

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No: 1:23-cv-00957-CCE-LPA**

**BRAHMAJOTHI VASUDEVAN
MULUGU,**

Plaintiff,

v.

DUKE UNIVERSITY, et al.

Defendants.

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

Defendants Duke University (“Duke”), Donald McDonnell (“McDonnell”), Mary Klotman (“Klotman”), and Sharon Dowell-Newton (“Dowell-Newton”) (together, “Defendants”) submit this memorandum in support of their Motion for Summary Judgment.

STATEMENT OF NATURE OF THE MATTER

Brahmajothi Vasudevan Mulugu (“Plaintiff”) is a former research scientist at Duke. She claims to be the victim of a calculated conspiracy involving dozens of Duke employees to frame her for scientific misconduct and destroy her career. The motivation for this plot, she believes, is discrimination or retaliation. Plaintiff’s theories have not withstood the scrutiny of discovery. Instead, the evidence shows that Duke officials appropriately investigated serious concerns about Plaintiff’s research practices. Consequently, Plaintiff

cannot show that there is a genuine issue of material fact and Defendants are entitled to summary judgment on all claims.

STATEMENT OF FACTS

A. Plaintiff's Employment at Duke

Plaintiff worked at Duke as a Research Scientist for more than 25 years, but it was not smooth sailing. In 2006, she claimed she resigned her position because her supervisor spoke Chinese to others and would get angry with her. Mulugu Dep. 40:4-41:18.¹ From 2006 to 2014 she worked for Dr. Auten at Duke. While there, she asked to become faculty member but was unsuccessful. Mulugu Dep. 44:7-45:9. In 2014, Dr. Auten's grant and Plaintiff's position both ended. Mulugu Dep. 46:23-47:1. Plaintiff next worked in the Duke Eye Center but within two years was asked to resign because she had taken lab data home on a flash drive and was blamed for leaving a freezer door open. Mulugu Dep. 60:1-61:14. Plaintiff also thinks her supervisors may have been unhappy because she asked for a faculty position. Mulugu Dep. 63:6-64:8.

In July 2016, Plaintiff was hired to work with Dr. Mohamed Abou-Donia ("Abou-Donia") in Duke's Department of Pharmacology and Cancer Biology ("PCB"). Ex. B. Plaintiff's position was fully grant funded, meaning that without a grant, the position would be eliminated. Mulugu Dep. 72:20-74:3. McDonnell then served as Chair of PCB and approved Plaintiff's hiring. Mulugu Dep. 69:14-16.

After starting, Plaintiff was immediately dissatisfied with lab resources. Mulugu

¹ Excerpts attached as Exhibit A.

Dep. 276:5-11. Nevertheless, she began submitting grant proposals and in May 2018 an application to the Department of Defense (“DoD”) was awarded. Mulugu Dep. 81:20-82:3. Typically at Duke, only faculty are permitted to serve as Principal Investigator (“PI”) of a grant, but McDonnell approved for Plaintiff to serve as PI. Mulugu Dep. 92:19-93:1. Despite this, Plaintiff believes obtaining this grant was the underlying cause of the “unequal treatment, discrimination, harassment, and retaliation” she allegedly experienced. Doc. No. 5, p. 6.

Plaintiff started secretly recording dozens of workplace conversations. Mulugu Dep. 16:13:23; 35:9-17. Plaintiff initially claimed most of these recordings were “accidental” before admitting she purposefully recorded conversations because she was receiving “intrusive” questions from administrators about her grant. Mulugu Dep. 25:16-20; 35:13-36:4.

B. Plaintiff Again Seeks a Faculty Appointment in 2018

After DoD award, per standard process, Plaintiff sought approval for her study from Duke’s Institutional Review Board (“IRB”). Plaintiff claims IRB told her that to allow her to serve as PI for an IRB protocol she would be appointed faculty because “everyone who gets a grant are given a faculty position[.]” Mulugu Dep. 91:17-92:6. In fact, Duke policy did not require that everyone who obtained a grant immediately became faculty. McDonnell Dep. 75:19-76:5.² Instead, non-faculty Research Scientists, like Plaintiff, could serve as PI on a grant and IRB protocol if approved by their Chair, which McDonnell

² Excerpts attached as Exhibit C.

did for Plaintiff. Mulugu Dep. 94:5-23.

However, based on her misunderstanding, on May 29, 2018, Plaintiff asked McDonnell for a faculty position. Mulugu Dep. 101:16-19. McDonnell told her that Klotman (Dean of the School of Medicine) would need to decide the issue and encouraged Plaintiff to reach out to Klotman. Mulugu Dep. 99:22-99:3; 101:20-102:2.

On May 13, 2019, Plaintiff emailed Klotman asking for a faculty appointment. Ex. D; Mulugu Dep. 103:15-104:7. Plaintiff believes this email angered McDonnell so much that he undertook a scheme to get her fired. Mulugu Dep. 109:3-23; 111:15-114:3; 115:11-14. Plaintiff did not personally hear McDonnell describe his plot but instead relied on statements by her supervisor Abou-Donia. Mulugu Dep. 112:16-113:20; 113:21-114:5. McDonnell vehemently denies trying to get Plaintiff fired. McDonnell Dep. 38:23-39:5.

Plaintiff met with McDonnell again in late July 2019. Mulugu Dep. 115:23-116:6. McDonnell flatly told her that she would not be appointed as faculty. Mulugu Dep. 118:15-21.

C. Research Misconduct Concerns Surface in 2019

During late summer 2019, Plaintiff's working relationship with Abou-Donia soured. On August 3, 2019, Abou-Donia emailed Plaintiff excoriating her for not delivering data, being distracted by working on a master's, and submitting manuscripts without his knowledge. Ex. E DUKE_00004660-2.

On August 19, 2019, Plaintiff spoke at a conference. Doc. No. 5, p. 16; Mulugu Dep. 132:17-133:5. When she returned on August 23, 2019, she found a trash bag on her

chair, which she did not open. Mulugu Dep. 133:2-21. Plaintiff claims files subsequently went missing from her desk including the source data³ from her 2018 grant application and three papers later published in *Military Medicine*. Mulugu Dep. 136:7-16. Plaintiff believes McDonnell sabotaged her. Mulugu Dep. 136:17-24; 137:9-18.

On September 13, 2019, Abou-Donia met McDonnell to raise concerns about Plaintiff's performance. Ex. F. Abou-Donia claimed Plaintiff had failed to share primary data and was not maintaining data on a Duke server. *Id.* McDonnell warned Abou-Donia this could be a serious violation of Duke's data provenance⁴ policy. *Id.*

On September 14, 2019, Abou-Donia emailed Plaintiff, copying McDonnell, and asked her "to bring [him] all of the data that [she had] generated in [her] position as a Research Scientist," and claimed she had never shared source data with him. Ex. G. McDonnell responded, "[t]hese issues need to be resolved immediately." *Id.* McDonnell also noted Plaintiff claimed to have "written several grant applications, papers and abstracts" and asked her to share "the primary data and processed data associated with all of the figures/tables etc. from these documents." *Id.*

On September 17, 2019, McDonnell expressed his concern regarding issues about data storage/provenance." Ex. H. McDonnell recommended they take immediate action "[t]o avoid [him] escalating this dispute to the relevant oversight office(s) at Duke[.]" *Id.* Specifically, Plaintiff needed to confirm that "Dr. Abou Donia ha[d] access to all data that

³ Source data is the original, unprocessed information collected during an experiment. Ex. II, ¶ 7.

⁴ Data provenance is the concept of accurately recording the origin of data. Ex. II, ¶ 8.

[Plaintiff] generated while employed as a Research Scientist in PCB. This include[d] all raw and processed data corresponding to each published experiment (papers, abstracts and presentations) and used as supporting data in grant applications.” *Id.* McDonnell requested compliance by September 19. *Id.*

On September 19, 2019, Plaintiff responded and claimed that she had shared “all the data” with Abou-Donia “by email periodically,” that data was located in a binder, and that she was working on saving data to the Duke server. *Id.* Plaintiff did not claim that any data had been lost or stolen.

In November 2019, Plaintiff emailed McDonnell she “wish[ed she] had realized sooner how critical the data management issues are” and admitted that she “learned that proper data management is required by all government funding agencies, not just by Duke[.]” Ex. I. She also said McDonnell’s “questions and concerns [were] well understood and valued” and “[t]here was a serious problem that was overlooked.” *Id.*

Nonetheless, Plaintiff still did not provide source data. As a result, in February 2020, McDonnell sought support from PCB’s research compliance officer, Dr. Fox. McDonnell Dep. 61:12-22. Shortly thereafter, Abou-Donia and collaborators at other institutions raised concerns that Plaintiff published three related articles in *Military Medicine* without their knowledge. Ex. J.

On February 26, 2020, Fox reported “major concerns about the overall data storage and data sharing practices in the Abou Donia lab.” Ex. K. McDonnell immediately sought

support from the Duke Office of Scientific Integrity (“DOSI”)⁵ by emailing Dr. Geeta Swamy (“Swamy”). Ex. L. Swamy referred McDonnell connect with Misconduct Review Officer (“MRO”) Donna Kessler due to “potential research misconduct issues as well as data integrity issues.” *Id.*

Under Duke policy, research misconduct proceedings occur in three phases. Ex. M. First, the MRO conducts an Assessment to determine whether allegations meet the definition of research misconduct and are credible. *Id.* If so, the matter proceeds to the Standing Committee on Misconduct in Research (“SCMR”). *Id.* SCMR then conducts an Inquiry to determine whether an investigation of the allegations is warranted. *Id.* If SCMR determines an investigation is warranted, they will send a report to the Deciding Official. Finally, the Deciding Official will appoint a committee to conduct an Investigation to “determine whether misconduct did or did not occur.” *Id.*

D. Plaintiff Experiences Sexual Harassment in October 2019 but Does Not Report It Until Late February 2020

Plaintiff claims Abou-Donia sexually harassed her from October 2019 until March 12, 2020. Doc. No. 5, p. 19; Mulugu Dep. 166:11-21. Plaintiff first reported the harassment to Dowell-Newton on February 28, 2020. Ex. N.⁶ Dowell-Newton was not

⁵ DOSI is the office responsible for investigating potential scientific misconduct. Ex. II, ¶ 5.

