the Foundation Board, and

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

c. failing to provide to the OIG the Lander Foundation committee assignments and email and written correspondence to indicate that the financial matters were handled with advice of counsel and financial advisors.

88. As a result of President Cosentino's negligent misrepresentations, these persons were unable to discover the truth of the matters which was contained in the documents he did not present and the omissions he made in providing documents and information to the OIG.

89. After the investigation, President Cosentino controlled the content and language of the official Lander response, which essentially cast a false light on the prior administration and amplified the efforts of his administration.

90. As a citizen, Dr. Ball is unable to correct these misrepresentations despite having cooperated to the best of his ability in the investigation.

91. As a proximate and consequent result of President Cosentino's aforesaid negligence, gross negligence and recklessness, Dr. Ball has suffered humiliation, loss of professional status, loss of sleep, and other emotional damages as a direct consequence of these negligent misrepresentations.

92. Dr. Ball has incurred legal expenses in trying to correct these misrepresentations at their source.

93. Based upon the foregoing facts, Dr. Ball is informed and believes that he is entitled to the entry of judgment against the defendant for attorney's fees, compensatory damages, special damages, and punitive damages and in an amount to be determined by a trier of fact.

AS A FOURTH CAUSE OF ACTION

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

CIVIL CONSPIRACY BY RICHARD COSENTINO INDIVIDUALLY AND AS PRESDIENT OF LANDER UNIVERSITY

94. Plaintiff repeats and re-alleges each allegation already stated above.

95. President Cosentino combined with other persons and entities such as the OIG and Index-Journal for the purpose of injuring the plaintiff, and attempted to induce others as well.

96. President Cosentino admitted to Gary McCombs "I'm going to destroy Dan Ball."

97. President Cosentino stated before the OIG report was to be issued that there was going to be "a handcuffs behind the back moment."

98. Dr. Ball is not invited to the Lander campus and is not given emeritus status, which has destroyed the prestige of his retirement and the future benefits associated with a retired university president, such as participation in conferences, colloquia, intellectual enrichment, and travel or honoraria associated with these opportunities, ranging from zero dollars to thousands of dollars in cash and paid travel expenses, which are special damages that he has suffered as the direct and proximate cause of the efforts of President Cosentino to destroy him.

99. Based upon the foregoing facts, Dr. Ball is informed and believes that he is entitled to the entry of judgment against the Defendant for special damages in an amount to be determined by a trier of fact.

AS A FIFTH CAUSE OF ACTION

TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS BY RICHARD COSENTINO INDIVIDUALLY AND AS PRESDIENT OF LANDER UNIVERSITY

100. Plaintiff repeats and re-alleges each allegation already stated above.

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

101. President Cosentino stopped payment on Dr. Ball's monthly contract payout. Upon information and belief, he told Lander Comptroller Tom Covar to pull the invoice. Mr. Covar explained to Dr. Ball that "The President" said the attorneys were reviewing his contract.

102. Dr. Ball called Jack Lawrence to say that he had not been paid when due, and Mr. Lawrence said something to the effect of "he can't do that--it's a contract." Mr. Lawrence referred the issue to Linda Dolny, who explained to Dr. Ball that the money had to be taken out of a different account. Eventually, the payment was issued a few days later. Dr. Ball subsequently asked Mr. Covar if the source of his payment had changed, and Mr. Covar said the source of the payment had not changed. President Cosentino later told another person that Mr. Covar had made a mistake on the contract payment.

103. Based upon the foregoing facts, Dr. Ball is informed and believes that he is entitled to the entry of judgment against the defendant for pecuniary loss in the amount of such interest as may have accrued in that period to be determined by a trier of fact.

AS A SIXTH CAUSE OF ACTION

NEGLIGENT SUPERVISION BY LANDER UNIVERSITY, LANDER BOARD OF TRUSTEES, AND LANDER FOUNDATION

GROSS NEGLIGENCE

104. Plaintiff repeats and re-alleges each allegation already stated above.

105. Lander Board of Trustees is the final authority and has responsibility for the governance of Lander University, as these duties are imposed by statute. Lander Foundation has duties imposed by its bylaws.

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

106. Although authority for administration of the campus is delegated to the President, the Lander Board of Trustees reserves its right to intervene in all matters pertaining to the University.

107. In accordance with applicable law, it is the responsibility of the Lander Board of Trustees to evaluate annually the performance of the President of the University. The evaluation will be based upon procedures and criteria established by the Board and may involve the services of outside consultants if deemed advisable by the Board.

