

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, STATE OF FLORIDA

UNITED FACULTY OF FLORIDA; JOSE
GOMARIZ; LAURENCE G. BRANCH;
and ERIK CAMAYD-FREIXAS,

Plaintiffs,

v.

CASE No.: 2008-CA-018

CLERK OF CIRCUIT COURT
LEON COUNTY, FLORIDA

08 MAY -7 PM 1:33

FILED

FLORIDA BOARD OF GOVERNORS,

Defendant,

and

STATE OF FLORIDA,

Intervenor.

**ANSWER OF BOARD OF GOVERNORS TO
PLAINTIFFS' SECOND AMENDED COMPLAINT**

Defendant, Board of Governors, by and through its undersigned counsel,
answers the corresponding paragraphs of Plaintiffs' Second Amended Complaint
for Declaratory Relief as follows:

1. Admitted.

JURISDICTION AND VENUE

2. Admitted.

3. Admitted.

PARTIES

4. Admitted that Plaintiff, United Faculty of Florida (UFF), is an employee organization as statutorily defined and the certified bargaining agent for faculty and other professional employees of the State University System, and that UFF represents the interests of faculty members in connection with collective bargaining agreements negotiated with universities on their behalf. The Board of Governors is without knowledge as to the terms of the specific collective bargaining agreements alleged in paragraph 4 and therefore deny same.

5. Admitted that Plaintiff Jose Gomariz is a tenured professor in the Department of Modern Languages and Linguistics at Florida State University. The Board of Governors is without knowledge as to the remaining allegations in paragraph 5 and therefore denies same.

6. Admitted that Laurence G. Branch, Ph.D. is a professor of health policy and management at the College of Public Health at the University of South Florida. The Board of Governors is without knowledge as to the remaining allegations in paragraph 6 and therefore denies same.

7. Admitted that Erik Camayd-Freixas is an associate professor of Spanish & Director of Translation and Interpretation Program at Florida International University. The Board of Governors is without knowledge as to the remaining allegations in paragraph 7 and therefore denies same.

8. Admitted.

BACKGROUND FACTS

9. Admitted, except that a copy of Chapter 2006-54, Laws of Florida, was not attached as Exhibit A.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

FIRST CAUSE OF ACTION
Violation of Article IX, § 7, Florida Constitution
Separation of Powers

15. The foregoing answers in paragraphs 1 through 14 are realleged and incorporated herein by reference.

16. Admitted.

17. Admitted.

18. Admitted.

19. Admitted.

20. Admitted.

SECOND CAUSE OF ACTION
Violation of Article I, § 9, Florida Constitution

Due Process (vagueness)

21. The foregoing answers in paragraphs 1 through 14 are realleged and incorporated herein by reference.

22. Admitted that the Travel Ban has the effect of prohibiting the use of university funds for any travel-related activities to a prohibited country. The remaining allegations of paragraph 22 are denied.

23. Admitted that the Travel Ban could be interpreted to include activities indirectly related to travel to a prohibited country such as organizing or administering events related to travel to or from one of the prohibited countries, preparation of travel-related reports, or other travel-related activities involving these countries. The remaining allegations of paragraph 23 are denied.

24. Without knowledge and therefore denied.

25. Denied.

THIRD CAUSE OF ACTION
Violation of Article I, § 10, Florida Constitution
Impairment of Contract Rights

26. The foregoing answers in paragraphs 1 through 14 are realleged and incorporated herein by reference.

27. Admitted.

28. Denied as stated.

29. Admitted that UFF was a party to a collective bargaining agreement with the Board of Trustees of the Florida State University in effect at the time the Travel Ban was enacted. The Board is without knowledge as to the remaining allegations of paragraph 29 and therefore denies same.

30. Admitted that UFF was a party to a collective bargaining agreement with the Board of Trustees of the University of South Florida in effect at the time the Travel Ban was enacted. The Board is without knowledge as to the remaining allegations of paragraph 30 and therefore denies same.

31. Admitted that UFF was a party to a collective bargaining agreement with the Board of Trustees of the Florida International University in effect at the time the Travel Ban was enacted. The Board is without knowledge as to the remaining allegations of paragraph 31 and therefore denies same.

32. Without knowledge and therefore denied.

33. Without knowledge and therefore denied.

34. Without knowledge and therefore denied.

35. Without knowledge and therefore denied.

FOURTH CAUSE OF ACTION
Violation of Article I, § 4, Florida Constitution
First Amendment (Academic Freedom)

36. The foregoing answers in paragraphs 1 through 14 are realleged and incorporated herein by reference.

37. Admitted.

38. Admitted that the Travel Ban's restriction on the use of private and federal research grant funds awarded to universities for travel to any of the prohibited countries precludes the professional pursuit of academic research that, by its nature and/or subject matter, can only be conducted by traveling to one of the prohibited countries. The Board is without knowledge of the Plaintiffs' ongoing academic research and therefore denies same.

39. Denied as stated.

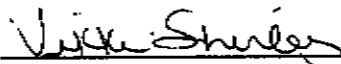
40. Admitted that the Travel Ban's restriction on the use of nonstate funds interferes with the academic freedom of a university to permit faculty to engage in educational programs that include a study abroad or field work component in any of the designated countries. The Board is without knowledge of the Plaintiffs' specific rights to engage in educational programs that include a study abroad or field work component in any of the designated countries and therefore denies the remaining allegations of paragraph 40.

41. Admitted that the Travel Ban's restriction on the use of nonstate funds for any activities related to travel to any of the designated countries violates Article I, section 4 as a restraint upon the academic freedom of state universities.

AFFIRMATIVE DEFENSES

To the extent the Travel Ban precludes the use of state funds for activities related to travel to any of the designated countries that are subject to the Legislature's power of appropriation, the statute constitutes a permissible exercise of legislative authority.

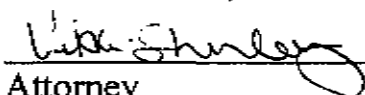
Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to Thomas W. Brooks and Janeia R. Daniels, Meyer and Brooks, P.A., Post Office Box 1547, Tallahassee, Florida 32302; and Louis F. Hubener and Timothy D. Osterhaus, Office of the Attorney General, The Capitol – PL-01, Tallahassee, Florida 32399-1050, on this 7th day of May, 2008.



Attorney