

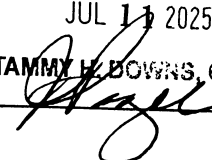
IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

ALISA M. WHITE,)
Plaintiff,)

v.)

Case No 4:25-cv- 702-BSM

BOARD OF TRUSTEES OF THE)
UNIVERSITY OF ARKANSAS;)
KELLY EICHLER, BOARD)
MEMBER OF THE UNIVERSITY)
OF ARKANSAS BOARD OF)
TRUSTEES, in her official capacity,)
STEVE COX, BOARD MEMBER)
OF THE UNIVERSITY OF)
ARKANSAS BOARD OF)
TRUSTEES, in his official capacity,)
ED FRYAR, BOARD MEMBER)
OF THE UNIVERSITY OF)
ARKANSAS BOARD OF)
TRUSTEES, in his official capacity,)
TED DICKEY, BOARD)
MEMBER OF THE UNIVERSITY)
OF ARKANSAS BOARD OF)
TRUSTEES, in his official capacity,)
JEREMY WILSON, BOARD)
MEMBER OF THE UNIVERSITY)
OF ARKANSAS BOARD OF)
TRUSTEES, in his official capacity,)
COL. NATHANIEL TODD, BOARD)
MEMBER OF THE UNIVERSITY)
OF ARKANSAS BOARD OF)
TRUSTEES, in his official capacity,)
KEVIN CRASS, BOARD MEMBER)
OF THE UNIVERSITY OF)
ARKANSAS BOARD OF)
TRUSTEES, in his official capacity,)

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
JUL 11 2025
TAMMY H. DOWNS, CLERK
By:  DEP CLERK

This case assigned to District Judge Miller
and to Magistrate Judge Hearney

SCOTT FORD, BOARD MEMBER)
 OF THE UNIVERSITY OF)
 ARKANSAS BOARD OF)
 TRUSTEES, in his official capacity,)
 RANDY LAWSON, BOARD)
 MEMBER OF THE UNIVERSITY)
 OF ARKANSAS BOARD OF)
 TRUSTEES, in his official capacity,)
 JUDD DEERE, BOARD MEMBER)
 OF THE UNIVERSITY OF)
 ARKANSAS BOARD OF)
 TRUSTEES, in his official capacity,)
 TRACY TUCKER, individually and)
 in her official capacity as)
 VICE CHANCELLOR of)
 UNIVERSITY OF ARKANSAS AT)
 MONTICELLO, and DAWN REED)
 individually and in her official)
 capacity as ASSISTANT VICE)
 CHANCELLOR of UNIVERSITY)
 OF ARKANSAS AT)
 MONTICELLO)
 Defendants.)

COMPLAINT

Plaintiff Alisa M. White pleads her complaint against Defendants Board of Trustees of the University of Arkansas; Kelly Eichler, Board Member of the University of Arkansas Board of Trustees, in her official capacity, Steve Cox, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Ed Fryar, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Ted

Dickey, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Jeremy Wilson, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Col. Nathaniel Todd, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Kevin Crass, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Scott Ford, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Randy Lawson, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Judd Deere, Board Member of the University of Arkansas Board of Trustees, in his official capacity; Tracy Tucker, individually and in her official capacity as Vice Chancellor of University of Arkansas Monticello; and Dawn Reed, individually and in her official capacity as Assistant Vice Chancellor of University of Arkansas:

1. This case is about a community college vice chancellor's and assistant vice chancellor's discrimination and retaliation against a long-term instructor following her request for protected leave under the Family and Medical Leave Act, in violation of that statute; discrimination against that instructor due to her disability, creation of a hostile work

environment, and retaliation against that instructor due to her requests for a reasonable accommodation, all in violation of the Americans with Disabilities Act, as amended, and the Arkansas Civil Rights Act.

2. Alisa M. White is and was at all times relevant to this Complaint a resident and citizen of Crossett, Ashley County, Arkansas. She was employed as a workforce education instructor, more specifically as an Early Childhood Education Instructor, at the University of Arkansas at Monticello for 14 years before her constructive discharge.

3. The University of Arkansas at Monticello is a part of the University of Arkansas System, the Board Members of which are Kelly Eichler, Steve Cox, Ed Fryar, Ted Dickey, Jeremy Wilson, Col. Nathaniel Todd, Kevin Crass, Scott Ford, Randy Lawson, Judd Deere. The Board of Trustees of the University of Arkansas are sued in their official capacities only, and not for relief other than prospective injunctive relief.

4. Defendant Tracy Tucker is and was at all times relevant to this Complaint a resident and citizen of Hamburg, Ashley County, Arkansas. She acted at all times relevant to this Complaint in the course and scope of her authority at the Vice Chancellor or Dean of the University of Arkansas at Monticello College of Technology — Crossett.

Tucker was the de facto decision maker and person authorized to execute policy for that institution. Tucker may be served with process at 413 S. Cherry Street, Hamburg, Arkansas 71646. Tucker is being sued both individually for money damages under the FMLA and in her official capacity for prospective injunctive relief under all other claims. Plaintiff seeks both prospective injunctive relief and damages against Tucker.

5. Defendant Dawn Reed is and was at all times relevant to this Complaint a resident and citizen of Crossett, Ashley County, Arkansas. She acted at all times relevant to this Complaint in the course and scope of her authority at the Assistant Vice Chancellor or Dean of the University of Arkansas at Monticello College of Technology — Crossett.

Reed may be served with process at 504 Walnut Street, Crossett, Arkansas 71635. Reed is being sued both individually for money damages under the FMLA and in her official capacity for prospective injunctive relief under all other claims. Plaintiff seeks both prospective injunctive relief and damages against Reed.

6. Jurisdiction is appropriate in this Court based on federal question jurisdiction and an amount in controversy in excess of \$75,000.00, exclusive of interest and costs, and diversity of citizenship. 28 U.S.C. §§ 1331 & 1332. There is also supplemental jurisdiction over the

state-law causes. Venue is appropriate in the Eastern District of Arkansas, Central Division.

7. All of the named Defendants herein are and were are at all times relevant to this complaint acting jointly, severally, or individually, if applicable in the course and scope of their agency with the “University of Arkansas at Monticello” which was the employer of White. The University of Arkansas at Monticello is a college located in Monticello, Drew County, Arkansas, with satellite campuses in and around it. One such campus is and was at all times relevant to this Complaint the University of Arkansas at Monticello College of Technology – Crossett. Plaintiff and Defendants Tucker and Reed worked at the Crossett campus. The Defendants are collectively referred to as “The University of Arkansas at Monticello” or “UAM.”

8. At all times relevant to this complaint, UAM was engaged in commerce or in an industry affecting commerce and employed fifteen or more employees for each working day during each of twenty or more calendar workweeks in the current or preceding calendar year. At all time relevant to this complaint, UAM was engaged in commerce or in an industry affecting commerce and employed fifty or more employees for

each working day during each of twenty or more calendar workweeks in the current or preceding calendar year. White was employed by UAM at its Crossett, Arkansas, campus, which is an area where UAM Arkansas employed fifty or more employees within a 75-mile radius. UAM was an employer or person acting in the interest of the employer as defined by the FMLA, ADA, and ACRA.

9. White was employed as an Early Childhood Education Instructor at the University of Arkansas at Monticello College of Technology in Crossett beginning in August 2010. White has documented impairments, including rheumatoid arthritis, uncorrectable venous insufficiency, plantar fasciitis, and neuropathy, which substantially interfere with major life activities of walking and standing for extended periods. Her impairments qualify as disabilities under the Americans with Disabilities Act, as amended. Her conditions were also serious health conditions as defined by the Family and Medical Leave Act. White's impairments never affected her job performance, with a reasonable accommodation.

10. On or before August 17, 2023, at 1:58 P.M. White was formally approved accommodation for her disabilities. An accurate copy

of the email approving those accommodations is attached as Exhibit A and incorporated by reference. Tracy Tucker, Vice Chancellor at UAM in Crossett, and Dawn Reed, Assistant Vice Chancellor at UAM in Crossett, were informed in an email of White's approved accommodations on or before August 17, 2023. White was approved for limited weight bearing and limited standing at all times. She was given an overall assessment of mobility concerns with duties and assignments. That email was sent to Tracy Tucker and Dawn Reed. Shortly after the email was sent, and on that same day, Reed made mocking gestures in passing towards White that White reasonably interpreted to be gestures mocking her disability.

11. Almost five hours later, at 6:49 P.M., Reed emailed the entire faculty and staff at the University of Arkansas at Monticello in Crossett commenting on two other faculty members who had "emergency surgeries" during the week but "continued to enroll and help students while in the hospital bed!" An accurate copy of that email is attached as Exhibit B and incorporated by reference. This email evidenced Reed's animus towards persons who were unable to work due to a disability, and expectation that persons with injuries or limiting medical conditions continue working despite their serious medical conditions.

12. On September 22, 2023, a report for outside employment was emailed to the “Deans,” which included Tucker. Those reports were due back by September 25, 2023. An accurate copy of that email is attached as Exhibit C and incorporated by reference. This form was transmitted to White on September 25, 2023, at 1:27 P.M. An accurate copy of that transmittal email is attached as Exhibit D and incorporated by reference.

13. White submitted her form to Tucker on or about September 25, 2023, for January 1, 2024, to December 31, 2024. An accurate copy of that form, with excerpts of the university policies on outside employment, are attached as Exhibit E and incorporated by reference. White had been previously approved for outside employment for many years in the same role for additional pay by that outside employer by a previous vice chancellor at UAM. This outside employment generated significant income to White, which she had come to depend upon, and was part of the job duties and benefits she enjoyed as an instructor at UAM. White indicated as much in response to an email from Reed to White requesting proof of prior outside employment from July 1, 2022, to June

30, 2023. An accurate copy of that email is attached as Exhibit F and incorporated by reference.

14. White requested FMLA leave for treatment of a serious health condition in September 2023, submitting that request on or before her completion of the outside employment form. This was protected activity under the FMLA. White indicated her treatment would conclude before the end of 2023. Within days of that request, and less than a month from it, on September 28, 2023, Tucker met with White. Tucker memorialized her understanding of that meeting in a 5:06 PM email on September 28, a copy of which is attached as Exhibit G and incorporated by reference.

15. In that email, Tucker recited that “Dr. White indicated that she has issues standing. This is particularly an issue at graduation.” Tucker also admitted, in writing, that she was revoking White’s permission to attend an Early Childhood Conference, and that Tucker would not approve White’s concurrent employment form for January 1, 2024 “**due to the impending FMLA**. Discussion was held about the need for our students and school to be the priority and this would be revisited at a later date, but it is not, at this time, approved.” *Exhibit G* (emphasis

added). This email is direct evidence of Tucker's discriminatory animus towards White due to her disability and request for FMLA leave. Even after White returned to work, Tucker and UAM refused to reconsider White's requests for approval of her previous, long-allowed outside employment.

16. Other similarly situated employees who had not requested FMLA leave or requested an accommodation for a disability, however, had no problem getting approval for outside work. White informed Tucker that her outside work had already been approved by the former Vice Chancellor Linda Rushing. On September 28, 2023, during the meeting between Tucker, White, and Mary Whiting, UAM Director of Disability, Tucker said that White was a "low performing employee," which was not true. Whiting interrupted Tucker and asked how White's overall performance was, but Tucker refused to answer Whiting's question. White only had positive performance reviews during her previous 13 years and had no written disciplinary actions or warnings in her file.

17. To help White follow her doctor's orders and lessen the pain caused by her disabilities, White's former Vice Chancellor Linda Rushing scheduled beginning on or about January 10, 2020, White's instructor

course load as online, hybrid, and in-person (but on non-consecutive days) class meetings. For more than three years and nine months, White was able to work with this reasonable accommodation. On or about October 1, 2023, again within 30 days of White's request for FMLA leave, Tucker (who replaced Linda Rushing) sent an email to White changing this critical accommodation and practice for White's disability. An accurate copy of that email is attached as Exhibit H and incorporated by reference.

18. In that email, Tucker stated "UAM-CTC does not have permission/approval to offer our early childhood (EC) "programs" online, meaning no more than 50% of the program classes required for a CP, TC, or associate degree, can be offered in an online format. We have been in violation of that requirement. Therefore, I am making a change to the following courses for the spring." As noted in Tucker's email, Tucker scheduled White's Spring 2024 course to meet on four consecutive nights, which had not occurred during the prior five years as a prior accommodation due to White's disability. Tucker scheduled the Spring 2024 "Technical Math" course as an online course taught by Ginnie Sellers, UAM-CTC Math Instructor and White's non-disabled peer, however, further evidencing the disparate treatment of White due to her

protected activities, disability, and request for a reasonable accommodation.

19. Tucker emailed White three days later saying that being eligible for FMLA leave and approved for FMLA leave are not the same thing, on October 4, 2023. The tenor of this email indicated Tucker did not want White to exercise her right to FMLA leave. An accurate copy of that email is attached as Exhibit I and incorporated by reference. This email further evidences Tucker's continued animus towards persons exercising their rights under the FMLA, persons with a disability, and persons who have requested a reasonable accommodation for those disabilities. White took FMLA leave from October 10, 2023, until December 14, 2023, but even after returning to work she was not approved for outside employment by Tucker despite her repeated requests to restore that approval.

20. During the early Spring 2024 semester, Susanna Ballard, UAM-CTC Administrative Office Technology Instructor and non-disabled instructor at UAM, received a student complaint because she would not allow the student to do homework during class. The student reported a complaint to Katie Manzella, (now resigned) UAM-CTC Director of

Student Service Coordinator (SSC). At about the same time, one of White's students complained to the SSC after White marked her late and required students to write their PDR numbers on the class sign in sheet. PDR were state-mandated hours required for certain early childhood education certifications. White had required her students to keep track of those numbers and report them to her previously without incident, and as part of her instruction of those future educators.

21. On February 7, 2024, the directors of student services (SSC), Manzella emailed White requesting that she meet with her in her office to discuss White's attendance policy for her classes. An accurate copy of that email is attached as Exhibit J and incorporated by reference. Tucker was copied on the email. White met with the SSC in her office on February 8, 2024.

22. After approximately 10 minutes into the meeting, Tucker entered the room, shut the door, and informed White that her attendance policy was too strict, and that White's students' PDR numbers were "not my problem." White responded that requirement was written in her syllabus, at which time, Tucker turned from facing White and viewed her syllabus that the SSC had displayed on her desktop computer. After

viewing White's syllabus, Tucker turned to White and said, "We have not approved your syllabus yet." White knew Tucker was not being honest, became fearful, her heart began to race, and White felt burning pain in her feet and ankles, as her neuropathy flared up. White wanted out of that office and away from the pain Tucker was causing her, but she was standing too close to the office door and such actions could have been cause for Tucker to write her up as insubordinate. White endured this illegal disparate and unfair treatment in pain.

23. On February 26, 2024, White emailed Tucker to see if she could attend a conference that would benefit her program and was at no cost for UAM. Tucker called White into her office alleging the conference was paid for because White was externally working again reiterating that White was not allowed to do any outside work. White was not, in fact, performing outside work without permission. Tucker approved the training but changed her mind two days later because White would miss an April 2024 faculty meeting. Other faculty members who had not requested reasonable accommodations, were not disabled, and who had not exercised their right to FMLA leave, were allowed to be excused from previous faculty meetings. The stated reason for the mandatory

attendance in April 2024 was the need to discuss attendance, but attendance was discussed at every faculty meeting. This treatment further evidence Tucker's disparate and retaliatory treatment of White.

24. On March 1, 2024, White continued notifying her supervisors Tucker and Reed that she had trouble standing or walking for long periods of time without breaks, in relation to judging at an event. An accurate copy of that email is attached as Exhibit K and incorporated by reference.

25. On March 5, 2024, Susanna Ballard, UAM-CTC Administrative Office Tech Instructor told White that Katie Manzella, SSC, resolved her student complaint via email without further response from White, which was not the manner by which White's student complaint was resolved on February 8, 2024. White's disparate treatment continued.

