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Kenneth L. Pursley (1940-2015)
James A. McClure (1924-2011)
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March 24, 2021

***Via Certified Mail
Return Receipt Requested and Email***

Lawrence Denney
Secretary of State, State of Idaho
PO Box 83720
Boise, Idaho 83720-0080
claims@sos.idaho.gov

NOTICE OF TORT CLAIM

Date of Wrongful Action: On or about October 22, 2020

Names of Claimants: Big City Coffee LLC
dba Big City Coffee & Cafe and
Sarah Jo Fendley
c/o Givens Pursley LLP
601 W. Bannock Street
PO Box 2720
Boise, Idaho 83701

State Actor and Persons Involved: Boise State University, Marlene Tromp, President, Leslie Webb, Vice President for Student Affairs and Enrollment Management, Alicia Estey, Vice President for University Affairs and Chief of Staff, and Francisco Salinas, Assistant to the Vice President for Equity Initiatives (collectively, the "Defendants")

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I. INTRODUCTION

In the fall of 2020, Boise State University forced a small, local business from its campus for the sole reason that the owner supports law enforcement and is engaged to a Boise police officer, which conflicts with the Administration's extreme social justice agenda.

II. CIRCUMSTANCES WHICH BROUGHT ABOUT THE INJURY/DAMAGE

The Parties

Sarah Jo Fendley ("Sarah" or "Fendley") is a 51-year old Idaho native from a modest family with deep roots in the Treasure Valley. Her mother raised Sarah and her two brothers by working primarily as a waitress. She graduated from Meridian High School and attended BSU in 1987 and 1988. Sarah has been an enthusiastic supporter of the University for her entire adult life. Fendley is not a political activist, describes herself as a moderate and tends to vote Democrat.

Sarah is a successful entrepreneur; for the past 20 years she has owned and operated Big City Coffee and Cafe ("BCC") in downtown Boise. She built the business on her own, through endless hours of hard work and sacrifice. She sold a 1988 Toyota Land Cruiser to raise the funds for a down payment on the business. The restaurant life is a demanding one, which requires long and irregular hours. Despite her grueling schedule, she makes time for others and enjoys the tremendous loyalty of the many young people who have worked for her over the years and that of her dedicated customers. She is a warm and gregarious person who has always tried to help people and give back to her community.

Although she has contributed a significant amount of time and money to a wide variety of causes, including breast cancer research, animal welfare organizations and programs for disabled veterans, closest to her heart is an unwavering commitment to supporting first responders. This commitment began in BCC's early years, when Boise and Garden City police and fire personnel were among her best customers. In addition, as a single woman running a business in a sometimes rough neighborhood, the police have assisted her in many potentially dangerous situations over the years and she is appreciative of such assistance. One of her brothers, Brian Fendley, is a Captain with the Eagle Fire Department. Her other brother is a Major in the Air Force.

In BCC's downtown location, Sarah has displayed flags and other emblems indicating her support of first responders and the "Thin Blue Line" cause in particular, which honors and assists police officers injured or killed in the line of duty. She began doing so in 2016, following the ambush and murder of five Dallas police officers. Sarah's support of Thin Blue Line is not a statement in opposition to any race, group or other movement. Specifically, and in particular, she does not intend such support to be a repudiation of Black Lives Matter or an attack on African Americans or any other minority group. There has never been a single report of racist acts or statements against anyone patronizing or working at BCC. Sarah is not and has never been a racist.

Kevin Holtry (“Kevin” or “Holtry”), Sarah’s fiancé, is 54 years old, an Idaho native and, like Fendley, graduated from Meridian High School. Upon graduation, Kevin enlisted in the U.S. Army, where he served for four years and was honorably discharged in 1989. Holtry later earned an Associate Degree from Boise State. After a stint as a fishing guide, he pursued a career in law enforcement, beginning with the Ada County Sheriff’s Office. He has been in law enforcement for 22 years and is currently a corporal with the Boise City Police Department.

On November 11, 2016, Holtry and the SWAT team he led were searching a Boise Bench neighborhood for an extremely dangerous fugitive, Marco Romero, a known gang member that had just shot two other people and carjacked an elderly woman the day before. During the search, Holtry located Romero, but Romero began firing before Holtry could level his weapon. Firing upward from a concealed position, Romero shot Holtry five times in his legs and under his protective vest. Boise Police K-9, Jardo, engaged Romero, but in the ensuing struggle Jardo was shot and another BPD officer, Chris Davis, was wounded. Holtry’s partner and best friend, Brian Holland, returned fire and killed Romero. Jardo later died of his injuries.

As a result of the gunfight, Holtry was paralyzed from the waist down and lost his left leg, confining him to a wheelchair for the remainder of his life. Three bullets are still lodged in his body, including one in his spine, which causes near-constant pain. For their heroic actions that day, Holtry and Holland each received the BPD Medal of Honor. Despite his injuries, Kevin maintains a cheerful, positive attitude and has dedicated his life to helping and inspiring others struggling with disabilities. Like Sarah, Kevin has been a life-long supporter of BSU. During a time when the University had a different posture toward law enforcement, BSU actually hosted a funeral service for Jardo in what is now Extra Mile Arena, which was attended by hundreds of Idahoans and policemen from around the country.

Sarah and Kevin began dating shortly after he was shot and they were engaged in 2020. Her relationship with Holtry reinforced Sarah’s dedication to helping first responders including, most importantly, those injured or killed in the line of duty. It has become a passion for Fendley and one to which she is deeply committed. She donates money, volunteers her time and continues to display a small Thin Blue Line emblem on the door of her downtown restaurant.

Diversity and Inclusivity

Unfortunately, the current BSU Administration considers support for the police or causes such as Thin Blue Line to be antithetical to Boise State’s core mission. That mission elevates “*diversity and inclusivity*” above all else. A review of President Tromp’s statements and positions, both before and during her tenure at BSU, leaves little doubt that she too is fully-committed to the social justice movement. This deep-seated institutional and individual bias is important context for the actions taken by BSU against Fendley and BCC, which form the basis of this claim.

Although diversity and inclusivity sounds benign on its face, in practice BSU’s mission is anything but, and its implementation, rigid and unforgiving, has a hard edge when applied to people, businesses and ideas with which its proponents disagree. The Administration states in its

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official publication that the Inclusive Excellence Student Council (“IESC”) was created to continue the legacy work of student activists at Boise State University. According to meeting minutes, at its October 26, 2020 meeting, various IESC members lamented that, “*I am a criminal justice major and all I learn about is how corrupt police officers are*” and “*the system exists to put black people in prison*” and “*...it is difficult growing up in a culture of white supremacy...*”

The IESC is serious and it is not alone in its ideology or fervor. In fact, the IESC reflects and embodies BSU’s extreme social justice agenda. This agenda is promoted and fostered by the University and pervades the campus and curriculum. Francisco Salinas, Assistant to the Vice President for Equity Initiatives (“Salinas”), and Leslie Webb, Vice President for Student Affairs and Enrollment (“Webb”), who reports directly to President Tromp, regularly attend IESC meetings and lend their support and the imprimatur of the University to the group’s actions.¹

And, it is not just the Administration that has taken up the call to action; the faculty is also complicit. Jeremy Harper (“Harper”) is a member of the BSU faculty and the director of Boise State Uniting for Inclusion and Leadership in Diversity (“BUILD”). Again, the mission would appear uncontroversial, *i.e.*, it “*helps all Boise State employees become leaders who are better prepared to foster a diverse, inclusive and equitable campus environment.*” When one looks deeper, however, it is clear that BUILD is focused intently on radical social justice themes, which include, in BUILD’s own words “*sex and sexism, Islamophobia, LGBTQIA+, Homophobia and Transphobia, Ableism and Fatphobia, Intersectionality, Sanism and Advocacy and Activism.*” BUILD also directs BSU employees to left-wing primers on effecting social change. Harper figures prominently in libelous attacks against Fendley and BCC, based solely on their support for Thin Blue Line.

