At the Supreme Court of the State of New York, held in and for the County of Schuyler, at the Courthouse, located at 105 Ninth Street, Unit 35, Watkins Glen, NY, on the 5th of June, 2017

PRESENT:

Hon. Dennis J. Morris, A.J.S.C.

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In the Matter of:

Mukund Vengalatorre,

Petitioner,

- against -

Cornell University, Gretchen Ritter,

Respondents.

In a Proceeding Pursuant to CPLR Article 78.

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Index No.: 16-119
RJI # 2016-62-M

ORDER TO SHOW CAUSE

WARNING:

YOUR FAILURE TO APPEAR IN COURT MAY RESULT IN YOUR IMMEDIATE ARREST AND IMPRISONMENT FOR CONTEMPT OF COURT

THE PURPOSE OF THIS HEARING IS TO PUNISH YOU FOR CONTEMPT OF COURT AND SUCH PUNISHMENT MAY CONSIST OF FINE OR IMPRISONMENT OR BOTH ACCORDING TO LAW.

Upon reading the annexed affirmation of Alan E. Sash dated May 30, 2017, the affidavit of Petitioner Mukund Vengalatorre sworn to on May 26, 2017, together with the exhibit annexed thereto and upon all the papers and proceedings heretofore had herein,

LET Respondents Cornell University and Gretchen Ritter (the "Respondents") or their counsel show cause before this Court, at the Courthouse located at 105 Ninth Street, Unit 35,

Watkins Glen, NY on the 23 day of June, 2017 at 9:00 a.m./p.m. or as soon thereafter as counsel can be heard, why an Order should not be entered:

(a) Punishing the Respondents for contempt of court for violating, ignoring and failing to abide by the Decision and Order of the Hon. Richard W. Rich, Jr. dated November 23, 2016;

(b) Directing that Respondents immediately comply with the Decision and Order of the Hon. Richard W. Rich, Jr. dated November 23, 2016;

(c) Directing that Respondents pay Petitioner his usual and customary salary for the period of June 1, 2017 through June 15, 2017; and

(d) such other and further relief that the Court deems just and proper.

SUFFICIENT CAUSE BEING ALLEGED THEREFOR, it is:

IT IS ORDERED that service of a copy of this Order and the papers upon which it is based, via overnight delivery and/or email upon the Respondents' counsel on or before the 12th day of June, 2017, shall be deemed good and sufficient service hereof;

IT IS FURTHER ORDERED, that answering papers are to be served upon the offices of McLaughlin & Stern, LLP, 260 Madison Avenue, New York, NY 10016, Attn. Alan E. Sash, Esq., via overnight delivery no later than seven (7) days prior to the return date of this motion; and reply papers, if any, are to be served upon Respondents' counsel via overnight delivery no later than two (2) days prior to the return date of this motion.

ENTER:

Hon. Dennis J. Morris, A.J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SCHUYLER

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In the Matter of:

Index No.: 16-119
RJI # 2016-62-M

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SASH AFFIRMATION IN SUPPORT OF MOTION

Alan E. Sash, an attorney duly admitted to practice law in the State of New York, affirms the following to be true under penalty of perjury:

1. I am a partner with the firm of McLaughlin & Stern, LLP, attorneys for the Petitioner in the above-captioned proceeding. I submit this affirmation in support of Petitioner's motion to hold the Respondents in contempt of court and direct that they immediately comply with the November 23rd Order of this Court and restore Petitioner's pay.

2. This motion is not frivolous under Rule 130 and no prior application for the relief requested herein has been made to this or any other court.

3. As set forth more fully in the accompanying affidavit of the Petitioner, Judge Rich gave each side "at least forty-five days" (to, at least, January 9, 2017) to work in good faith and comply with his order. *See,* November 23rd Order at 5 annexed hereto as Exhibit "A". However, to date, Respondents have failed to do so. Respondents have done little, if anything, to move

Petitioner's tenure review process forward. Although this case was stayed for 60 days, compliance with Judge Rich's order was not stayed. It has now been more than six months since Judge Rich issued his order and directed the Respondents to comply with it.

4. Judge Rich recognized that Petitioner's "tenure, livelihood, research and professional career [was] at stake." *Id.* Nevertheless, Cornell continues to act arbitrarily and capriciously and in violation of the November 23rd Order.

