

**IN THE CIRCUIT COURT OF BOONE COUNTY MISSOURI**

RACHEL BROWN )  
 8600 W. Terrapin Hills Road )  
 Columbia, Missouri 65203 )  
 )  
 Plaintiff, )  
 vs. )  
 )  
 BOARD OF CURATORS )  
 UNIVERSITY OF )  
 MISSOURI-COLUMBIA )  
 316 University Hall )  
 Columbia, Missouri 65211 )  
 )  
 UNIVERSITY OF MISSOURI )  
 SCHOOL OF MEDICINE )  
 1 Hospital Dr. )  
 Columbia, Missouri 65212 )  
 )  
 Defendants. )

Case No.:

**PETITION**

COMES NOW Plaintiff Rachel Brown, by and through undersigned counsel, and in support of her causes of action against Defendants, states as follows:

**PARTIES**

1. Plaintiff Rachel Brown (“Dr. Brown”) is an individual caucasian female who resides in Boone County, Missouri.
2. Defendant Board of Curators for the University of Missouri has the power to sue or be sued and defend suits on behalf of the University of Missouri in all courts under Article IX, sections 9(a) and 9(b) of the Missouri Constitution and section 172.020 RSMo.

3. Defendant University of Missouri – Columbia School of Medicine (“School of Medicine”) employs more than six people within the State of Missouri and is an “employer” as defined by Section 213.010(7) RSMo. of the MHRA.

4. Defendant School of Medicine employed Dr. Brown from January 2006 until October 28, 2017 in the position of Associate Dean for Student Programs.

### **JURISDICTION AND VENUE**

5. This is a statutory cause of action created by the Missouri Human Rights Act (“MHRA”), sections 213.010 et.seq. RSMo.

6. On March 13, 2017, Dr. Brown submitted her Charge of Discrimination with the Missouri Commission on Human Rights (“MCHR”), as required by Section 213.111 RSMo. Brown’s charge is attached as Exhibit 1.

7. On September 21, 2017, the MCHR issued a right to sue notice to Dr. Brown attached as Exhibit 2.

8. Dr. Brown has exhausted all administrative remedies required by the MHRA and filed this action within 90 days of issuance of the right to sue notice to Dr. Brown by the MCHR, in compliance with sections 213.010-137 RSMo.

9. Venue is proper in this court in that all parties reside in Boone County, Missouri, the events described in this Petition occurred in Boone County, the amount in controversy exceeds \$25,000.00 and Dr.

Brown further seeks declaratory, injunctive and equitable relief pursuant to §213.010, et. seq. of the MHRA.

**FACTS IN COMMON WITH ALL COUNTS**

10. Dr. Rachel Brown is a 60 year old female and a member of protected classes under Chapter 213 of the Missouri Human Rights Act

11. Dr. Brown was born and raised in the United Kingdom and received her medical degree in 1980 from The University of London, Guys Hospital Medical School, United Kingdom.

12. Dr. Brown is licensed to practice medicine in Georgia and Missouri, is board certified in child and adolescent psychiatry and has worked in a variety of clinical settings and private practice. Prior to moving to Missouri, Dr. Brown held academic appointments at the University of London and Mercer University School of Medicine in Georgia where she was a Professor of Psychiatry. The position at Mercer involved several administrative appointments, including Director of Admissions & Student Development (2003-2005) and Acting Assistant Dean for Student Affairs & Admissions (July 2005-November 2005).

13. In January 2006, Dr. Brown was offered and accepted the position of Associate Dean for Student Programs at the University of Missouri School of Medicine in the Office of Medical Education (“OME”).

14. Dr. Brown’s responsibilities as Associate Dean included medical student recruitment, admissions and selection, recruitment activities for nontraditional students, undergraduate applicants and

kindergarten through 12th grade students. Dr. Brown also exercised oversight of medical student financial aid and directed the School of Medicine's student affairs for years one through four of medical school in the areas of student communications, support for student organizations, oversight of disciplinary structures, student support and advisory services and residency applications. Dr. Brown's faculty appointment was as Professor of Clinical Psychiatry in the Department of Psychiatry. Dr. Brown reported directly to Dr. Linda Headrick, Senior Associate Dean for Education.

