

DISTRICT COURT  
IN THE DISTRICT COURT IN AND FOR TULSA COUNTY  
STATE OF OKLAHOMA

**FILED**

OCT 2 - 2007

DR. JOHN SWAILS,  
DR. TIM BROOKER, and  
DR. PAULITA BROOKER,

Plaintiffs

vs.

ORAL ROBERTS UNIVERSITY,  
an Oklahoma Corporation,  
DR. RICHARD ROBERTS, ORU  
President, DR. MARK LEWANDOWSKI,  
ORU Provost, DR. WENDY SHIRK,  
ORU Dean, and DR. JEFF OGLE, ORU  
Associate Provost

Defendants,

SALLY HOWE SMITH, COURT CLERK  
STATE OF OKLA, TULSA COUNTY

CJ 2007 06543

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

Rebecca Brett Nightingale

PETITION

COME NOW the Plaintiffs, Dr. John Swails, Dr. Tim Brooker and Dr. Paulita Brooker, and for their causes of action against the Defendants: Oral Roberts University, Dr. Richard Roberts, Dr. Mark Lewandowski, Dr. Wendy Shirk and Dr. Jeff Ogle, allege and state:

I.

PARTIES, JURISDICTION, AND VENUE

The Plaintiff, Dr. John Swails, (hereinafter SWAILS) has served at Oral Roberts University, (hereinafter ORU) for in excess of 14 years, where he was a Tenured Professor and Chair of the Department of History, Humanities, and Government. The Plaintiff, Dr. Tim

Brooker, (hereinafter T BROOKER) was also a Professor at ORU since August of 2001, where he was hired to coordinate the Government program. The Plaintiff, Dr. Paulita Brooker, (hereinafter P BROOKER) was an Adjunct Professor in the Department of History, Humanities and Government at ORU from August of 2004 until August of 2007. She became a full time employee in the School of Lifelong Education in February of 2006, after being lured to ORU from her previous position with The Siloam Springs Housing Authority which she had held for eleven years.

The Defendant, ORU, is an Oklahoma Corporation, that was incorporated in November of 1963, and is located and doing business at 7777 South Lewis Ave, Tulsa Oklahoma. The Defendant, Richard Roberts, (hereinafter ROBERTS) is the President of ORU and has served in that capacity for approximately 13 years. The Defendant, Mark Lewandowski, (hereinafter LEWANDOWSKI) is currently the Provost of ORU and has filled that position since May of 2007. The Defendant, Wendy Shirk, (hereinafter SHIRK) is the Dean of The College of Arts of ORU and has filled that position since May of 2007. The Defendant, Jeff Ogle, (hereinafter OGLE) is the Associate Provost and Former Vice President of Student Services at ORU, and has filled those positions for approximately a decade.

All causes of action arose in Tulsa, Oklahoma. This Court, therefore, has jurisdiction over the subject matter and Parties. Venue is also appropriate.

## II.

### FACTUAL ALLEGATIONS

Plaintiff, T BROOKER, with a background in the fields of Diplomacy, Public Policy and Administration, Campaign Management and Talk Radio, was hired by ORU in August of 2007 to

become the Coordinator of the Government Program of the Department of History, Humanities and Government Department, where he quickly gained national recognition in the area of Practical Politics to such extensive proportions that he was approached by the Republican National Committee, (hereinafter RNC) to be exclusively considered for a pilot program that the RNC hoped to implement. The RNC selected T BROOKER and ORU as the University to explore the development of this program in an effort to further Republican political efforts. T BROOKER, along with students from ORU, were involved in numerous political efforts during the next few years and experienced great success in these endeavors. However, all of this activity involved Political races outside the State of Oklahoma; and the costs and expenses involved were paid by the RNC, or individual campaign committees, in compliance with the requirements of state and federal laws, including Internal Revenue Code (hereinafter IRC) section 501 (c) (3) and in preservation of the tax exempt status which was enjoyed by ORU. This method of gaining service learning experience only outside of Oklahoma was a consistent and well-known position by T BROOKER. Every Government student knew Dr. Brooker's mantra: "We don't do local politics because it turns neighbors into enemies."