26. On March 6, 2024, White told UAM Human Resources what Tucker had done to her in Manzella's office, how fearful she was of Tucker, and how it caused flare ups and burning pain in White's feet. This was a protected activity under the FMLA and ADA. White also brought her outside employment form to HR and requested that someone at UAM

approve her request for outside employment, but UAM's HR refused. This was protected activity under the FMLA as a further attempt to return to her previous benefits before she requested FMLA leave. HR then emailed White four times telling her that she had to meet with Tucker. Requiring a person complaining of illegal conduct to meet with their supervisor about whom the person is complaining was not a stated part of the official complaint policy at UAM. HR insisted White needed to meet with Tucker to work out their differences.

27. On March 6, 2024, White reported to HR personnel the harassment and discrimination she had been subjected to because of her disability, request for FMLA leave, and requests for a reasonable accommodation. White was informed the internal complaint process began with White expressing to Tucker and Reed that their behavior was unwelcome and must stop. On March 7, 2024, White spoke with UAM's HR and again reported that other faculty had been approved for outside employment but she was not being approved in violation of her rights under the FMLA, ADA, and law. This was another protected activity under the FMLA and ADA. UAM's HR responded that White did not "know what Tucker has done for other faculty." Before White had the

opportunity to directly tell Tucker and Reed to cease their discriminatory behavior after this call from HR, however, Reed came into White's classroom on March 8, 2024, again harassing White and treating her differently.

28. On March 11, 2024, White informed Tucker and Reed that their behavior was unwelcome and had to stop as required by UAM HR. This was protected activity under the FMLA and ADA. A few days later, Tucker requested that White meet with her to discuss White's complaint. White then inquired into the UAM harassment policy with HR, which informed White that the next step would be to meet with Tucker. Tucker also sent White an email in hopes of persuading her to meet with her. UAM's policy did not require White to meet with the person discriminating against her as the next step of the internal process, so White declined.

29. On March 11, 2024, White sent an email to Tucker, Reed, and Human Resources that included letters from Dr. Nureddin (White's heart doctor) and Dr. Mallepalli (White's RA doctor) that stated, "It is not recommended that Ms. White be on her feet standing on any consecutive days while working. . . . with continued joint pain, stiffness, and swelling,

working 4 nights in a row is causing the neuropathy to flare in her feet, especially. It would be in Dr. White's best interest to have an interrupted work schedule." An accurate copy of that email, with attachments is attached as Exhibit L and incorporated by reference. In her email, White noted that she did not need to be on her feet unless it was necessary. This was further protected activity under the FMLA and ADA.

30. On March 12, 2024, Tucker sent an email to Reed and White about White's report of disparate treatment and uncomfortable interactions with Reed. Central to this dispute was White's apparent failure to obtain writing pens in an interaction with Reed, where Reed raised her voice at White and made a face at her. An accurate copy of that email is attached as Exhibit M and incorporated by reference. This incident further evidences Reed's discriminatory and retaliatory animus towards White, which was creating a hostile work environment.

31. On April 1, 2024, less than 30 days from receipt of White's documented need to not stand for long, consecutive periods of time due to her disability, Tucker scheduled White to teach 4 consecutive nights in-person for the Fall 2024 semester with "Environment in EC" to be taught as an in-person course. Tucker also took White's "Tech Child

Development” course away from White (which she had taught for the previous 14 yrs) and assigned non-disabled peer, Amy Blankenship, UAM-CTC Early Childhood Education Adjunct Instructor to teach it, but Tucker changed “Environments in EC” (which was scheduled for White to teach as in-person course) to an online course to accommodate the request of White’s non-disabled replacement instructor, Elizabeth Nowlen, UAM-CTC Early Childhood Education Adjunct Instructor. These actions were retaliatory and continued the pattern and practice of illegally discriminating against White.

32. The UAM Technical Campus Annual Report 2022-23 states, “changes that may be considered to better meet the University’s goals,” reads, “Table1: Assessment of Key Performance Indicators, Implications for Future Planning Change: continue to increase the availability of online/hybrid classes to accommodate employed/nontraditional students”; and the report notes a count of online/hybrid continuing courses, which include online/hybrid courses White was permitted to teach under former VC Linda Rushing. Tucker retaliated against White and treated her differently despite her protected activities and in defiance of White’s

request for a reasonable accommodation by scheduling White to teach 4 consecutive nights in a row in-person.

33. On April 2, 2024, White was contacted by HR regarding her previous complaints and told that a different vice chancellor could be designated to hear White's concerns if she wanted to continue with the informal resolution process. An accurate copy of that email exchange is attached as Exhibit N and incorporated by reference. White inquired about this offer on May 8, 2024. An accurate copy of that email exchange is attached as Exhibit O and incorporated by reference. On May 8, 2024, White was then told by UAM HR that she only had a 30-day time limit for previous complaints and if a new incident occurred within the past 30 days, they needed to know what informal resolution steps she had taken. White again complained to UAM's HR by email on May 8, 2024, that Tucker's refusal to allow White to obtain outside employment due to her exercise of her rights under the FMLA was illegal. It had become clear to White by this time that UAM's HR would not stop the illegal discrimination and harassment she was experiencing from Tucker and Reed.

34. Prior to the harassment from Tucker and Reed, White's work value and satisfaction of teaching students was positive. The treatment that White was receiving from Tucker and Reed was taking a dreadful toll on both White's mental and physical health, which forced her to make the decision to resign her position on August 8 2024, amounting to a constructive discharge. White felt as if she had no choice but to end her employment due to the persistent and unending harassment and discrimination she was enduring. White further knew she could not teach a course four consecutive nights in a row, in person, given her disabilities, which UAM had persistently refused to accommodate.

35. On or about June 17, 2024, White timely filed a charge of discrimination with the Equal Employment Opportunity Commission. An accurate copy of that charge is attached as Exhibit P and incorporated by reference. White updated her information before the EEOC to notify it of her constructive discharge on August 8, 2024, during the pendency of the EEOC investigation. On or about April 14, 2025, the EEOC issued a notice of right to sue letter. An accurate copy of that letter is attached as Exhibit Q and incorporated by reference. This case is being filed within 90 days of White's receipt of that notice of right to sue. All claims asserted

herein required to be exhausted before the EEOC were exhausted before the EEOC.

36. As a direct consequence of UAM's disparate treatment of, retaliation, and constructive discharge of White, she has experienced damage, including lost wages, lost benefits, retirement, paid time off, back pay, front pay, emotional distress, attorney's fees, and other costs, for which she should be compensated, including all remedies allowed by law.

37. Plaintiff also seeks an end to this discrimination and illegal conduct by prospective injunctive relief, an order for Defendants to comply with the Family and Medical Leave Act, Americans with Disabilities Act, and Arkansas Civil Rights Act moving forward, reinstatement to her previous job, posting of this verdict and judgment to clear her name, training for the Defendants and UAM's HR department on proper conduct towards disabled persons and persons engaging in protected activity under federal law, and for all other relief to which she may be entitled.

COUNT I - FMLA INTERFERENCE/ENTITLEMENT

38. White reincorporates and re-alleges paragraphs 1 through 37 by reference.

39. At all times relevant to this complaint, UAM was a covered employer and White was a covered employee under the Family and Medical Leave Act. 29 U.S.C. §§ 2601–2654. UAM met all of the statutory standards for coverage. 29 U.S.C. §§ 2611(2)(B)(ii) & (4)(A), *et sequentes*; 29 C.F.R. §§ 825.104(a) & 825.110(a)(3). At all times relevant to this complaint, White was a covered employee under the FMLA. 29 U.S.C. § 2611(2)(A), *et sequentes*. White had been employed by UAM for at least twelve months and worked at least 1,250 hours during the previous twelve month period.

40. White suffers from a serious health condition as defined by the FMLA. She was diagnosed with a major medical condition that impairs her ability to stand and sit for prolonged periods of time. 29 C.F.R. § 825.113; 29 C.F.R. § 825.115. White obtained a medical certification regarding her serious health condition and timely communicated it to UAM as soon as practicable. 29 C.F.R. §§ 825.302–825.304. In the alternative, White provided UAM with sufficient information for UAM to reasonably determine that the FMLA applied to White's request for approved leave. UAM accepted White's FMLA claim

and approved her for FMLA-protected leave and should be equitably estopped from now taking a contrary position.

41. The FMLA proscribes any action by UAM to interfere with, restrain, or deny White the protections provided by the FMLA. 29 U.S.C. § 2615(a)(1); 29 U.S.C. § 825.220. White had an absolute right under the FMLA to return to her previous position in effect before her request for FMLA leave upon the completion of her FMLA leave in accordance with the United States Department of Labor's interpretations of the FMLA. Specifically, the FMLA required UAM to allow White to return to her position as an early childhood educator without adverse changes in her ability to hold outside employment, and without general harassment and discrimination. UAM failed to follow the FMLA by interfering with, restraining, and denying White that right:

a. UAM planned to discourage and otherwise deny White from exercising her rights under the FMLA soon after she requested FMLA leave;

b. UAM did, in fact, deny White her rights by changing her benefits and job duties;

c. UAM repeatedly, and at times expressly, interfered with and exhibited animus toward White due to her desire to exercise her FMLA leave, and actual leave protected by the FMLA;

d. UAM treated White differently than persons who had not exercised their rights protected by the FMLA by denying her outside employment, changing her job duties, falsely berating her as “low performing” and for requiring her students to report attendance and PDR hours, revoking her request to attend conferences, removing her accommodations to work non-consecutive in person classes, requiring her to meet with Tucker despite her complaints about her, revoking the offer for White to meet with a different vice chancellor, and constructively discharging her;

e. UAM denied White restoration to her previous work with the same conditions and benefits, in violation of the FMLA;

f. UAM has shifted its explanations about its purported reasons for denying White’s right to return to job restoration under the FMLA; and

g. UAM further intimidated and discouraged White’s exercise of her FMLA rights through these actions.

42. UAM has therefore denied White substantive rights under the FMLA for reasons connected with her FMLA leave. It will be UAM's burden to prove it would have terminated White regardless of her FMLA leave. *Bacon v. Hennepin County Medical Center*, 550 F.3d 711, 714–15 (8th Cir. 2008). And UAM's burden to prove the applicability of any FMLA exemption. It cannot meet these burdens.

43. White's leave from work and continuing health issues which might necessitate further time away from work were the motivating factors in UAM's decision to deny White restoration to her job benefits and disparate treatment, although UAM's intentions are not relevant to an FMLA interference claim.

44. UAM's violation of the FMLA was not in good faith and UAM has no reasonable grounds for believing its acts and omissions complied with the FMLA.

45. White seeks all remedies available to her under the FMLA including lost wages; lost salary; lost employment benefits; other compensation denied or lost; actual monetary losses sustained as a direct result of the violation; interest; an equal amount of lost wages, lost salary, lost employment benefits, other compensation denied or lost, actual

monetary losses sustained as a direct result of the violation, and interest as liquidated damages; other prospective injunctive relief tailored to the harm suffered; a reasonable attorney's fee; reasonable expert witness fees; and other costs of the action as provided by law, prejudgment interest, and postjudgment interest, and other proper relief. 29 U.S.C. § 2617; 29 C.F.R. § 825.220.

COUNT II - FMLA DISCRIMINATION

46. White reincorporates and re-alleges paragraphs 1 through 45 by reference.

47. At all times relevant to this complaint, UAM was a covered employer and White was a covered employee under the Family and Medical Leave Act. 29 U.S.C. §§ 2601–2654. UAM met all of the statutory standards for coverage. 29 U.S.C. §§ 2611(2)(B)(ii) & (4)(A), *et sequentes*; 29 C.F.R. §§ 825.104(a) & 825.110(a)(3). At all times relevant to this complaint, White was a covered employee under the FMLA. 29 U.S.C. § 2611(2)(A), *et sequentes*. White had been employed by UAM for at least twelve months and worked at least 1,250 hours during the previous twelve month period.

48. White suffered a serious health condition as defined by the FMLA. She was diagnosed with a major medical condition. 29 C.F.R. § 825.113; 29 C.F.R. § 825.115. White obtained a medical certification regarding her serious health condition and timely communicated it to UAM as soon as practicable. 29 C.F.R. §§ 825.302–825.304. In the alternative, White provided UAM with sufficient information for UAM to reasonably determine that the FMLA applied to White’s request for approved leave. UAM accepted White’s FMLA claim, approved her for FMLA-protected leave, and should be equitably estopped from now taking a contrary position.

49. The FMLA proscribes any action by UAM to interfere with, restrain, or deny White the protections provided by the FMLA taken because the employee exercises rights to which she is entitled under the FMLA. 29 U.S.C. § 2615(a)(1); *Burciaga v. Ravago Americas, LLC*, 791 F.3d 930 (8th Cir. 2015). UAM cannot take materially adverse employment actions against White that are motivated by White’s exercise of her FMLA rights. White had an absolute right under the FMLA to request FMLA leave, exercise that leave, to not be discouraged from taking FMLA leave by treating her differently and by failing to return to

her previous position in accordance with the United States Department of Labor's interpretations of the FMLA. The FMLA required UAM to allow White to request FMLA leave, take that leave, and return to her position with the same benefits intact. UAM was legally obligated to refrain from modifying that position or denying reinstatement in restraint of and in interference with her request for FMLA leave. UAM nevertheless discriminated against White and treated her differently because of her attempts to exercise her rights under the FMLA:

a. UAM planned to discourage and otherwise deny White from exercising her rights under the FMLA soon after she requested FMLA leave;

b. UAM did, in fact, deny White her rights by changing her benefits and job duties;

c. UAM repeatedly, and at times expressly, interfered with and exhibited animus toward White due to her desire to exercise her FMLA leave, and actual leave protected by the FMLA;

d. UAM treated White differently than persons who had not exercised their rights protected by the FMLA by denying her outside employment, changing her job duties, falsely berating her as “low

performing” and for requiring her students to report attendance and PDR hours, revoking her request to attend conferences, removing her accommodations to work non-consecutive in person classes, requiring her to meet with Tucker despite her complaints about her, revoking the offer for White to meet with a different vice chancellor, and constructively discharging her;

e. UAM denied White restoration to her previous work with the same conditions and benefits, in violation of the FMLA;

f. UAM has shifted its explanations about its purported reasons for denying White’s right to return to job restoration under the FMLA; and

g. UAM further intimidated and discouraged White’s exercise of her FMLA rights through these actions.

50. UAM has therefore denied White substantive rights under the FMLA for reasons connected with her FMLA leave. UAM has also shifted its explanations about the basis for denying White’s right to return to work with full benefits. It will be UAM’s burden to prove it would have terminated White regardless of her FMLA leave. *Bacon v. Hennepin County Medical Center*, 550 F.3d 711, 714–15 (8th Cir. 2008). And UAM’s

burden to prove the applicability of any FMLA exemption. It cannot meet these burdens. White's leave from work and request for her rights under the FMLA were motivating factors in UAM's decision to deny White reinstatement in full and constructively discharge her.

51. UAM's violation of the FMLA was not in good faith and UAM has no reasonable grounds for believing its acts and omissions complied with the FMLA.

52. White seeks all remedies available to her under the FMLA including lost wages; lost salary; lost employment benefits; other compensation denied or lost; actual monetary losses sustained as a direct result of the violation; interest; an equal amount of lost wages, lost salary, lost employment benefits, other compensation denied or lost, actual monetary losses sustained as a direct result of the violation, and interest as liquidated damages; other prospective injunctive relief tailored to the harm suffered; a reasonable attorney's fee; reasonable expert witness fees; and other costs of the action as provided by law, prejudgment interest, and postjudgment interest, and other proper relief. 29 U.S.C. § 2617; 29 C.F.R. § 825.220.

COUNT III - FMLA RETALIATION

53. White reincorporates and re-alleges paragraphs 1 through 52 by reference.

54. At all times relevant to this complaint, UAM was a covered employer and White was a covered employee under the Family and Medical Leave Act. 29 U.S.C. §§ 2601–2654. UAM met all of the statutory standards for coverage. 29 U.S.C. §§ 2611(2)(B)(ii) & (4)(A), *et sequentes*; 29 C.F.R. §§ 825.104(a) & 825.110(a)(3). At all times relevant to this complaint, White was a covered employee under the FMLA. 29 U.S.C. § 2611(2)(A), *et sequentes*. White had been employed by UAM for at least twelve months and worked at least 1,250 hours during the previous twelve month period.