5. Cornell was supposed to:

i. Conduct an investigation and provide Petitioner with a hearing into the alleged complaints concerning his teaching style and the allegations by a student involving sexual assault and a romantic relationship but it failed to do so;

ii. Remove the student's letter from Petitioner's new tenure dossier but it has failed to do so or provide proof of same;

iii. Permit Petitioner to submit materials to the Provost but it has made no effort to facilitate this;

iv. Include the Strausser Report in Petitioner's new tenure dossier but it has failed to do so or provide proof of same;

v. Refer Petitioner's tenure application to an independent committee of experts from inside and outside Cornell but it has refused to do so; and

vi. Open the dossier to submit further submissions by the Petitioner including, *inter alia,* publications that he authored since the last tenure review and materials concerning his current teaching style and methods but it has failed to do so or facilitate same.

6. Although counsel for the parties have tried to amicably resolve these disputes, I respectfully submit that Respondents believe that they are above court orders and that they will do what they want, when they want to.

7. In addition to ignoring the November 23rd Order, they have now docked Petitioner's pay from June 1, 2017 through June 15, 2017 without first holding the very hearing that the Court directed on November 23rd.

8. Accordingly, I respectfully request that the Respondents be held in contempt and that they be directed to immediately comply with the November 23rd Order and restore Petitioner's pay.

Dated: New York, New York
May 30, 2017

Alan E. Sash

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SCHUYLER

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In the Matter of:

Index No.: 16-119
RJI # 2016-62-M

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PROFESSOR VENGALATTORE AFFIDAVIT IN SUPPORT OF MOTION

STATE OF NEW YORK)
) ss:
COUNTY OF TOMPKINS)

Mukund Vengalattore, being duly sworn, deposes and says:

1. I am the Petitioner in the above-captioned proceeding. I submit this affidavit in support of my motion to hold the Respondents in contempt of court for violating, ignoring and failing to abide by the Decision and Order of the Hon. Richard W. Rich, Jr. dated November 23, 2016 (hereinafter referred to as "November 23rd Order"). I am also respectfully requesting that the Respondents be directed to immediately comply with the November 23rd Order and pay me my salary for the period of June 1, 2017 through June 15, 2017 which they wrongfully withheld in violation of the November 23rd Order.

2. I am a professor of physics at Cornell. I commenced the within proceeding pursuant to Article 78 challenging Respondents' decision to deny me tenure. The basis of my petition was that, among other things, Respondents acted arbitrarily and capriciously in their

review of my tenure application. In particular, Respondents materially deviated from their established written procedures when they reviewed and ruled upon my application for tenure.

3. After hearing from all parties and reviewing a voluminous record, Judge Rich granted my petition. Judge Rich recognized that my "tenure, livelihood, research and professional career [was] at stake." *See,* November 23rd Order at 5 annexed hereto as Exhibit "A". Judge Rich held that "The court does not have an opinion concerning whether [I] should be granted tenure and frankly that determination is not the court's business. Review of the procedure employed is the court's business and the court finds that the procedure was flawed, secretive, unfair and violated [my] due process rights to such an extent as to be arbitrary and capricious." *Id.*

4. The November 23rd Order vacated the decision to deny me tenure and remanded the matter back to Cornell for a *de novo* tenure review with corrective measures. *Id.*

5. The Court noted that Respondents did not advise me of alleged complaints concerning my teaching style so that I could address them and take corrective action. *Id.* at 4. The Court further noted that I was also not timely advised of allegations by a student involving sexual assault and a romantic relationship. *Id.* To remedy this, the Court held that I "**was entitled to due process and a hearing on the matter, which would either clear [me] or lead to sanctions against [me].**" *Id.* (emphasis added). To date, Respondent has not provided me with a hearing on either issue. Instead, they continue to ignore the November 23rd Order and unilaterally docked my pay from June 1, 2017 through June 15, 2017 based upon the above allegations without ever holding the required hearing as directed. Accordingly, they are in willful violation of the November 23rd Order.

6. The Court also noted that Cornell's own Tenure Appeals Committee found that the student who made the aforementioned allegations against me had a conflict of interest and that "**her tenure review letter should not have been part of the tenure dossier.**" *Id.*

(emphasis added). The Court recognized that the "letter was a part of that dossier and it was apparent that it quite negatively influenced the tenure review." *Id.* "It should go without saying that [the student's] tenure review letter is not to be made a part of the new tenure dossier." *Id.* at 5. To date, despite the language in the November 23rd Order, Respondents will not remove that letter from the tenure dossier unless I agree to certain of their conditions. As Judge Rich stated, this is another example of: "we are Cornell and we are going to do what we want". *Id.* at 5.