15. Dr. Brown's performance as Associate Dean of Student Programs was exemplary. Her accomplishments in that position were recognized locally, regionally and nationally. During her service as Associate Dean, Dr. Brown led new initiatives focused on medical student wellness, individual achievement and residency selection. She won several professional and service awards from the Association of American Medical Colleges ("AAMC") and was a three time recipient of the Robert N. McCallum Student Advocacy Award for the years, 2008, 2014 and 2016. The McCallum award is chosen annually by the graduating medical class, in recognition of the person who best demonstrates outstanding commitment and service to the School of Medicine.

16. In 2016, the career advising program administered by Dr. Brown matched 100% of the School of Medicine's students to

residencies. A nationwide survey of graduating medical students by the AAMC showed steady improvement in student satisfaction at the School of Medicine during the time of Dr. Brown's employment as Associate Dean of Student Programs.

17. Dr. Brown was esteemed by the medical students at the School of Medicine. In 2015, the medical students elected her Graduation Investiture Marshall - the only sitting Dean to have been honored in that way during the ten years that Dr. Brown was employed by the School of Medicine. Dr. Brown was selected as the keynote speaker by the 2017 graduating class at the School of Medicine's commencement ceremony in May 2017 and received a standing ovation following her commencement address.

18. Patrice Delafontaine was the Dean of the School of Medicine. Delafontaine held the position of Dean from December 1, 2014 until he was removed on September 15, 2015. Delafontaine was reinstated as Dean on February 18, 2016 and acted on behalf of the School of Medicine at all times pertinent to the employment claims of Plaintiff Rachel Brown against the School of Medicine.

19. On October 17, 2016, Dr. Brown learned that Dean Delafontaine intended to remove her as Associate Dean for Student Programs and replace her with Dr. Laine M. Young-Walker, a younger, African-American faculty member.

20. On October 28, 2016, Delafontaine removed Dr. Brown from her position as Associate Dean and replaced her with Dr. Young-Walker.

21. Although Dr. Brown reported directly to Dr. Headrick, Delafontaine bypassed and did not consult with Dr. Headrick in deciding to replace Dr. Brown.

## **COUNT I**

### **RACE DISCRIMINATION AND RACIALLY HOSTILE WORK ENVIRONMENT**

22. Plaintiff re-alleges and adopts each allegation set forth in paragraphs 1-21 of this Petition.

23. Section 213.055.1 RSMo. makes it unlawful:

- (1) For an employer, because of race, ancestry, age or disability of any individual:
  - (a) To...discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race...
  - (b) To limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such race and age.

24. In 2015, the University of Missouri-Columbia experienced significant campus unrest. The School of Medicine was targeted by various individuals and groups in Columbia, Missouri for insufficient race and ethnic diversity among its students and faculty.

25. In January 2016, the Liaison Committee on Medical Education (“LCME”) conducted an accreditation review of the School of Medicine. The LCME Report found deficiencies in the areas of diversity, student mistreatment, curricular management and affiliations with other medical organizations.

26. After the LCME visit in January 2016, Dr. Brown participated in an AAMC Leadership training program concerning diversity and inclusion. Dr. Brown successfully completed the program and received her Health Care Executive Diversity and Inclusion certificate in May 2016.

27. Based on her observations and information obtained from the AAMC diversity program, Dr. Brown recommended that the School of Medicine obtain external consultation about the issues of diversity and inclusion because the diversity initiatives at the School of Medicine were fragmented and misaligned. Dr. Brown also expressed her view that the single-minded pursuit of racial and ethnic minority applicants was unfair to other applicants and created legal risks for the School of Medicine.

28. After receipt of the LMCE Report in May 2016, Dr. Brown was invited to serve on steering committees to address the issues raised by the LCME. Dr. Brown served on the overall steering committee chaired by Dean Delafontaine, co-chaired the subcommittee that addressed student mistreatment allegations and was a member of the subcommittee that addressed diversity issues. Dr. Brown pressed for

meetings of the diversity subcommittee which met on several occasions in the Summer of 2016.

29. Beginning in the Spring 2016, Dr. Brown became increasingly concerned that she was being excluded from important conversations regarding diversity and admissions between the School of Medicine leadership and the Campus Honors College staff, who provided premedical advising for potential medical school applicants. Dr. Brown learned that she and her staff were excluded from the Honors College meeting despite the regular and ongoing interaction between the Honors College staff and the Office of Medical Education (“OME”), which included the admissions office led by Dr. Brown. Dr. Brown voiced her concerns about the exclusion of OME from the Honors College meeting at a diversity subcommittee meeting in August 2016.