55. White suffered a serious health condition as defined by the FMLA. She was diagnosed with a major medical condition. 29 C.F.R. § 825.113; 29 C.F.R. § 825.115. White obtained a medical certification regarding her serious health condition and timely communicated it to UAM as soon as practicable. 29 C.F.R. §§ 825.302–825.304. In the alternative, White provided UAM with sufficient information for UAM to reasonably determine that the FMLA applied to White's request for

approved leave. UAM accepted White's FMLA claim and approved her for FMLA-protected leave and should be equitably estopped from now taking a contrary position.

56. The FMLA proscribes any action by UAM to discharge or in any other manner discriminate against White for opposing any practice made unlawful by the FMLA. 29 U.S.C. § 2615(a)(2). UAM nevertheless subjected White to materially adverse employment actions motivated by White's protected FMLA conduct, including her assertion of her rights and opposition to UAM's refusal to allow White to exercise her rights. White had an absolute right under the FMLA to request FMLA leave, exercise that leave, to not be discouraged from taking FMLA leave, and to return to her previous position in accordance with the United States Department of Labor's interpretations of the FMLA. Specifically, the FMLA required UAM to allow White to request FMLA leave, take that leave, and return to her position with all benefits intact, without restraint of and in interference with her request for FMLA leave. UAM discriminated against White and treated her differently because of her attempts to exercise her rights under the FMLA and opposition to UAM's refusal to honor those rights:

a. UAM planned to discourage and otherwise deny White from exercising her rights under the FMLA soon after she requested FMLA leave;

b. UAM did, in fact, deny White her rights by changing her benefits and job duties;

c. UAM repeatedly, and at times expressly, interfered with and exhibited animus toward White due to her desire to exercise her FMLA leave, and actual leave protected by the FMLA;

d. UAM treated White differently than persons who had not exercised their rights protected by the FMLA by denying her outside employment, changing her job duties, falsely berating her as “low performing” and for requiring her students to report attendance and PDR hours, revoking her request to attend conferences, removing her accommodations to work non-consecutive in person classes, requiring her to meet with Tucker despite her complaints about her, revoking the offer for White to meet with a different vice chancellor, and constructively discharging her;

e. UAM denied White restoration to her previous work with the same conditions and benefits, in violation of the FMLA;

f. UAM has shifted its explanations about its purported reasons for denying White's right to return to job restoration under the FMLA; and

g. UAM further intimidated and discouraged White's exercise of her FMLA rights through these actions.

57. UAM has therefore discharged and discriminated against White because of her opposition to UAM's violations of her rights under the FMLA. White's leave from work, request for her rights under the FMLA, and opposition to UAM's denial of those rights were motivating factors in UAM's decision to deny White her restoration to work and terminate her.

58. UAM's violation of the FMLA was not in good faith and UAM has no reasonable grounds for believing its acts and omissions complied with the FMLA.

59. White seeks all remedies available to her under the FMLA including lost wages; lost salary; lost employment benefits; other compensation denied or lost; actual monetary losses sustained as a direct result of the violation; interest; an equal amount of lost wages, lost salary, lost employment benefits, other compensation denied or lost, actual

monetary losses sustained as a direct result of the violation, and interest as liquidated damages; other prospective injunctive relief tailored to the harm suffered; a reasonable attorney's fee; reasonable expert witness fees; and other costs of the action as provided by law, prejudgment interest, and postjudgment interest, and other proper relief. 29 U.S.C. § 2617; 29 C.F.R. § 825.220.

COUNT I - DISABILITY DISCRIMINATION

60. White reincorporates and re-alleges paragraphs 1 through 59 by reference.

61. This claim is brought under the Americans with Disabilities Act, as amended, and the Arkansas Civil Rights Act, Arkansas Code Annotated § 16-123-101, *et sequiter*.

62. Plaintiff is a person with a disability and each of those disabilities substantially limited her ability to enjoy major life activities, including her ability ambulate and stand for prolonged periods of time. Plaintiff was able to perform the essential functions of her job on or before the time she was treated differently and constructively terminated. UAM was an employer at all times relevant to this Complaint under the

Americans with Disabilities Act, as amended, and under the Arkansas Civil Rights Act.

63. UAM knew of Plaintiff's disability which was a motivating factors in UAM's decision to treat Plaintiff differently because of her disability, including the following actions:

- a. Constructively terminating White;
- b. Treating White differently because of her reasonable accommodations, including harassing her and removing those accommodations;
- c. UAM did, in fact, deny White her rights by changing her benefits and job duties;
- d. UAM repeatedly, and at times expressly, interfered with and exhibited animus toward White due to her disability;
- e. UAM treated White differently than persons who had not exercised their rights protected by the ADA and ACRA by denying her outside employment, changing her job duties, falsely berating her as "low performing" and for requiring her students to report attendance and PDR hours, revoking her request to attend conferences, removing her accommodations to work non-consecutive in person classes, requiring her

to meet with Tucker despite her complaints about her, revoking the offer for White to meet with a different vice chancellor, and constructively discharging her; and

f. UAM further intimidated and discouraged White's exercise of her ADA and ACRA rights through these actions.

64. On information and belief, similarly situated persons without a disability were treated better than Plaintiff regarding the above-described actions.

65. Plaintiff seeks all remedies available to her under applicable law, including reinstatement, prospective injunctive relief, attorney's fees, costs, and all other proper relief.

COUNT I - HOSTILE WORK ENVIRONMENT

66. White reincorporates and re-alleges paragraphs 1 through 65 by reference.

67. This claim is brought under the Americans with Disabilities Act, as amended, and the Arkansas Civil Rights Act, Arkansas Code Annotated § 16-123-101, *et sequiter*.

68. Plaintiff is a person with a disability and each of those disabilities substantially limited her ability to enjoy major life activities,

including her ability ambulate and stand for prolonged periods of time. Plaintiff was able to perform the essential functions of her job on or before the time she was treated differently and constructively terminated. UAM was an employer at all times relevant to this Complaint under the Americans with Disabilities Act, as amended, and under the Arkansas Civil Rights Act.

69. UAM knew of Plaintiff's disability and tolerated a hostile work environment charged by Plaintiff's disability in violation of the ADA and ACRA, which caused the following adverse employment actions:

- a. Constructively terminating White;
- b. Treating White differently because of her reasonable accommodations, including harassing her and removing those accommodations;
- c. Harassing and failing to stop harassment targeting White due to her use of certain writing utensils, requirement for early education students to report their PDR hours, removing White's permission to attend conferences or work outside her employment with UAM;

d. UAM furthered that hostile work environment by denying White her rights by changing her benefits and job duties and by otherwise denying and ignoring White's repeated complaints about her hostile work environment;

e. UAM repeatedly, and at times expressly, interfered with and exhibited animus toward White due to her disability;

f. UAM treated White differently than persons who had not exercised their rights protected by the ADA and ACRA by denying her outside employment, changing her job duties, falsely berating her as "low performing" and for requiring her students to report attendance and PDR hours, revoking her request to attend conferences, removing her accommodations to work non-consecutive in person classes, requiring her to meet with Tucker despite her complaints about her, revoking the offer for White to meet with a different vice chancellor, and constructively discharging her; and

g. UAM further intimidated and discouraged White's exercise of her ADA and ACRA rights through these actions, which all individually and collectively altered a term or condition of White's employment.

70. On information and belief, similarly situated persons without a disability were treated better than Plaintiff regarding the above-described actions.

71. Plaintiff seeks all remedies available to her under applicable law, including reinstatement, prospective injunctive relief, attorney's fees, costs, and all other proper relief.

COUNT II - RETALIATION

72. White reincorporates paragraphs 1 through 71 by reference.

73. This Count is brought under the Americans with Disabilities Act as amended, and the Arkansas Civil Rights Act. Each of those statutes protects persons who engage in protected activity from retaliation.

74. White engaged in protected activities. She opposed discrimination against herself, as detailed above. She opposed UAM's actions to ignore her complaints, retaliate against her for being awarded reasonable accommodations, remove her reasonable accommodations, remove her right to work externally, oppose her disparate treatment due to her disability and requests for accommodation, and other acts of discrimination. UAM declined to favorably alter its behavior in response

to these protected activities, instead increasing its discriminatory behavior and forcing White to resign.

75. These activities are statutorily protected actions and UAM's adverse actions against White as detailed above are causally linked to those actions. White's complaints to UAM were ignored, and White was constructively discharged. Both the timing of these actions amidst White's protected activities and the disability, discrimination evidence as pleaded demonstrate a causal link between the two.

76. White seeks all remedies allowed by the applicable ant-retaliation law, as specified above.

77. White demands a trial by jury as to all issues so triable.

78. White's damages as pleaded exceed \$75,000.

WHEREFORE, Plaintiff Alisa M. White prays for judgment from and against Defendants Board of Trustees of the University of Arkansas; Kelly Eichler, Board Member of the University of Arkansas Board of Trustees, in her official capacity, Steve Cox, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Ed Fryar, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Ted Dickey, Board Member of the University of

Arkansas Board of Trustees, in his official capacity, Jeremy Wilson, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Col. Nathaniel Todd, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Kevin Crass, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Scott Ford, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Randy Lawson, Board Member of the University of Arkansas Board of Trustees, in his official capacity, Judd Deere, Board Member of the University of Arkansas Board of Trustees, in his official capacity; Tracy Tucker, individually and in her official capacity as Vice Chancellor of University of Arkansas Monticello; and Dawn Reed, individually and in her official capacity as Assistant Vice Chancellor of University of Arkansas, for all remedies available to her under applicable law, including back pay, back wages, liquidated damages, front pay, reinstatement, prospective injunctive relief tailored to the harm she suffered, compensatory damages, punitive damages, lost wages, lost salary, lost employment benefits, other compensation denied or lost, actual monetary losses sustained as a direct result of the violation, statutory damages, and interest; her attorney's fees; her reasonable expert

witness fees; and other costs of the action as provided by law, including prejudgment and postjudgment interest; for a determination that the Defendant's conduct was willful; for a declaration that Defendants' conduct violated the FMLA, ADA, and ACRA; and all other just and proper relief.

Respectfully submitted,

ALISA M. WHITE

Plaintiff

By: 

BARRETT S. MOORE
Bar Number 2009118
BLAIR & STROUD
Attorney for Plaintiff
P.O. Box 2135
Batesville, Arkansas 72503
Telephone: (870) 793-8350
E-mail: bsm@blastlaw.com

DEMAND FOR A JURY TRIAL

Comes ALISA M. WHITE and, pursuant to Rule 38 of the Federal Rules of Civil Procedure, demands her right of trial by jury as to all issues so triable.

Respectfully submitted,

ALISA M. WHITE

Plaintiff

By: 

BARRETT S. MOORE
Bar Number 2009118
BLAIR & STROUD
Attorney for Plaintiff
P.O. Box 2135
Batesville, Arkansas 72503
Telephone: (870) 793-8350
E-mail: bsm@blastlaw.com

SSS Approval

Whiting Mary <whitingm@uamont.edu>

Thu 8/17/2023 1:58 PM

To:Tucker Tracy <TuckerTS@uamont.edu>;Reed Dawn M. <ReedD@uamont.edu>

Cc:Whiting Mary <whitingm@uamont.edu>;Johnson Gracie <JohnsonG@uamont.edu>;White Alisa M. <WhiteA@uamont.edu>

Good Afternoon,

Alisa White is now registered with Student Special Services.

Approved accommodations include:

- Limited weight bearing at all times, to be discussed in an event of concern.
- Limited standing at all times, to be discussed in an event of concern.
- Preferential parking. Has a handicapped parking permit.
- Back supported work chair.
- Overall assessment of mobility concerns with duties and assignments.

Additional requests for any meetings with me present would need to be scheduled.

Thank you,
Mary

Mary Whiting

Director of Admissions & Recruitment

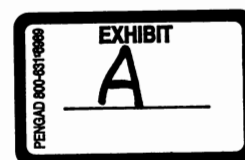
Student Special Services

International Officer

☎ Student Success Center – Suite 100

\ (870) 460-1226

whitingm@uamont.edu



First week of school

Reed Dawn M. <ReedD@uamont.edu>

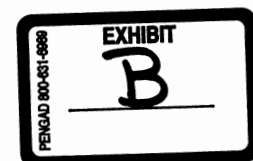
Thu 8/17/2023 6:49 PM

To:UAMCTC-Faculty <UAMCTC-Faculty@uamont.edu>;UAMCTC-Staff <UAMCTC-Staff@uamont.edu>

I just want to give a shout out to everyone for making this first week of school a success! Keep Kim and Susanne in your prayers as they had emergency surgeries this week but still continued to enroll and help students while in the hospital bed! The dedication to our students from each of you is what makes this school such a success! I am lucky to work with each of you! Hope you have a relaxing weekend!

Dawn

Get [Outlook for iOS](#)





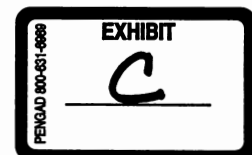
From: Hyatt Rita <hyattr@uamont.edu>
Sent: Friday, September 22, 2023 9:57 AM
To: Blazier Michael <Blazier@uamont.edu>; Boice Daniel G. <Boice@uamont.edu>; Brandy Haley <haley@uamont.edu>; Clayton Marsha <clayton@uamont.edu>; Hairston Brian W. <hairstonb@uamont.edu>; Hargraves Elaine <HargravesE@uamont.edu>; Harper Steven <HarperS@uamont.edu>; Level Kim <level@uamont.edu>; Reed Dawn M. <ReedD@uamont.edu>; Slater Shuneize E <SlaterS@uamont.edu>; Tucker Tracy <TuckerTS@uamont.edu>; Ware Bob <wareb@uamont.edu>; Young Clinton D. <young@uamont.edu>
Cc: Wornick Bethany D. <HaydenB@uamont.edu>; Halley Crystal <HalleyC@uamont.edu>; Hyatt Rita <hyattr@uamont.edu>
Subject: Annual Report of Outside Employment with attachments

Deans,

I have attached the UAM Policy and the Board Policy about Outside Employment of Faculty and Non-Classified Staff. Please review the policy and complete the attached report. If your unit has no outside employment to report mark the section “No Outside Employment to Report”. Please submit your report electronically to me by September 25, 2023. If you have any questions, please call 460-1333.

Thanks,
Rita Hyatt

-
Rita Hyatt | Administrative Analyst
University of Arkansas at Monticello | Office of Academic Affairs
O: [870-460-1333](tel:870-460-1333) | F: [870-460-1933](tel:870-460-1933) | hyattr@uamont.edu | uamont.edu



Fw: Annual Report of Outside Employment with attachments

Murphy P. Shannon <MurphyPS@uamont.edu>

Mon 9/25/2023 1:27 PM

To:Ballard Susanne <Ballard@uamont.edu>;Byrd Christopher <ByrdC@uamont.edu>;Daws, Paul D <Daws@uamont.edu>;
DuBose III James H. <dubose@uamont.edu>;Dubose Jeffrey Donnie <DuboseJD@uamont.edu>;Jeffers Jerry W
<JeffersJW@uamont.edu>;Jones Robby E <JonesRobby@uamont.edu>;Lindsey Alice J. <Lindsey@uamont.edu>;Noble Kayla J.
<NobleK@uamont.edu>;Owens Richard A. <OwensRA@uamont.edu>;Sellers Ginnie <SellersG@uamont.edu>;Upshaw Shela
<upshaw@uamont.edu>;Wallis Kim <wallisk@uamont.edu>;White Alisa M. <WhiteA@uamont.edu>

📎 3 attachments (280 KB)

Operating Pro 455.2 Outside Employment Form.pdf; Board Policy 450.1 Outside Employment for Faculty Certain Staff for
Compensation eff. 7 1 2023.pdf; ANNUAL REPORT ON OUTSIDE EMPLOYMENT OF FACULTY.rtf

Please see attached forms. If this doesn't apply to you, please don't worry about it. If it applies, please
fill out and return to me by 4:00 p.m. today.