7. The Court further held the tenure dossier that was sent to the Provost in violation of the rules. The Court found that the "University rules give [me] an opportunity to make submissions to the Provost, which right was circumvented." *Id.* at 4. In particular, the Court held that I **"was not given an opportunity to submit anything to the Provost**. Further, the more negative Gibbons report was included in the dossier which went to the Provost, while the more positive **Strausser report was not included.**" *Id.* at 5 (emphasis added). In addition, the "**reference of the matter by the Tenure Appeals Committee to the independent committee of experts from inside and outside the University** was ignored." *Id.* (emphasis added). Again, to date, the Respondents have not given me the opportunity to submit material to the Provost, failed to include the Strausser report, or refer the matter to an independent committee of experts from inside and outside Cornell. They should be compelled to do so in accordance with the November 23rd Order.

8. The November 23rd Order further mandated that the "**dossier is to be opened up for further appropriate submissions by [me] and the University, to include publications authored by [me] since the last tenure review and materials concerning his current teaching style and methods**". *Id.* at 5.

9. The November 23rd Order gave Respondents "at least forty-five days" [January 9, 2017] to add to my tenure dossier. *Id.* At which point, my tenure dossier would be complete and a presumptively fair *de novo* tenure review would ensue.

10. It has now been more than six months since the November 23rd Order was issued and the Respondents have failed to:

i. Conduct an investigation and hearing into the alleged complaints concerning my teaching style and the allegations by a student involving sexual assault and a romantic relationship;

ii. Remove the student's letter from my new tenure dossier;

iii. Permit me to submit materials to the Provost;

iv. Include the Strausser Report in my new tenure dossier;

v. Refer my tenure application to an independent committee of experts from inside and outside Cornell; and

vi. Open the dossier to submit further submissions by me including, *inter alia,* publications that I authored since the last tenure review and materials concerning my current teaching style and methods.

11. Although the Court stayed the within proceeding for approximately 60 days (from February 9, 2017 to April 7, 2017) due to my former counsel's motion to withdraw, the Respondents were not relieved from complying with the November 23rd Order. The stay was put into effect so that I could have time to find new counsel and to adjourn two motions that were previously filed with the Court (one by me, the other by the Respondents). Moreover, the stay was only put into effect 30 days *after* Respondents were supposed to comply with the November 23rd Order.

12. In the best case scenario, Respondents negligently violated, ignored and failed to abide by the November 23rd Order for four months (giving them credit for the 60 day stay). In the worst case, Respondents have willfully violated, ignored and failed to abide by the November 23rd Order for six months. Either way, Respondents' conduct is inexcusable and in violation of this Court's order without excuse or justification.

13. Judge Rich was prescient in connection with Cornell's conduct. In the November 23rd Order, he described Cornell's attitude as "It appears in effect as, we are Cornell and we are going to do what we want, which seems to the court as the essence of being arbitrary and capricious." *Id.* Cornell is now treating the November 23rd Order with the same disrespect and hubris.

14. Accordingly, I respectfully request that the Respondents be held in contempt of court for violating the November 23rd Order and be directed to immediately comply with it and restore my pay.

Mukund Vengalattore

Sworn to before me this
26th day of May, 2017

Notary Public

PATRICIA A. KERRY
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01KE6093256
Qualified in Tompkins County
Commission Expires June 2, 2019

RICHARD W. RICH, JR.
ACTING SUPREME COURT JUSTICE

CHEMUNG COUNTY COURT
COUNTY COURTHOUSE
224 LAKE STREET, P.O. BOX 588
ELMIRA, NEW YORK 14902
607-873-9430
FAX 212-952-7227

November 25, 2016

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Re: Mukund Vengalattore v. Cornell University; Gretchen Ritter
Schuyler County Index # 2016-119 / RJI # 2016-62-M

Dear Counselors:

Enclosed please find your copy of the Decision & Order from the Honorable Richard W. Rich Jr. dated November 23, 2016 in connection with the above entitled matter. **The original Order will be sent to** Samantha Pike, Chief Clerk for Schuyler Supreme and County Courts, who will file these papers with the Schuyler County Clerk's Office. If you desire a time-stamped filed copy for your records, or service on opposing counsel, please contact the Schuyler County Clerk's Office.

