U.S. Equal Employment Opportunity Commission
Los Angeles District Office
Roybal Federal Building
255 East Temple Street, 4th Floor
Los Angeles, CA 90012

August 18, 2014/Revised October 29, 2014

Dear US EEOC:

This letter includes additional evidence to support case #480-2014-03014. The 2011 unresolved complaint for 1) *wrongful termination* of UC employment due to sexual orientation and domestic partnership/marriage to Kata Kitsommart, 2) discrimination against IPA (government) employees, and 3) *age discrimination* in the retirement formula identified in the Powerpoints (converted to pdf and enclosed) in the UC retirement formula. The Inspector General's office at NSF along with senior management of NSF was contacted about Complaint 2) as well.

Evidence includes the following components: Evidence 1) a two page description entitled "Unresolved Complaint Case, UC Riverside 2011" Evidence 2) a two page letter from the Privilege and Tenure (P&T) committee that on Page 2 indicates that reinstatement was planned based on the prima facie determination made in 2011 and Evidence 3) Powerpoint slides (in a pdf file) that identify an "age factor" as discrimination in the retirement formula.

To address Complaint 1) I point out that the UC system received a copy of a) domestic partnership stipulation with Kata Kitsommart native of Thailand and later b) retraction of domestic partnership and c) addition of a marriage certificate for Kata Kitsommart and myself. These documents were placed on file for benefits purposes at the UC Office of the President. The UC lawyers certainly examined a)-c). After filing benefit documents, after point a), certain acts occurred consistent with acts of illegal discrimination.

i. [Background] University administration had not taken into account, acted on, nor adopted recommendations in the P&T report by Dr. Zvi Ran on my first false resignation case in 2010,

ii. [Wrongful termination] University staff officials tendered my resignation (wrongful termination) despite i) a second time. This shows also an act of discrimination using a resignation that must be voluntarily tendered(and wasn't), it shows the resignation by staff for me was done by others capriciously during an employment dispute about teaching; it shows a denial of tenure by acceptance of paperwork which administration officials failed to properly authenticate and/or verify, it ties into a)-c) where sexual orientation/marriage association was discriminated against through administration actions,

iii. [Retaliation] UC lawyers sponsored a "protection order" against me. An analysis of the specious protection order is addressed in Evidence 3). The front section of the report was not by anyone I have ever met (UC lawyers), nor attributed with reference, nor referenced as to source matter; it reports in idle speculation about why ii) occurred on the first page summary.

The UC lawyers speculation was wrong. The four witnesses all wrote about different topics, yet a Judge was duped into signing the noncohesive unrelated ramblings into an "order" by UC lawyers,

iv. [Attempt to justify discrimination] I complained. P&T put together a document after Dr. Ran's P&T report that spoke about an unrelated issue: after tendering a resignation that it couldn't be retracted. Since I didn't tender a resignation this report had nothing to do with ii) because ii) was not voluntarily tendered by me and thus does not constitute a resignation,

v. I complained (again) and Evidence 2) was issued that indicated reinstatement to rank and privilege was prima facie and it suggested in process,

vi. [Attempt to justify retaliation] Because a Judge in a Superior Court signed the "protection order", first as a TRO which is unconstitutional as a Bill of Attainder (Article 1, Section 10, US Constitution), other Judges were willing to renew the order without careful attention. The Riverside Superior Court Judges continually renewed this retaliation (in effect aiding and abetting in the University discrimination) through civil law. They had no facts in the discrimination case and were duped by UC lawyers. In fact, Judge Mark Johnson had Evidence 1) and glossed over the wrongful termination reported. In a judicial stipulation, he implied because a Judge signed the capricious protection order since 2011 it was legal; he did not address that it was an unconstitutional Bill of Attainder. He did not know that the protection order was retaliation by the University because he did not have the UC Privilege and Tenure findings. Several other Riverside Superior Court Judges signed unconstitutional Bills of Attainder called a TRO (California law) where I was unrepresented before the court[1].

Complaint 1) is a wrongful termination. Complaint 1) denies on campus appeal because of a "protection order", and denies employment opportunities and emeritus rights to a faculty member of 19 years because of marriage to, or association with, an individual of a particular race, religion, national origin, Mr. Kata Kitsommart. We equally tie this to sexual orientation and his citizenship in Thailand. Equally important, is this is the second resignation dispute where UCR attempted to terminate my appointment; in this case coupled it with civil law due to their previous loss before an on-campus committee.

The prompt reinstatement to rank and privilege in Evidence 2) never happened. Why? It must be examined in the context of the illegal discrimination and retaliation vis a vis a "protection order". Historically, Complaint 1) is the second wrongful termination. Please see Evidence 1) and 3) which covers the previous case. The previous wrongful termination was an email from an airport lounge which the University administrators attempted to stipulate was my resignation. I disputed the first case through P&T which is a *faculty governed* impartial body that is part of the University administration; I won reinstatement after several months of delay. Dr. Ran's P&T report gave guidelines for dealing with resignations that the University did not adhere to but should have been adopted[2].