⁶ Plaintiff testified she did not report Abou-Donia’s behavior earlier because she was afraid of retaliation. Mulugu Dep. 175:11-19; 181:12-23. However, when asked if she reported the harassment because she “wanted Abou-Donia’s behavior to stop?” Plaintiff surprisingly responded “No” and clarified she actually wanted administrators to stop looking into compliance issues. Mulugu Dep. 197:2-16. Additionally, in her initial discussions with OIE, Plaintiff alleged only that McDonnell was retaliating against her because of her “effort to get [her] title changed to a non-tenure research faculty position.” Ex. O. Finally, Plaintiff requested immediate appointment as faculty as a remedial measure. Ex. P.

aware of any alleged sexual harassment before this meeting. Ex. JJ, ¶ 4. McDonnell first learned about Plaintiff's allegations on March 1, 2020, from Dowell-Newton. McDonnell Dep. 77:10-78:16.

These allegations were referred to Duke's Office of Institutional Equity ("OIE") which is responsible for investigating allegations of discrimination and harassment. Hewitt Dep. 6:16-24.⁷ OIE issued an order prohibiting Abou-Donia from contacting Plaintiff and opened an investigation. Mulugu Dep. 200:6-8. In November 2020, OIE issued a report substantiating Plaintiff's allegations of sexual harassment. Mulugu Dep. 200:14-17. Subsequently, the new Interim Chair of PCB, Colin Duckett, informed Plaintiff that Abou-Donia had been relieved of his duties. Mulugu Dep. 200:18-21.

E. The Research Misconduct Investigation Reveals a Lack of Source Data

Research misconduct proceedings regarding Plaintiff's research began February 27, 2020. On March 9, 2020, Kessler asked for Plaintiff's data and Plaintiff stated she had data saved on her laptop. Mulugu Dep. 206:9-10. Kessler collected the laptop and took it to McDonnell. Mulugu Dep. 209:7-15. McDonnell did not access the computer. McDonnell Dep. 41:14-18. When Plaintiff later claimed it was a personal laptop, McDonnell returned it. Mulugu Dep. 214:25-215:2.⁸ Plaintiff claims this computer stopped working and believes McDonnell sabotaged it. Mulugu Dep. 217:22-218:12.

⁷ Excerpts attached as Exhibit HH.

⁸ Plaintiff claims McDonnell told her he had executive authority and threatened to destroy her in a recorded conversation. Mulugu Dep. 210:10-22. These statements *are not* included on the recordings.

On July 13, 2020, Kessler issued her Assessment finding the “data management practices of Drs. Mulugu and Abou Donia” failed to meet Duke’s expectations and did not support the research and document its reliability. Ex. Q. “The absence of source data/information prevented a definitive assessment of the misconduct allegation. At [that] time, because of the inadequacy of the available research record, there [were] insufficient grounds to warrant an inquiry.” *Id.* However, Kessler recommended that DOSI conduct a follow up evaluation. *Id.* The Assessment also stated, “[t]he three publications in question may need correction or retraction based on both the authorship and data documentation concerns raised.” *Id.* Klotman agreed with the Assessment and instructed the Chair to undertake corrective actions. Ex. R.

On July 23, 2020, McDonnell and Duckett (incoming interim PCB Chair) emailed Plaintiff and gave her until July 31 to provide source data, sample information, and evidence that Abou-Donia approved each of the three *Military Medicine* papers. Ex. S. Plaintiff did not fulfill these requests. Ex. T. Duckett also personally met with Plaintiff and developed significant concerns about her research practices. Duckett Dep. 81: 18-82:6.⁹

On January 20, 2021, Swamy informed Plaintiff that based on insufficiency of data, Duke had determined that the Plaintiff’s publications should be voluntarily retracted and the grant relinquished. Ex. V. On February 26, 2021, Kessler issued a follow-up Assessment. Ex. W. She noted that Plaintiff had provided the supposed data underlying

⁹ Excerpts attached as Exhibit U.

her publications and grant, but it was still of unclear origin and provenance. *Id.* Kessler concluded that there was “sufficient evidence of possible falsification or fabrication of data to warrant an Inquiry.” *Id.* Klotman agreed and the matter proceeded to an Inquiry. Ex. X.

Between March and June 2021, SCMR requested documentation from Plaintiff and conducted multiple interviews. On July 1, 2021, SCMR issued its report finding there was “sufficient evidence of possible falsification or fabrication of data to warrant an Investigation” by virtue of “[t]he absence of and/or failure to provide adequate documentation . . . to support the research described in the three 2020 publications, the 2018 DoD grant, and the 2021 draft manuscript[.]” Ex. Y.¹⁰ SCMR recommended retraction of the publications, termination of the grant and return of the funds, and suspension of Plaintiff’s research-related activities. *Id.* Klotman accepted these recommendations. Ex. Z. Swamy thereafter relinquished the grant and Duckett issued Plaintiff a notice of termination effective November 30, 2021, because she no longer had funding. Ex. AA.

Klotman then appointed an ad hoc committee of three Duke Ph.D.s to conduct the investigation phase in September 2021. After a year of detailed investigation, on September 30, 2022, the committee issued its Final Investigation Report concluding that Plaintiff could not provide evidence of the source of key data underlying her DoD Grant

¹⁰ Names of committee members have been redacted to preserve confidentiality.

Application and three publications and validating the early remedial actions. Ex. BB.¹¹

Klotman accepted these findings. Ex. CC.

QUESTIONS PRESENTED

Is there a genuine issue of material fact regarding the following:

- whether Plaintiff can make a prima facie case of discrimination or retaliation under Title VII, the ADEA, and/or Section 1981?
- whether Plaintiff can bear her burden of demonstrating that Duke's nondiscriminatory and nonretaliatory reason for ending her employment was pretext for discrimination or retaliation?
- whether Plaintiff asserts timely claims under Title VII, the ADEA, and Section 1981?
- whether Plaintiff can prove the elements of a claim for breach of the implied duty of good faith and fair dealing?

LEGAL STANDARD

Summary judgment is appropriate when “the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c)(2). If the moving party demonstrates it is entitled to summary judgment, the burden then shifts to the nonmoving party to show that there are genuine issues of material fact. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586–88 (1986).

The party opposing summary judgment may not rest upon mere allegations, but must come forward with specific facts showing that there is a genuine issue for trial. *Emmett v. Johnson*, 532 F.3d 291, 297 (4th Cir. 2008) (internal citations and quotation

¹¹ Names of committee members have been redacted to preserve confidentiality.

marks omitted). “Mere unsupported speculation is not sufficient to defeat a summary judgment motion if the undisputed evidence indicates that the other party should win as a matter of law.” *Francis v. Booz, Allen & Hamilton, Inc.*, 452 F.3d 299, 308 (4th Cir. 2006). “A pro se plaintiff must comply with Rule 56 of the Federal Rules of Civil Procedure and come forward with sufficient evidence upon which a reasonable jury could return a verdict in his or her favor.” *Blake v. Wells Fargo Bank, N.A.*, No. 1:18CV790, 2020 WL 406358, at *8 (M.D.N.C. Jan. 24, 2020) (quoting *Reid v. Charlotte-Mecklenburg Bd. of Educ.*, No. 3:14CV00066, 2016 WL 6080545, at *4).

ARGUMENT

A. Plaintiff’s Claim for Retaliation in Violation of Title VII Relating to the Research Misconduct Investigation Cannot Survive Summary Judgment

Plaintiff asserts a Title VII claim alleging that in retaliation for reporting sexual harassment to Dowell-Newton, Duke conducted a research misconduct investigation, which resulted in retraction of her papers, termination of her grant, and the end of her employment. Doc. No. 5 pp. 46-47. To establish a prima facie case of retaliation, Plaintiff must show: (1) she engaged in a protected activity; (2) that the employer took a materially adverse action against her; and (3) there is a causal connection between the protected activity and the adverse employment action. *Perkins v. Int’l Paper Co.*, 936 F.3d 196, 213 (4th Cir. 2019). If Plaintiff establishes a prima facie case, the burden shifts to Duke to articulate non-retaliatory reasons for its actions. *Laber v. Harvey*, 438 F.3d 404, 432 (4th Cir. 2006).

Plaintiff must establish that her protected activity was the but-for cause of the alleged adverse action. *Univ. of Tex. Sw. Med. Ctr. v. Nassar*, 570 U.S. 338, 362 (2013). More specifically, Plaintiff must prove that the unlawful retaliation would not have occurred in the absence of the alleged wrongful action of the employer. *Id.* at 360. She “must establish causation at two different stages of the *McDonnell Douglas* framework: first, in making a prima facie case, and second, in proving pretext and satisfying her ultimate burden of persuasion.” *Foster v. University of Maryland-Eastern Shore*, 787 F.3d 243, 250 (4th Cir. 2015). To carry her burden at the pretext stage, Plaintiff must establish **both** that Duke’s reason was false and that retaliation was the real reason for the challenged conduct. *Foster*, 787 F.3d at 251. Plaintiff cannot carry her burden at either stage.

- i. Plaintiff cannot prove causation because Duke began investigating her research practices before her protected activity

Plaintiff cannot show that her protected activity (reporting harassment to Dowell-Newton on February 28, 2020) was the but-for cause of the research misconduct investigation and its consequences because Duke began investigating concerns about Plaintiff’s research practices **before** the protected activity. The Fourth Circuit affirmed summary judgment for an employer in similar circumstances where adverse action began before the protected activity. *Francis*, 452 F.3d at 309. There, the plaintiff was reprimanded for unprofessional conduct several times in 2002, and in August 2003 submitted a complaint that she believed her USERRA rights were being violated. *Id.* at 301. Six weeks later, the plaintiff was placed on probation due to conduct from before and after her internal complaint and was terminated two weeks after that. *Id.* at 302. The

Fourth Circuit affirmed summary judgment and reasoned that “[t]he actions that led to [the plaintiff’s] probation and termination began *before* her protected activity, belying the conclusion that a reasonable factfinder might find that [the employer’s] activity was motivated by [her] USERRA complaints.” *Id.*

The court also stated that “[w]here timing is the only basis for a claim of retaliation, and gradual adverse job actions began well before the plaintiff had ever engaged in any protected activity, an inference of retaliation does not arise.” *Id.* (quoting *Slattery v. Swiss Reinsurance Am. Corp.*, 248 F.3d 87, 95 (2d Cir. 2001)); *see also Perkins*, 936 F.3d at 214 (granting employer summary judgment where protected activity occurred after alleged adverse action).