Thanks,

Shannon Murphy
Administrative Specialist III
University of Arkansas Monticello, CTC
870-460-2020



From: Tucker Tracy <TuckerTS@uamont.edu>
Sent: Monday, September 25, 2023 8:01 AM
To: Murphy P. Shannon <MurphyPS@uamont.edu>
Subject: FW: Annual Report of Outside Employment with attachments

Tracy S. Tucker, Ed. D.
Vice Chancellor
University of Arkansas at Monticello
College of Technology – Crossett
(870) 460-2027



Prior Approval of Outside Employment
University of Arkansas at Monticello
Operating Procedure 455.2

This form implements the University of Arkansas System Board Policy on outside employment (450.1) passed in 1916 and revised most recently in March 2016. Full-time faculty and non-classified staff are required annually or as needed to obtain written approval from their supervisor prior to engaging in outside employment.

I request approval for outside employment as follows:

Beginning Date Jan 1, 2024
Ending Date Dec 31, 2024
Average Hours 5 hours per week or month
(as needed)

The employee is required to state the following on the nature and source of outside employment:

- Name and address of employer:
Dawson Cooperative
211 Clinton St
Arkadelphia, AR
- Specific explanation of the nature of employment, location, schedule:
Professional Development - Early Childhood
- Whether or not the use of University facilities, property or personnel are requested in the employment:
No, but I need equipment in my office/class at UAM
- The expected benefit of the outside employment to professional development and to the University:
It keeps allows me to stay up to date on laws in early childhood. It provided me with 'free' staff development in the area of Early Childhood.

Check one of the following:

- I affirm that, to my knowledge, this outside employment will not create a conflict of interest or commitment (see Operating Procedure 455.1) in my duties, responsibilities or obligations to the University of Arkansas at Monticello.
- A possible conflict of interest may exist. I disclose the attached explanation of the nature of the potential conflict.

Keeps me informed about grants.

Name _____
Title/Position _____
Department _____
Dr. Alexa White
Signature

9/25/2023
Date

Approvals:

Supervisor

Date

Vice Chancellor or Chancellor

Date

E-MAILED SEP 25 2023



The specific explanation of the nature of employment, location, schedule:

- **Nature:** Some of the professional development offered is titled: "An Insight Into Children with Trauma" "Mean v. Bully, There is a Difference", "Building a Positive Classroom", "Creating Responsible Students".
- **Location:** Online and at local childcare centers. One center is 'Westside Baptist School' Hillsboro St., El Dorado, AR
- **Schedule:** Non-work works- summers, holidays, weekends, some nights.

2A

UAM OPERATING PROCEDURE 455.2**OUTSIDE EMPLOYMENT**

While emphasizing the fact that full-time faculty and staff members (including, but not limited to, senior administrators) of the University are obligated to devote their working time and efforts primarily to University activities, the University recognizes that a limited amount of outside work for private compensation may be advantageous to all concerned. Such persons are therefore encouraged to engage in outside employment that will affirmatively contribute to their professional advancement or correlate usefully with their University work. This employment shall not interfere in any substantial way with the employee's University duties nor conflict with his/her University assignments.

Written approval from the direct supervisor shall be obtained in advance of such outside employment. Each Vice Chancellor's office shall keep records on outside employment by personnel in his/her department and shall prepare an annual report on such outside employment. The report should include actual time spent during the reporting period. Such records shall be reviewed periodically by the appropriate administrators and shall be submitted to the Chancellor by September 30 of each year.

It is the employee's responsibility to make clear that, with respect to the outside employment, he/she is not acting as an agent or representative of the University. University facilities or property shall not be used except with permission of the Executive Council, taking into account the best interests of the University, and the payment of appropriate fees may be required. Prior approval is also required for concurrent employment with another university unit or state agency, pursuant to Arkansas Code Ann. §19-4-1604 and Arkansas Code Ann. §6-63-307.

Revised: June 19, 2024

March 8, 2022

9/30/23, 11:43 PM

Mail - White Alisa M. - Outlook

please fill out

Reed Dawn M. <ReedD@uamont.edu>

Thu 9/28/2023 12:10 PM

To: Wallis Kim <wallisk@uamont.edu>; White Alisa M. <WhiteA@uamont.edu>; Dubose Jeffrey Donnie <DuboseJD@uamont.edu>

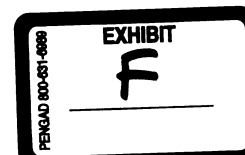
📎 1 attachments (212 KB)

outside employment_20230928(1).pdf;

If you had outside employment from July 1, 2022 to June 30, 2023 please complete this form, back date it to July 1, 2022 and return it to me ASAP.

Thanks,

Dawn Reed, Assistant Vice Chancellor
UAM College of Technology-Crossett
870-460-2030
reedd@uamont.edu



<https://outlook.office.com/mail/id/AAQkADE0NWJhZjc0LTVlOGUtdA4OC1iZmQ5LTkwZDBlZDc3M2NkYwAQAKmdQt8rBk9yrKMqkJO%2FFbg%3D>

1/1

Dr. Tucker,

Thank you for this list. It is most helpful.

Concerning commencement (#4) if I may be permitted to walk to the instructor's sitting area just prior to the time for everyone else to walk out that would be most helpful.

Dr. Alisa White, Ph.D.

Early Childhood Education Instructor

UAM College of Technology-Crossett

1326 Hwy 52 West Crossett, AR 71635

870-364-6414; FAX: 870-364-5707

870-460-2026 (direct line)

870-500-8052 (cell)

From: Tucker Tracy <TuckerTS@uamont.edu>

Sent: Thursday, September 28, 2023 5:06 PM

To: White Alisa M. <WhiteA@uamont.edu>; Whiting Mary <whitingm@uamont.edu>

Cc: Tucker Tracy <TuckerTS@uamont.edu>

Subject: CONFIDENTIAL: Meeting follow-up

Good afternoon.

I wanted to take just a minute to follow up with some written notes from our meeting today.

1. Dr. White needs to provide Ms. Whiting with medical notes from a doctor to further/continue her registration with SSS.
2. There have been NO issues at CTC that need attention following the receipt by the VC of the accommodations from Ms. Whiting.
3. Dr. White will communicate with Dr. Tucker (either by absence form or email then form) if she is going to be absent. Simply putting the absence into WorkDay does not meet the requirements of the policy.
4. Dr. White indicated that she has issues standing. This is particularly an issue at graduation. Dr. Tucker suggested a reasonable accommodation for this event. Dr. Tucker further explained that staff will receive informational emails and updates about recruitment events, but, unless specifically stated, nothing is required.
5. Dr. White advised us that she is seeking medical documentation for FMLA for some of October, all of November and some of December. Dr. Tucker advised Dr. White that she was revoking the approval to attend the Early Childhood Conference, to which Dr. White stated that she was already working on a refund for the registration already paid. Dr. Tucker also indicated that she was not approving the concurrent employment form, starting 1/1/2024 at this time, due to the impending FMLA. Discussion was held about the need for our students and school to be the priority and this would be revisited at a later date, but it is not, at this time, approved.
6. Dr. Tucker asked for information about the Advisory Board. Dr. White is going to share information with Dr. Tucker about the Board. Dr. Tucker will make recommendations to members to be included in this group.

I tried to capture the highlights from our meeting. Please feel free to add to this email or make corrections.

Thanks..

tt



10/1/23, 2:13 PM

Mail - White Alisa M. - Outlook

After more conversations, it is now clear to me that UAM-CTC does not have permission/approval to offer our early childhood "programs" online, meaning no more than 50% of the program classes required for a CP, TC or Associate degree, can be offered in an online format. We have been in violation of that requirement. Therefore, I am making a change to the following courses for the spring.

ECED 1043 – Dev/Curr for Early Childhood will be a hybrid class that meets on Thursdays from 4:15 – 5:45.
ECED 2073 – Tech Child Guidance will be a hybrid class that meets on Mondays from 6 – 7:30.

As I showed you yesterday, the following schedule is in place for other classes/offerings:

HOEC 2013 – Tech Literacy/Lang Arts for EC will meet on Tuesdays from 4:15 – 7.

HOEC 2023 – Tech Math/Science for EC will meet on Mondays from 4:15 – 5:45.

The Practicum classes are: ECED 1082 – Practicum 1, HOEC 2033 – Tech Child Care Practicum II, and ECED 1071 – Intro to Practicum, which is hybrid meeting face to face on Jan. 17 and 31, and Feb. 7 from 4:30 – 7:15.

As we discussed yesterday, and you agreed, this puts you into overload at 16 hours, so I will process that paperwork in January, if all these classes make.

Also, please provide me with a copy of the handbook that you use for your program. I would like to review it for my information.

Please let me know if you have any questions. Thanks so much...

Tt

Tracy S. Tucker, Ed. D.
Vice Chancellor
University of Arkansas at Monticello
College of Technology – Crossett
(870) 460-2027



FMLA

Tucker Tracy <TuckerTS@uamont.edu>

Wed 10/4/2023 11:39 AM

To: White Alisa M. <WhiteA@uamont.edu>

Cc: Hargis Jennifer <Hargis@uamont.edu>; Whiting Mary <whitingm@uamont.edu>

Dr. White – I want to provide you some clarifying information about FMLA. In the e-mail that you received for the University HR Department, it states that you are eligible for FMLA. That email simply means that the University's HR Department has determined that you met the federal requirements to be eligible for FMLA. That determination does not mean the same as your absence under FMLA being approved. When I spoke with Jennifer this morning, the HR Department is still awaiting the required paperwork for review to determine if the FMLA is approved.

I have received all the emails from you that you have sent to students about your expected absence. However, when I checked with HR this morning, I was informed that your leave has not been approved because the proper forms haven't been submitted for review, which is the approval process. I just wanted to make sure that you understand that "eligible" does not mean "approved" in this process.

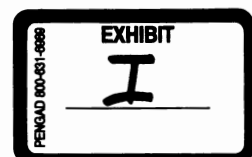
Jennifer – please feel free to weigh in if I did not explain that correctly. I know that Dr. White has stated in a meeting and in emails to students that she won't be working after Oct. 10, but I have not yet received approval of that date, which is Tuesday!

Mary – just keeping you in the loop, as requested in our meeting.

Thanks, everyone!

tt

Tracy S. Tucker, Ed. D.
Vice Chancellor
University of Arkansas at Monticello
College of Technology – Crossett
(870) 460-2027



From: Manzella Katie M <Manzella@uamont.edu>
Sent: Wednesday, February 7, 2024 10:01 AM
To: White Alisa M. <WhiteA@uamont.edu>
Cc: Tucker Tracy <TuckerTS@uamont.edu>
Subject: Meeting

Good morning,

I would like to schedule a meeting for us to discuss Monica and your attendance policy. What day and time would you be available? I will be out this afternoon for a meeting on the Monticello campus.

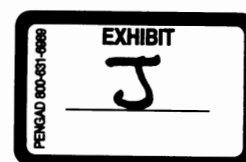
Katie Manzella, Director of Student Services

UAM College of Technology-Crossett

(870)460-2004

manzella@uamont.edu

L. X. H. L.



4/9/24, 11:45 AM

Re: Judges Needed: Southeast Arkansas Regional Science Fair - White Alisa M. - Outlook

From: Burrows Ross <Burrows@uamont.edu>
Sent: Friday, March 1, 2024 1:27 PM
To: White Alisa M. <WhiteA@uamont.edu>
Subject: Re: Judges Needed: Southeast Arkansas Regional Science Fair

Hi Alisa,

Judging is light work. The fair is small this year so you would only need to talk to several students. You can take breaks and the time you need. We would love to see you there. Will you come and judge? Best wishes,

Ross B.
 SEARSF Director.

From: White Alisa M. <WhiteA@uamont.edu>
Sent: Friday, March 1, 2024 1:15 PM
To: Burrows Ross <Burrows@uamont.edu>
Cc: Tucker Tracy <TuckerTS@uamont.edu>; Reed Dawn M. <ReedD@uamont.edu>; Halley Crystal <HalleyC@uamont.edu>; Murphy P. Shannon <MurphyPS@uamont.edu>; Franklin Lateasha <FranklinL@uamont.edu>; Manzella Katie M <Manzella@uamont.edu>
Subject: Re: Judges Needed: Southeast Arkansas Regional Science Fair

I'm interested in serving as a judge, but I have a couple of questions before I say, "Yes".

1. Will I have to stand or walk for long periods of time (without breaks)?
2. What time will I be required to be at the event?

I taught 5th grade science for several years, and I'm particularly interested in life science.

Thank You,

Alisa White, Ph.D.

Early Childhood Education Instructor

University of Arkansas at Monticello

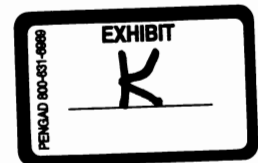
1326 Hwy 52 West, Crossett, AR 71635

870-364-6414; FAX: 870-364-5707

870-460-2026 (direct line)

870-500-8052 (cell)

From: Halley Crystal <HalleyC@uamont.edu>
Sent: Friday, March 1, 2024 10:33 AM
Subject: Judges Needed: Southeast Arkansas Regional Science Fair



Dear Colleagues,

The Southeast Arkansas Regional Science Fair (SEARSF) is coming soon. Given the turnout last year, I expect that several middle and high schools plan to bring students to our fair on

Your support at this event is essential. Some of you have served as judges in the past, and we appreciate you for helping us again this year. If you have not been a judge, please join us in making this event successful.

Request

White Alisa M. <WhiteA@uamont.edu>

Mon 3/11/2024 10:30 AM

To: Tucker Tracy <TuckerTS@uamont.edu>, Reed Dawn M. <ReedD@uamont.edu>
Cc: Coon-Loyd Sage <coons@uamont.edu>

1 attachments (2 MB)

A_White_Dr_Rec.pdf

Greetings,

Please call me or email me when we need to discuss a message from me to the students, my request to attend a conference, or similar matters. I want to be a team player and answer any questions about messages or conferences. However, I do not welcome being called into the office for matters that can easily be handled with a phone call or email, and I ask that I only be called in when the problem cannot be solved by email/phone. This support will help me to remain productive as I continue to teach my students, apply for grant awards for UAM-CTC; help students receive scholarships, free textbooks & materials, and increase enrollment in my program.

Additionally, I have physical challenges and do not need to be on my feet unless it is necessary (i.e. teaching, attending faculty meeting, discussions not solved by phone/email). Please see the attached documentation from my physicians regarding my health. Let me know if my physicians need to provide additional information as they wrote these letters when I thought I was going to teach four consecutive nights.

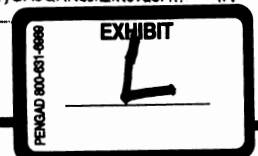
Dr. Tucker, thank you for allowing me to schedule my office hours Wed. & Thurs. from 11:00 am-1:00 pm this allows me to schedule my medical appointments more easily.

Respectively,

Alisa White, Ph.D.
Early Childhood Education Instructor
UAM College of Technology-Crossett
1326 Hwy 52 West, Crossett, AR 71635
870-364-6414; FAX: 870-364-5707
870-460-2026 (direct line)
870-500-8052 (cell)

UAM Exhibit

<https://outlook.office.com/mail/sentitems/id/AAQkADE0NWJhZjc0LTVIQGUtINDA4OC1iZmQ5LTkwZDBiZDc3M2NkYwAQAN1yOA5QHN5JiI2IKcVaoF4...> 1/1



ARKANSAS HEART HOSPITAL®
CLINIC

Alisa White
117 GILL RD
CROSSETT AR 71635-4873

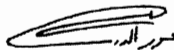
[REDACTED]
Date: 12/07/2023

To Whom It May Concern:

Alisa White is a patient of mine at the Arkansas Heart Hospital Clinic. Due to health reasons, it is not recommended that Ms. White be on her feet standing on any consecutive days while working.

If you have any questions, please contact my nurse, Amber, at (501) 664-5860.