[1] This violates Article 1 Section 10 of the U.S. Constitution - State level Bills of Attainder

[2] or at a bare minimum discussed for adoption

Complaint 1) happened after the first wrongful termination/resignation was resolved. Complaint 1) was not resolved despite an ignored prima facie resolution in Dr. Lippit's memo from P&T (Evidence 2) in 2011. The events above give a timeline. Why did the Administration ignore the Academic Senate/faculty body committee's recommendation? Why did they use lawyers to construct a specious protection order? Why did the Judge not dismiss the case while I was in Thailand and my legal representative recused himself and the case was still not dismissed?

Complaint 2) involves Federal employees returning to the UC system that were also discriminated against (like me) with a request for "teaching evaluations" after serving on the East Coast. Usually, no teaching would be done on IPA assignment; requesting one to produce teaching evaluations after service is nonsensical. Complete reimbursement for time was provided to the UC system in a Federal grant[3]. Nonetheless, the lack of teaching evaluations was used to deny merits and promotions after government service for a three year period in my case (and presumably many others in IPA positions). This is discrimination regardless of whether the class is protected by law or not. The IPA law/program is of concern if this was allowed.

University officials argued additional time was necessary to be eligible for merits/promotions after Federal service; this demand required serving in University duties for three more years to obtain teaching evaluations used in merit and promotion cases. This means IPAs were penalized for merits and promotions after *and by* government service(see my vitae at www.brettfleisch.com/fleisch_vitae.pdf). Promotion within each rank of Assistant, Associate to (full) Professor is a six year period generally. I also protested an error in the NSF web page that could lead to misinterpretation of the page. The NSF web site concerning IPA employees seems to imply that IPAs are not federal employees. This is inconsistent with Federal Rules and would also be a concern about misinformation on a government website[4] . A government position cannot be filled without the appointee becoming a Federal employee "for the duration of the assignment". Notice also that I have over 36 months of Federal service *and would have reinstatement rights* that might have been denied in my *2014 employment application to NSF for Division Director of ACI*.

Complaint 3) shows age discrimination in the retirement formula vis a vis the use of an "age factor" to determine the percentage of retirement pay given to an annuitant. This form of discrimination effectively reduces years of service by multiplying by your age i.e. "age factor" to calculate a reduced percentage of a formula based on years of service to the University. The "age factor" applies to all retirees. It reduces the payments based on retirement at a younger age rather than giving full credit for years of service. In fact, two retirees with 19 years of service can retire at significantly different retirement payments: one at 47.5% and another at 28.6%. This shows ***prima facie age discrimination***. The UC system may argue that life expectancy

[3] Federally negotiated indirect rates are lowered for this grant type, yet the IPA was penalized for additional time using "teaching evaluations" as the excuse for needing additional time before merits/promotions.
[4] Federal employees are identified incorrectly as University employees during Federal service. Contact OPM for further information about Federal positions and Federal employees of the United States serving thru IPA appointments

governs these two different percentages. But consider two retirees with 19 years of service and the same life expectancy that are one year in age apart[5]. Both retire at different percentage rates. This shows the formula employs age discrimination between the two retirees regardless of life expectancy as well.

Finally, Evidence 3) also discusses the University's use of a "protection order" to deny emeritus rights; the "order" was used in retaliation after discrimination and used to continue/whitewash academic acts of discrimination and Federally prohibited acts of discrimination to date. I would point out that emeritus rights cannot be denied without a letter of concurrence from the P&T committee or University officials under its internal rules. Normally, any Academic Senate faculty member would be eligible for Emeritus rights once tenured. More egregious, using a "protection order" to deny tenure and emeritus rights is a significant concern of continued retaliation and discrimination associated with this overall complaint. The Powerpoints indicate the errors found in the "protection order" including a signature on a blank page and a discussion of the problems with the "protection order: used to retaliate from my whistleblowing.

If I can be of further assistance, please feel free to contact me.

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History:
I joined UCR Computer Science in 1992. There was no approved Ph.D. program that year but it was approved some years after. I was tenured in 1997. Most of the students were M.S. students initially but I worked also with Postdoctoral scholars on state-of-the-art research. There was a large influx of faculty during the years S.K. Tripathi was Dean with large startup packages to recruit students. These new faculty were a strong draw for new faculty and I wanted to see our new faculty successful. My first Ph.D. was being supervised while at NSF 2004-2007 but numerous PostDoctoral scholars, faculty/lecturers, and masters students worked with me at UCR completing publications and work we published on. A list of grants and awards is on my web site www.brettfleisch.com

[5] Assumes same pay at retirement