30. Dr. Brown also found that Dean Delafontaine became increasingly unresponsive and tardy in responding to her requests for action on matters within her responsibilities as Associate Dean. An example of this was Delafontaine’s failure to respond to her request to consider appointing a faculty member to the admissions committee. Dr. Brown and OME admissions and recruitment staff also were excluded from a meeting organized prior to orientation which Dr. Brown learned about only after the event. Several other faculty members were invited to the event including Dean Delafontaine and Drs. Warren Lockette and



Laine M. Young-Walker, two African-American faculty members at the School of Medicine.

31. In 2009, the School of Medicine created the position of Senior Associate Dean for Diversity and Inclusion. Dr. Lockette was appointed to this position in 2012.

32. Dr. Brown's experience with Dr. Lockette was that he viewed any opposition to his ideas about diversity as "obstruction". It was Lockette's opinion that the School of Medicine should reflect the demographics of the United States regardless of the demographics of Missouri and Lockette pushed for an aggressive increase in the number of out-of-state students at the School of Medicine. Lockette believed that Missouri students were too parochial and referred to Missouri resident students as "bumpkins, hicks and illiterates who lived in Hootersville." Lockette made similar statements about Missouri medical resident students on more than one occasion.

33. After receipt of the LCME Report in May 2016, Delafontaine, Lockette and other agents and employees of the School of Medicine began communicating and meeting with individuals and groups outside the School of Medicine concerning the "diversity" of the faculty and students at the Medical School.

34. Dr. Brown was not notified or invited to attend these meetings despite the fact that decisions relating to diversity affected student programs that she administered. The exclusion of Dr. Brown

from these meetings attended by other faculty of the School of Medicine was purposeful, deliberate and designed to exclude Dr. Brown's input regarding diversity at the Medical School.

35. During a diversity action plan group meeting on August 30, 2016, Dr. Lockette aggressively supported the addition of "underrepresented" scholarships and removal of the cap of 15% on out-of-state students. Dr. Brown expressed the opinion that the goal of achieving a certain percentage of "underrepresented" students should be reviewed by legal counsel to make sure that such action complied with civil rights laws and did not constitute unlawful race preferences. Dr. Brown also provided data showing the additional cost of the new scholarships and that the number of out-of-state students in 2015 at the Medical School already was 23% of the total.

36. Rather than address these diversity issues on the merits, Lockette asserted that Missouri students are "homogenous" and "discriminatory". He accused Dr. Brown of "obstructing change" and became very aggressive and rude toward her, shouting that "maybe no one's ever stood up to you." This episode was witnessed by several other School of Medicine faculty members attending the August 30 meeting including Dean Delafontaine, Dr. Headrick and other School of Medicine personnel.

37. It was the consistent practice of the School of Medicine while Dr. Brown was Associate Dean to obtain legal opinions from in-house

lawyers on actions relating to diversity. Neither Lockette, Delafontaine or any other agent or employee of the medical school responded to Dr. Brown's concerns regarding the cost and legality of Lockette's proposals. Although Lockette characterized Dr. Brown's legal concerns as "obstruction", he never supported his position with facts, legal opinions or cases, even when he promised to do so.

38. The treatment of Dr. Brown by Dean Delafontaine and Dr. Lockette were central factors in the resignation of Dr. Linda Headrick as Senior Associate Dean for Education effective December 31, 2016.

39. After the August 30, 2016 diversity meeting, Delafontaine became even less responsive to issues raised by Dr. Brown and largely ignored her input and recommendations. Delafontaine, Lockette, Young-Walker and others continued their communications with outside groups regarding diversity at the School of Medicine while excluding Dr. Brown from participation. Dr. Brown was discussed in these communications without her knowledge.