Sincerely,



Nureddin Almaddah, M.D.
Arkansas Heart Hospital Clinic

THE ARTHRITIS & DIABETES CLINIC, INC.
(A Medical Corporation)

Jyothi Mallepalli MD, M.R.C.P
Catherine Midyett, APRN, FNP-C
Jeseta Lawrence, APRN, FNP-C
Gabby Nicolle, APRN, FNP-C

3402 Magnolia Cove
Monroe, LA 71203
Phone: 318-388-5830
Fax: 318-322-1249

November 30, 2023

RE: Alisa White
DOB: [REDACTED]

To Whom it May Concern,

I am writing to you on behalf of Mrs. Alisa White. She is a patient in our clinic, receiving treatment for [REDACTED], [REDACTED], and [REDACTED]. Her joint complaints are primarily in her feet and legs, with continued joint pain, stiffness, and swelling. Working four nights in a row is causing [REDACTED] to flare in her feet especially. It would be to her benefit to have an interrupted work schedule. If you have any questions, please feel free to contact me. Thank you for your consideration.

Sincerely,



Dr. Jyothi Mallepalli

RE: Request

Tucker Tracy <TuckerTS@uamont.edu>

Tue 3/12/2024 9:05 AM

To: Reed Dawn M. <ReedD@uamont.edu>; White Alisa M. <WhiteA@uamont.edu>; Coon-Loyd Sage <coons@uamont.edu>

Good morning.

On Monday, March 11, 2024, when I returned to campus from meetings in Monticello, Dawn made me aware of her concerns about the email she received from Dr. White, which is below. Dawn does not feel that all the information from Dr. White is accurate. She denies that she gave the pens, raised her voice or made a face at her.

After Dawn's different recollection of the event, I felt it was best to gain other insights into the interaction.

This morning, Tuesday, March 12, 2024, at 8:25 AM, I questioned Frank Higginbotham. Mr. Frank's recollection of the incident is transcribed below:

TT: Mr. Frank, please tell me about the events that occurred on Friday pertaining to pens, Dr. White and Dawn.

FH: Dr. White asked me to get her some pens for her to use with the students. She stated she thought they were going to bring her some, but never did.

I came to the office to get some pens. FH asked Shannon for some pens and she tried to give him some of the recruiting pens. Dawn told Shannon that we can't use those and they got some other pens from the supply in the closet. Shannon told me to make sure to tell her (Dr. White) to return them to the front desk.

I took the pens and headed to Dr. White's room and Dawn was right behind me headed down the hallway.

I gave Dr. White the pens and told her to make sure to return them to the front office. Dawn stopped and stepped into the room and told her to return them to the front office because they were from the supply closet.

We left her room.

TT: Did you hear Dawn raise her voice at Dr. White?

FH: No

TT: Was Dawn's face angry at Dr. White?

FH: No

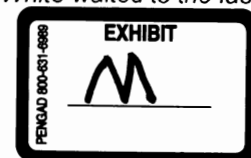
TT: Did you feel any tension in the interaction in the room between you, Dr. White and Dawn?

FH: No, Dr. White said okay and went on about her stuff.

FH: After the event, I walked down the hallway to check to help get the pens back to the office and met Dr. White headed to the office. I took the pens from her and returned them to the office.

TT: Was there anything abnormal, aggressive, inappropriate, or other about the interaction between Dawn and Dr. White?

FH: No, it was a "normal" everyday exchange. I did wonder to myself why Dr. White waited to the last minute to get pens and had not asked for them ahead of time.



RE: Voice Mail

Coon-Loyd Sage <coons@uamont.edu>

Tue 4/2/2024 11:04 AM

To: White Alisa M. <WhiteA@uamont.edu>

Cc: Doss Peggy <doss@uamont.edu>; Halley Crystal <HalleyC@uamont.edu>

Dr. White,

I understand that you are not satisfied with the outcome of the previous conversations regarding your complaint. I have spoken with Dr. Doss, and, because Dr. Doss would be the final decision-maker should you proceed with a formal grievance, she has designated VC Crystal Halley to hear your concerns if you wish to continue the informal resolution process. I would sit in on the meeting with the two of you as the Human Relations Officer. We are hopeful that this meeting will lead to a satisfactory resolution of your concerns. If you decide you would like to pursue this course, please let me know of some times and dates that you are available to meet so I can coordinate with VC Halley.

Thank you,

Sage Loyd
Senior Project Manager
& Director of Grants
University of Arkansas at Monticello
P.O. Box 3597
Monticello, AR 71656
Phone: 870-460-1422



From: White Alisa M. <WhiteA@uamont.edu>

Sent: Friday, March 22, 2024 6:40 PM

To: Coon-Loyd Sage <coons@uamont.edu>

Subject: Re: Voice Mail

Importance: High

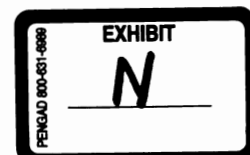
Greetings,

I have an attorney, and I prefer to not proceed with the internal complaint process now that I have legal representation. The situation is too stressful for me, particularly since the person I am being requested to meet with is the one who I allege to be discriminating against me. I already have been caused a lot of stress and this would simply make it worse.

Sincerely,

Alisa White, Ph.D.
Early Childhood Education Instructor
UAM College of Technology-Crossett

UAM Exh. 7



Re: Voice Mail

White Alisa M. <WhiteA@uamont.edu>

Wed 5/8/2024 12:49 AM

To: Coon-Loyd Sage <coons@uamont.edu>

1 attachments (3 MB)

O_Employment.pdf

Sage,

Would I be permitted to share all of my concerns with Dr. Halley, including Dr. Tucker's refusal to allow me to do outside employment due to my FMLA (see attachment) which I spoke to you about March 6?

Alisa White, Ph.D
Early Childhood Education Instructor
UAM College of Teaching & Learning
1326 Hwy 52 West, Crossett, AR 71635
870-364-6414, FAX. 870-364-5707
870-460-2026 (direct line)
870-500-8052 (cell)

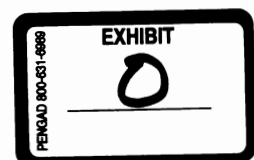
From: Coon-Loyd Sage <coons@uamont.edu>**Sent:** Tuesday, April 2, 2024 11:03 AM**To:** White Alisa M. <WhiteA@uamont.edu>**Cc:** Doss Peggy <dosp@uamont.edu>; Halley Crystal <HalleyC@uamont.edu>**Subject:** RE: Voice Mail

Dr. White.

I understand that you are not satisfied with the outcome of the previous conversations regarding your complaint. I have spoken with Dr. Doss, and, because Dr. Doss would be the final decision-maker should you proceed with a formal grievance, she has designated VC Crystal Halley to hear your concerns if you wish to continue the informal resolution process. I would sit in on the meeting with the two of you as the Human Relations Officer. We are hopeful that this meeting will lead to a satisfactory resolution of your concerns. If you decide you would like to pursue this course, please let me know of some times and dates that you are available to meet so I can coordinate with VC Halley.

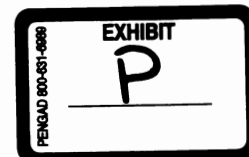
Thank you.


Sage Loyd
Senior Project Manager
& Director of Grants
University of Arkansas at Monticello
P.O. Box 3597
Monticello, AR 71656
Phone: 870-460-1422



EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION		Charge Presented to: Agency(ies) Charge No(s):	
This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		<input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	
_____ and EEOC State or local Agency, if any			
Name (indicate Mr. Ms. Mrs.) Alisa M. White		Home Phone (Incl. Area Code) 870-500-8052	Date of Birth [REDACTED]
Street Address City, State and ZIP Code 117 Gill Street, Crossett, AR, 71635 Email: amwhite@ualr.edu			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name University of Arkansas Monticello		No. Employees, Members 427	Phone No. (Include Area Code) 870-460-1026
Street Address City, State and ZIP Code 346 University Dr. Monticello, AR 71656			
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINATION TOOK PLACE Earliest Latest	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input checked="" type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input checked="" type="checkbox"/> DISABILITY <input checked="" type="checkbox"/> OTHER (Specify below.)		08/17/2023 05/08/2024 <input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attached extra sheet(s)):			
<p>I have been a Workforce Education Instructor at the University of Arkansas at Monticello for 14 years. I have documented impairments (plantar fasciitis and neuropathy) which substantially interfere with major life activities of walking and standing for extended periods and qualify as disabilities under the ADA. My impairments never affected my job performance. On 8/17/23, I was approved accommodations for my disabilities. The Vice Chancellor (VC) and Assistant Vice Chancellor (AVC) were informed in an email of my approved accommodations. Shortly after the email was sent, the AVC made mocking jesters in passing and sent out a faculty wide email about teaching from hospital beds. After I requested FMLA leave in September 2023, the VC refused to sign my outside work form due to my pending FMLA leave. Other employees, however, had no problem getting approval for outside work. I informed the VC that my outside work had already been approved by the former VC. Upon the VC learning of this, the VC commented about my low performance in front of others. Between 9/10/23-9/30/23, the VC called me a low performer on 6 other occasions, but I had only positive performance reviews during my previous 13 years and have no written disciplinary actions or warnings. The VC emailed me later saying that being eligible and approved for FMLA leave aren't the same thing. I took FMLA leave from 10/10/23-12/14/23.</p> <p>On 2/26/24, I emailed the VC to see if I could attend a conference that would benefit our program and was at no cost for UAM. The VC called me into her office alleging it was paid for because I was externally working, reiterating I wasn't allowed to do any outside work. She approved the training but changed her mind 2 days later because I would miss a faculty meeting. On 3/6/24, I reported to HR personnel the harassment and discrimination I had been subjected to because of my disability. I was informed the internal complaint process began with expressing to the VC and AVC their behavior was unwelcome and must stop. Before I had the opportunity to do so, the AVC came into my classroom on 3/8/24 harassing me. On 3/11/24, I informed the VC and AVC that their behavior was unwelcome and had to stop. A few days after, the VC requested I meet with her to discuss my complaint. I then inquired into the UAM harassment policy with HR, who informed me that the next step would be to meet with the VC. The Chancellor also sent me an email in hopes of persuading me to meet with the VC. Nowhere in UAM's policy does it state this is the next step of the internal process, so I chose to discontinue the UAM reporting process. On 4/2/24, I was contacted by HR regarding my previous complaints and told that a different VC could be designated to hear my concerns if I wanted to continue with the informal resolution process. I inquired about this offer on 5/5/24. On 5/8/24, I was told that I only had a 30-day time limit for previous complaints and if a new incident occurred within the past 30 days, they needed to know what informal resolution steps I had taken.</p> <p>I have been harassed and disparately treated because of my disabilities and subjected to a hostile work environment. A reasonable employee in my position would have found these combined actions to be materially adverse, creating an abusive work environment and been dissuaded from continuing the complaint process having to report to the VC, my harassing supervisor. My employer's actions are in violation of the Americans with Disabilities Act of 1990, as amended.</p>			



<p>I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</p>	<p>NOTARY – <i>When necessary for State and Local Agency Requirements</i></p>
<p>I declare under penalty of perjury that the above is true and correct.</p> <p>06/17/2024 </p> <p>_____ Date Charging Party Signature</p>	<p>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT</p> <p>SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)</p>



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Little Rock Area Office
820 Louisiana St, Suite 200
Little Rock, AR 72201
(501) 900-6130
Website: www.eeoc.gov

DETERMINATION AND NOTICE OF RIGHTS

(This Notice replaces EEOC FORMS 161, 161-A & 161-B)

Issued On: 04/14/2025

To: Alisa M. White
117 Gill Street
Crossett, AR 71635
Charge No: 832-2024-00189

EEOC Representative and email: Anabel Grunauer
Investigator
anabel.grunauer@eeoc.gov

DETERMINATION OF CHARGE

The EEOC issues the following determination: The EEOC will not proceed further with its investigation and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

NOTICE OF YOUR RIGHT TO SUE

This is official notice from the EEOC of the dismissal of your charge and of your right to sue. If you choose to file a lawsuit against the respondent(s) on this charge under federal law in federal or state court, **your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice.** Receipt generally occurs on the date that you (or your representative) view this document. You should keep a record of the date you received this notice. Your right to sue based on this charge will be lost if you do not file a lawsuit in court within 90 days. (The time limit for filing a lawsuit based on a claim under state law may be different.)

If you file a lawsuit based on this charge, please sign in to the EEOC Public Portal and upload the court complaint to charge 832-2024-00189.

On behalf of the Commission,

Digitally Signed By: William A Cash
04/14/2025

William A Cash
Area Office Director



Cc:

Sage Loyd
University of Arkansas Monticello
PO Box 3597
Monticello, AR 71656

Amber Schubert
University of Arkansas System Office
2404 N University Ave.
Little Rock, AR 72207

Lucy Fitzhugh
Punchwork Law Esq.
1 Riverfront Rd, Ste 745
North Little Rock, AR 72114

Please retain this notice for your records.

Enclosure with EEOC Notice of Closure and Rights (01/22)

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court **under Federal law**. If you also plan to sue claiming violations of State law, please be aware that time limits may be shorter and other provisions of State law may be different than those described below.)*

IMPORTANT TIME LIMITS – 90 DAYS TO FILE A LAWSUIT

If you choose to file a lawsuit against the respondent(s) named in the charge of discrimination, you must file a complaint in court **within 90 days of the date you receive this Notice**. Receipt generally means the date when you (or your representative) opened this email or mail. You should **keep a record of the date you received this notice**. Once this 90-day period has passed, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and the record of your receiving it (email or envelope).

If your lawsuit includes a claim under the Equal Pay Act (EPA), you must file your complaint in court within 2 years (3 years for willful violations) of the date you did not receive equal pay. This time limit for filing an EPA lawsuit is separate from the 90-day filing period under Title VII, the ADA, GINA, the ADEA, or the PWFA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA, the ADEA or the PWFA, in addition to suing on the EPA claim, your lawsuit must be filed within 90 days of this Notice and within the 2- or 3-year EPA period.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Filing this Notice is not enough. For more information about filing a lawsuit, go to <https://www.eeoc.gov/employees/lawsuit.cfm>.

ATTORNEY REPRESENTATION

For information about locating an attorney to represent you, go to:
<https://www.eeoc.gov/employees/lawsuit.cfm>.

In very limited circumstances, a U.S. District Court may appoint an attorney to represent individuals who demonstrate that they are financially unable to afford an attorney.

HOW TO REQUEST YOUR CHARGE FILE AND 90-DAY TIME LIMIT FOR REQUESTS

There are two ways to request a charge file: 1) a Freedom of Information Act (FOIA) request or 2) a "Section 83" request. You may request your charge file under either or both procedures. EEOC can generally respond to Section 83 requests more promptly than FOIA requests.

Since a lawsuit must be filed within 90 days of this notice, please submit your FOIA and/or Section 83 request for the charge file promptly to allow sufficient time for EEOC to respond and for your review.

To make a FOIA request for your charge file, submit your request online at <https://eeoc.arkcase.com/foia/portal/login> (this is the preferred method). You may also submit a FOIA request for your charge file by U.S. Mail by submitting a signed, written request identifying your request as a "FOIA Request" for Charge Number 832-2024-00189 to the

Enclosure with EEOC Notice of Closure and Rights (01/22)

District Director at Delner Franklin-Thomas, 200 Jefferson Ave Suite 1400, Memphis, TN 38103.

To make a Section 83 request for your charge file, submit a signed written request stating it is a "Section 83 Request" for Charge Number 832-2024-00189 to the District Director at Delner Franklin-Thomas, 200 Jefferson Ave Suite 1400, Memphis, TN 38103.

You may request the charge file up to 90 days after receiving this Notice of Right to Sue. After the 90 days have passed, you may request the charge file only if you have filed a lawsuit in court and provide a copy of the court complaint to EEOC.

For more information on submitting FOIA requests, go to <https://www.eeoc.gov/eeoc/foia/index.cfm>.

For more information on submitted Section 83 requests, go to <https://www.eeoc.gov/foia/section-83-disclosure-information-charge-files>.