McDonnell first identified concerns with Plaintiff’s research practices in September 2019, a month before Plaintiff experienced any harassment. Ex. F. In November 2019, Plaintiff acknowledged her “questions and concerns [were] well understood and valued[.]” Ex. I. On February 26, 2020, at 9:21pm, McDonnell received Fox’s report of “major concerns about the overall data storage and data sharing practices in the Abou Donia lab” and immediately sought support from Swamy on February 27, 2020. Exs. K, L. Kessler was assigned to the review that same day. Ex. DD.

Plaintiff did not report alleged harassment to Dowell-Newton until February 28, 2020. Ex. N. Importantly, McDonnell first learned about Plaintiff’s allegations of harassment on March 1, 2020. McDonnell Dep. 77:10-78:16. From this point forward, the research misconduct proceeded in good faith according to Duke policy.

The initial Assessment found that an inquiry was not warranted “because of the inadequacy of the available research record[.]” Ex. Q. Specifically, it concluded that “[t]he available information and documentation appears insufficient to support the research in question and document its reliability.” *Id.* In other words, an inquiry could not be conducted simply because Plaintiff could not produce any source data to support her grant or papers. In fact, the Assessment specifically recommended further evaluation of Plaintiff’s research practices and potential retraction of the papers. *Id.*

Kessler and Duckett attempted to implement this corrective action for more than six months, but Plaintiff could still not produce the source data. The information provided by Plaintiff as part of that corrective action established “sufficient evidence of possible falsification or fabrication of data to warrant an Inquiry.” Ex. W. Kessler issued an Assessment on February 26, 2021, Klotman agreed and the matter proceeded to an Inquiry. Ex. X.

In the Inquiry report, the SCMR recommended additional corrective action. Ex. Y. Klotman approved and Plaintiff’s papers were retracted, the grant relinquished, and notice of termination was issued to Plaintiff. Exs. Z, AA. The Final Investigation Report substantiated findings of research misconduct. Ex. BB.

ii. Duke had legitimate nonretaliatory concerns about Plaintiff’s research practices

Duke has identified legitimate nonretaliatory reasons for its actions that Plaintiff cannot show were pretextual. Specifically, Duke had serious concerns about Plaintiff’s research practices. In similar circumstances, the Second Circuit held that a research

misconduct investigation was a legitimate reason to take employment action. *See Chao v. Mount Sinai Hosp.*, 476 Fed. Appx. 892, 896 (2d Cir. 2012) (affirming summary judgment on discrimination claims because plaintiff could not show that “rigorously-investigated charge and finding that [plaintiff] committed research misconduct and violated professional or ethical standards” was pretext).

Duke followed each step of the Research Misconduct Policy while investigating Plaintiff’s conduct. Ex. M. Ultimately, Kessler, three different members of the SCMR, and Klotman concluded that Plaintiff’s actions warranted further review, and a separate committee of three different members and Klotman concluded that Plaintiff’s actions constituted research misconduct. As a result, SCMR recommended that her papers be retracted and grant relinquished. Ex. Y. Klotman agreed. Ex. Z.

Following the committee’s recommendation, Duke relinquished the grant. Ex. AA. Plaintiff’s position was fully funded by this grant and, thus, pursuant to Duke policy she was given 60 days’ notice of the end of her position. *Id.*

Against the weight of these findings, Plaintiff tries to show pretext by alleging an elaborate conspiracy. Courts across the country “have found plaintiff’s mere claim that a conspiracy is at play is insufficient to rebut a proffered legitimate nondiscriminatory reason for the adverse employment action.” *Boone v. MountainMade Foundation*, 64 F. Supp. 3d 216, 246 (D.D.C. 2014) (collecting cases). Similarly, “unsubstantiated speculations” that a decisionmaker lied about the termination reason is also insufficient to meet a plaintiff’s burden of showing pretext. *Gibson v. Marjack Co., Inc.*, 718 F. Supp. 2d. 649, 657 (D.

Md. 2010). Finally, in similar circumstances, the Eleventh Circuit recently held that a plaintiff could not avoid summary judgment by claiming that the outcome of an investigation was “predetermined” or manipulated by a decisionmaker. *Joseph v. Bd. of Regents of the Univ. Sys. of Georgia*, 121 F.4th 855, 873 (11th Cir. 2024). The court reasoned that “independent decisionmakers agreed that the investigation was necessary” and that the plaintiff was quarreling with the wisdom of the decision rather than the honesty of the employer’s beliefs. *Id.*

Here, Plaintiff believes that more than a dozen scientists and staff at Duke conspired to “frame” her for scientific misconduct and destroy her career. Mulugu Dep. 306:18-307:9. Plaintiff believes that McDonnell was the “ringleader” of the conspiracy. Mulugu Dep. 137:9-15; 178:13-22. She believes numerous Duke leaders, including Kessler, Swamy, Duckett, and Klotman (McDonnell’s supervisor) were doing McDonnell’s bidding. Mulugu Dep. 229:24-230:8. Finally, she alleges the conspiracy extends to all of the committee members who had predetermined to find against her. Mulugu Dep. 255:13-24.

What evidence has Plaintiff produced to support this shocking subterfuge? None. She has “no clue” who took her missing data. Mulugu Dep. 138:17-19. She has not rebutted McDonnell’s vehement denial of responsibility for her alleged loss of files. Plaintiff’s claim of a scheme to destroy her data is also specifically contradicted by her own contemporaneous communications. On September 19, 2019, she emailed McDonnell stating all data had been shared with Abou-Donia by email and was accessible in a binder.

Ex. H. Plaintiff did not mention having lost all of her data the prior month.

Plaintiff's conspiracy theory also fails to comport with basic logic. As a result of the investigation, Duke was forced to retract three papers and relinquish a grant worth more than \$1 million. Mulugu Dep. 316:15-17. Duke had no financial or reputational incentive to find Plaintiff responsible for research misconduct. Plaintiff even conceded that this reflected poorly on Duke. Mulugu Dep. 307:13-15.

Finally, Plaintiff has presented no evidence to suggest that numerous independent decisionmakers, including Kessler, Swamy, Duckett, Klotman, and the six committee members, were taking orders from McDonnell rather than fulfilling their responsibilities in good faith. To survive summary judgment, Plaintiff must produce sufficient evidence to impute retaliatory intent to these independent decisionmakers. *McClain v. Lynchburg City Schools*, 531 F. Supp. 3d 1115, 1130 (W.D. Va. 2021).

Despite her claims, Plaintiff admitted that she did not know if anyone on the committees had any animus against her. Mulugu Dep. 260:3-21. Plaintiff also testified that she did not know if Klotman or Swamy had any personal intent to discriminate or retaliate against her. Mulugu Dep. 107:5-15; 233:5-11. In contrast, each of these independent decisionmakers testified that they formed their own opinions about Plaintiff's research practices and were not influenced by McDonnell. Duckett Dep. 81:6-82:6; Swamy Dep. 41:7-42:16¹²; Klotman Dep. 44:15-18. As a result, Plaintiff cannot show that Duke's concerns about her research practices were pretextual.

¹² Excerpts attached as Exhibit EE.

B. Plaintiff's Title VII and ADEA Wrongful Termination Claims Fail

Plaintiff asserts a claim under Title VII and the ADEA against Duke for discriminatory wrongful termination. Doc. No. 5, p 5. She believes this was based on her race, color, sex, religion, national origin, and/or age. *Id.*

i. Plaintiff again cannot make a prima facie case of discrimination

“To establish a claim for race [or other types of] discrimination, a plaintiff has two avenues. A person may establish a claim for race discrimination by providing direct evidence of intentional discrimination or circumstantial evidence.” *Blake*, 2020 WL 406358, at *9 (citing *Goldberg v. B. Green & Co.*, 836 F.2d 845, 848 (4th Cir. 1988)). “A plaintiff bears the burden of producing direct or circumstantial evidence ‘of sufficient probative force to reflect a genuine issue of material fact.’” *Id.* (quoting *Goldberg*, 836 F.2d at 848). If the plaintiff fails to proffer direct evidence of race discrimination, she “has the burden of creating a prima facie case under the *McDonnell Douglas* burden-shifting framework.” *Id.* (citing *McDonnell Douglas Corp. v. Green*, 411 U.S. 792, 802 (1973)).

Plaintiff presents no direct evidence of discrimination and must therefore proceed under *McDonnell Douglas*. Plaintiff must show (1) she is a member of a protected class; (2) she suffered adverse action; (3) she was performing at a level that met her employer's legitimate expectations; and (4) the adverse action occurred “under circumstances which give rise to an inference of unlawful discrimination.” *McAdams v. Autozone, Inc.*, Case No. 1:05CV10121, 2007 WL 2733710, at *4 (M.D.N.C. Sept. 17, 2007) (quoting *E.E.O.C. v. Sears Roebuck & Co.*, 243 F.3d 846, 851 (4th Cir. 2001)). Plaintiff cannot meet the

fourth element of the prima facie case by showing circumstances giving rise to an inference of discrimination.

Plaintiff testified Swamy terminated her employment by relinquishing her grant. Mulugu Dep. 269:20-270:12. Plaintiff, however, has not alleged that Swamy acted with discriminatory intent. Doc. No. 46, p. 14 (“Plaintiff has tendered no factual allegations remotely indicative of racial discrimination by Defendants Swamy or Duckett”); Mulugu Dep. 233:6-11 (confirming Swamy “did not have personal intent to discriminate”).

Instead, Plaintiff pins her claims on the theory that McDonnell was using others to discriminate against her. Mulugu Dep. 270:4-12; 284:5-15. This quickly unraveled at her deposition. When asked why she believed McDonnell discriminated against her, Plaintiff responded, “[t]hat question, you have to ask [McDonnell].” Mulugu Dep. 203:12-204:9. McDonnell unequivocally stated, “I can absolutely and positively say that I never acted in any discriminatory manner towards [Plaintiff] . . . I dealt with the request that [she] brought to me in the same way as I would evaluate any colleague.” McDonnell Dep. 27:5-14.

When pushed to identify evidence of McDonnell’s discriminatory intent, Plaintiff identified a single incident. In 2018, at an ice cream social, McDonnell “pointed at [Plaintiff] and he said, Brahma, stop talking.” Mulugu Dep. 288:21-290:2. This banal exchange is not evidence of discrimination and underscores the problem with Plaintiff’s entire theory. She sees discrimination everywhere but cannot point to a single fact supporting that belief.