108. Lander University and Lander Board of Trustees failed to provide proper supervision of its employee Richard Cosentino to protect Dr. Ball from slander, libel, and economic injuries; and Lander Foundation failed to take action in restraining Richard Cosentino from making further statements on its behalf after he had made reckless and libelous statements about Dr. Ball and others. By allowing him to make statements on its behalf, the Lander Foundation likewise failed to supervise its representative.

109. These statements have damaged morale of alumni, former employees, and potential donors who form the donor base, not to mention the legacy that Dr. Ball left upon retirement. One such donor is the Boedecker Foundation, which is the charitable foundation of "Crocs" founder George Boedecker. The Boedecker Foundation does not accept unsolicited grant proposals or requests. Its net assets were listed at $44,114,717.00 in 2015. The Foundation only provides grants to organizations defined as a public charity and as tax-exempt under Section 501(c)(3) of the Internal Revenue Code. The Foundation avoids supporting the following: religious organizations, unless they are engaged in a significant project that benefits a broad base of the community; organizations that discriminate on the basis of race, religion, creed, gender, or national origin; candidates for public office; and lobbying, legislative or political activities.

During Dr. Ball's tenure, his cabinet members, through their personal relationships, were able to procure donations from the Boedecker Foundation in the six figures and were poised to receive a seven figure grant. Their approach with this particular donor was in the genteel manner of allowing the donor to initiate the donation, which was also in keeping with the requirements of the Foundation. After President Cosentino's actions and statements, The Boedecker Foundation did not contribute another dime to Lander Foundation.

110. Lander University, Lander Board of Trustees, and Lander Foundation were grossly negligent in allowing reckless and willful statements to be made by Richard Cosentino once they knew of his propensity for making reckless and willful statements, not only about Dr. Ball but other fine community members.

111. Lander University, Lander Board of Trustees, and Lander Foundation were grossly negligent in allowing reckless and willful statements to be made by Richard Cosentino and have ratified that conduct by continuing to employ him as President and giving him a substantial pay raise on two occasions.

112. Lander University, Lander Board of Trustees, and Lander Foundation allowed President Cosentino to continue to make statements after he admitted to Myra Greene in an open boardroom that he told administrators at other universities there was criminal activity at Lander. Upon information and belief, President Cosentino discussed this matter with Harris Pastides, President of the University of South Carolina.

113. Lander University, Lander Board of Trustees, and Lander Foundation allowed President Cosentino to make statements after he told others he could have Kenny Poston disbarred.

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

114. Lander University, Lander Board of Trustees, and Lander Foundation allowed President Cosentino to continue to make statements after he told Gary McCombs in front of others, "I'm going to destroy Dan Ball."

115. Lander University, Lander Board of Trustees, and Lander Foundation allowed President Cosentino to speak with the press about Ball's legal matter.

116. Lander University, Lander Board of Trustees, and Lander Foundation have had the opportunity to restore Dr. Ball's reputation by directing its employee to publicly apologize to Dr. Ball or to publish a press release stating that no criminal charges were filed but has failed to do so.

117. Lander University, Lander Board of Trustees, and Lander Foundation have had the opportunity to restore Dr. Ball and Lander's reputation by issuing an amended response to the OIG or by publishing a press release stating that no criminal charges were filed but have failed to do so.

118. Because of the actions and inactions of Lander University, Lander Board of Trustees, and Lander Foundation, President Cosentino has continued to make statements which have caused damages and continue to cause damages to Dr. Ball's reputation.

119. These statements and actions have harmed Dr. Ball's reputation in ways that defy precise calculation.

120. Within two years of retirement, Dr. Ball went from distinguished recipient of the Order of the Palmetto to an accused criminal who is not invited to be on Lander's campus.

121. Dr. Ball has had to hire counsel and has incurred fees and expenses associated with attempting to restore his reputation, but mostly, he has suffered humiliation and loss of enjoyment of life.

ELECTRONICALLY FILED - 2019 Mar 27 12:22 PM - GREENWOOD - COMMON PLEAS - CASE#2019CP2400277

122. Based upon the foregoing facts, Dr. Ball is informed and believes that he is entitled to the entry of judgment against the defendants for actual damages, special damages, compensatory damages and punitive damages in an amount to be determined by a trier of fact..

123. Based upon the foregoing facts, Dr. Ball is informed and believes that he is entitled to the entry of judgment against the defendant for injunctive relief, compensatory damages and general or presumed damages and punitive damages in an amount to be determined by a trier of fact.

WHEREFORE, Plaintiff prays for judgment against the Defendants for actual damages, general damages, special damages, compensatory damages, punitive damages, attorney's fees, prejudgment interest, costs of this action, and for such other and further relief as the Court may deem just and proper, including injunctive relief.

s/*Laura C. Waring*
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Charleston, South Carolina