In 2016, Harper took umbrage with BCC’s Thin Blue Line flags and emblems at its downtown location. He claimed, in social media posts, that Fendley was promoting “white supremacy” and called for a boycott of BCC. Despite having been a customer, Harper decided at some point and for some reason that the Thin Blue Line flags “*have been popularized as a direct response to the Black Lives Matter. Flying them is either a sign of ignorance about the realities of systemic racism that are well documented in our police and prison systems or a complete disregard for the harm that racism causes to Black people and communities across the country...it reinforces the white supremacist belief that police are above criticism...*”

The University, in fact, considers itself a resource for left-wing activist groups. For example, BSU’s website links an article by Dr. Arthur Scarritt, Chair of the University’s Department of Sociology, entitled “Selling Diversity, Promoting Racism: How Universities

¹ The negative consequences and repercussions of BSU’s social justice agenda have been well-publicized. During its session this year, the Idaho legislature voted to strip \$409,000 from the University’s budget due to concerns that BSU was using State funds to indoctrinate students. All indications are that the Legislature is not finished with its attempts to curb the Administration’s left-wing activities. And, on March 15, 2021, the University suspended all of its UF-200 classes, *Foundations of Ethics and Diversity*, courses designed to examine and advance social justice concepts, because students “*have been humiliated and degraded in class on [the] campus for their beliefs and values.*” The suspension affects 1,300 students and 52 classes.

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Pushing a Consumerist form of Diversity Empowers Oppression”, to the Boise Black Lives Matter website, where it is cited as a resource. Yesterday, on March 23, a BSU Adjunct Professor and local Black Lives Matter leader, Terry Wilson, was arrested for defacing a statue of Abraham Lincoln in a Boise Park. He was also charged with drug possession and resisting arrest. The BSU Administration, together with groups such as IESC and faculty like Harper, Scarritt and Wilson, seek to solidify and expand their social justice aims.

BCC and Boise State

In May 2020, BSU decided that it would replace Starbucks with a local vendor, in its on-campus Albertson Library. The University solicited proposals from a number of Boise coffee shops and cafes, and BCC was ultimately selected as the winner. At the time, Fendley was told that BSU students had “overwhelmingly” chosen BCC and that she would be welcomed into the University “community”. Unfortunately, such assurances were only half-true.

Before she entered into the BSU contract, Fendley disclosed fully the prior dispute with Harper and her subsequent engagement to Holtry, to Nicole Nimmons, Associate Vice President for Campus Services (“Nimmons”), and the University’s point person on the BCC negotiations. Nimmons and Fendley discussed BCC’s 2016 exchange with Harper, but Nimmons assured Fendley that it would not be an issue.

In reliance upon Nimmons’ assurances, and in the midst of a devastating pandemic, Fendley began preparations to open a second Big City Coffee on the BSU campus. It required a herculean effort in that Fendley had to continue to operate her downtown location, while simultaneously hiring and training employees and buying equipment and supplies for the new location. Fendley has always tried to hire BSU students for her downtown location, in order to help the students pay for school. Between the two locations, Fendley had 74 total employees, all but nine of which were BSU students. In order to open the new location, she borrowed approximately \$150,000.00 from the Small Business Administration EIDL Program and spent all such monies and more to open the BSU shop. Adding to her stress during this time was the fact that Fendley underwent major surgery on September 8, 2020 and was in the hospital or confined to her home for weeks. Despite these obstacles and setbacks, Fendley managed to fully open the BSU location as planned.

Although the bulk of the communication and negotiation occurred with and through Nimmons and other BSU personnel, the contract was technically between BCC and Aramark, as Aramark had the general contract for food and beverage services on the University campus. Such contract was signed on August 17, 2020 (the “Contract”).

The Growing Controversy Concealed from Fendley

Between the date the Contract was signed and BCC’s opening in September 2020, Nimmons and Fendley were in regular contact. During that period, BSU gave Fendley no indication that there was or could be a controversy due to her support of law enforcement or her engagement to Holtry. Fendley would learn later that, during such period, BSU had ample notice

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that IESC and other radical elements on its campus were aware that BCC was coming to BSU and that IESC strenuously objected due to the establishment's law enforcement connection.²

Emails obtained later through a records request indicate that Nimmons and Webb were discussing the potential for controversy as early as July 27, 2020. They, and other BSU administrators, continued to discuss the matter through October 2020. Minutes of IESC meetings, many of which were attended by Webb and Salinas, confirm that IESC's objections to

² In addition to the BCC issue, the IESC objected to the presence of the Boise Police Department on campus. On July 27, 2020, a member of IESC sent a letter to President Tromp criticizing the school for contracting with the Boise Police Department for campus security. Portions of such letter are excerpted below:

I am contacting you today to urge you to end the Boise Police Department's contract with Boise State Universities [sic] Campus Security and Public Safety Department.

...

1. It will be fiscally irresponsible to renew a contract with a criminal enterprise that has already received a \$1 million increase from Boise City Council.