Plaintiff actually confirmed at her deposition that she believes McDonnell was

motivated by something other than discrimination. She believes McDonnell was so angry about her email to Klotman requesting a faculty position that he undertook a years-long personal vendetta to get her fired. *See* Doc. No. 5, pp. 5, 9-10; Mulugu Dep. 109:10-110:19. A perceived personal grudge is not evidence of unlawful discrimination.¹³

ii. Duke has identified a legitimate nondiscriminatory reason which Plaintiff cannot show was pretext for discrimination

As described in detail above, Plaintiff’s employment ended as a result of serious concerns established about her scientific integrity. Therefore, the burden shifts to Plaintiff to prove this was pretext for discrimination. To show pretext, Plaintiff would need to show that Duke’s “proffered nondiscriminatory reasons for the termination are inconsistent over time, false, or based on mistakes of fact.” *Parker v. Children’s National Medical Center, Inc.*, 2025 WL 1540954, *5 (4th Cir. May 30, 2025) (quoting *Sempowich v. Tactile Sys. Tech., Inc.*, 19 F.4th 643, 652 (4th Cir. 2021)). Ultimately, Plaintiff must show “both that the reason was false, and that discrimination was the real reason.” *St. Mary’s Honor Center v. Hicks*, 509 U.S. 502, 515 (1993). To show pretext, Plaintiff must do more than dispute the merits of Duke’s justification, but show that it was “dishonest or not the real reason for her termination[.]” *Hawkins v. PepsiCo, Inc.*, 203 F.3d 274, 280 (4th Cir. 2000).

As explained above, Plaintiff’s uncorroborated claims of a conspiracy are insufficient to overcome summary judgment. *Boone*, 64 F. Supp. 3d at 246. Moreover, in

¹³ This grudge appears to have existed only in Plaintiff’s mind. McDonnell was never upset by Plaintiff’s email to Klotman. McDonnell Dep. 16:16-17:3. Plaintiff also stated that McDonnell was “the nicest Chairman I have ever known for a long period of time.” McDonnell Dep. 35:21-36:4.

alleging the plot to frame her, Plaintiff astonishingly admits the findings were true— Plaintiff did not have the source data from the 2018 grant application and 2020 *Military Medicine* papers and was never able to find it. Mulugu Dep. 136:7-137:1. Consequently, Plaintiff cannot show that the reason for ending her employment was pretextual or that the real reason was discrimination.

C. Numerous Claims Are Untimely

The following claims are confirmed as untimely:

- Violation of Title VII and the ADEA against Duke by failing to appoint her as faculty. Plaintiff was aware she would not be appointed as faculty no later than July 2019. Mulugu Dep. 118:15-21. She did not file her EEOC Charge, however, until September 29, 2021. Ex. FF. This claim is barred because Plaintiff did not file an EEOC charge within 180 days of the alleged discrimination. 42 U.S.C. § 2000e-5(e)(1).
- Violation of Section 1981 against Duke, McDonnell, and Klotman for failing to appoint her as faculty. Doc. No. 46. Plaintiff was aware that she would not be appointed as faculty no later than July 2019. Mulugu Dep. 118:15-21. She did not file this action until November 6, 2023. Doc. No. 1. This claim is barred by the four-year statute of limitations. 28 U.S.C. § 1658.
- Violation of Title VII and the ADEA against Duke for (a) lack of research support and that her “belongings were taken from [her], and this theft was not investigated[;]” (b) being “held to ambiguous standards in regard to [her] departmental role[.]” Doc. No. 5, p. 47. Plaintiff was aware that the lab was “under-resourced” no later than July 2016. Mulugu Dep. 276:5-11. The “theft” of belongings allegedly occurred on August 23, 2019. Doc. No. 5, p. 16; Mulugu Dep. 132:13-137:1. Plaintiff’s allegations about “ambiguous standards” all relate to actions taken by McDonnell while he served as Chair of PCB, a position he held until September 1, 2020. Doc. No. 5, p. 35. Plaintiff filed her EEOC Charge on September 29, 2021, well beyond 180 days after she was aware of these incidents. Ex. FF. Those claims are untimely. 42 U.S.C. § 2000e-5(e)(1); 29 U.S.C. § 626(d).
- Violation of Title VII and ADEA against Duke for “Fraud” based on: (a) not receiving a new appointment letter in 2018; (b) being encouraged by

McDonnell on May 29, 2018, to contact Klotman, but when she did in May 2019, he got mad; and (c) McDonnell allegedly stopping Plaintiff from joining other departments in March and April 2020. Doc. No. 5, p. 47; Mulugu Dep. 109:20-110:19; 279:8-280:16; 310:12-14; 312:1-5. Plaintiff was aware of each of these events when they happened, but did not file an EEOC Charge within 180 days. Ex. FF. These claims are time-barred. 42 U.S.C. § 2000e-5(e)(1); 29 U.S.C. § 626(d).

- Violation of Section 1981 against Duke, Klotman, and Dowell-Newton “for failing to keep proper records for Plaintiff’s DoD grant[.]” Doc. No. 46, p. 19. Plaintiff claims between May and August 2018, PCB administration lost a copy of her grant application. Doc. No. 5, p. 10; Mulugu Dep. 291:13-292:25. Plaintiff was aware of this alleged issue in August 2018 but did not file this action until November 2023. Doc. No. 1. Her claim is barred by the four-year statute of limitations. 28 U.S.C. § 1658.¹⁴

D. Plaintiff Cannot Sustain a Claim for Breach of the Duty of Good Faith and Fair Dealing Based on Duke Policies

Plaintiff asserts a claim for breach of the implied covenant of good faith and fair dealing based on the theory that Duke’s research misconduct policy and a Science Culture and Accountability Plan (“SCAP”) were contracts. Doc. No. 46, p. 18. Neither the SCAP nor Duke’s Research Misconduct Policy created a contract with Plaintiff. The SCAP is a statement of “fundamental guiding principles” for research activities. Ex. GG. The SCAP is not supported by consideration and does not include any mutual obligations. Under North Carolina law, a statement of policy like this does not constitute an enforceable contract. *See Shaughnessy v. Duke Univ.*, Case No. 1:18-CV-461, 2020 WL 4227545, at *5 (M.D.N.C. July 23, 2020) (quoting *Walker v. Westinghouse Electric Corp.*, 77 N.C. App. 253, 259, 335

¹⁴ This Section 1981 claim also fails because Plaintiff admitted that Klotman did not personally lose the grant application. Mulugu Dep. 305:1-306:4. She also admitted that she did not know if Dowell-Newton lost the document or was disorganized. Mulugu Dep. 292:19-22. “Personal liability under section 1981 must be predicated on the actor’s personal involvement.” *See e.g., Benjamin v. Sparks*, 173 F. Supp. 3d 272, 283 (E.D.N.C. 2016) (quoting *Patterson v. Cty. of Oneida*, 375 F.3d 206, 229 (2d Cir. 2004)).

S.E.2d 79, 83–84 (1985) (“unilaterally promulgated employment manuals or policies do not become part of the employment contract unless expressly included in it[.]”). Indeed, Plaintiff testified that she did not know if the SCAP was a contract. Mulugu Dep. 297:12-298:2.

Duke’s Research Misconduct Policy is also not a contract. During Plaintiff’s employment, the Policy was contained within the Duke Faculty Handbook. Ex. M. This Court has already recognized that Duke’s Faculty Handbook is not a contract. *See Shaughnessy*, 2020 WL 4227545, at *5 (quoting *McFadyen v. Duke Univ.*, 786 F. Supp. 2d 887, 982 (M.D.N.C. 2011)). The Research Misconduct Policy demonstrates that it is intended to serve as a set of policies and procedures rather than a contract. It is “regularly reviewed and modified” and “[a]ny such modifications [are] reviewed and approved through the established university review processes.” Ex. M, p. 1. Plaintiff also testified that the Research Misconduct Policy “[c]ould be” a contract but “[t]hat, Duke has to decide.” Mulugu Dep. 298:13-18. As such, Plaintiff cannot prove that she was party to any contract regarding the research misconduct process and her final claim fails as a matter of law. *McDonald v. Bank of N.Y. Mellon Tr. Co., Nat’l Ass’n*, 259 N.C. App. 582, 587, 816 S.E.2d 861, 864-65 (2018).

CONCLUSION

Based on the above, Defendants respectfully request that the Court grant their Motion for Summary Judgment on each of Plaintiff’s claims.

This 30th day of June, 2025.

/s/ Tory Ian Summey

Tory Ian Summey, N.C. State Bar No. 46437
PARKER POE ADAMS & BERNSTEIN LLP
Bank of America Tower
620 South Tryon Street, Suite 800
Charlotte, North Carolina 28202
Telephone: (704) 372-9000
Facsimile: (704) 334-4706
Email: torysummey@parkerpoe.com

Jeremy D. Locklear, N.C. State Bar No. 50842
PARKER POE ADAMS & BERNSTEIN LLP
PNC Plaza
301 Fayetteville Street, Suite 1400
Raleigh, North Carolina 27601
T: (919) 828-0564
F: (919) 834-4564
Email: jeremylocklear@parkerpoe.com

*Attorney for Defendants Duke University,
Donald Patrick McDonnell, Mary Frances Early
Klotman, Geeta Krishna Swamy, Colin Stephen
Duckett and Sharon Adele Dowell-Newton*

CERTIFICATE OF COMPLIANCE

Pursuant to LR 7.3(d) of the Rules of Practice and Procedure of the United States District Court for the Middle District of North Carolina effective October 1, 2023, the undersigned hereby certifies that the foregoing ***MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT*** was prepared on a computer using Times New Roman 13 point font and does not exceed 6,250 words (excluding the caption, signature lines, the certificate of service, and any cover page or index), as reported by word-processing software.

This 30th day of June, 2025.

/s/ Tory Ian Summey

Tory Ian Summey, N.C. State Bar No. 46437
PARKER POE ADAMS & BERNSTEIN LLP
Bank of America Tower
620 South Tryon Street, Suite 800
Charlotte, North Carolina 28202
T: (704) 372-9000
F: (704) 334-4706
Email: torysummey@parkerpoe.com

Jeremy D. Locklear, NC State Bar No. 50842
PARKER POE ADAMS & BERNSTEIN LLP
PNC Plaza
301 Fayetteville Street, Suite 1400
Raleigh, North Carolina 27601
T: (919) 828-0564
F: (919) 834-4564
Email: jeremylocklear@parkerpoe.com

*Attorney for Defendants Duke University,
Donald Patrick McDonnell, Mary Frances Early
Klotman, Geeta Krishna Swamy, Colin Stephen
Duckett and Sharon Adele Dowell-Newton*

CERTIFICATE OF SERVICE

I hereby certify that on this date the foregoing “**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**” was electronically filed with the Clerk of Court using the CM/ECF system and served upon the *Pro Se* Plaintiff via the Court’s electronic case filing system and pursuant to Pro Se Authorization Form to Receive Documents Electronically (DE 3).