Very truly yours,

Joy Goodwin
Secretary to the Hon. Richard W. Rich Jr.

Enclosure
Original: Samantha Pike, Chief Clerk
Supreme & County Courts

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF SCHUYLER

MUKUND VENGALATTORE,

Petitioner,

- against -

DECISION & ORDER
Index No. 2016-0119
RJI No. 2016-0062-M

CORNELL UNIVERSITY,
GRETCHEN RITTER
In a Proceeding Pursuant to
CPLR Article 78,

Respondents

APPEARANCES:

Keith Fleischman, Esq.
For the Petitioner
With Ananda Chaudhuri, Esq.
Julia Sandler, Esq.
Raymond Schlather, Esq. (Local counsel)
565 Fifth Avenue, 7th Floor
New York, New York 10017

Thomas D'Antonio, Esq.
For Respondents
With Wendy Tarlow, Esq.
(University Counsel's Office)
1800 Bausch & Lomb Place
Rochester, New York 14604

BEFORE: HON. RICHARD W. RICH, JR.

RICH, J.

This matter is before the court on an Article 78 petition challenging the actions of Cornell University in denying tenure to one of its professors, Mukund Vengalattore.

Both counsel have submitted briefs on the petition and oral argument was heard by the court on September 2, 2016. Thereafter counsel submitted supplemental briefs on the issues.

Based upon the papers, the court makes the following Findings of Fact and Conclusions of Law.

Findings of Fact:

Professor Makund Vengalattore was hired in the summer of 2008 as an assistant professor of physics at Cornell University for an initial three-year term beginning on January 1, 2009. Said untenured term was subject to an extension of another three years.

Upon his first review, which was positive, the Professor, by unanimous vote of the tenured professors in the Physics Department, received a second three-year term as an untenured assistant professor, commencing on January 1, 2012 through January 1, 2015.

Pursuant to University policy, the Professor was subject to tenure review in his eleventh semester, to wit in the Spring semester of 2014. A three-member department committee was appointed to review and report on the tenure application. Professor Vengalattore was relieved of teaching responsibilities in the Fall 2013 semester so that he might boost his record of publication.

One of the students who worked in Professor Vengalattore's laboratory from 2009 to October 2012 was graduate student whom the court will refer to as LA. At the time she left the lab, LA made oral statements to Professor Gibbons concerning "angry interactions" with Professor Vengalattore. Professor Gibbons passed this information onto Department Chairman Parpia, who according to University policy should have made Professor Vengalattore aware, so that he might take corrective action. Professor Parpia did not advise Professor Vengalattore of the issue.

Further oral statements/complaints were made by LA to Professor Patterson in February 2014, which were not relayed to Professor Vengalattore.

LA submitted a tenure review letter on May 4, 2014 in which she alleged that she was denied appropriate authorship in certain scientific papers, that Professor Vengalattore had thrown

a five-pound power supply at her person in the lab and that Professor Vengalattore degraded and humiliated his students. The letter was made a part of the tenure dossier.

Upon learning of the letter, the Professor denied the allegations and demanded an investigation into the allegations. When he suggested that he would take the charges against LA to the college level, Vengalattore was advised not to bypass the department, which would conduct an investigation. The Department reported the issue to Dean Ritter and requested an investigation but no investigation was conducted as part of the initial tenure review.

Professor Gibbons was assigned to seek input from graduate students concerning Professor Vengalattore's mentoring abilities. What is referred to as "the Gibbon's Report," contains negative reports concerning Professor Vengalattore. A couple of students have complained that the comments ascribed top them do not reflect their opinions regarding the Professor and asked that the report be corrected.

In September 2014 the Physics Department voted to recommend Professor Vengalattore for tenure. Many times these votes express a lopsided consensus of the department. The vote for Professor Vengalattore was not unanimous. There were four total meetings (more than usual regarding a tenure review) and disagreement regarding which votes to count, as all of the tenured faculty could not make each meeting. The closest count appears to recommend tenure based upon a two vote majority.

Upon learning of the department's vote in favor of granting Professor Vengalattore tenure, LA then alleged that the Professor had sexually assaulted her in December 2010, that he had a long standing sexual relationship with her while she was his student.