...

2. It is important to understand the history of policing and the messaging it sends to those historically affected by policing. We must first acknowledge that this practice only existed to police black and brown-bodies. Police existed as slave patrols. Unqualified white men harassing black and brown bodies, keeping them in their place. This practice obviously has evolved into a larger multi-faceted criminal enterprise, but it has not left behind it's [sic] sickening roots. The roots of this organization were to police, harrass [sic] and murder black and brown bodies to ensure the status quo and harmful narratives were normalized. The message that I receive as a person who occupies many identities historically policed is if this contract is renewed is, you and your team (who approve the recommendation) look past the trauma of my ancestors and the generational trauma I endure in the presence of police, thus invalidating my existence.

...

*After leading one of three Black Lives Matter Rally's [sic] in Boise I have been clinically diagnosed with Post Traumatic Stress Disorder. At this rally I was threatened by white supremacists that I would be shot and killed while my community watched, **no response from the police**. White accomplices were physically assaulted, **no response from the police**. White supremacists broke white barricades to protect the most vulnerable, **no response from the police**. This was not even the worst of it. The threats, the physical assaults were miniscule compared to the response of BPD. BPD showed up in riot gear and faced BLM protestors, not the wite [sic] supremacists committing actual crimes that were grounds for prosecution. BPD went up high, set up snipers and pointed their guns at us! Not the white supremacists. I was forced to end the rally early because of the real danger we were facing. For this event we had to contract third party security because we know **police don't equal protection. Police equal perpetrators of property over black and brown lives and perpetrators of white supremacy**. I hope as you are reading this story you are thinking that me, a 20-year old biracial woman should not have to go through this trauma and harm. If you are thinking this you are right. For the experience I have just wrote [sic] about and many I chose not to should be grounds and encouragement to end the contract with BPD.*

...

You will most likely receive a recommendation to renew the contract for one-year while the university has further discussion on a longer renewal or ending the contract all together. One-year may not sound so horrible as you occupy identities of privilege, but for black and brown folks with many intersectional identities this one year can be very harmful and re-traumatizing. This also gives cop sympathizers within your institution time to deliberate on why cops should be on campus (just to be clear: they should not!) (emphasis in original).

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BCC were continually a topic of discussion and protest. Had BSU not concealed this critical information, Fendley/BCC may have elected not to open the second location, not borrowed over one hundred thousand dollars (during a global pandemic), not purchased equipment, or had the opportunity to take other measures to mitigate the damage she and BCC would ultimately suffer.

In October, 2020, an IESC member created a Snapchat message protesting BCC's support of Thin Blue Line. In response, and unaware of the larger, escalating controversy, on October 21, 2020 Fendley posted the following message on social media:

I was thrilled to be asked to open Big City at BSU this fall... not super thrilled it was during a pandemic but it gave me the opportunity to create a few dozen more jobs on campus and give some hours to people that we otherwise would be missing due to Corona and everything it entails. We were able to purchase local Cafe Mulé coffee and use some other local products there. I have explained before and if you scroll through the next two photos you will see my handsome guy- he's the short one... in the wheelchair. Almost four years ago on 11/11/16 he was shot five times, paralyzed instantly and lost his leg on the Boise bench protecting our city from a recently released from prison gang member that had already shot two people the day before and car-jacked and [sic] elderly woman all while running from the police. Police K9 Jardo lost his life protecting Kevin and If you want more details google it - if you want to know why I support first responders ask me ... I'll tell you and if your [sic] lucky you might get to meet my hero. He has extensive nerve damage and debilitating pain but he manages to smile through most of it and I love him. He never hesitated that day and he would do it again. We are lucky to have such great police, fire and EMS in our community. I support them because they support us. My brother is also a fireman and our younger brother is in the Air Force - service is in our blood and my decision to open on a college campus knowing full well some wouldn't be happy was outweighed by the opportunity to do something during these past few months- being self employed is never easy, try self employed with a restaurant in a pandemic it's next level... I love Boise state and the staff we hired is wonderful and they deserve big thanks for serving the public when they could choose to stay home instead. I love my hero and I support him and always will - he is an officer of the highest regard and he was also a Bronco graduate.

IESC was outraged by Fendley's October 21 post and complained loudly to the BSU Administration. As a result, BSU caused the breach of the Contract, and Fendley and BCC were forced to close the campus location.