NOTICE OF RIGHTS UNDER THE ADA AMENDMENTS ACT OF 2008 (ADAAA)

The ADA was amended, effective January 1, 2009, to broaden the definitions of disability to make it easier for individuals to be covered under the ADA/ADAAA. A disability is still defined as (1) a physical or mental impairment that substantially limits one or more major life activities (actual disability); (2) a record of a substantially limiting impairment; or (3) being regarded as having a disability. *However, these terms are redefined, and it is easier to be covered under the new law.*

If you plan to retain an attorney to assist you with your ADA claim, we recommend that you share this information with your attorney and suggest that he or she consult the amended regulations and appendix, and other ADA related publications, available at: http://www.eeoc.gov/laws/types/disability_regulations.cfm.

“Actual” disability or a “record of” a disability

If you are pursuing a failure to accommodate claim you must meet the standards for either “actual” or “record of” a disability:

- ✓ **The limitations from the impairment no longer must be severe or significant** for the impairment to be considered substantially limiting.
- ✓ In addition to activities such as performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, thinking, concentrating, reading, bending, and communicating (more examples at 29 C.F.R. § 1630.2(i)), **“major life activities” now include the operation of major bodily functions**, such as: functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions; or the operation of an individual organ within a body system.
- ✓ **Only one** major life activity need be substantially limited.
- ✓ Except for ordinary eyeglasses or contact lenses, the beneficial effects of **“mitigating measures”** (e.g., hearing aid, prosthesis, medication, therapy, behavioral modifications)

Enclosure with EEOC Notice of Closure and Rights (01/22)

are not considered in determining if the impairment substantially limits a major life activity.

- ✓ An impairment that is **“episodic”** (e.g., epilepsy, depression, multiple sclerosis) or **“in remission”** (e.g., cancer) is a disability if it **would be substantially limiting when active**.
- ✓ An impairment **may be substantially limiting even though** it lasts or is expected to last **fewer than six months**.

“Regarded as” coverage

An individual can meet the definition of disability if an **employment action was taken because of an actual or perceived impairment** (e.g., refusal to hire, demotion, placement on involuntary leave, termination, exclusion for failure to meet a qualification standard, harassment, or denial of any other term, condition, or privilege of employment).

- ✓ “Regarded as” coverage under the ADAAA no longer requires that an impairment be substantially limiting, or that the employer perceives the impairment to be substantially limiting.
- ✓ The employer has a defense against a “regarded as” claim only when the impairment at issue is objectively **both** transitory (lasting or expected to last six months or less) **and** minor.
- ✓ A person is not able to bring a failure to accommodate claim **if** the individual is covered only under the “regarded as” definition of “disability”.

Note: Although the amended ADA states that the definition of disability “shall be construed broadly” and “should not demand extensive analysis,” some courts require specificity in the complaint explaining how an impairment substantially limits a major life activity or what facts indicate the challenged employment action was because of the impairment. Beyond the initial pleading stage, some courts will require specific evidence to establish disability. For more information, consult the amended regulations and appendix, as well as explanatory publications, available at http://www.eeoc.gov/laws/types/disability_regulations.cfm.

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

ALISA M. WHITE

PLAINTIFF

v.

Case No. 4:25-cv-00702-BSM

BOARD OF TRUSTEES OF THE
UNIVERSITY OF ARKANSAS, et al.

DEFENDANTS

**BRIEF IN SUPPORT OF DEFENDANTS'
MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

INTRODUCTION

Plaintiff, Alisa M. White (“White”), is a former employee of the University of Arkansas at Monticello (“UAM”). White, who resigned her position as an instructor at UAM, alleges that Defendants interfered with her rights, discriminated and retaliated against her in violation of the Family Medical Leave Act (“FMLA”), the Americans with Disabilities Act (“ADA”), and the Arkansas Civil Rights Act (“ACRA”). White seeks “all damages allowed by law” including injunctive relief, reinstatement, unspecified monetary damages in excess of \$75,000, and attorneys’ fees and costs.

White’s Complaint must be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6) because she fails to state factual allegations sufficient to support a claim under the FMLA, ADA, or ACRA. The facts in White’s Complaint do not support her allegation that she was constructively discharged, nor did she exhaust such a claim. White admits that UAM approved her requests for FMLA leave and for disability accommodations. And White fails to identify any adverse employment action that was causally linked to her use of FMLA or her request for ADA accommodations.

Similarly, the allegations in White's Complaint fall far short of the high bar required for stating a hostile work environment claim. Moreover, White is not entitled to damages for emotional distress under the FMLA.

FACTUAL ALLEGATIONS¹

Employment Timeline

White was employed as an Early Childhood Education Instructor at the UAM College of Technology in Crossett ("UAM-CTC") beginning in August 2010. Doc. 1, ¶ 9. White has impairments that qualify as disabilities under the ADA. Doc. 1, ¶ 9. Beginning in August of 2023, UAM provided White reasonable accommodations that allowed her to perform the essential functions of her job. Doc. 1, ¶¶ 9, 10. White's approved accommodations included limited weight bearing and limited standing at all times. Doc. 1, ¶ 10. In September of 2023, White requested FMLA leave which was approved by UAM. Doc. 1, ¶¶ 14, 19. White took FMLA leave from October 10, 2023, until December 14, 2023. Doc. 1, ¶ 19. At the end of her FMLA, White returned to her position as an Early Childhood Education Instructor at UAM-CTC. Doc. 1, ¶ 2. White had no written disciplinary actions or warnings in her employment file and received positive performance reviews throughout her employment. Doc. 1, ¶ 16. White resigned her position at UAM-CTC on August 8, 2024. Doc. 1, ¶ 34.

Alleged Discrimination and Retaliation

Tracy Tucker, Vice Chancellor at UAM-CTC, and Dawn Reed, Assistant Vice Chancellor at UAM-CTC were copied on an email sent by Mary Whiting on August

¹ Defendants reserve the right to dispute the factual allegations in White's Complaint at a later stage of the litigation.

17, 2023, at 1:58 p.m. approving White's requested disability accommodations. Doc. 1, ¶ 10. White alleges that shortly after the email was sent, Reed made unspecified "mocking gestures" towards her in passing. Doc. 1, ¶ 10. On August 17, 2023, at 6:49 p.m., Reed sent an email to UAM-CTC faculty giving "a shout out to everyone for making this first week of school a success." Doc. 1, Ex. B. The email also commended two employees for continuing to enroll students from the hospital post-surgery. Doc. 1, ¶ 11, Ex. B.

On September 25, 2023, White submitted a request to work outside employment from January 1, 2024 through December 31, 2024. Doc. 1, ¶ 13, Ex. E. White had been approved to work outside employment in this same role in prior years by a previous vice chancellor. Doc. 1, ¶ 13. On September 28, 2023, White met with Tucker and Mary Whiting, UAM Director of Disability Services. White alleges that at that meeting Tucker said that White was a "low performing employee." Doc. 1, ¶ 16. In a follow-up email after the meeting, Tucker advised that she was revoking the approval for White to attend a conference. Doc. 1, ¶ 15, Ex. G. The email also advised that Tucker was denying White's request for outside employment "at this time, due to the impending FMLA" and stated that the request "would be revisited at a later date." Doc. 1, ¶ 15, Ex. G. White alleges that her request for outside employment was not approved after she returned from FMLA leave. Doc. 1, ¶ 19.

White alleges that for more than three years, the previous UAM-CTC vice chancellor informally allowed White to teach a hybrid schedule of online courses and in person courses only on non-consecutive days. Doc. 1, ¶ 17. On October 1, 2023,

Tucker advised White that UAM-CTC did not have approval to offer their Early Childhood (“EC”) program online which limited their ability to offer online classes to no more than 50% of the required program classes. Doc. 1, ¶ 18, Ex. H. Tucker advised that the EC program had been operating in violation of that restriction, and to bring the program into compliance, White would be required to teach additional classes in person. Doc. 1, ¶ 18, Ex. H. The revised schedule for Spring 2024 required White to teach in person classes on four consecutive nights. Doc. 1, ¶ 18. White alleges that her non-disabled peer was permitted to teach an online course that semester.

On October 4, 2023, Tucker emailed White clarifying that although Human Resources (“HR”) had determined White was eligible for FMLA, White had not yet been approved for FMLA because she had not provided all of the necessary paperwork to HR. Doc. 1, ¶ 19, Ex. I. White’s FMLA leave was approved after she provided the requested information.

During the early Spring 2024 semester, a student complained about White’s attendance policy. Doc. 1, ¶ 20. On February 8, 2024, White met with the Director of Student Service Coordinator (“SSC”), Katie Manzella, at Manzella’s request, to discuss White’s attendance policy. Tucker joined the meeting after 10 minutes and advised White that her attendance policy was too strict and that her syllabus had not been approved. Doc. 1, ¶ 22. White alleges that “Tucker was not being honest” which caused her to want to leave the office and caused her neuropathy to flare up. Doc. 1, ¶ 22. White alleges that a student complaint against a co-worker for different reasons was resolved via email rather than in person. Doc. 1, ¶ 25.

On February 26, 2024, Tucker approved White's request to attend a conference in April 2024 but changed her mind two days later because the conference conflicted with a required faculty meeting to discuss attendance. Doc. 1, ¶ 23. White alleges that non-disabled co-workers had been excused from previous faculty meetings. Doc. 1, ¶ 23. White does not allege that other faculty members were excused from the April 2024 meeting.

On March 6, 2024, White told HR that she was fearful of Tucker, which caused flare ups of her neuropathy. Doc. 1, ¶ 26. White also asked HR to have someone approve her request for outside employment, which they denied. Doc. 1, ¶ 26. On March 6 and 7, 2024, White told HR that she believed she was being harassed and discriminated against because of her disability, request for FMLA leave, and requests for an accommodation. Doc. 1, ¶ 27. HR advised White that the internal complaint process required White to advise Tucker and Reed that their behavior was unwelcome and must stop. Doc. 1, ¶ 27. White alleges that on March 8, 2024, Reed harassed her and treated her "differently." Doc. 1, ¶ 27. White does not provide any facts regarding this alleged harassment or different treatment. On March 11, 2024, White informed Tucker and Reed that their behavior was unwelcome and had to stop. Doc. 1, ¶ 28. A few days later, Tucker requested White meet with her to discuss White's complaint. Doc. 1, ¶ 28. White declined. Doc. 1, ¶ 28.

Also on March 11, 2024, White submitted documentation from her doctors to Tucker, Reed, and Sage Coon-Loyd via email recommending that White not "be on her feet standing on any consecutive days while working..." Doc. 1, ¶ 29, Ex. L. In

that email, White also advised her supervisors not to call her to their offices to discuss employment issues when a phone call or email suffice. Doc. 1, Ex. L.

On or about March 11, 2024, White emailed Reed regarding perceived “disparate treatment” in the form of Reed “rais[ing] her voice” and “mak[ing] a face” at White when White borrowed some pens to use with students. Doc. 1, ¶ 30, Ex. M. Tucker investigated the complaint by getting a statement from a witness who stated that Reed did not raise her voice, make a face, or otherwise act aggressively to White during the interaction. Doc. 1, Ex. M.

On April 1, 2024, Tucker scheduled White to teach four consecutive nights in person for the Fall 2024 semester. Doc. 1, ¶ 31. Tucker took away a course White had taught for 14 years and also allowed a non-disabled instructor to teach a course online. *Id.*

On March 22, 2024, White advised UAM that she had an attorney and no longer wanted to proceed with the internal complaint process. Doc. 1, Ex. N. On April 2, 2024, HR advised White that a different vice chancellor would be designated to hear White’s complaints about Tucker and Reed if she wanted to continue with the informal resolution process. Doc. 1, ¶ 33, Ex. N. On May 8, 2024, over a month later, White responded to ask if she would be permitted to use the internal grievance process to address concerns that were several months old. Doc. 1, ¶ 33, Ex. O. White was advised that per policy, there was a 30-day time limit for addressing complaints through the internal grievance process. *Id.*

On June 17, 2024, over six months after she returned from FMLA leave and prior to resigning her employment with UAM, White filed a Charge of Discrimination with the EEOC. Doc. 1, ¶ 35, Ex. P. White alleges that she “updated her information” to notify the EEOC of her alleged constructive discharge on August 8, 2024. Doc. 1, ¶ 35. The documents attached to White’s Complaint do not reflect this update. The EEOC issued a Notice of Right to Sue to White on April 14, 2025. Doc. 1, ¶ 35, Ex. Q.

As explained below, even assuming the facts alleged by White are true, she failed to state a claim for relief under the ADA, FMLA, or ACRA; therefore, her Complaint should be dismissed.

STANDARD FOR DISMISSAL

Defendants move for dismissal of White’s Complaint under Federal Rule of Civil Procedure 12(b)(6). “[D]ismissal under Rule 12(b)(6) serves to eliminate actions which are fatally flawed in their legal premises and deigned to fail, thereby sparing litigants the burden of unnecessary pretrial and trial activity.” *Young v. St. Charles, Mo.*, 244 F.3d 623, 627 (8th Cir. 2001). To avoid dismissal under Rule 12(b)(6), a complaint must include “enough facts to state a claim to relief that is plausible on its face.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim is “plausible” if the plaintiff “pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Such an inference cannot be drawn from “labels and conclusions” or a “formulaic recitation of the elements of a cause of action.” *Id.* at 678. “Where a complaint pleads facts that are merely consistent with a defendant’s

liability, it stops short of the line between possibility and plausibility of entitlement to relief.” *McDonough v. Anoka Cty.*, 799 F.3d 931, 946 (8th Cir. 2015) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 945 (2009)). It is not a district court’s role to “conjure up unpled allegations to save a complaint.” *Gregory v. Dillard’s, Inc.*, 565 F.3d 464, 473 (8th Cir. 2009). The elements of a *prima facie* case “are not irrelevant to a plausibility determination in a discrimination suit” and “are part of the background against which a plausibility determination should be made.” *Blomker v. Jewell*, 831 F.3d 1051, 1056 (8th Cir. 2016).

ARGUMENT

I. White was not constructively discharged.

White fails to state facts sufficient to support her allegation that her resignation from UAM amounted to a constructive discharge. The bar to show constructive discharge is high. *O’Brien v. Dep’t of Agric.*, 532 F.3d 805, 810-11 (8th Cir. 2008). To establish a claim of constructive discharge, White must show that “(1) a reasonable person in her situation would find the working conditions intolerable, and (2) the employer intended to force her to quit.” *Rester v. Stephens Media, LLC*, 739 F.3d 1127, 1132 (8th Cir. 2014). “To constitute a constructive discharge, the employer must deliberately create intolerable working conditions with the intention of forcing the employee to quit and the employee must quit.” *Summit v. S-B Power Tool*, 121 F.3d 416, 421 (8th Cir.1997) (internal quotations omitted), *cert. denied*, 523 U.S. 1004, 118 S.Ct. 1185, 140 L.Ed.2d 316 (1998). Dissatisfaction with work assignments, a feeling of being unfairly criticized, or difficult or unpleasant working conditions do not

constitute intolerable working conditions supporting a constructive discharge claim. *Tidwell v. Meyer's Bakeries, Inc.*, 93 F.3d 490 (8th Cir. 1996) (internal citations omitted).

White fails to allege facts that meet either prong of the constructive discharge test. White alleges that she felt she had no choice but to resign due to “persistent and unending harassment and discrimination...” Doc. 1, ¶ 34. But the facts pled by White fall short of describing the kind of intolerable working conditions necessary to support a constructive discharge claim. White alleges that over a period of approximately seven months, her supervisors made mocking gestures at her, sent a faculty-wide email that she perceived to be a jab at her but that did not mention her, denied her request to work outside employment, scheduled her to teach in person four nights in a row, advised her that HR was missing paperwork for her FMLA request, revoked her permission to attend two conferences, and made a face at her when she asked to borrow pens for a class. The last of the actions about which White complains occurred on April 2, 2024, over four months before she tendered her resignation.