In December of 2005, T BROOKER was summoned to the Office of ORU President ROBERTS for a meeting with ROBERTS along with Stephanie Cantese, (hereinafter CANTESE) ROBERTS' sister-in-law and the Community and Governmental Liaison for the Oral Roberts Ministries. During this meeting, ROBERTS instructed T BROOKER that it was time to utilize the talent and resources of T BROOKER and his students in local political races. ROBERTS cited a Bible Scripture about "First Judea, then Samaria, and then to the uttermost parts of the Earth" as a rationalization for directing T BROOKER to become involved in a race in

his own hometown. ROBERTS then directed T BROOKER to become involved in the Republican Primary for the office of Mayor of the City of Tulsa on behalf of Randi Miller--whom ROBERTS and CANTESE had recruited and were supporting. At this point, T BROOKER resisted, explaining to ROBERTS the implicit improprieties and the clear boundaries required by state and federal law, including IRC section 501 (c) (3); as well as the great danger of "turning neighbors into enemies." However, ROBERTS, nonetheless, was undaunted by the applicable law and the offered counsel and persisted in the plan. Thereafter, during a subsequent meeting with ROBERTS, and accompanied by his immediate supervisors, Plaintiff SWAILS, Dean George Thyvelikakath, and former ORU Provost Ralph Fagin, T BROOKER again advised ROBERTS--and his supervisors--of the potential pitfalls and improprieties of ROBERTS' intended course of action. Unfortunately, ROBERTS remained adamant in his position and again directed T BROOKER to follow ROBERTS' directive. This edict from ROBERTS on behalf of ORU, as President of the Corporation, wherein university funds and resources would be used to favor a candidate in a contested partisan race, was a direct violation of state and federal law, which expressly prohibits a tax exempt organization, such as ORU, from becoming involved in partisan political campaigns. This involvement in a local campaign, as directed by ROBERTS, substantially differed from previous out of state efforts in that the expenses of T BROOKER and the ORU students were born by the RNC or other contracting campaign. Furthermore, ROBERTS' edict and directive was in direct violation of the Articles of Incorporation of ORU and the Faculty and Administrative Staff Handbook and Policy Statement of ORU.

In May of 2006, ORU was contacted by the United States Department of the Treasury and

Internal Revenue Service, concerning a complaint received about ORU's involvement in a local political endeavor in potential violation of the 501(c)(3) status that ORU enjoyed. In that directive, ORU was required to respond to a series of Interrogatories. The IRS was specifically interested in any involvement by ORU's administration--including ROBERTS--in the participation of ORU students in the Randi Miller Campaign. Therefore, Plaintiff, T BROOKER was tasked with developing a narrative whereby Plaintiff T BROOKER would "fall on the sword" and accept responsibility for all local political involvement; thereby covering up the directives of ROBERTS while accepting full and total blame and responsibility for the campaign participation he had opposed. T BROOKER constructed two draft narratives in an attempt to provide Provost Ralph Fagin, pursuant to his direct instruction, with a document which would explain student involvement without disclosing the central role of ROBERTS in the events. Only on the third version of the narrative did the three ORU Vice-Presidents, and ORU's Chief Legal Counsel, accept the verbiage. Provost Fagin then utilized his own sanitized and inaccurate narrative--replete with incomplete and inaccurate information--to construct a sworn affidavit in response to the IRS' questions--despite his full knowledge of ROBERTS' central role in ordering student involvement in the Randi Miller Campaign. Provost Fagin's sworn statement willfully and intentionally excluded the fact of ROBERTS' explicit instructions to T BROOKER. The result of this process was a complete coverup by ORU and its Officers of all violations of federal and state laws with regard to university support for the Randi Miller campaign. Defendants then accelerated their "cover-up" by initiating a series of punitive actions towards T BROOKER, in a transparent effort to insulate their own culpability, by disciplining T BROOKER for his involvement in the Tulsa Mayoral race--even though T BROOKER's involvement had been duly

ordered and was over his objections. To this end, ORU refused to pay T BROOKER substantially earned salary of approximately \$18,000 for teaching administratively approved summer school courses. Further, T BROOKER suffered excessive and unnecessary harassment, loss of academic freedom, was subjected to public humiliation, and endured retaliatory and punitive conduct generated by Defendants both on and off the campus.

During the previously described period of time, an ORU student working in the Randi Miller campaign, provided to Plaintiff, T BROOKER, a compilation of damaging information regarding Defendants, ORU and ROBERTS. This compendium itemized numerous and substantial acts of misconduct and improprieties by the Defendants ORU and ROBERTS. This substantial documentation of immoral and improper conduct was handed to members of the ORU Board of Regents on July 16, 2007 by Plaintiffs SWAILS and T BROOKER. This reporting of wrongdoing to the governing body of the university immediately preceded the termination of Plaintiffs by Defendant ROBERTS and the other herein named Defendants. The following is a summary of the information contained in the draft of the internal Oral Roberts Ministry report developed by ORM Community and Governmental Liaison, Stephanie Cantese, sister-in-law of Richard ROBERTS. The report appears to be a confidential assessment of potential vulnerability for legal, moral, political and ethical problems of the ROBERTS family, Oral Roberts Evangelistic Association and Oral Roberts University. The following is a sampling of some of the information contained in the documents provided to the ORU Board of Regents by the Plaintiffs. Some of the more salacious entries--of which the Defendant ORU, Defendant ROBERTS, and members of the Board of Regents are painfully aware--have been omitted from this Petition to preserve, as much as possible, the remaining positive image of the University.

- According to the Draft report, Richard Roberts stated in a taped phone call, "I have the deck stacked—I am elected to three year terms and if a Regent appears to give me trouble, I remove him. I stack the deck...." (Draft report cites a numbered tape as documentation.)
- Richard Roberts receives complete housing benefits from the university which includes all associated costs: e.g. 13 internet/cable connections, wide-screen televisions, hot tubs, an Imperial Stove (\$15,000), Washer/Dryers (\$6,000), and all furnishings. The family selects furnishings for the home, the ministry then pays for the items and arranges for delivery.
- The Roberts home has been remodeled 11 times in the last 14 years. Each time, Mrs. Roberts demands more changes.
- A longtime maintenance employee was summarily fired so that an underage male friend of Mrs. Roberts could have his position. (Draft report cites a statement from current employee in confirmation of this assertion.)
- Richard Roberts ordered university employees to post a personal message for his daughter on the Mabee Center electronic marquee. Mrs. Roberts called an unspecified vice-president at 3:00 a.m. to demand the message be posted. (Draft report cites phone logs which show a total of seven demand calls being made to the same vice-president that morning. Further, a dated and time-stamped copy of written orders from the same vice-president to Mabee Center employees mandating the immediate placement of the message.)
- A total of 32 complaints were received from employees/public regarding the personal message placed on the Mabee Center marquee. The Roberts were warned of the legal implications of retaliation against employees expressing disapproval. (Draft report cites copies of phone records.)
- Tapes were produced of one of the minor Roberts children vandalizing and illegally removing athletic department equipment from university property. When confronted with the incriminating tape, Richard Roberts refused to address the issue. Roberts personally benefited from the property stolen, and the damage from the vandalization was billed to the university. (Draft report references the departmental video tape, two witnesses, and a statement from one of the other students involved.)
- University property—specifically golf carts—sustained serious damage at the hands of the Roberts children. Damages caused by the daughters was billed to the university.
- During Thanksgiving break, Mrs. Roberts repeatedly demanded searches of the Girls' Dorms for illicit male visitors. Male students felt "set up" as their names were released. (Draft report indicates existence of signed affidavits by male students of university persecution.)
- Dormitories received extensive structural modifications for the exclusive use of the Roberts daughters, and all costs passed on to the university.
- Mrs. Roberts provided a key to City Plex Towers, and authorized underage students removal of furnishings from the Tower to private student apartments off campus.

- Richard Roberts' 2,000 square foot home office was remodeled into a walk-in closet to accommodate the needs of Mrs. Roberts wardrobe. This wardrobe has been paid for by the television production cost center.
- Receipts for clothing are routinely handed to ORU/OREA staffers with orders to "cover the charges." (Original draft notes an attached document reflecting \$51,206.00 in clothing receipts) Staffers are under standing orders to modify records/cover purchases to make personal purchases appear to be business related.
- Richard Roberts' current—and previous—personal vehicles were donated for University/Ministry use. No one outside the Roberts family ever used these vehicles. These vehicles are regularly washed, waxed, and cleaned by university employees. Further, all fuel is provided by the university at no charge to the president.
- Both Mrs. Roberts' white Lexus SUV and her red Mercedes convertible are provided by ministry donors—including all insurance costs. The Mercedes was located online at a dealership in Atlanta. At the explicit direction of Richard Roberts, Ministry Security was flown to Atlanta to take possession of the vehicle and drive it back to Tulsa. (Original draft notes an attachment indicating the ministry department which paid for the plane ticket.)
- Automobiles driven by Mrs. Roberts and the families' daughters are routinely washed, waxed, cleaned and fueled by university personnel. Richard Roberts makes token payment for compliance purposes.
- The University/Ministry pays for all the families' home and cell phone without limits. (Original draft notes receipts in excess of \$7,000 for phone expenses not including overseas cell expenses.)
- Cell phone bills for Mrs. Roberts and her daughters consistently run over \$800/month—with an average of over 1,000 text messages per month. (Original draft notes names of numbers of recipients of calls and texts.)
- Records indicate that Mrs. Roberts replaced 21 cell phones in a two year period. Fifteen of her bills during that period exceeded \$800/month. Four months had text messages in excess of 800—many of those texts from Mrs. Roberts were sent to underage males—often between 1 a.m. and 3 a.m.—who had been provided phones at university expense.
- The university provides and stocks a commercial soda machine in the garage of the Roberts home—with all expenses being borne by the university.
- Meals are routinely prepared by a professional chef, compensated through the television cost center, and delivered to the house for "testing." Roberts make token payment to satisfy dictates of compliance.
- University and Ministry employees are regularly summoned to the Roberts' home to do the daughters' homework. (Original draft notes security records, photos and statements to support this contention.) The daughters take the homework completed by the employees, copy the work, and submit it to Victory Christian School as their own work. (Original draft refers to a transcript of a phone call where Mrs. Roberts personally arranges for employees to assist the daughters with homework.)
- The Roberts' daughters were "home schooled." Their teacher was on the ORM payroll for over five years. Classes were held in ORU/ORM property which had been classified as a "guest house" for IRS purposes. (According to the Draft report, the property had been fully converted to a school house as verified by photos of the

property.) Although no guests ever stayed in the home, all expenses for operation and maintenance were borne by the university.

- The university owns an airplane which is currently used for mostly personal purposes.

- Richard Roberts maintains complete, total control of the university's airplane and who becomes a passenger on the plane. No other vice-president or regent has any access to this university asset. In fact, individuals have asked to rent the plane—fully reimbursing ORU for costs—and have consistently been refused.

- There are numerous examples of commercial airline tickets being purchased despite space being available on the private jet going to the same destination. Mr. Roberts is highly selective about who he allows on the plane. Space is especially limited if family friends happen to be passengers—personal passengers always take precedence over ORU/ORM employees.

- The university jet was used to take one daughter—with several of her friends—on a Senior Trip to Orlando, Florida, and the Bahamas. The Bahamas portion of the trip was spent at the luxurious Atlantis hotel and resort. This trip was billed to the Ministry as an "Evangelistic function of the President." (Original draft notes lodging bills from Orlando which included charges for liquor and supplemented with a signed statement from one of the students on the trip.) Photos of the trip show the plane to be full of non-ministry students, and the parents of the other students were reportedly told that this was the daughter's "senior trip." The university was billed \$29,411.00 for the costs of this "senior trip."

- During this same trip, the Ministry had need to fly Roberts' pianist for an event at a local church in Orlando. The only ministry employee on the trip had to fly commercial airlines because the University plane was full of guests on "senior trips."

- When the older daughter graduated, Mrs. Roberts refused to allow her to attend the Victory Christian School Senior Trip. By coincidence, the University plane just happened to be in the same city at the same time as the Victory seniors—allowing the daughter to participate in the Senior Trip but with the costs being borne by the university. Apparently, Richard Roberts will book a speaking engagement in the city the daughters wish to visit and then bill the university for the cost of the trip. (Original draft indicates existence of student statements, copies of retained memorabilia, photos of the plane/trip, and receipts from resorts in the selected cities. Further, original draft notes a van rental receipt on one of these trip in the name of Oral Roberts Ministries.)

- The Roberts flew the ministry plane to Florida on December 26<sup>th</sup>, staying at the posh Breakers Hotel. (Draft reports cites existence of photos of non-university guests in rooms with meal/room charges paid by ORU/ORM credit cards.) All vehicle rentals were charged to ORU. This was cited as another example of a single speaking event in Florida being used to cover volitional travel for multiple persons. Once again, Mrs. Roberts didn't even attend the service which justified the travel expenditure.

- Roberts routinely visits his father in Newport Beach, California and bills the costs of the trip to the university. (Original draft included names, dates, photos, costs of vacation villas, and receipts for rental vans/cars—all billed to Oral Roberts University and Oral Roberts Ministries.) On one trip, which lasted fourteen days, Richard Roberts visited Oral only four times, yet billed the entire cost of the trip to the University/Ministry.

- On several speaking engagements in Dallas, Texas, Mrs. Roberts accompanied her husband. In each instance, multiple vehicles were rented by the couple and charged to the University/Ministry. Records indicate that Mrs. Roberts did not attend any of the

- meetings conducted by Richard Roberts. (Original draft notes several photos showing Mrs. Roberts shopping with numerous guests.)
- Mrs. Roberts routinely has ORM provide her with security personnel as protection while on personal vacations. On one occasion, Mrs. Roberts took one of her daughters and "a male companion" on an overnight trip to Branson. All charges for transportation, lodging and meals were paid by ORU/ORM. (Original draft references receipts for clothing dubbed "TV wardrobe, Branson, Missouri.")
  - According to the Draft report, nine separate statements were collected which quote Mrs. Roberts as saying, "As long as I wear it once on TV, we can charge it off.." Draft notes inconsistencies in expense account between reported TV clothing, and actual TV usage.
  - Mrs. Roberts spent over \$39,000 at one clothing store alone—Chico's—in less than one year. Employees in the ministry assert that other accounts exist for stores in Texas and California which greatly add to the total.
  - Mrs. Roberts ordered that her children be paid \$200/song on the television show. One random student was found to pay the same rate, so as to justify the amount paid her children.
  - The Roberts daughters are allowed to use Oral Roberts's home in the compound for a token payment.
  - ORU/ORM maintains a stable of horses for the exclusive use of the Roberts children. All costs associated with this stable are borne by the university.
  - ORU/ORM Security personnel are routinely used by the family to fetch groceries, hair bows and accessories, family meals, and even undergarments for the girls—all while on the university payroll.
  - Mrs. Roberts personally awarded thirteen non-academic, non need-based scholarships exclusively to friends of her children. Two of the recipients scored 12's on the ACT, making them academically ineligible for admission to the university. When informed that the two students with 12's on the ACT could be admitted contingently and put into the Bridge program, Mrs. Roberts demanded that they be admitted without condition and that the questioning employee be fired. (Original draft references affidavit and copies of all transcripts of students awarded scholarships. Additionally, copies of awards for full room, board, and tuition scholarships, bearing Mrs. Roberts signature, were attached.)
  - Mrs. Roberts was informed that these unilateral scholarship awards might constitute enurement, as she often received significant "thank you" gifts from the recipients or their parents. The unfortunate aspect of these scholarship awards to questionable students was the depletion of limited resources to fund the educations of more worthy candidates.
  - After awarding the thirteen full academic scholarships to friends of the family, Mrs. Roberts established the "Make Your Day" scholarship. This financial aid was advertised as serving needy students. As before, Mrs. Roberts selected the recipients from a pool of mostly friends of the family.

T BROOKER, understanding the serious nature and apparent reliability of this information, immediately delivered this packet of material to his Supervisor, Plaintiff SWAILS.

Thereafter, upon prayerful consideration for approximately two weeks, Plaintiff, T BROOKER then provided the packet of information to ORU Provost Ralph Fagin, who ultimately confronted ROBERTS with the evidence of impropriety. Soon thereafter, T BROOKER began to receive threats from CANTESE, the Community and Governmental Liaison for the ORAL ROBERTS Ministry. These threats included the termination of his wife, Plaintiff P BROOKER, from her then new position at ORU, as well as harm to their children and to the students in his program. After months of inaction by the Administration, this credible evidence of wrongdoing was provided by Plaintiffs to the ORU Board of Regents. Thereafter, Defendants conspired to discredit and rid themselves of Plaintiffs by engaging in improper and deceitful conduct, in an obvious attempt to insulate themselves from their inappropriate and illegal conduct.

### III.

#### CAUSES OF ACTION

##### 1) BREACH OF CONTRACT/WRONGFUL DISCHARGE

The Plaintiffs were employed pursuant to various written and oral contracts with ORU. However, the Defendant, ORU, breached its contractual obligations and agreements with the Plaintiffs, wrongfully terminating both SWAILS and P BROOKER, and wrongfully causing the resignation and constructive discharge of T BROOKER, through intimidation, harassment, and intentionally making or allowing T BROOKER'S working conditions to become so intolerable, that a reasonable person in T BROOKER'S situation would feel that he had no choice but to resign. On August 28, 2007, SWAILS was wrongfully discharged by Defendants, LEWANDOWSKI and ORU, at the apparent direction of ROBERTS, in violation of SWAILS' contract and ORU's Policies and Procedures. Furthermore, LEWANDOWSKI impounded SWAILS' office, needlessly directed two Security Guards to publicly humiliate and escort him from the building, barred him from reentering the campus, and confiscated and refused to return

any of SWAILS' personal property, including his personal computer files. Defendant SHIRK was determined to persecute, humiliate and discharge T BROOKER, based upon factually inaccurate, anonymous reports and in the face of massive disconfirming evidence. Plaintiff T BROOKER was constructively discharged by ORU, ROBERTS, and SHIRK, although she had never met or even spoken with T BROOKER prior to his constructive discharge. Following the wrongful termination of T BROOKER, in clear violation of the terms of his contract with ORU, Plaintiff T BROOKER had hoped and even attempted to resolve this conflict without public attention or further scrutiny upon Defendants. However, his efforts to do so became impossible as a result of ORU's contemporaneous and wrongful termination of T BROOKER'S wife, Plaintiff P BROOKER, and Tenured Professor, Plaintiff SWAILS. Thereafter, ORU began disseminating damaging and false gossip and information about T BROOKER, causing ORU students and others to question the integrity of the Plaintiffs.

P BROOKER was wrongfully discharged in May of 2007 by Defendants, OGLE and ORU, in violation of ORU's Policies and Procedures, and in breach of both oral and written contractual agreements. In April of 2006, CANTESE, on behalf of the Oral Roberts Ministry and the ROBERTS Family, pledged to destroy Plaintiff P BROOKER's career if all copies of the incriminating documents were not returned to her. Furthermore, Plaintiffs allege, upon information and belief, that P BROOKER was also wrongfully discharged by OGLE in retaliation for the reporting of OGLE'S ongoing sexual harassment of another Professor by Plaintiff, SWAILS, for which ORU performed no investigation, and took no action, after which the Professor at issue resigned.

## **2) Libel/Slander/Defamation**

The Defendants slandered the careers, reputations, and good names of the Plaintiffs, intentionally placing them in a false light as an excuse for their improper conduct and personal agendas, and because of the attempts by Plaintiffs, SWAILS and T BROOKER, to act as whistle

blowers concerning Defendants' egregious, immoral and conspiratorial conduct.

### **3) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS/OUTRAGE**

The Defendants' actions in the setting in which they occurred were so extreme and outrageous that their conduct went beyond all possible bounds of decency, and would be considered atrocious and utterly intolerable in a civilized society. The Defendants intentionally or recklessly conspired to cause severe emotional distress to the Plaintiffs, beyond that which a reasonable person could be expected to endure. In point of fact, Plaintiff P BROOKER was hospitalized in July, 2007 as a result of the actions of the previously-mentioned Defendants.

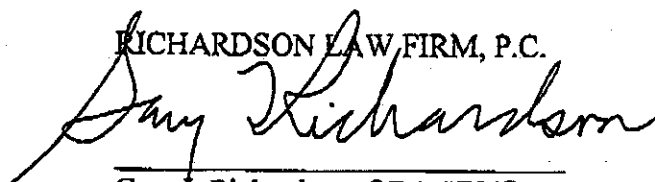
#### **IV.**

#### **REQUEST FOR RELIEF**

As a result of the previously described conduct of the Defendants, the Plaintiffs, and each of them, seek Actual Damages against the Defendants in excess of \$10,000, Punitive Damages in excess of \$10,000, Attorneys Fees, Court Costs, Prejudgement Interest and any further relief that the Court deems just and equitable.

Respectfully submitted,

RICHARDSON LAW FIRM, P.C.



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**ATTORNEY LIEN CLAIMED  
JURY TRIAL DEMANDED**