BSU's Decision to Terminate BCC's Contract

One day after Sarah's post, she was summoned to a meeting with Webb, the second highest ranking Administration official, reporting directly to Tromp, and Alicia Estey, Vice President for University Affairs and Chief of Staff ("Estey"), the third highest ranking official in the BSU Administration, who also reports directly to Tromp. Fendley was not

informed as to the agenda for the meeting, that Estey was an attorney, or that Sarah might need legal counsel. The meeting, which commenced at approximately 4:30 in the afternoon, was intended as an ambush and BSU did not want Fendley to be prepared.

Kevin accompanied Sarah to the meeting, along with the manager of the BCC campus location, Kyla Beavers. Also in attendance was Kevin's best friend, Brian Holland, the officer that shot and killed Romero, and likely saved Holtry's life. An Aramark representative was also present. Tellingly, Nimmons left the group at the door of the meeting room, visibly upset, and told Sarah that Webb and Estey had forbid her from attending the meeting, despite the fact that Nimmons had been the point of contact for most communications up to that point.

At that meeting, for the first time, BSU informed Fendley that BCC's presence on campus had triggered a "firestorm", and that a small but vocal minority was demanding that BSU remove BCC from campus. A review of IESC minutes, obtained by Fendley the next day, shows that the group had begun objecting to BCC by at least early September. On September 7, at an IESC meeting attended by Webb and Salinas, the group complained loudly about BCC's alleged racism and mistreatment of people of color, but then vacillated between demanding that the Contract be broken and BCC removed from campus, and demanding some type of compensation. Salinas, the BSU administrator in charge of diversity initiatives, suggested the situation "*could be the beginning of a revolution*" regarding corporate partnerships and stated that he "*did not go to college in Idaho because of things I saw.*" Salinas did not elaborate on the things he allegedly saw.

A review of additional IESC minutes, also obtained after the fact, indicates that pressure on the Administration continued to build throughout September and October. At its September 21, meeting, one IESC leader stated that "*IESC is drafting a statement regarding Boise State's failures and submission to white supremacy, in addition to its overt action of perpetuating anti-blackness, and the entrance of Big City Coffee on Campus.*" On September 29, Webb and Salinas participated in an IESC meeting where Salinas suggested that BCC "*fund students and employees to attend a conference regarding race and discrimination*", presumably as the price of keeping the Contract. Webb, Salinas and IESC members went on to discuss the possible "contractual penalties" of BSU causing the termination of the Contract with BCC. At some point, Salinas suggested "*holding BCC accountable by providing scholarships to marginalized students.*" Eventually, one of the IESC leaders abandoned all pretext and simply stated to Webb and Salinas, I "*want the administration to sign on to what we say and support us even if it is radical.*" Apparently, the University took the demand seriously, because on October 22, Webb presided over the meeting where BCC and Fendley were forced off campus due to their support for law enforcement.

At the October 22 meeting, it was clear that BSU had already decided that it was going to force the termination of the Contract with Aramark, although Webb spent a fair amount of time attempting to explain why there was an issue in the first place. Ironically, Webb told Sarah and Kevin at the outset of the meeting that "*I know you're not racists; I love Big City Coffee.*" Of course, the issue was that Sarah supported Thin Blue Line and was engaged to a police officer, and that had caused a "firestorm". Webb asked if Sarah or Kevin had anything to say. Sarah

expressed her surprise and frustration that the Administration had chosen not to share its concerns about BCC with Fendley until nearly two months after she opened. They both spoke of their love for BSU, the fact that they were not racists and that BCC very much wanted to be on campus.

To Sarah's knowledge, based on prior representations from the University, the overwhelming majority of students supported BCC. Brian Holland stated that, as a Black man, he had no issues with Sarah or her business and noted the many BSU students that BCC employed. Sarah stated, again, that she had never displayed a Thin Blue Line flag or any other law enforcement related material at the campus location, and that she only had a small Thin Blue Line sticker on the door of her downtown location.