In *O'Brien*, the Eighth Circuit found allegations similar to those made by White insufficient to support a claim for constructive discharge, or even a hostile work environment, under Title VII. 523 F.3d 805. In *O'Brien*, the plaintiffs alleged that their supervisor did not allow them to attend a training session out of state; failed to respond to their request to work from home in a sufficient manner; denied them a performance award; threatened disciplinary action; interfered with their work on a daily to weekly basis; embarrassed, isolated, and ostracized them; closely scrutinized

their work; and increased their workload. *Id.* at 808. Like the plaintiffs in *O'Brien*, White fails to state facts showing that a reasonable person in her situation would find such working conditions intolerable.

White similarly fails to plead any facts suggesting UAM intended to force her to quit. The intent element is satisfied by a demonstration that quitting was “a reasonably foreseeable consequence of the employer’s discriminatory actions.” *Summit*, 121 F.3d at 421. The employee has an obligation to act reasonably by not assuming the worst and not jumping to conclusions too quickly. *Id. Breeding v. Arthur J. Gallagher & Co.*, 164 F.3d 1151, 1159 (8th Cir. 1999), *abrogated by Torgerson v. City of Rochester*, 643 F.3d 1031 (8th Cir. 2011). To be reasonable, an employee must give her employer a reasonable opportunity to correct the problem. *See, Phillips v. Taco Bell Corp.*, 156 F.3d 884, 890 (8th Cir. 1998).

White first complained about Tucker and Reed’s conduct on March 6, 2024. At that time, HR advised her how to begin the informal resolution process. On March 11-12, 2024, White advised Tucker and Reed that their conduct was unwelcome. Tucker offered to meet with White to discuss her complaints, but White declined. On March 22, 2024, White advised UAM that she no longer wanted to proceed with the internal complaint process. On April 2, 2024, UAM advised White that because she was dissatisfied with the outcome of her discussions with her supervisors, a different vice chancellor had been assigned to hear her concerns if she wished to continue with the informational resolution process. Over a month later, on May 8, 2024, White responded to ask if she could revive her complaints about conduct that had occurred

prior to March 6, 2024. White was advised that per policy, only complaints occurring within the past 30 days could be resolved through the informal resolution process. White did not advise UAM that she had any complaints about Tucker or Reed that had occurred within the preceding 30 days.

On August 8, 2024, four months after the most recent alleged retaliatory conduct, White tendered her resignation. Rather than giving UAM a full opportunity to investigate her complaints, White instructed the campus that she wished to end the internal complaint process. White resigning her employment four months after her last complaint against her supervisors and after declining participation in the internal investigation process was not a reasonably foreseeable consequence of UAM's actions. Therefore, her claims based on constructive discharge must be dismissed.

II. White failed to exhaust her constructive discharge claim.

Even if White stated facts to support constructive discharge, she failed to exhaust her constructive remedies as to that purported adverse action. Under the ADA, plaintiffs must exhaust their administrative remedies by filing a charge with the EEOC before filing a lawsuit. *Weatherly v. Ford Motor Co.*, 994 F.3d 940, 944 (8th Cir. 2021). Courts require that “[e]ach incident of discrimination and each retaliatory adverse employment decision...be individually addressed before the EEOC.” *Id.* (internal citations omitted). Discharge is a discrete act that is easy to identify, and each discrete act must be identified in a charge form to be properly exhausted. *Parisi v. Boeing Co.*, 400 F.3d 583, 586 (8th Cir. 2005)

White filed her Charge of Discrimination on June 17, 2024, almost two months before she alleges that she was constructively discharged from UAM. And although White states that she “updated her information before the EEOC to notify it of her constructive discharge,” she does not allege that she ever filed a Charge of Discrimination form alleging discharge as an adverse action against her. It is well-settled that “the reason for requiring the pursuit of administrative remedies first is to provide the EEOC with an initial opportunity to investigate allegations of employment discrimination and to work with the parties toward voluntary compliance and conciliation.” *Parisi v. Boeing Co.*, 400 F.3d 583, 585 (8th Cir. 2005). UAM was never put on notice that White believed that her resignation constituted constructive discharge or was anything other than voluntary. Therefore, White’s ADA claims relying on her constructive discharge as an adverse action, including her disability discrimination and ADA retaliation claims, must be dismissed.

III. White failed to exhaust claims related to working consecutive nights.

White also failed to exhaust her administrative remedies through the EEOC regarding her allegations that UAM refused to accommodate her need to teach in person on non-consecutive nights. Under the ADA, plaintiffs must exhaust their administrative remedies by filing a charge with the EEOC before filing a lawsuit. *Weatherly v. Ford Motor Co.*, 994 F.3d 940, 944 (8th Cir. 2021). Although courts construe administrative charges liberally, they do not invent claims that were not made before the relevant agency. *Id.* (internal citations omitted).

In White's Charge of Discrimination form, she states that she "was approved accommodations for [her] disabilities." Doc. 1, Ex. P. Nowhere in that Charge form does White state that the accommodations granted to her by UAM were insufficient. And although she describes a variety of alleged retaliatory actions, she does not state that requiring her to teach in person on consecutive nights was one of them.

White's Complaint does not include a failure to accommodate claim, presumably because she did not exhaust such a claim. However, White states that UAM "persistently refused to accommodate" her disabilities and relies on the fact that she was scheduled to teach in person on consecutive nights to support her discrimination, retaliation, and hostile work environment claims. Doc. 1, ¶ 34. This is an attempt by White to repackage an unpled and unexhausted failure to accommodate claim into a different type of claim. Because White failed to exhaust any claim regarding requiring her to teach in person on consecutive nights, she is precluded from relying on that allegation to support her ADA claims in this case.

IV. White fails to state a claim for relief based on FMLA interference.

White's FMLA interference claim must be dismissed because she admits that Defendants approved her request for FMLA leave and allowed her to take that leave unrestrained. To succeed on her FMLA interference claim, White must show that: (1) she was an eligible employee; (2) Defendants were an employer as defined by the FMLA; (3) she was entitled to FMLA leave; (4) she gave Defendants notice of her intent to take FMLA leave; and (5) Defendants denied her FMLA benefits to which she was entitled. *Brandt v. City of Cedar Falls*, 37 F.4th 470, 478–79 (8th Cir. 2022)

(internal citations omitted). In addition, White must show that she is entitled to damages or injunctive relief. *Id.* Remedies available under the FMLA are limited to “compensation and benefits lost ‘by reason of the violation,’ ... other monetary losses sustained ‘as a direct result of the violation,’... and ‘appropriate’ equitable relief, including employment, reinstatement, and promotion.” *Ragsdale v. Wolverine World Wide, Inc.*, 535 U.S. 81, 89, 122 S.Ct. 1155, 152 L.Ed.2d 167 (2002) (citations omitted).

White’s FMLA interference claim is based on her allegation that Defendants discouraged her from taking leave by exhibiting alleged animosity toward her after she advised of her need for FMLA leave. But the Eighth Circuit has held that although FMLA interference includes discouraging employees from using FMLA leave, the employer must also show that the employer denied the employee entitlements under the FMLA. *Quinn v. St. Louis Cnty.*, 653 F.3d 745, 753 (8th Cir. 2011). *See also Pulczynski v. Trinity Structural Towers, Inc.*, 691 F.3d 996, 1007 (8th Cir. 2012) (rejecting plaintiff’s theory that he need not show that employer’s actions actually deterred him from taking leave, so long as an employee of ordinary firmness would have been discouraged). White has failed to do so.

White’s allegation that she was denied her right to return to the same or an equivalent job upon returning from FMLA leave is disingenuous given her acknowledgement that she held the same position, Early Childhood Education Instructor, both before and after her FMLA leave. And White does not allege that her salary, title, insurance, retirement or other traditional terms and benefits of employment changed. Rather, White alleges that every annoyance she allegedly experienced upon

returning to her position at the expiration of her FMLA leave was a compensable “interference” with her FMLA leave. White is incorrect. To state a claim for FMLA interference, White must identify a denial of a right to which she was entitled under the FMLA. White’s allegations that Tucker called her a “low performer,” revoked her request to attend conferences, required her to teach classes in person on consecutive days, and that she was required to follow policy for resolving in internal grievance do not identify any right to which White was entitled under the FMLA.

Similarly, White cannot show that Tucker interfered with her FMLA rights by denying her request to work outside employment. Permission to work outside employment is not a right to which White was entitled as part of her employment. UAM’s Outside Employment policy permits, but does not require, supervisors to approve outside employment at their discretion. Doc. 1, p. 54. The fact that White’s previous supervisor had given White permission to work outside employment in previous years does not mean that outside employment was a benefit to which she was entitled. Moreover, it was not unreasonable for Tucker to defer a decision on White’s request to work outside employment until her return from FMLA leave. The Outside Employment policy states that employees “are obligated to devote their working time and efforts primarily to University activities,” and defers to supervisors to determine if the proposed outside employment is acceptable. Tucker cited these considerations in her denial of Tucker’s outside employment request in September of 2023.

Nor has White identified any damages available to her based on her FMLA interference claim. Although White makes the conclusory allegation that she suffered

lost wages, the facts in her complaint do not support that conclusion. She admits that UAM promptly returned her to work following her release from FMLA leave and she does not allege that her return to work was at a lower salary. Nor does White state facts showing that the purported interference caused her any out-of-pocket expenses. Because White has not stated facts showing that UAM denied her FMLA benefits to which she was entitled resulting in recoverable damages, her FMLA interference claim must be dismissed. Additionally, White's FMLA interference claim against Reed must be dismissed because all of White's allegations regarding FMLA interference pertain to conduct by Tucker, not Reed.

V. White fails to state a claim for relief based on FMLA discrimination or retaliation.

White's claims that Defendants are liable to her under separate theories of FMLA discrimination and FMLA retaliation must be dismissed because she fails to state facts showing that she suffered any materially adverse action, or that such an action was causally related to her exercise of rights under the FMLA. Moreover, an employee can bring only two types of claims under the FMLA: "(1) 'interference' claims where the employee alleges that the employer denied or interfered with her substantive rights under the FMLA; and (2) 'retaliation' claims where the employee alleges that the employer discriminated against her for exercising her FMLA rights." *Brandt v. City of Cedar Falls*, 37 F.4th 470, 478 (8th Cir. 2022) (internal citations omitted). White's claims for FMLA discrimination and retaliation should be analyzed as one claim for retaliation and should be dismissed.

White incorrectly states that it is Defendants' burden to prove they would have terminated her regardless of her FMLA leave. On the contrary, it is well settled that White must state facts showing a prima facie case of retaliation before the burden shifts to Defendants to provide a legitimate non-discriminatory reason for any alleged adverse action. *Id.* at 480. To establish a prima facie case of FMLA retaliation, White must show: "1) she engaged in protected conduct; 2) she suffered a materially adverse employment action; and 3) the materially adverse employment action was causally linked to the protected conduct." *Id.* (internal citations omitted).

A. No Adverse Action

None of the laundry list of annoyances White claims were adverse actions taken against her by UAM rise to the level of an actual adverse action necessary to sustain a retaliation claim. For purposes of a retaliation claim, an adverse employment action is one that is materially adverse, meaning that it causes significant harm. *See Warren v. Nucor Corp.*, No. 24-1132, 2025 WL 2600734, at *4 (8th Cir. Sept. 9, 2025) (citing *Muldrow v. City of St. Louis, Missouri*, 601 U.S. 346, 357 (2024) (explaining that Title VII's anti-retaliation provision "applies only when the retaliatory action is 'materially adverse,' meaning that it causes 'significant' harm") (internal citations omitted)).² "An adverse employment action is a tangible change in working conditions that produces a material employment disadvantage." *Wedow v. City of Kansas City, Mo.*, 442 F.3d 661, 671 (8th Cir.2006) (quoting *Sallis v. Univ. of Minn.*,

² The Eighth Circuit has held that the "materially adverse" standard for Title VII retaliation claims also applies to FMLA retaliation claims. *See Quinn v. St. Louis County*, 653 F.3d 745, 754 n. 9 (8th Cir. 2011).

408 F.3d 470, 476 (8th Cir.2005)). “Mere inconvenience without any decrease in title, salary, or benefits’ or that results only in minor changes in working conditions does not meet this standard.” *Id.* (quoting *Sallis*, 408 F.3d at 476).

In support of her FMLA claim, White alleges the following occurred over a period of approximately six months: Tucker denied her request to work outside employment; Tucker scheduled her to teach in person four nights in a row; Tucker advised her that HR was missing paperwork for her FMLA request; Tucker revoked her permission to attend two conferences; Reed made a face at her when she asked to borrow pens for a non-class task; HR advised her that she must meet with her supervisor in order to proceed with the internal grievance process.³ As explained above in section IV, permission to work outside employment was not a term or condition of White’s employment with UAM. Similarly, teaching in person on consecutive nights was within the scope of White’s job duties and does not constitute a materially significant change in her employment. To the extent White alleges she sought an accommodation to relieve her of that job duty, she has not pled or properly exhausted an ADA failure to accommodate claim.

As explained above in section I, White has failed to show that she was constructively discharged. And as to the remaining purported harms identified by White, the Eighth Circuit has held that “minor changes in duties or working conditions, even unpalatable or unwelcome ones, which cause no materially significant disadvantage do not satisfy the [materially adverse] prong.” *Recio v. Creighton Univ.*, 521 F.3d 934,

³ The allegedly mocking gestures and sending of a faculty-wide email occurred prior to White engaging in any protected activity under the FMLA.

939–40 (8th Cir.2008) (internal citations omitted). Similarly, slights or annoyances, which often take place at work, are not actionable forms of retaliation. *Hasenwinkel v. Mosaic*, 809 F.3d 427, 434 (8th Cir. 2015) (“The FMLA does not impose ‘a general civility code for the American workplace’ (citing *Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 126 S. Ct. 2405, 165 L. Ed. 2d 345 (2006)).

In *Reico*, the Eighth Circuit ruled that extended duration of employer-mandated counseling, failure to notify of job vacancy, changes in work schedule, denial of opportunity to teach certain classes, maintenance of cold temperature in office, and faculty shunning were not materially adverse employment actions. *Recio v. Creighton Univ.*, 521 F.3d at 939–40. See also *Lisdahl v. Mayo Fund*, 633 F.3d 712, 721–22 (8th Cir. 2011) (threats pertaining to job security, denial of vacation time, and public ridicule); *Sutherland v. Mo. Dept. of Corr.*, 580 F.3d 748, 752 (8th Cir.2009) (reclassification of performance from “highly successful” to “successful” not accompanied by reduction in pay, salary, benefits, or prestige); *Clegg v. Ark. Dept. of Corr.*, 496 F.3d 922, 929 (8th Cir.2007) (failure to provide training and orientation, denying access to work tools, failure to reinstate to prior position, addition of negative reports and reprimands to personnel file, exclusion from meetings, and denial of training); *Hill v. City of Pine Bluff, Ark.*, 696 F.3d 709, 715 (8th Cir.2012) (supervisor’s warnings that did not threaten termination or any other employment-related harm). The same is true in this case. White’s failure to identify a materially adverse action against her by Defendants is fatal to her FMLA retaliation claim.

B. No Causal Connection

Even if White had identified a materially adverse employment action, she has failed to state facts supporting her conclusory allegation that such action was causally connected to her use of FMLA. White relies on temporal proximity to establish a causal connection between her use of FMLA and the allegedly retaliatory acts. But temporal proximity alone is rarely enough to establish a causal connection. *See Hite v. Vermeer Mfg. Co.*, 446 F.3d 858, 866 (8th Cir. 2006). *But cf. Boston*, 75 F.4th at 869 (“Generally, more than mere temporal proximity between protected activity and adverse action is required.”).

Many of the allegedly retaliatory acts took place months after White returned from FMLA, including Tucker revoking permission for White to attend a conference, Reed making a face at her when she asked to borrow pens, and HR advising her that she must meet with her supervisor to proceed with the internal grievance process. Therefore, there is no temporal proximity between those alleged acts and White’s use of FMLA, and White provides no other factual support for her conclusory allegation that the acts were motivated by discriminatory animus.