This 30th day of June, 2025.

/s/ Tory Ian Summey

Tory Ian Summey, N.C. State Bar No. 46437
PARKER POE ADAMS & BERNSTEIN LLP
Bank of America Tower
620 South Tryon Street, Suite 800
Charlotte, North Carolina 28202
T: (704) 372-9000
F: (704) 334-4706
Email: torysummey@parkerpoe.com

Jeremy D. Locklear, NC State Bar No. 50842
PARKER POE ADAMS & BERNSTEIN LLP
PNC Plaza
301 Fayetteville Street, Suite 1400
Raleigh, North Carolina 27601
T: (919) 828-0564
F: (919) 834-4564
Email: jeremylocklear@parkerpoe.com

*Attorney for Defendants Duke University,
Donald Patrick McDonnell, Mary Frances Early
Klotman, Geeta Krishna Swamy, Colin Stephen
Duckett and Sharon Adele Dowell-Newton*

EXHIBIT A

1 A. -- before I submit.

2 Q. And so that -- you asked your daughter
3 to review these documents, and she did;
4 is that correct?

5 A. Yes.

6 Q. Okay. So earlier when you said you were
7 the only person that contributed to
8 these, that was just incorrect?

9 A. Because mainly I -- I write them, and
10 then reading through for mistakes,
11 that's what she read. Otherwise, she
12 did not contribute.

13 Q. This morning around 2:00 a.m. -- thank
14 you -- we received an upload of about 30
15 sound recordings.

16 A. Uh-huh.

17 Q. And was that you that did that upload of
18 sound recordings?

19 A. Yes.

20 Q. Okay. And were those all the recordings
21 of anything relevant to this case that
22 you have in your possession?

23 A. I am still looking through it --

24 Q. Okay.

25 A. -- because my main computer Donald

1 confiscated and I had to get back, that
2 was my personal, and that did not work
3 afterwards. I lost a lot of files.

4 **Q. Do you believe there may be other**
5 **recordings that you can still locate?**

6 A. Maybe I'm looking for it.

7 **Q. Okay. So --**

8 A. And I could supplement it as --

9 **Q. So let's unpack that.**

10 A. -- as made available.

11 **Q. The recordings that you uploaded today**
12 **at 2:00 a.m. --**

13 A. Uh-huh.

14 **Q. -- where were those located?**

15 A. They are in my flash drive.

16 **Q. And is that a single flash drive?**

17 A. Yes.

18 **Q. And is that -- that's at your house**
19 **right now?**

20 A. Yes.

21 **Q. And how long have you owned that flash**
22 **drive?**

23 A. Every time I record, I put them in that
24 flash drive. So that flash --

25 **Q. Could you repeat that?**

1 A. After I record, that recording goes into
2 the flash drive.

3 **Q. Okay.**

4 A. I kept many flash drives because every
5 flash drive has limited space.

6 **Q. And this flash drive --**

7 A. And some of the flash drives were lost.

8 **Q. Okay.**

9 A. And I lost a lot of things at Duke.

10 **Q. So I want to focus just on the flash**
11 **drive where you found these recordings**
12 **that were uploaded this morning.**

13 A. Uh-huh.

14 **Q. Do you know how long you've owned that**
15 **flash drive?**

16 A. I opened a new flash drive. I don't --
17 I don't recall.

18 **Q. Okay.**

19 A. I can't specifically set a time bound.

20 **Q. So have you had it for longer than a**
21 **day?**

22 A. Oh definitely.

23 **Q. Have you had it longer than a month?**

24 A. Definitely.

25 **Q. Okay. And have you had it longer than a**

1 year?

2 A. Than a year? Yeah, probably, maybe.

3 Q. Maybe? And I just -- I use that to --
4 to help estimate, is what I'm trying to
5 do.

6 A. Yeah.

7 Q. So with this flash drive, there were 30
8 recordings located on the flash drive;
9 correct?

10 A. Uh-huh. Yes.

11 Q. Okay. And why did you not produce these
12 recordings until this morning?

13 A. Those flash drives were not numbered,
14 and I have -- I have many flash drives,
15 and years of everything were placed in
16 the flash drives, and --

17 Q. All right. And so --

18 A. And as -- and when it is available and
19 organized.

20 Q. How many flash drives do you currently
21 have in your possession?

22 A. I don't know have a number.

23 Q. And I'm going to ask some questions to
24 just try to help estimate. Is it more
25 than 10?

1 A. Yeah, about.

2 Q. And you said they're not numbered; is
3 that correct?

4 A. Uh-huh.

5 Q. So that means they're not organized?

6 A. They are not organized.

7 Q. Where are they physically located in
8 your house?

9 A. In my desk.

10 Q. Okay. And had you checked -- before
11 this morning, had you reviewed those 10
12 flash drives -- those approximately 10
13 flash drives to see if they contained
14 relevant evidence?

15 A. I am still looking through them because
16 each flash drive has lots of files, lots
17 of folders, my research material,
18 research references.

19 Q. So this particular flash drive --

20 A. And these ones were also a download from
21 my cell phone, from my iPad, from my
22 iPod. So flash drive is not a storage
23 device that I use.

24 Q. Uh-huh.

25 A. I've always kept it in my cell phone.

1 Q. So you would -- you would take a
2 recording, and then you would also --

3 A. No --

4 Q. -- copy it --

5 A. -- I wasn't -- no, I wasn't that
6 organized.

7 Q. Okay.

8 A. I take a recording. I just keep it
9 on my cell phone.

10 Q. Okay.

11 A. And until such time that cell phone
12 says, you know, the storage is full, and
13 then I have to have another means of
14 keeping it.

15 Q. And so once the storage is full, that's
16 when you would put recordings onto a
17 flash drive; is that correct?

18 A. Yes.

19 Q. Okay. This particular flash drive with
20 the 30 recordings, does it have any
21 other --

22 A. These were -- this was the one --

23 Q. You need to let me finish my question
24 first please.

25 A. Yeah.

1 Q. Uh-huh.

2 A. So he will -- he will say some sentences
3 halfway through, and he will jump onto
4 it. So for me to better comprehend, I
5 recorded.

6 Q. Other than the recordings of Donald
7 McDonnell, all of the other recordings
8 you took in this case were accidental?

9 A. Colin Duckett, he recorded, too, and he
10 sent me.

11 Q. And you -- you actually pointed out, I
12 asked an imprecise question. The
13 recordings that you took on your cell
14 phone --

15 A. Uh-huh.

16 Q. -- is it your testimony that except for
17 the recordings of Donald McDonnell, all
18 other recordings on your cell phone were
19 accidental?

20 A. Yes.

21 Q. What's the app --

22 A. Mostly, yeah.

23 Q. What's the app you use to record?

24 A. Voice memo.

25 Q. Okay. And your phone has to be open to

1 nonexistent, now I am -- I had -- there
2 had been friendly talks before, but now
3 it is kind of, you know, question/answer
4 kind of.

5 **Q. Is it correct that you started recording**
6 **conversations with colleagues at Duke to**
7 **protect yourself?**

8 A. Mine is to better understand, because I
9 am by nature a researcher, and I'd like
10 to understand the linguistic aspect of
11 what words they use and how they
12 interpret or how should I interpret. It
13 is nothing malice in that. And
14 sometimes many people record. And at
15 the lunch time, they just show and they
16 laugh about it. And it's -- it's --
17 it's a comradery thing in the research
18 field because research is a drilling
19 life. It's not an easy life.

20 **Q. Am I correct that you did not ask**
21 **consent to record conversations in the**
22 **workplace?**

23 A. I was told, in North Carolina law, you
24 don't need a consent as long as you're
25 there.

1 **communication challenges and team**
2 **dynamics.**

3 A. Uh-huh.

4 **Q. Explain what happened there.**

5 A. He would talk to me in Chinese, and then
6 I could -- I understood that he was in a
7 lot of stress. I was writing a lot of
8 grants for him. And so I started
9 applying internally at Duke, and
10 Dr. Auten called me, and I was not
11 planning to resign, but then Dr. Auten
12 said -- you know, we -- we had a -- a
13 nice meeting. And he really said --
14 because my background is lung
15 immunology, and he being in pediatric
16 lung biology, it was a very good fit.
17 So he told me at that time he didn't
18 have a scientist position, but then the
19 moment you join, I will -- if you delay,
20 somebody else will come and then I will
21 not get an opportunity to get you. So
22 if you join, I will -- we -- we can
23 change the position in a few months, so.

24 **Q. How long did you work with Dr. Lee?**

25 A. Dr. Lee, I believe about six, seven

1 months or...

2 **Q. Do you believe that Dr. Lee harassed**
3 **you?**

4 A. No. His thing was -- see, that was the
5 field -- I'm an immunologist. I'm
6 trying to learn the zebra fish. I
7 enjoyed -- the biology of it, I loved
8 it.

9 He hired another postdoc who
10 was Chinese. And from then on, he would
11 basically talk only in Chinese, and he
12 would get angry at me. I didn't
13 understand.

14 So I thought -- I thought it is
15 a better fit to move out, and, hence --
16 and he was also in a lot of stress, and
17 he left -- right after I left, he also
18 left Duke.

19 **Q. Do you believe that Dr. Lee created a**
20 **toxic work environment because of his**
21 **stress?**

22 A. You know, I can tolerate a lot of --
23 research is a toxic environment because
24 we are working in a field that we don't
25 know and trying to -- if we do 10

1 professor, and I commend him for that.

2 There was no politics. It is like
3 any -- any -- anything that we bring in,
4 it is directly felt with -- directly
5 dealt with everyone, and it is resolved
6 then and there.

7 **Q. When you were working in Dr. Auten's**
8 **lab, did you ever ask for his help to**
9 **get you appointed as a faculty member?**

10 A. Yes, I did. And he said, I am trying,
11 but I don't know how to get through it
12 because when Judy Voynow came, some of
13 the inexperienced researchers were
14 promoted to faculty position. So he
15 didn't know how they did it.

16 **Q. Did he give you any guidance on how to**
17 **become a faculty member?**

18 A. Yes. We --

19 **Q. And what did --**

20 A. -- prepared my CV, and he presented it.
21 So I even told him that probably --
22 yeah, he -- he regretted it. And he
23 couldn't -- he couldn't -- he tried it.
24 That's all I know. Because the time
25 when he tried, I recall there was

1 Dr. Bass who joined the lab as a
2 faculty, and that came from
3 recommendations of the chairman of cell
4 biology and chairman of -- the Division
5 Chief of Neonatology, Dr. Goldberg. And
6 he said, I tried, but, you know, he came
7 and they -- because his wife was working
8 as a finance manager in -- the chairman
9 of cell biology.

10 **Q. What -- so you worked with Dr. Auten**
11 **from 2007 to 2014. About what year was**
12 **it that he told you he had tried to get**
13 **you appointed faculty but had failed?**

14 A. I don't recall exactly the date, but if
15 I go back, my -- you know, I --

16 **Q. So it's before 20 -- it's 2014 or**
17 **before; correct?**

18 A. Oh, yeah.

19 **Q. Okay. Who made the decision not to**
20 **promote you to a faculty member?**

21 A. He didn't say that.

22 **Q. Okay. Do you believe it was --**

23 A. I did -- I did talk to -- put -- the
24 neonatology -- there was a time he said
25 I could work some percentage with Peggy

1 Kirby and we can work out, but he wanted
2 me to go and talk to Patoka (phonetic).
3 He was in neonatology, some manager
4 position.

5 **Q. Do you believe it was discriminatory not**
6 **to promote you to faculty when you were**
7 **working for Dr. -- Dr. Auten?**

8 A. I didn't think that far.

9 **Q. You didn't think that far?**

10 A. I did -- yeah. But I knew, because some
11 of the medical students who I trained
12 have actually told me, you know, if
13 you're probably white, you would have
14 definitely gotten.

15 **Q. And did they tell you that at the time**
16 **in -- in 2014 or before?**

17 A. Yeah.

18 **Q. And you do not know ultimately who made**
19 **the decision to not make you a faculty**
20 **member when you were working with**
21 **Dr. Auten; correct?**

22 A. Right.

23 **Q. Why did you leave Dr. Auten's lab?**

24 A. The grant ended.

25 **Q. Was your position fully grant funded?**

1 A. Yes.

2 **Q. And so when a fully grant-funded**
3 **position loses the grant, then the**
4 **position ends; is that correct?**

5 A. No. That is why when, the moment we get
6 the grant, within a year, we work for
7 another grant simultaneously, so it --
8 it's a rolling thing.

9 **Q. Uh-huh. And with Dr. Auten, you did not**
10 **get that second grant; is that right?**

11 A. No. We were -- we were doing a lot of
12 revision or something, and then Erin
13 Potts came, a case came, so the whole
14 department was rearranging.

15 **Q. But your position with Dr. Auten ended**
16 **because the grant funding was lost; is**
17 **that correct?**

18 A. No, because of Erin Potts' case, because
19 many of the labs -- many of the
20 investigators were frantically shutting
21 down or -- something happened because he
22 was not planning on leaving.

23 **Q. Did Dr. --**

24 A. And he was -- he was the first one to go
25 ahead and retract the paper, and I

1 Q. They asked you to resign because you had
2 brought a flash drive with data home --

3 A. Right.

4 Q. -- that's one reason?

5 A. Yeah.

6 Q. Is that correct?

7 A. Yeah.

8 Q. And they also blamed you for the freezer
9 shutdown?

10 A. No. Freezer shutdown, I basically told
11 one of the -- the researcher, you
12 can't -- they -- not the freezer
13 shutdown. Freezer shutdown, I was there
14 when the person was repairing the
15 freezer, but after the freezer was
16 repaired, I told everyone -- I sent an
17 e-mail to everyone, you know, please
18 open -- when you open the door, within a
19 minute, shut the door. Keep it shut and
20 don't leave the door open.

21 There was one researcher who
22 put a box in there and left the door
23 open --

24 Q. Okay.

25 A. -- and -- and it was Dr. Cousin's

1 assistant who came and informed me and
2 took me to that researcher. And I told
3 the researcher, this is not the way to
4 do. Please, you know, I -- for three
5 days, I've been here in the lab at 4:00
6 -- 4:00 in the morning -- until 4:00 in
7 the morning because those guys were
8 coming to work. So don't do it. And if
9 you do it, you will lose your privilege
10 of storing your samples.

11 **Q. And why did that -- why did that lead**
12 **them to ask you to resign?**

13 A. I have no idea. You have to ask that
14 question to them.

15 **Q. But when they're talking to you, you**
16 **understood they were mad about that; is**
17 **that correct?**

18 A. Yeah.

19 **Q. Okay. And in both of those cases --**

20 A. No, they -- they weren't -- I -- I don't
21 know. Because that was one of the --
22 thing that it was mentioned to me.

23 **Q. Okay. It sounds like from your**
24 **testimony you believe that the flash**
25 **drive and the freezer issue were not**

1 So the dynamics were changing,
2 and there were more -- more rules
3 stipulated, and I was not knowing --
4 because I -- I didn't know the other end
5 of -- end.

6 **Q. Do you think it was discrimination for**
7 **Dr. Cousins and Dr. Mettu to ask you to**
8 **resign?**

9 A. Could be, because I even asked him, you
10 know, you don't have to give me a
11 faculty position. I could basically
12 write a grant to your company, and
13 through your company, you can pay me.
14 So that way I'll be able to
15 independently do my work rather than
16 getting myself involved with Dr. Mettu
17 because Dr. Mettu's temperament is
18 different.

19 **Q. Uh-huh.**

20 A. He would convey the message from
21 Dr. Cousins -- because he didn't
22 understand many of the scientific
23 principles and aspect of it, but he
24 becomes the middleman conveying, and
25 then what he takes the information to

1 Cousins, I do not know.

2 Q. Do you believe it was retaliation
3 against you for them to ask you to
4 resign?

5 A. I have no idea.

6 Q. Do you think they were unhappy that you
7 had asked for a faculty position?

8 A. It could be.

9 Q. It could be?

10 I'm going to show you another
11 document, and we'll take a break in
12 about 15 minutes, if that's okay.

13 A. That -- that should be fine.

14 Q. Thank you.

15 A. Or we can go on.

16 Q. I'm going to show you a document I'm
17 marking as Exhibit 3.

18 (EXHIBIT NUMBER 3 WAS MARKED.)

19 Q. And will you take a short look at this
20 document, and once you've reviewed it my
21 question is: Does this appear to be an
22 e-mail and attachment that you sent to
23 Dr. Mohamed Abou-Donia on March 10th,
24 2016?

25 A. It could be. Even I don't have the copy

1 obtained funding for a Research

2 Technician II position?

3 A. I don't know.

4 Q. Okay. And who are the two people that
5 signed this letter on behalf of Duke?

6 A. What do you mean?

7 Q. Who were the other two people whose
8 signatures --

9 A. Oh, you want me to read the names?

10 Q. Yeah. Who -- who are those people?

11 A. One is Abou-Donia.

12 Q. Okay.

13 A. And the other one is Donald McDonnell.

14 Q. Okay. So Dr. McDonnell approved your
15 hiring to this position; correct?

16 A. Yes.

17 Q. Okay. Had you ever met Dr. McDonnell
18 before he signed this offer letter?

19 A. Before -- I met him at one of -- the ice
20 cream parlor.

21 Q. Tell me about that.

22 A. Ice cream parlor -- because I know
23 Dr. McDonnell. His lab used to be right
24 near John York's. And I even told him
25 that -- because his lab celebrates every

1 hits you hard, then you recollect many
2 things.

3 **Q. In the fourth paragraph of this**
4 **letter --**

5 A. Uh-huh.

6 **Q. -- it says, please understand that your**
7 **position is a hundred percent grant**
8 **funded?**

9 A. Yeah.

10 (INTERRUPTION.)

11 MR. SUMMEY: If whoever's cell
12 phone that is could silence.

13 THE WITNESS: That's mine. I'm
14 sorry.

15 MR. SUMMEY: It's actually a
16 pretty pleasing ring tone. So thank you
17 for doing that. I much prefer that to
18 my own ring tone.

19 BY MR. SUMMEY:

20 **Q. In the fourth paragraph, it says, please**
21 **understand that your position is a**
22 **hundred percent grant funded; do you see**
23 **that?**

24 A. Yes.

25 **Q. Okay. And did -- do you agree your**

1 keeps going. And that's why it is
2 called research. And I always separate
3 research as "re-search."

4 **Q. Okay. That's clever. You understood**
5 **this was not a faculty position;**
6 **correct?**

7 A. I knew.

8 **Q. Okay. And you understood the salary was**
9 **\$47,500 annually; correct?**

10 A. I know.

11 **Q. Okay. And that was less than you were**
12 **making in the eye center; right?**

13 A. I know.

14 **Q. Why did you accept a pay reduction?**

15 A. I needed a job at Duke.

16 **Q. Okay. Did you think it was**
17 **discriminatory for Duke to set your pay**
18 **lower than you had been making?**

19 A. As I told you before, I -- that part of
20 discrimination did not come into my
21 mind. You know, when you don't think
22 about it, when it -- it -- when it
23 directly doesn't hit you, you don't
24 know.

25 **Q. So at the time, you didn't feel like it**

1 let me state that.

2 If you claimed that this
3 signature was fabricated in a court
4 filing, that would not be accurate?

5 A. And I still didn't understand it.

6 Q. Yeah. If you claimed in a court filing
7 that this signature appearing on
8 Exhibit 5 was fabricated --

9 A. This, I don't even remember signing.
10 See, the supervisor has not signed.

11 Q. Okay.

12 A. And this is not dated. And how I
13 signed, when I signed, I have no idea.

14 Q. Do you have any reason to believe
15 sitting here today that this signature
16 is fabricated?

17 A. I don't know, and I can't answer to
18 that.

19 Q. You can put that to the side.

20 So in March of 2018 when you
21 first received notice that you had
22 obtained a grant from the Department of
23 Defense; correct?

24 A. March 8th -- March 18th -- March 18th, I
25 got a communication that if they have

1 playing, because people get angry and
2 they shout, and that's when you know who
3 they are. And what comes out of it, you
4 know, is what -- I -- I'm -- I'm by
5 heart and by nature a researcher.

6 **Q. And what about Dr. Abou-Donia, are you**
7 **angry with him?**

8 A. Angry with him? I have asked him, but
9 who -- who am I to get angry with
10 anyone? You know, everybody is -- life
11 is short, which COVID taught us, and
12 anger is a momentary spurt of emotions.

13 **Q. After you obtained the grant, am I**
14 **correct that you worked with the Duke**
15 **IRB to get approval for your study?**

16 A. Yes. That was --

17 **Q. Was that challenging?**

18 A. That was challenging because of their
19 policy, because they needed a faculty
20 position in order for -- see, they moved
21 IRB to iRIS. They migrated it in May of
22 2018 when I'm registering my study.

23 I -- they told me that once it
24 migrates, then you cannot -- I went
25 there to put my study in under

1 not have the authority to give me that,
2 and dean is the one who's the deciding
3 authority.

4 Q. You knew he would --

5 A. He never -- he never blatantly say,
6 sorry, I can't provide you. If he had
7 said it, I would have understood it, and
8 he did not say that. He said, I request
9 dean and, you know, she has not favored
10 me yet.

11 Q. So, on May 9th of 2018, you met with
12 Dr. McDonnell; correct?

13 A. No. I sent him an e-mail maybe on May
14 6th, because Dr. Abou-Donia said this is
15 the time you inform him that you get
16 that. Any information from upstairs --
17 upstairs is administration, which is
18 Donald --

19 Q. Uh-huh.

20 A. -- and -- and Dr. McDonnell and the
21 administration. And I said no. Did you
22 get at least a congratulation note? I
23 said no. And then he said, inform him.
24 And ask him -- ask to meet with him, so
25 I will also be there. Both of us go

1 Donald -- it's very hard for me to
2 understand. Then I informed
3 Dr. Abou-Donia, you know what, I could
4 actually record the telephone -- we
5 could record. And that way we can play
6 it and see how it is, and he wanted to
7 learn too how to do.

8 **Q. So your testimony is it was hard to**
9 **understand Dr. McDonnell, so that's why**
10 **you recorded this meeting?**

11 A. I didn't think that far. I needed to --
12 I -- I was trying to get his advice. I
13 needed to follow the advice, and I've
14 always been told what to do, which is
15 good for me. And --

16 **Q. And you were going into that meeting**
17 **with Abou-Donia to ask for a faculty**
18 **position?**

19 A. Yes.

20 **Q. Okay. And as you came out of that**
21 **meeting, you understood that you did not**
22 **have a faculty position?**

23 A. No. He said he will recommend my case
24 to dean, and if I don't hear from him in
25 about three -- three weeks or sometime,

1 he said I could contact the dean by
2 myself.

3 **Q. So is it your testimony that**
4 **Dr. McDonnell supported you becoming a**
5 **faculty member?**

6 A. He didn't deny it because they all --
7 the moment -- the first grant fetched
8 him faculty position. He remembered
9 that and Abou-Donia remembered. It's --
10 it's reminiscing, because that's one
11 thing every researcher --

12 **Q. Uh-huh.**

13 A. -- craves for. You know, it's -- it's
14 the --

15 **Q. So I'm focusing on your position. What**
16 **did Dr. McDonnell say about your**
17 **position? Was he supporting you for a**
18 **faculty position?**

19 A. I assumed so.

20 **Q. Okay. And if he did say that, that**
21 **would be on the recording; correct?**

22 A. Yes.

23 **Q. And if he didn't say that, the recording**
24 **would show that?**

25 A. Yeah.

1 Q. Okay. So did you --

2 A. The recording is what --

3 Q. Yeah.

4 A. -- you know, it's -- it's -- it's direct
5 communication at that moment.

6 Q. I'm going to show you another document
7 that's marked as Exhibit 6.

8 (EXHIBIT NUMBER 6 WAS MARKED.)

9 THE VIDEOGRAPHER: We have
10 about five minutes more.

11 MR. SUMMEY: Thank you.

12 BY MR. SUMMEY:

13 Q. If you'll take a look at this --

14 A. Yes.

15 Q. -- Exhibit 6, and confirm for me whether
16 this is an e-mail that you sent to Dean
17 Klotman on May 13th, 2019?

18 A. Yes.

19 Q. Okay. Is this the e-mail that you were
20 testifying about a moment ago that you
21 sent because Donald told you to?

22 A. Yes.

23 Q. Okay.

24 A. No, no, no, no. This is May -- oh,
25 yeah, 2019. Yes. Correct. Okay.

1 Donald told me to in 2018. I sent this
2 after a year.

3 **Q. We're -- yeah, so we're skipping ahead a**
4 **year; I -- I agree with that. But this**
5 **is the e-mail that you were talking**
6 **about a moment --**

7 A. Yes.

8 **Q. -- ago? Okay. And --**

9 A. And skipping the year, why?

10 **Q. My question for you is: You had not**
11 **been appointed a faculty member by this**
12 **point; correct?**

13 A. Yes.

14 **Q. Okay. And Donald had not supported you**
15 **to become a faculty member yet; correct?**

16 A. I don't know about that --

17 **Q. Okay.**

18 A. -- because many times Abou-Donia would
19 say you're unimportant.

20 **Q. Abou-Donia?**

21 A. To -- to people of higher power, you're
22 unimportant. You have to make yourself
23 known. Strike when the iron is hot.

24 And this is a -- repeated words of

25 Abou-Donia. And if you're not going to

1 because I can't directly answer to your
2 question, but -- you know, it's like an
3 earthquake happened and then aftershock,
4 you see.

5 **Q. So is it correct to say you don't know**
6 **whether Dr. Klotman intended to**
7 **discriminate against you?**

8 A. I have no idea what the conversation
9 between -- unless I know -- unless you
10 produce the conversation between Klotman
11 and Donald, I can't assume.

12 **Q. And do you believe Dr. Klotman was**
13 **retaliating against you?**

14 A. She -- for me, I'm -- I'm another
15 unimportant person. She is a big dean.

16 **Q. So you don't know if she had any intent**
17 **to retaliate against you?**

18 A. At that time, I saw the effect through
19 Donald because all problems started, not
20 exactly after May, but by June.

21 **Q. So --**

22 A. Because this -- yeah, not exactly in May
23 but in June.

24 **Q. So by June of 2019, you saw the**
25 **problems?**

1 faculty position. Allow me to submit a
2 grant.

3 Q. So we're talking about something
4 different. In June of 2019,
5 Dr. McDonnell rejected your request to
6 submit --

7 A. I stopped thinking --

8 Q. Let me -- let me ask a question.

9 In June of 2019, Dr. McDonnell
10 rejected your request to submit a second
11 grant; is that correct?

12 A. Yes.

13 Q. Okay. And you believe that was
14 discriminatory and retaliatory?

15 A. Definitely.

16 Q. Okay. And that was discriminatory and
17 retaliatory because you had asked for a
18 faculty appointment?

19 A. Yes.

20 Q. And you believe that your request for a
21 faculty appointment angered
22 Dr. McDonnell; correct?

23 A. Letter to dean angered.

24 Q. So is it your belief that Donald
25 McDonnell was angry that you went in his

1 mind behind his back and talked to the
2 dean directly?

3 A. Because he -- he, in his very words,
4 said she went above and complained
5 against me. I have no -- no reason to
6 complain about Donald because I like
7 Donald. His lab is fun. They are all
8 fun-loving people.

9 Q. Okay.

10 A. There is no reason for me to go against
11 him, but, you know, just because I cross
12 you and ask this person, you can't say
13 I'm against you.

14 Q. And everything that happened later was
15 the result of Donald's retaliation at
16 this point in time; is that right?

17 A. Yeah.

18 Q. Is that a yes?

19 A. Yes.

20 Q. Okay. And so, looking back, do you --
21 do you believe sending this e-mail --

22 A. I regret.

23 Q. Okay. And -- and let me ask the
24 question fully.

25 Looking back, do you believe

1 who opens the lab. Many people had keys
2 to the lab --

3 **Q. Uh-huh.**

4 A. -- and I informed all my students, you
5 know, lock the door when you go, but the
6 thing is, they all complained that their
7 notebooks and files are missing.

8 **Q. So I believe -- and we've seen a lot of**
9 **documents in this case, and I've seen it**
10 **consistently said that you did not**
11 **experience any sexual harassment until**
12 **October of 2019; correct?**

13 A. It is -- I think it might have happened
14 in September to that October, that --
15 that range.

16 **Q. Okay. And so when you're talking about**
17 **in June of 2019, is you believe that**
18 **Dr. Donald McDonnell was ordering people**
19 **to come into your lab and distract you**
20 **from your work; is that correct?**

21 A. No. He -- he -- what happened was one
22 evening Donald rushed into Abou-Donia's
23 office.

24 **Q. Were you there?**

25 A. I was not there. This was the

1 description given. I -- I saw Donald
2 because Donald has never walked on our
3 hallway. He would basically come down,
4 and then he would walk out -- the
5 pharmacology department has a stairway
6 where the foyer is, and there's a door
7 here, door here. He would never walk
8 between the corridor of a lab to go to
9 either computer science or that side
10 would go to environmental building.

11 Q. Uh-huh.

12 A. He would walk this way, this way,
13 because my -- my lab is here. I have a
14 window, I would see anyone walking. I
15 have never seen him walk in the
16 corridor. And I saw him rushing, but
17 then the room was locked. So Abou-Donia
18 literally demonstrated to me he came,
19 shut the door. He came and shut the
20 other door, and then he talked.

21 Q. And what did Abou-Donia tell you that
22 Dr. McDonnell said to him?

23 A. Get all her data. Get everything. The
24 grant belongs to you. And distract her,
25 slow her from working, and many, many

1 things, he -- he said. And from his
2 memory, as much as he could say -- he --
3 he literally demonstrated it to me.

4 **Q. When --**

5 A. I wouldn't have known otherwise.

6 **Q. When did this meeting between Donald and**
7 **Abou-Donia occur?**

8 A. It was maybe end of May or beginning of
9 June.

10 **Q. Okay. And when did Abou-Donia tell you**
11 **about it?**

12 A. Right after that.

13 **Q. Okay. Do you think Dr. Abou-Donia was a**
14 **truthful person?**

15 A. Everybody has truthfulness, and anybody
16 who carries a message can sway you
17 anyway, but when do you start believing
18 a person's voice is -- when what they
19 have told happens immediately. Then you
20 say, ahh. And up until that point, he
21 was my mentor. You know, why shouldn't
22 I not believe him?

23 **Q. As -- at the time, did you think he was**
24 **telling you the truth about what Donald**
25 **had said?**

1 A. I believed.

2 **Q. Okay. Do you still believe that?**

3 A. I still believe it, because there is a
4 part of truth in every single person,
5 every single person. And there is an
6 intention and unintentional behavior in
7 every single person. And if you benefit
8 from it, the intention is good. If you
9 don't benefit from it, the intention is
10 bad, so that's why I take it.

11 **Q. So you believe that by June of 2019,**
12 **Donald McDonnell is trying to get you**
13 **fired; correct?**

14 A. Definitely.

15 **Q. Okay.**

16 A. Because the very word Abou-Donia said
17 was just fire her; I'll sign the paper
18 immediately.

19 **Q. Okay.**

20 A. A person will not say a phrase over and
21 over again if they have not heard it.
22 It's like, tell a child.

23 **Q. July 26th of 2019, I believe you had a**
24 **meeting with Dr. McDonnell again --**

25 A. Yes.

1 Q. During that meeting, was -- let me
2 rephrase that.

3 After that meeting, you
4 understood that he -- he was not
5 supporting you to become faculty; right?

6 A. No. At that meeting, that's when I
7 realize it's not in the powers of dean.
8 The faculty position power relies on the
9 chairman --

10 Q. Uh-huh.

11 A. -- and not at the dean level.

12 Q. Okay.

13 A. Because you tell me, in this, what
14 statement have I made to blame Donald?

15 Q. And so you -- at that meeting in July of
16 2019, you understood that Donald
17 actually did have the power to appoint
18 you as faculty; correct?

19 A. He has the power.

20 Q. Okay. And he wasn't going to do that?

21 A. Yeah. That --

22 Q. Okay. And you also knew by July of 2019
23 that he was not going to allow you to
24 apply for another grant?

25 A. Yes, which he promised me. He said

1 A. No.

2 Q. And so do you know if Abou was telling
3 you the truth?

4 A. Because the -- as I said, aftershock,
5 what made me believe what he was
6 selling. A person cannot tell a lie
7 continuously.

8 Q. So, at this time, you think -- you
9 believe that Abou-Donia was telling you
10 the truth, that Dr. McDonnell was behind
11 this e-mail?

12 A. Yes.

13 Q. Okay. You attended a conference of some
14 kind in late August 2019; is that right?

15 A. Yeah. I -- I've attended many
16 conferences.

17 Q. So do you remember a specific conference
18 you attended in late August of 2019?

19 A. Oh. Is it a Military Medicine
20 conference?

21 Q. I think so.

22 A. Yeah.

23 Q. Okay. Where was that?

24 A. That was in Kissimmee.

25 Q. Okay. Florida?

1 A. Uh-huh.

2 Q. And when you returned from that
3 conference, you found a trash bag in
4 your chair?

5 A. Yes.

6 Q. Okay. What was in the trash bag?

7 A. I don't know. I --

8 Q. Did -- did you look?

9 A. No. I wish I had taken a picture of it.
10 I --

11 Q. So there's a trash bag in your chair --

12 A. On my chair.

13 Q. Okay. What did you do with the trash
14 bag?

15 A. I immediately called Sharon.

16 Q. But you didn't look inside it?

17 A. No.

18 Q. Was it tied up already?

19 A. No.

20 Q. It was still open?

21 A. It was still open.

22 Q. Okay.

23 A. And I did ask -- Sharon sent Tracy
24 Hubert.

25 Q. Uh-huh.

1 Q. Okay.

2 A. If some -- somebody goes to your office
3 and takes away the paper --

4 Q. Yeah.

5 A. -- would you immediately know they have
6 taken away my papers? No.

7 Q. So what did you -- what did you learn --

8 A. That question is --

9 Q. -- what did you learn later was missing?

10 A. All the data, the files that I've kept,
11 the papers inside the files, students'
12 files because I maintain binders.

13 Q. Was -- was the raw data from your 2018
14 grant application or the 2020 Military
15 Medicine papers, was that also missing?

16 A. Yes.

17 Q. Okay. Did you ever find it?

18 A. Not alone -- not alone that -- I was
19 going through various flash drives,
20 e-mails to get them.

21 Q. Okay. So -- but the paper copies of the
22 raw data for the grant and the papers
23 was missing?

24 A. Yes.

25 Q. Okay. Did you ever find it?

1 A. No.

2 **Q. Okay.**

3 A. I went -- after calling (unintelligible)
4 paused the research. I was never
5 allowed to do any work on the grant --

6 **Q. Uh-huh.**

7 A. -- you know, and it was well planned by
8 them.

9 **Q. That's my next question. Who do you**
10 **believe was responsible for these things**
11 **going missing?**

12 A. All of them. A team of members.

13 **Q. Who -- who's part of the team?**

14 A. The -- probably the ringleader is Donald
15 McDonnell.

16 **Q. Okay. So the ring leader is McDonnell.**
17 **Who else is part of the team?**

18 A. All the admins, Sharon, Traci McNeill.

19 **Q. So Sharon Dowell-Newton, Traci McNeill.**
20 **Who else?**

21 A. And two people I trust, Sonya Owens and
22 Christine Flintosh. They did not --
23 they were not part of it.

24 **Q. Okay. Who else was part of it?**

25 A. Because they -- they saw it happening.

1 marking as Exhibit 14.

2 (EXHIBIT NUMBER 14 WAS MARKED.)

3 Q. And once you've had a chance to review,
4 is Exhibit 14 an e-mail exchange that
5 you had with Elizabeth Bergamini?

6 A. Right.

7 Q. Is that correct?

8 A. Uh-huh.

9 Q. Okay. Is that a yes?

10 A. Yes.

11 Q. Okay. Before I get into the e-mail, I
12 think you testified earlier that
13 Dr. Abou-Donia first started making
14 sexual comments to you in October of
15 2019?

16 A. Yeah. Somewhere in that --

17 Q. Okay.

18 A. -- around that time.

19 Q. And how many weeks did that continue
20 for?

21 A. Until the last day, March 12th.

22 Q. Okay. So he continued making sexual
23 comments from October until -- October
24 2019 --

25 A. It is a --

1 telling other people at Duke that you
2 were experiencing sexual harassment from
3 Dr. Abou-Donia?

4 A. Yes.

5 Q. And your testimony is you did that
6 before February 19th, 2020?

7 A. I think so.

8 Q. Did any of those people tell you to go
9 to HR?

10 A. Many of them said not to go to HR.

11 Q. Okay. Why not?

12 A. You'll lose your job. Retaliation.
13 And, you know, that's it. They will
14 take away everything. They will push
15 you out of the door.

16 Q. How many people told you not to go to
17 HR?

18 A. Everyone.

19 Q. Everyone?

20 A. Uh-huh, except for one or two, and one
21 or two said just try anonymously. And
22 then a few said, you know, HR comes and
23 tells everything, that they will protect
24 -- they don't protect, you know.

25 Q. Why were you comfortable talking to

1 was afraid. I also sent Bergamini the
2 e-mail I wrote for him in 2019, December
3 of 2019. She was shocked and she wanted
4 that e-mail to be forwarded to her. I
5 sent the e-mail to Donald on February
6 28th, and by March 3rd, urgent, urgent,
7 urgent. It was like the whole admins
8 were like dynamos running around.

9 Q. Okay. I think I know what you're
10 talking about, but I just want to
11 confirm.

12 In December of 2019, you
13 drafted an e-mail to Donald McDonnell;
14 correct?

15 A. Yes.

16 Q. And you never sent that e-mail?

17 A. Because of retaliation.

18 Q. Because you were afraid?

19 A. Afraid.

20 Q. Please try to let me finish.

21 You never sent that e-mail
22 because you were afraid of retaliation?

23 A. That's correct.

24 Q. Okay. And in that e-mail -- strike
25 that.

1 A. Yes.

2 **Q. And did you go to Sharon because you**
3 **wanted Abou-Donia's behavior to stop?**

4 A. No. She -- she made a meeting of
5 compliance in Abou-Donia's office,
6 cancelled it, and kept it in her office.

7 **Q. Okay.**

8 A. And everyone in the admin -- like Traci
9 McNeill -- was absolutely aware of it.

10 **Q. Uh-huh.**

11 A. And right after the meeting, Abou-Donia
12 went to Traci McNeill, I also went, and
13 Traci McNeill had my grant. There's no
14 need for her to keep my grant right on
15 her table, the file of my grant. I
16 even -- yeah.

17 **Q. Why didn't you report this behavior to**
18 **Sharon?**

19 A. What's the point? It's like going to
20 the --

21 **Q. What?**

22 A. I don't understand the question because
23 there is no point. They -- they're all
24 part and parcel of the players, and I go
25 report, I get punished. And I am -- I

1 A. They recorded my complete cell phone.

2 Q. You believe they --

3 A. Uh-huh.

4 Q. -- recorded your whole cell phone?

5 A. Yes. I believe they -- they did.

6 Q. And in March of 2020, OIE issued a
7 no-contact order to Dr. Abou-Donia?

8 A. Yes.

9 Q. Okay. After that order was issued, did
10 he sexually harass you again?

11 A. No contact. And he called a few times.
12 I didn't pick up the phone because the
13 order is no contact.

14 Q. In November of 2020, OIE issued a report
15 substantiating your complaint of sexual
16 harassment?

17 A. Yes.

18 Q. And Dr. Duckett later informed you that
19 Dr. Abou-Donia had been relieved of his
20 duties; correct?

21 A. Yes.

22 Q. All right. Moving back a little while.
23 In February of 2020, do you remember
24 receiving an e-mail from someone named
25 Dr. Don Fox?

1 A. I don't know.

2 Q. Oh, please let me finish.

3 Do you believe Dr. Don Fox
4 intended to discriminate against you on
5 the basis of any protected
6 characteristics?

7 A. Definitely, because that is the aim of
8 Donald. And out of the blue, you know,
9 in a research environment, nobody sends
10 an e-mail when I'm already going through
11 tons of trouble.

12 Q. With respect to Donald -- I -- I
13 understand your testimony. I want to
14 focus on the discrimination allegations.
15 Why do you believe Donald was
16 discriminating against you on the basis
17 of your race?

18 A. That question, you have to ask Donald.

19 Q. