

# **EXHIBIT 1**

**to**

**Defendant's**

**Motion to Dismiss or,**

**in the Alternative,**

**for Summary Judgment**

**JACOB KOGAN,**

Plaintiff,

v.

**NAGARAJ K. NEERCHAL,**

Defendants.

\*

**IN THE**

\*

**CIRCUIT COURT**

\*

**OF MARYLAND**

\*

**FOR**

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**PRINCE GEORGE'S COUNTY**

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**Case No.: CAL 14-02375**

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**AFFIDAVIT OF NAGARAJ K. NEERCHAL, PH.D.**

1. I am over 18 years of age, am competent to testify and have personal knowledge of the facts stated within this Affidavit.

2. I am currently the Chair of the Department of Mathematics & Statistics (the "Department") for the University of Maryland, Baltimore County and have been in that position since 2006.

3. On July 9, 2013, I received and reviewed a request from Jacob Kogan, Ph.D. for the production of documents all documents related to the approval of:

- A. Faculty Comprehensive Review Check List
- B. March 1999 Department of Mathematics and Statistics Statement of Performance Expectations.
- C. April 28, 2010 Addendum to the Statement of Performance Expectations.

4. In response to Dr. Kogan's requests, I conducted a search that I believed to be reasonably calculated to find all relevant and responsive documents.

5. The process known as the "Faculty Comprehensive Review" is also known as the "Post Tenure Review" and, therefore, as part of my search for responsive documents, I also

included in my search and requested others to include in their search for documents relating to the "Post Tenure Review" process.

6. I began my search prior to receiving Dr. Kogan's September 9, 2013 formal PIA request.

7. In search of responsive documents, I searched the Department's "blackboard site" to find: (1) guideline documents related to the post tenure review process; and (2) all information relating to faculty meeting minutes, notes or agenda items. The "blackboard site" is located within my.umbc.edu. The area is password protected with access to all current faculty and staff of the Department of Mathematics and Statistics.

8. The Faculty Comprehensive Review Check List referred to in Dr. Kogan's July and August communication was drafted in or about 1998 before I became chair of the Department. I contacted the prior chairs of the Department, Dr. Rouben Rostamian and Dr. Jonathan Bell to determine if they had any documentation pertaining to the Checklist.

9. Because the Department's approval of the "Addendum to the Statement of Performance Expectations" had been facilitated by Dr. Rostamian and Dr. Bell, I also contacted them by email as well as in person seeking any information they may have about this process.

10. I did not receive any responsive documentation from either Dr. Rostamian or Dr. Bell or information as to the possible location of responsive information.

11. Dr. Rostamian and Dr. Bell are currently on the UMBC faculty.

12. I contacted Ms. Lynn Knazik, the administrative assistant for the Faculty Senate, and requested that she search for any documents related to the establishment of Post Tenure Review guidelines for our Department specifically.

13. In response to my request, Ms. Knazik sent me a copy of a memo (dated January

13, 1999) written by Dr. Marylyn Demorest, Vice Provost for Faculty Affairs, Dean Ricky Welch, and Faculty Senate President Sandy Parker regarding our department's "Policy on Comprehensive Review of Faculty." The memo was addressed to Dr. Rostamian, who was the chair of the Department in 1999. A copy of this memo was produced to Dr. Kogan.

14. Ms. Knazik also sent me a hand written note indicating that she searched in the Faculty Senate's library archives and found only the document identified in ¶ 10. Ms. Knazik spent approximately three weeks in her search for responsive documents. Ms. Knazik's undated handwritten Note is attached and incorporated as **Exhibit A**.

15. I tasked the Department's Assistant Director for Programs and Finance, Ms. Deneen Blair, to search all available documents related to Department faculty meetings for information related to the documents identified in Dr. Kogan's document requests. Ms. Blair conducted her search over the period of a month. She did not find any responsive documents.

16. I have also thoroughly searched all my archived emails, including my archived "Inbox", "Sent" and "Trash" sub-files, for the past six years to determine if I had any electronic documents responsive to Dr. Kogan's requests. I spent approximately twelve hours conducting this search.

17. In my September 11, 2013 and my October 9, 2013 responses to Dr. Kogan, I identified and provided to Dr. Kogan all responsive documents that I was able to discover in my search as described in ¶¶ 3-16.

18. My search was based on my knowledge of UMBC policies, procedures and personnel of UMBC and the Department and, based on that knowledge, all files and archives likely to contain materials responsive to Dr. Kogan's requests were searched.

I solemnly affirm under the penalties of perjury and upon such personal knowledge that the contents of the foregoing paper are true.

*Nagaraj K Neerchal*

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Nagaraj K. Neerchal

DATE: 4/3/2014\_\_\_\_\_