The other allegedly retaliatory acts occurred prior to White taking FMLA leave, including denial of her request to work outside employment and scheduling her to teach in person on four consecutive nights. And although White alleges that those acts were close in time to her request to use FMLA leave, White must identify something more than just temporal proximity to show a causal connection. White’s assertion that Tucker denied her outside employment “due to impending FMLA” is taken

out of context. Tucker specifically advised White that the needs of UAM and its students must be prioritized and that her request to work outside employment would be revisited at a later date. Similarly, White provides no evidence that Tucker scheduling her to teach in person on four consecutive nights was causally related to her use of FMLA leave beyond alleged temporal proximity to her request to take FMLA leave. In fact, White admits that Tucker advised her that the shift to in-person teaching was necessary to rectify past non-compliance with program requirements.

Because White has failed to state facts showing the purportedly retaliatory acts she identified were causally connected to her use of FMLA leave, her FMLA discrimination and retaliation claims must be dismissed.

VI. White fails to state a claim for relief based on disability discrimination under the ADA or the ACRA.

White's disability discrimination claims under the ADA and ACRA must also be dismissed for failure to state facts supporting a prima facie case. The ADA prohibits employers from discriminating against a disabled individual qualified for a job because of the disability of such individual. 42 U.S.C.A. § 12112(a). To establish a prima facie case of disability discrimination, a plaintiff must show (1) that he or she was disabled; (2) that he or she was qualified to do the essential job functions with or without reasonable accommodation; and (3) that he or she suffered an adverse action due to his or her disability. *Alexander v. E. Tank Servs., Inc.*, 2016 Ark. App. 544, 505 S.W.3d 239, 245 (2016). For purposes of a discrimination claim, an adverse employment action is one that causes "some injury respecting [] employment terms or conditions." *Muldrow v. City of St. Louis, Missouri*, 601 U.S. 346, 349 (2024). The

plaintiff bears the initial burden of establishing a prima facie case of discrimination. *Id.* ACRA disability discrimination claims are analyzed under the same principles as ADA claims. *See Johnson v. Windstream Communications, Inc.*, 2012 Ark. App. 590 (“[C]ourts evaluate disability claims presented under ACRA by using the same principles employed in analyzing claims under the ADA”).

A. No Adverse Action

White failed to plead facts showing that she suffered an adverse employment action due to her disability. Although White asserts that her voluntary resignation in August of 2024 amounted to a constructive discharge, as stated above in Sections I and II, she fails to state facts to support that conclusory allegation and also failed to exhaust that claim with the EEOC. Similarly, as explained in Section III, White’s allegations regarding working consecutive nights in person are an unpled and unexhausted failure to accommodate claim in disguise. Additionally, the facts in White’s Complaint show that she was never granted the accommodation of teaching online; therefore, no such accommodation was ever revoked. Rather, White alleges that prior to White’s request for any disability accommodations, her previous supervisor informally allowed her to teach online. White cannot rely on her purported constructive discharge or her allegation that she was required to teach in person on consecutive nights as adverse employment actions under the ADA.

The remaining harms identified by White fail to rise to the level of an adverse action. For purposes of a discrimination claim, the question is not whether the alleged actions as a whole are objectionable. Rather, the question is whether any one act

caused “some injury” to White as to the terms or conditions of her employment. The purported harms identified by White to support her discrimination claim include: Reed making “mocking gestures” at her in passing; Reed sending a faculty-wide email complementing two staff members for working while in the hospital; Tucker telling White that she was a “low performer;” Tucker denying White’s request to work outside employment; Tucker revoking permission for White to attend two conferences; Reed raised her voice and made a face at White when she asked to borrow pens; and HR advising White that she had to meet with Tucker if she wished to continue with the internal grievance process.⁴ None of these acts constituted a change to White’s terms or conditions of employment. Although White alleges that she received additional pay from her outside employment, that additional pay was not a term or condition of her employment with UAM.

B. No Causal Connection

In addition to identifying an adverse employment action, White must plead facts demonstrating that discrimination was the reason for any adverse action allegedly taken by UAM. *Alexander v. Eastern Tank Services, Inc.*, 2016 Ark. App. 544, 12. To meet her burden, White must show that discriminatory animus based on her disabilities was the reason for her any adverse action. *Id.* An adverse action by itself is not sufficient for a successful claim under the ADA. *Chalfant v. Titan Distribution, Inc.*, 475 F.3d 982, 990-91 (8th Cir. 2007). There must be a “specific

⁴ With the exception of the mocking gestures and the sending of the email which occurred prior to White’s request for FMLA leave, these alleged harms are the same harms White relies on to support her FMLA discrimination and retaliation claim.

link” between the discrimination and the adverse action. *Id.* See also *James v. George’s, Inc.*, 2022 Ark. App. 244, 5, (“...a claimant must demonstrate “a ‘specific link’ between the alleged discriminatory animus...and the adverse decision sufficient to show that the discriminatory animus actually motivated the adverse decision...”).

White relies solely on temporal proximity as the causal link between her disabilities and most of the purportedly adverse actions, to wit: Reed sending the faculty-wide email, Tucker telling White that she was a “low performer,” Tucker revoking permission for White to attend two conferences, Reed raising her voice and making a face at White when she asked to borrow pens, and HR advising White that she had to meet with Tucker if she wished to continue with the internal grievance process. But temporal proximity alone is rarely enough to establish a causal connection. See *Hite v. Vermeer Mfg. Co.*, 446 at 866. Because most of these purportedly adverse actions occurred weeks or months after White’s approval for disability accommodations, White’s failure to allege something more than temporal proximity is fatal to her claim that they were motivated by discriminatory animus.

Although White alleges that Reed made “mocking gestures in passing” towards her, she offers no factual support for her conclusory allegation that these gestures were “mocking her disability.” And White asserts that Tucker denied her outside employment “due to impending FMLA,” not due to her disabilities. Moreover, taken as a whole, the facts show that Tucker’s denial of White’s outside employment request was due to the need to prioritize UAM and its students, and was not casually related to her disabilities. Because White has failed to state facts showing that any adverse

action she purportedly suffered was causally related to her disabilities, her ADA and ACRA discrimination claims must be dismissed.

VII. White failed to state a claim for hostile work environment under the ADA or ACRA.

The allegations in White’s Complaint do not support her conclusory allegation that she was subjected to a hostile work environment in violation of the ADA or ACRA. To establish a hostile work environment claim, White must plead facts showing that: (1) she is a member of a protected class (2) she was subject to unwelcome harassment (3) the harassment resulted from her membership in the protected class and (4) the harassment was severe enough to affect the terms, conditions, or privileges of [her] employment. *Moses v. Dassault Falcon Jet-Wilmington Corp*, 894 F.3d 911, 921–23 (8th Cir. 2018). To determine whether the harassment affected a term, condition, or privilege of White’s employment, courts consider the totality of the circumstances, including the frequency and severity of the conduct, whether it is physically threatening or humiliating, and whether it unreasonably interferes with White’s job performance. *Ryan v. Capital Contractors, Inc.*, 679 F.3d 772, 778 (8th Cir. 2012) (quoting *Shaver v. Indep. Stave Co.*, 350 F.3d 716, 720 (8th Cir. 2003) (quoting *Cross v. Prairie Meadows Racetrack & Casino, Inc.*, 615 F.3d 977, 981 (8th Cir. 2010)).

“The Supreme Court has cautioned courts to be alert for workplace behavior that does not rise to the level of actionable harassment.” *Al-Zubaidy v. TEK Indus., Inc.*, 406 F.3d 1030, 1038 (8th Cir. 2005). “The stringent hostile work environment standard is designed to ‘filter out complaints attacking the ordinary tribulations of

the workplace, such as the sporadic use of abusive language...and occasional teasing.” *Smith v. Fairview Ridges Hosp.*, 625 F.3d 1076, 1083 (8th Cir. 2010) (quoting *Faragher v. City of Boca Raton*, 524 U.S. 775, 788, 118 S.Ct. 2275, 141 L.Ed.2d 662 (1998)), *abrogated on other grounds by Torgerson*, 643 F.3d at 1043. “[M]erely rude or unpleasant” conduct are insufficient “to affect the terms and conditions of employment.” *Alvarez v. Des Moines Bolt Supply, Inc.*, 626 F.3d 410, 420 (8th Cir. 2010) (quoting *Alagna v. Smithville R-II Sch. Dist.*, 324 F.3d 975, 980 (8th Cir. 2003)). The plaintiff must show “that the alleged harassment was so intimidating, offensive, or hostile that it ‘poisoned the work environment.’” *Scusa v. Nestle U.S.A. Co.*, 181 F.3d 958, 967 (8th Cir. 1999) (quoting *Scott v. Sears, Roebuck & Co.*, 798 F.2d 210, 214 (7th Cir. 1986)). “[S]imple teasing, offhand comments, and isolated incidents (unless extremely serious) will not amount to discriminatory changes in the ‘terms and conditions of employment.’” *Faragher*, 524 U.S. at 788, 118 S.Ct. 2275 (citation omitted).

First, as explained above in Section VI(B), White has not pled facts showing that the alleged acts of harassment resulted from her covered status under the ADA. Second, even assuming White has identified unwelcome harassment resulting from her covered status under the ADA, White fails to state facts showing the alleged harassment affected a term, condition, or privilege of her employment. White alleges that following occurred over period of approximately seven months: Reed made mocking gestures at her one time; Reed sent a faculty-wide email that White perceived to be a jab at her but that did not mention her; Tucker denied her request

to work outside employment; Tucker scheduled her to teach in person four nights in a row; Tucker advised her that HR was missing paperwork for her FMLA request; Tucker revoked her permission to attend two conferences; and Reed raised her voice made a face at White when she asked to borrow pens for a class. The last of the actions about which White complains occurred on April 2, 2024, over four months before she tendered her resignation.

As explained hereinabove, White was not constructively discharged and she has failed to exhaust that claim. Similarly, as explained in Section III, White's complaints about teaching in person on consecutive nights is an unexhausted failure to accommodate claim in disguise. And it is undisputed that White's position and salary with UAM did not change. *See Parker v. United States Dep't of Agric.*, 129 F.4th 1104, 1113–14 (8th Cir. 2025) (holding that employee had not demonstrated the alleged harassment affected “a term, condition, or privilege of [her] employment” because employee's “pay grade and salary remained the same throughout the timeframe at issue.”).

The remaining alleged acts identified by White are the type of acts courts have characterized as “rude or unpleasant,” but not “severe enough to affect the terms, conditions, or privileges of employment.” *Moses v. Dassault Falcon Jet-Wilmington Corp.*, 894 F.3d at 921–23. For example, in *Peterson v. Scott County*, the Eighth Circuit held that where a supervisor made “regular references to ‘old ladies,’ once did not allow her to participate in a training session because it was ‘too hard to train old ladies,’ and once commented that she ‘didn't have the right parts’ to fill in shifts,” the

acts, although offensive, were the type of isolated incidents and offhand comments that do not reach the level of harassment required to support a hostile work environment claim. *Peterson v. Scott Cnty.*, 406 F.3d 515, 524 (8th Cir. 2005), *abrogated by Torgerson v. City of Rochester*, 643 F.3d 1031 (8th Cir. 2011). Therefore, White's hostile work environment claim should be dismissed.

VIII. White failed to state a claim for retaliation under the ADA or ACRA.⁵

White's ADA retaliation claim suffers from the same fatal flaws as her ADA discrimination claim: she fails to state facts sufficient to support her conclusory allegation that she suffered an adverse action or that such action was causally related to a protected activity. The test for determining whether White has stated facts supporting a prima facie claim of retaliation under the ADA is the same test applied to White's FMLA retaliation claim which requires White to identify a materially adverse action against her. A materially adverse action must be "more disruptive than a mere inconvenience or an alteration of job responsibilities." *Harlston v. McDonnell Douglas Corp.*, 37 F.3d 379, 382 (8th Cir.1994). There must be a material change in employment status—a reduction in title, salary, or benefits. *Ledergerber v. Stangler*, 122 F.3d 1142, 1144 (8th Cir.1997). *Wenzel v. Missouri-Am. Water Co.*, 404 F.3d 1038, 1042 (8th Cir. 2005). In addition, she must state facts showing that her opposition of discriminatory practices was the but-for cause of the purportedly materially adverse action. *Hustvet v. Allina Health Sys.*, 910 F.3d 399, 412 (8th Cir. 2018).

⁵ The analysis is the same for White's ADA and ACRA disability claims. *See Johnson v. Windstream Communications, Inc.*, 2012 Ark. App. 590.

In support of her ADA retaliation claim, White states that she opposed a variety of actions allegedly taken by UAM, including discrimination against herself. The only purportedly adverse action identified by White in support of her ADA retaliation claim is constructive discharge. As explained above in section I, the facts pled by White fall far short of showing constructive discharge. Moreover, White failed to exhaust any claim based on constructive discharge with the EEOC. Therefore, her ADA retaliation claim must be dismissed.

IX. White cannot recover punitive or emotional distress damages.

According to her Complaint, White seeks monetary damages, including punitive damages and emotional distress damages, against Tucker and Reed in their individual capacities under the FMLA.⁶ But non-economic damages, including for emotional distress and punitive damages, are not available under the FMLA. *See Brandt v. City of Cedar Falls*, 37 F.4th at 479-80 (holding that nominal, emotional distress, and consequential damages are not available under the FMLA); *Lovan v. Am. Rail Car Indus., Inc.*, No. 300CV00311SMR, 2001 WL 1873148, at *2 (E.D. Ark. Jan. 12, 2001) (citing *Zawadowicz v. CVS Corp.*, 99 F.Supp.2d 518, 540 (D.N.J.2000) (striking plaintiff's demands for non-economic compensatory and punitive damages); *Scarborough v. Trans World Airlines*, No. 4:99CV679 DDN, 2000 WL 98273, at *3 (E.D.Mo.2000) (“There is no provision in the [FMLA] for recovery of emotional or other non-monetary damages”).

⁶ White acknowledges that she does not seek monetary damages against Tucker and Reed individually under the ADA or ACRA nor against any defendant in their official capacity under the FMLA, ADA, or ACRA.

Rather, the FMLA only permits recovery for “wages, salary, employment benefits, or other compensation denied or lost.” 29 U.S.C. § 2617(a)(1)(A)(i)(I), (II). See *Rodgers v. City of Des Moines*, 435 F.3d 904, 909 (8th Cir. 2006). As White acknowledges, none of the other causes of action asserted in her Complaint provide for the recovery of any monetary damages against any defendant in their official or individual capacities. Therefore, White’s claims for emotional distress and punitive damages must be dismissed.

X. White is not entitled to reinstatement.

White’s request for prospective injunctive relief under the ADA must be dismissed because she failed to exhaust her constructive discharge claim as explained in Section II. White is therefore barred from alleging that her resignation constituted termination for purposes of her ADA claims. Although courts have recognized that claims for reinstatement to previous employment satisfy the *Ex parte Young* exception to the Eleventh Amendment’s sovereign immunity bar, these cases all involved claims of dismissal or unlawful termination. See *State Employees Bargaining Agent Coal. v. Rowland*, 494 F.3d 71, 96 (2d Cir. 2007) (collecting cases). Because White resigned, no prospective remedy is available to her under the ADA. See *Hawkins v. Arkansas Dep’t of Hum. Servs.*, No. 4:14CV00546 JLH, 2017 WL 4295194, at *2 (E.D. Ark. Sept. 27, 2017).

Similarly, because the allegations in White’s Complaint fail to support her conclusory allegation that she was constructively discharged, she is not entitled to reinstatement under the FMLA or the ACRA. As a former employee, White does not

identify any other prospective injunctive relief to which she is entitled. Therefore, White's request for prospective injunctive relief must be dismissed.

CONCLUSION

UAM granted White's request for FMLA leave as well as her request for disability accommodations. And it is undisputed that upon returning from FMLA leave, White returned to her same teaching position with the same title, same salary, and same benefits of employment offered by UAM. The actions about which White complains are the kind of petty slights and annoyances that courts routinely decline to recognize as adverse employment actions. Moreover, the last of the actions about which White complains occurred four months prior to her resignation, undermining White's assertion that she was constructively discharged. And White is not entitled to punitive damages, emotional distress damages, or to reinstatement. For the reasons stated herein, White's Complaint should be dismissed.

Respectfully submitted,

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