Finally, toward the end of the one-hour meeting, Sarah asked Webb if the University would back her up in the face of the unfair criticism; Webb said, "*That's not going to happen.*" Then, the Aramark representative suggested that Sarah close the campus location until January to see if the matter would resolve itself. Sarah asked if, after such a temporary closing, BSU would then support BCC. At that point, Estey said, "*I think it is best that we part ways.*" Her statement was not an invitation for further discussion or a mere observation. It was made in a manner and context that left no doubt that BCC's time on the BSU campus had come to an end. In no way did Fendley agree with or consent to what had occurred and the last thing Holtry said to Webb and Estey was, "*Shame on you*". Sarah passed Nimmons on the way out of the meeting and Nimmons was crying uncontrollably. BCC moved its equipment off the BSU campus on October 26, 2020. Eighteen students lost their jobs.

The Aftermath

BSU's actions immediately after the October meeting further evidence the Administration's culpability in this matter. Within minutes, Tromp called Boise Mayor Lauren McLean, presumably in an attempt to have Holtry and Holland silenced. McLean, being a fellow traveler, is sympathetic to the University's social justice agenda and has attempted to implement a similar agenda in Boise City.³ McLean then called Chief of Police Ryan Lee who summoned Holtry and Fendley to a meeting in his office on the following day, October 23. Fortunately, Chief Lee resisted the attempted strong-arm and expressed only support for his officers. Weeks later, however, Tromp called Chief Lee directly and shared her dismay at the public outcry over BCC's mistreatment, complaining that the University risked losing financial and political support due to the controversy. We are left to speculate as to why she would make such statements to the Chief of Police.

And, there was an outcry. No doubt to BSU's surprise and consternation, the overwhelming majority of BSU students, Boise residents and Idahoans in general expressed support for BCC and condemned the University's actions. On October 30, at BCC's downtown

³ See *A More Equitable City for Everyone: A Final Transition Team Report for Mayor Lauren McLean*. The report, steeped in diversity and inclusion, advocates, *inter alia*, for the limitation of law enforcement's authority and discretion, and for the accommodation of criminals. The report was written by a committee co-chaired by Francisco Salinas.

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location, hundreds of patrons lined up for blocks, waiting for a table and to demonstrate their support. Fendley and Holtry received a multitude of calls, cards and messages from current and former employees, customers and government officials, all conveying sympathy for what had happened to them.

BSU has not been truthful in its statements about the events surrounding BCC's departure from the University campus. Its official explanation of what occurred and why BCC left has changed repeatedly since October 22, 2020. Initially, the student newspaper, *The Arbiter*, reported that BCC had been "removed" as a vendor. The article quoted Webb and said that her announcement had been made at an IESC meeting on October 27. The article was updated on October 28 to say that BCC had decided to be "released" from the Contract. Finally, on October 29, the Administration decided that its story would be that BCC had "opted out" of the Contract. President Tromp's statements on the matter have been more obfuscating than accurate. To make clear, BCC was forced off the BSU campus by the Administration. BSU acknowledged as much when it twice attempted, after the fact, to have Sarah sign a statement that BCC's departure had been mutual. She refused both times.

Conclusion

Boise State has made "diversity and inclusivity" a virtual mantra on its campus. The phrase is pounded into the heads of its students and faculty. Its curricula is rife with the idea and, until last week, submitting to its teaching was a requirement in order to graduate.

But, what does it mean?

If diversity and inclusivity means the scholarly exploration into, and the humane tolerance and inclusion of, those that are diverse or that espouse diverse ideas or beliefs, where was this noble mandate when Sarah Fendley was viciously attacked, falsely accused, libeled, slandered and driven from the BSU campus, solely for the reason that she dared to place a blue and black flag decal on the door of her coffee shop and was engaged to a police officer? What BSU did to Sarah Fendley has already been roundly criticized in the court of public opinion, as being absurd and hypocritical, which it most certainly was. It was also ironic, but that term fails to convey the appropriate gravity. Once given the opportunity, we will show that the University's actions in this matter were outrageous and shocking to the conscience, and we believe a jury will readily agree.

III. DESCRIPTION OF THE INJURY/DAMAGE

BCC and Fendley have suffered both monetary and non-monetary damages. The Defendants, and potentially others, among other things: (i) slandered and libeled Fendley and BCC; (ii) tortiously interfered with the Aramark Contract and/or with BCC's prospective economic advantage; (iii) defrauded Fendley and BCC by concealing and making misrepresentations associated with certain information upon which Fendley and BCC detrimentally relied (with such omissions and misrepresentations also giving rise to relief for Fendley and BCC under the Idaho Consumer Protection Act); and (iv) violated Fendley and

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BCC's rights under the First and Fourteenth Amendments to the United States Constitution, for which Fendley and BCC have redress pursuant to 42 U.S.C. §§ 1983 and 1988, as well as 28 U.S.C. § 2201 and/or Idaho Code § 10-1201, *et. seq.* The Claimants expressly reserve the right to assert other available claims based on the conduct outlined herein and that which may be subsequently discovered. The Claimants have suffered damages in excess of \$10,000,000.00.

IV. TIME AND PLACE THE INJURY/DAMAGE OCCURRED

See Section II above.

V. NAMES OF ALL PERSONS INVOLVED

- A. Claimants
Big City Coffee LLC dba Big City Coffee & Cafe
Sarah Jo Fendley
- B. Claimants' Attorney
Michael O. Roe of Givens Pursley LLP
- C. Boise State University
Boise State University, Marlene Tromp, President, Leslie Webb, Vice President for Student Affairs and Enrollment Management, Alicia Estey, Vice President for University Affairs and Chief of Staff, and Francisco Salinas, Assistant to the Vice President for Equity Initiatives

VI. AMOUNT OF DAMAGES CLAIMED

As noted above, the Claimants are seeking damages in excess of \$10,000,000.00. Included therein, but not limited thereto, are damages based on the amounts expended by BCC and Fendley to open the BSU location, lost income over a period of years that BCC expected to operate on the BSU campus, reputational and emotional damages suffered due to being wrongfully and maliciously labeled as a racist and a white supremacist, attorneys' fees and costs, and other compensatory, general, special as well as and punitive damages to be proven at trial.

VII. ACTUAL RESIDENCE OF CLAIMANTS

At the time of presenting and filing of this notice and six months prior to the time that the claims arose, the Claimants' addresses were, respectively, as follows:

Big City Coffee LLC:	1416 West Grove Street, Boise, Idaho 83702
Sarah Jo Fendley:	1416 West Grove Street, Boise, Idaho 83702

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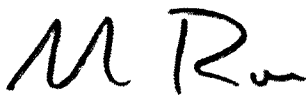
VIII. RECORDS AND FILES

Claimants hereby provide notice to Boise State University, Marlene Tromp, President, Leslie Webb, Vice President for Student Affairs and Enrollment Management, Alicia Estey, Vice President for University Affairs and Chief of Staff, and Francisco Salinas, Assistant to the Vice President for Equity Initiatives, and its other agents, representatives and employees that have knowledge of the facts set forth herein or that may otherwise possess relevant information, that any and all records or files they hold or control are considered evidence in this matter.

As such, Claimants hereby demand that the Defendants and such other persons and entities preserve any and all electronically stored information and all paper files in their custody, possession or control that may be relevant to the claims described above. This includes, without limitation, emails, word processing documents, in final or draft form, text messages, social media posts, and any other information contained on mobile devices, computer systems and electronic storage systems. The Claimants intend to seek all such information through the discovery process in any ensuing litigation.

DATED this 24th day of March, 2021.

GIVENS PURSLEY LLP

By: 

Michael O. Roe
Attorney for Claimants

MOR/mb

cc: Sarah Jo Fendley
Dr. Marlene Tromp, President
Leslie Webb, Vice President for Student Affairs and Enrollment Management
Alicia Estey, Vice President for University Affairs and Chief of Staff
Francisco Salinas, Assistant to the Vice President for Equity Initiatives
Matt Wilde, General Counsel

15576065_1 [15649.1]

B0574-3093 03/24/2021 3:51 PM Received by ID Secretary of State Lawrence Denney

Erin Logue

From: Mary Barnes <marybarnes@givenspursley.com>
Sent: Wednesday, March 24, 2021 3:51 PM
To: Tort Claims
Cc: 'president@boisestate.edu'; 'aliciaestey@boisestate.edu'; 'lesliwebb@boisestate.edu'; 'franciscosalinas@boisestate.edu'; 'mattwilde@boisestate.edu'; Mike Roe
Subject: Notice of Tort Claim [IWOV-GPDMS.FID1052934]
Attachments: 2021-03-24 Notice of Tort Claim.PDF

Secretary Denney,

Please find attached Notice of Tort Claim for filing with your office.

Thank you,

Mary Barnes, Legal Assistant to
Michael O. Roe

GIVENS PURSLEY LLP

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