The tenure recommendation was sent to Dean Ritter, who had both the letter and the further allegations of misconduct by LA.

An ad hoc committee of faculty members was appointed by Dean Ritter to review the tenure application. The committee recommended against the application citing the negative group dynamics in the lab.

On October 29, 2014, Dean Ritter issued a preliminary decision to deny tenure. The Physics Department requested that a consultant be brought in concerning the group dynamics and issue a report thereon. The extension was granted by the Dean of Faculty. A report termed "the Strausser Report," was submitted which was much more positive and indicated that the atmosphere in the lab had improved with the removal of a couple of students.

Dean Ritter did not change her opinion concerning the application and forwarded her preliminary denial of tenure and the tenure dossier containing the letter from LA and the Gibbon's Report to the Provost.

The Provost sent the matter to the Faculty Advisory Committee on Tenure Appointment (FACTA). FACTA voted against the tenure application, with two dissenters.

The matter was returned by the Provost to Dean Ritter, who in on February 13, 2015 denied Professor Vengalattore tenure. To that point, Professor Vengalattore had not been advised of the assault/ sexual relations allegations of LA.

Professor Vengalattore filed an appeal of the tenure denial on February 27, 2015. He was then advised of the romantic relationship/ assault allegations by LA, some five months after those allegations were made.

Pursuant to University policy, the Professor was entitled to notice of the misconduct allegations and to a hearing concerning the allegations.

Following the Professor's appeal, an investigation into the misconduct allegations was conducted by the Division of Workplace Policy and Labor Relations (WPLR). The instigation and report were extensive and were shared with the tenure appeal committee by Dean Ritter. The WPLR report found no evidence of a sexual assault against the student. Dean Ritter concluded that Professor Vengalattore did have a romantic relationship with the student and had lied to the WPLR concerning that relationship. Instead of relaying the matter to the Provost with sanction recommendations, Dean Ritter withheld imposition of sanctions pending the outcome of the tenure appeal. If upon review, the Provost had brought charges in order to impose sanctions, Professor Vengalattore would have been entitled to a hearing.

The Tenure Appeals Committee found that the process had been improperly tainted by the LA allegations, that LA had a conflict of interest in the matter and that her tenure review letter had tainted the process and should not have been included in the tenure dossier. The Tenure Appeals Committee granted Professor Vengalattore's appeal. The Committee recommended removal of the taint and that in order to balance that taint that more recent mentoring information and academic publications should be considered.

In response to the appeals committee findings, Dean Ritter sent the matter to another ad hoc committee, which upon review, unanimously recommended tenure for Professor Vengalattore.

On February 16, 2016, Dean Ritter again denied Professor Vengalattore's tenure application. In her letter she referenced the Professor's romantic relationship with LA, the authorship dispute with LA and Vengalattore's unwillingness to accept responsibility for his actions.

The matter then went back to the Tenure Appeals Committee to determine whether the Dean's actions had sufficiently addressed their concerns expressed in the initial appeal. The Appeals Committee was asked to review the procedure and not the substantive determination. They found that there were still significant deficiencies and that a new independent panel of expert scholars from both inside and outside the University should be empaneled to review the tenure application and provide a report concerning the application and supplemental information directly to the Provost.

In consultation with the Dean of Faculty, Dean Ritter decided instead to submit a redacted copy of the tenure dossier directly to the Provost to make the final tenure decision. It is

apparent that there was some conflict on how to remove the taint perceived by the Tenure Appeals Committee. Professor Vengalattore was not consulted regarding this procedure, was not given an opportunity to submit further comments regarding the dossier and further/ more recent scholarly publications were not solicited. University rules give the Professor an opportunity to make submissions to the Provost, which right was circumvented.

Included in the redacted dossier were the Gibbons report and a reference to LA's publication allegation, but not the Strausser report. The Provost had previously been copied on emails concerning the assault/ romantic relationship issue with LA.

The Provost ultimately denied tenure to Professor Vengalattore and he filed the instant Article 78 action.

Conclusions of Law:

This matter is properly before the court.

The court has jurisdiction to review the actions of Cornell University to determine whether it acted arbitrarily and capriciously, whether it followed University rules in making its determination and whether any sanction imposed was shocking to one's sense of fairness. Matter of Powers v. St. John's University School of Law, 25 NY3d 210 (2015)(school action regarding student); Sackman v. Alfred University, 186 Misc.2d 187 (S. Ct. Allegany Co., 2000)(review of tenure denial). The court has no authority to substitute its discretion for that of the University regarding the ultimate decision. Id.

In the instant matter, Cornell University did not follow its own procedures and acted capriciously toward Professor Vengalattore in that it failed to advise him first of complaints concerning his teaching style so that he could have addressed the same and taken corrective action regarding his teaching style and methods. Further, when allegations of misconduct were made by a student against him involving sexual assault and an alleged romantic relationship with one of his students, these allegations were in effect used against the Professor and he was not advised of the same until he filed his appeal of the tenure denial. The Professor was entitled to due process and a hearing on the matter, which would establish the facts and either clear him or lead to sanctions against him. The University speaks of a level playing field but keeping the allegations secret from Professor Vengalattore while having those allegations sour his tenure review creates anything but a level playing field and was arbitrary and capricious.

Cornell's own Tenure Appeals Committee found that the student had a conflict of interest and that her tenure review letter should not have been a part of the tenure dossier. The letter was a part of that dossier and it is apparent that it quite negatively influenced the tenure review. If the allegations were provided to the Professor, he was given due process and there was a finding of misconduct after a proper investigation and hearing, the then founded misconduct could have been used against him in the tenure review. Instead the procedure was secretive. Petitioner faults the administration and painted the Dean as playing the part of "Darth Ritter." The court does not find that to be completely true. The Dean was undoubtedly attempting to protect the University and its students. When faced with a situation where strict application of the rules was

impossible because review of the matter under the rules was on the whole record, which would have perpetuated the taint, she and the Dean of Faculty made a decision on how to proceed. Due process is fair process, and fair process is fair play. Since there was a necessary deviation, and something new was being implemented, fair play would have called for Professor Vengalatorre to be consulted. It was his tenure, livelihood, research and professional career at stake. The University did not have to proceed as he wished, but good faith would have been shown by at least obtaining his input. The court does not fault the Dean's motives, but does fault the secretive and non-inclusive nature of the procedure. It appears in effect as, we are Cornell and we are going to do what we want, which seems to the court as the essence of being arbitrary and capricious.

Once a new procedure was determined and the redacted dossier was sent to the Provost, there was a further deviation from the rules in that the Professor was not given an opportunity to submit anything to the Provost. Further, the more negative Gibbons report was included in the dossier which went to the Provost, while the more positive Strausser report was not included.

The reference of the matter by the Tenure Appeals Committee to the independent committee of experts from inside and outside of the University was ignored.

The recommendation that the dossier be reopened and that new materials by way of any newer reviews of teaching abilities/ mentoring and recently published materials, all in an attempt by the Tenure Appeals Committee to alleviate the taint they saw in the procedure, was also ignored.

The court does not have an opinion concerning whether Professor Vengalatorre should be granted tenure and frankly that determination is not the court's business. Review of the procedure employed is the court's business and the court finds that the procedure was flawed, secretive, unfair and violated Professor Vengalatorre's due process rights to such an extent as to be arbitrary and capricious.

The tenure determination of the University is vacated and the court remands the matter to the University for a de novo tenure review. It should go without saying that LA's tenure review letter is not to be made a part of the new tenure dossier. The dossier is to be opened up for further appropriate submissions by the Professor and the University, to include publications authored by the Professor since the last tenure review and materials concerning his current teaching style and methods (as recommended by the Tenure Appeals Committee). The period to add to the dossier shall be at least forty-five days from the date of this order. The court declines Petitioner's invitation to appoint an outside person to oversee the tenure process. Both parties have competent counsel. The court has faith that there can be an open and fair process wherein the rules are followed and the parties consult if there is a needed deviation from the rules. In any such matter, it is first a determination for the University to make, but knowing that the matter may be returned on a new petition and remembering the court's admonition that due process is fair process and fair process is fair play.

This constitutes the decision, opinion and order of the court.

The previous tenure determination on Professor Mukund Vengalatorre is vacated and the matter is returned to Cornell University for a de novo tenure review in accord with this order.

Dated: November 23, 2016

RICHARD W. RICH, JR.
Acting Supreme Court Justice

Index No.: 16-119
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SCHUYLER

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ORDER TO SHOW CAUSE

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