40. On October 17, 2016, Dr. Brown learned from Dr. Headrick that Dean Delafontaine would be removing Dr. Brown from her position as Associate Dean of Student Programs. On October 18, 2016, Dr. Brown met with Delafontaine to determine the reasons why he was removing her from the Associate Dean position. Delafontaine told Dr. Brown that he was replacing her as Associate Dean with Dr. Layne M. Young-Walker, a younger, African American faculty member, in order "to

make a change in leadership” Delafontaine assured Dr. Brown that the decision had nothing to do with her performance. Although Delafontaine did not give Dr. Brown the choice of remaining in the Associate Dean position, he encouraged her to resign so that her exit could be framed as a recognition of achievement. As the discussion proceeded, Delafontaine asked Dr. Brown to stop taking notes because it seemed “litigious”.

41. Dr. Brown declined Delafontaine’s suggestion to resign as Associate Dean of Student Programs and Delafontaine removed her as Associate Dean on October 28, 2016. Later, Delafontaine falsely communicated to the medical students, media and others that Dr. Brown had resigned.

42. Race was a contributing factor to the removal of Dr. Brown from the Associate Dean position and her replacement by a younger African-American female who lacked meaningful experience in performing the duties of the job. Delafontaine and the School of Medicine succumbed to outside pressure in removing Dr. Brown from the Associate Dean position because she opposed race preferences that had not been reviewed by legal counsel for compliance with the civil rights laws.

43. The School of Medicine removed Dr. Brown from her position as Associate Dean based on race and appointed Dr. Young-Walker as Associate Dean based on race in violation of Section 213.055.1 of the MHRA.

44. The School of Medicine's discriminatory exclusion of Dr. Brown from diversity meetings and her removal as Associate Dean adversely affected her status as an employee of the School of Medicine and constituted unfair treatment based on her race in violation of Section 213.055.1 of the MHRA.

45. Dr. Brown also is informed and believes that in addition to the conduct identified above, the School of Medicine, through its agents and employees, have engaged in racially discriminatory conduct against Dr. Brown which is not fully known. Dr. Brown will seek leave of court to amend her Petition at such time(s) as additional discriminatory conduct becomes known through discovery in this case.

46. As a direct and proximate result of the actions of the School of Medicine, Dr. Brown has suffered and will continue to suffer emotional distress, consisting of outrage, shock and humiliation, reasonably occurring and likely to occur based on the race discrimination committed against Dr. Brown by her employer and the employer's failure to take prompt and appropriate remedial action to terminate the discrimination. Dr. Brown has suffered and will continue to suffer a loss of earnings and other employment benefits and job opportunities.

47. Dr. Brown is informed and believes that the outrageous conduct of defendant School of Medicine and its agents described above was malicious and oppressive, and done with conscious disregard of Dr. Brown's rights and with the intent to injure her. The School of Medicine

ratified the discriminatory conduct of its agents and employees against Dr. Brown by participating in and failing to stop the discriminatory conduct based on race.

48. As a further direct and proximate result of defendant's violation of the MHRA, Dr. Brown has been compelled to retain the services of counsel in an effort to enforce the and has thereby incurred, and will continue to incur, legal fees and costs. Plaintiff requests that attorney's fees be awarded pursuant to MHRA.

49. The discriminatory treatment of Dr. Brown while she was Associate Dean and removal of Dr. Brown from her position as Associate Dean were based on race and adversely affected Dr. Brown's employment with the School of Medicine in violation of Section 213.055.1 RSMo.

WHEREFORE, Dr. Brown respectfully requests judgment against defendant School of Medicine as follows:

1. Restore Dr. Brown to her position as Associate Dean of Student Programs, or, in lieu of reinstatement, order front salary and benefits for the period remaining until Dr. Brown's retirement;
2. Award Dr. Brown equitable relief in the form of back salary and fringe benefits up to the date of reinstatement;
3. For compensatory and general damages according to proof at trial;
4. For punitive damages;
5. For attorneys' fees pursuant to the MHRA and costs of suit;
6. Prejudgment and post-judgment interest on all amounts claimed; and

7. Such other and further relief as the court deems just and proper.

**COUNT II**

**RETALIATION IN VIOLATION OF  
SECTION 213.070 OF THE MHRA**

50. Plaintiff realleges and adopts each allegation set forth in 1-49 of this Petition.

51. Section 213.070 RSMo of the MHRA states in pertinent part:

It shall be an unlawful discriminatory practice:

- (1) to aid, abet, incite, compel, or coerce the commission of acts prohibited under this chapter or to attempt to do so;
- (2) to retaliate or discriminate in any manner against any other person because such person has opposed any practice prohibited by this chapter or because such person has filed a complaint, testified, assisted, or participated in any manner in any investigation, or proceeding or hearing conducted pursuant to this chapter....

52. As a result of the questions Dr. Brown raised regarding the School of Medicine's compliance with civil rights laws, Dr. Brown was subject to a pattern of retaliation by the School of Medicine designed to intimidate and prevent her from continuing to oppose the "diversity" initiatives supported by Lockette, Delafontaine and groups and individuals outside of the medical school.

53. The School of Medicine's exclusion of Dr. Brown from meetings regarding diversity attended by other medical school faculty

and the conduct of Dr. Lockette and others directed at Dr. Brown constituted retaliation for Dr. Brown's opposition to the diversity initiatives promoted by Dr. Lockette in the absence of legal advice that those initiatives complied with civil right laws. This retaliation culminated in Dean Delafontaine's decision to remove Dr. Brown as Associate Dean for Student Programs and replace her with Dr. Young Walker, a younger African-American female.

54. The conclusion that the removal of Dr. Brown from her Associate Dean position was retaliation is reinforced by Delafontaine's responses to Dr. Brown's inquiry seeking the reasons for her removal at their face-to-face meeting on October 18, 2016. As the discussion unfolded, Dr. Brown realized that she was being removed from her Associate Dean position based on unspecified allegations of "student mistreatment" and lack of diversity at the medical school that were not attributable to her performance as Associate Dean of Student Programs. During the meeting, Delafontaine stated that his decision had nothing to do with Dr. Brown's performance. In fact, Delafontaine failed to muster any specific criticism of Dr. Brown, did not identify any performance reasons for replacing her and failed to link her conduct or performance to any specific allegations of student mistreatment or other deficiencies identified in the LCME report. The only reason that Delafontaine provided to Dr. Brown for removing her was that she had been in the position long enough.



55. During the October 18, 2016 meeting, Delafontaine stated that he thought “it better for” Dr. Brown if she resigned, that he wanted to avoid “a long process.” This was a thinly veiled threat to keep quiet and choose the resignation option if Dr. Brown wanted to continue employment at the School of Medicine.

56. The School of Medicine also retaliated against Dr. Brown in response to the administrative charge she filed with the MCHR on March 13, 2017:

1. prior to informing Dr. Brown that she would be removed as Associate Dean, the School of Medicine disclosed to students and other third parties that she would be removed from the position of Associate Dean of Student Programs;
2. veiled threats that Dr. Brown would be fired if she failed to cooperate in filling a new position that contained ill-defined contours, responsibilities and was subject to uncertain funding;
3. deliberate delays by Dean Delafontaine’s office in processing Dr. Brown’s retirement paperwork;
4. threatening Alison Martin’s job who had supported Dr. Brown’s position on obtaining advice of counsel on diversity admissions issues;
5. the refusal of Dean Delafontaine’s office to consider Dr. Brown’s request for Emerita status; and
6. the decision not to publicize that the School of Medicine under Dr. Brown’s leadership had won the Careers in Medical Student Career Advising Award for 2016.

57. Dr. Brown is informed and believes that in addition to the acts of unlawful retaliation enumerated above and in Count I, Defendant

has engaged in retaliatory practices against Dr. Brown which are not fully known. At such time as such retaliatory practices become fully known to Dr. Brown, she will seek leave of court to amend this Petition in that regard.

58. The School of Medicine breached its duty to Dr. Brown under section 213.070 RSMo. by engaging in and tolerating retaliation against her because she opposed practices and conduct prohibited by the MHRA and other civil rights laws and because she filed an administrative complaint with the MCHR for violations of the MHRA.

59. The above described retaliatory actions against Dr. Brown aided and abetted the commission of discriminatory acts prohibited by the MHRA and constituted retaliation against Dr. Brown in violation of Section 213.070 of the MHRA.

60. The retaliatory actions of defendant against Dr. Brown adversely affected her employment with the School of Medicine and constituted unlawful discrimination against Dr. Brown.

61. As a direct and proximate result of Defendant's retaliatory actions, Dr. Brown has suffered and will continue to suffer loss of earnings and other employment benefits and job opportunities and is thereby entitled to general and compensatory damages in amounts to be proven at trial. Dr. Brown has suffered and will continue to suffer emotional distress, consisting of outrage, shock and humiliation, reasonably occurring and continuing to occur based on the retaliation by

Defendant's agents that Dr. Brown suffered and the School of Medicine's failure to take prompt and appropriate remedial action.

62. The retaliation against Dr. Brown by the School of Medicine was outrageous, malicious, reckless, oppressive or done with a conscious intent to injure Dr. Brown and she is therefore entitled to punitive damages from Defendant.

63. As a further direct and proximate result of Defendant's violations of the MHRA, Dr. Brown was compelled to retain the services of counsel in an effort to enforce the requirements of the MHRA and has thereby incurred and will continue to incur, legal fees and costs. Dr. Brown requests that attorney fees and costs be awarded pursuant to the MHRA.

WHEREFORE, Dr. Brown respectfully requests judgment against defendant School of Medicine as follows:

1. Restore Dr. Brown to her position as Associate Dean of Student Programs, or, in lieu of reinstatement, order front salary and benefits for the period remaining until Dr. Brown's retirement;
2. Award Dr. Brown equitable relief in the form of back salary and fringe benefits up to the date of reinstatement;
3. For compensatory and general damages according to proof at trial;
4. For punitive damages;
5. For attorneys' fees pursuant to statute and costs of suit;
6. Prejudgment and post-judgment interest on all amounts claimed; and

7. Such other and further relief as the court deems just and proper

**COUNT III**  
**AGE DISCRIMINATION**

64. Plaintiff realleges and adopts each allegation set forth in paragraphs 1-63 of this Petition.

65. Dr. Brown is 60 years old and was replaced as Associate Dean of Student Programs by a younger faculty member.

66. Dr. Brown's age was a contributing factor in the decision of the School of Medicine to terminate her as Associate Dean for Student Programs and the actions of defendant School of Medicine constituted age discrimination in violation of Section 213.055.1 of the MHRA.

67. Dr. Brown also is informed and believes that in addition to the conduct enumerated above, the School of Medicine, through its agents and employees, have engaged in age discrimination against Dr. Brown that is not fully known. Dr. Brown will seek leave of court to amend her Petition at such time as additional discriminatory conduct becomes known through discovery in this case.

68. As a direct and proximate result of the actions of the School of Medicine, Dr. Brown has suffered and will continue to suffer emotional distress, consisting of outrage, shock and humiliation, reasonably occurring and likely to occur based on the race discrimination committed against her and the employer's failure to take prompt and appropriate

remedial action to terminate the discrimination. Dr. Brown has suffered and will continue to suffer a loss of earnings and other employment benefits and job opportunities.

69. Dr. Brown is informed and believes that the outrageous conduct of defendant School of Medicine and its agents described above was malicious and oppressive, and done with conscious disregard of Dr. Brown's rights and with the intent to injure her. The School of Medicine ratified the discriminatory conduct of its agents and employees against Dr. Brown by participating in and failing to stop the discriminatory conduct based on age.

70. As a further direct and proximate result of defendant's violation of the MHRA, Dr. Brown was compelled to retain the services of counsel in an effort to enforce the requirements of the MHRA and will continue to incur legal fees and costs. Dr. Brown requests that attorney's fees be awarded pursuant to the MHRA.

71. The actions of Defendant based on age discrimination against Dr. Brown adversely affected Dr. Brown's employment with the School of Medicine and she was damaged as a result of Defendant's unlawful employment action.

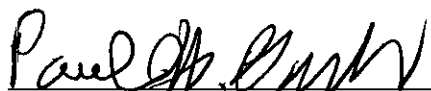
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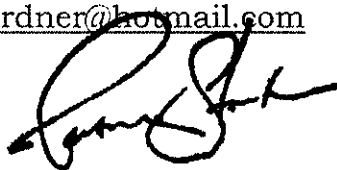
salary and benefits for the period remaining until Dr. Brown's retirement;

2. Award Dr. Brown equitable relief in the form of back salary and fringe benefits up to the date of reinstatement;
3. For compensatory and general damages according to proof at trial;
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5. For attorneys' fees pursuant to statute and costs of suit;
6. Prejudgment and post-judgment interest on all amounts claimed; and
7. Such other and further relief as the court deems just and proper

Respectfully submitted,



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ATTORNEYS FOR PLAINTIFF  
RACHEL BROWN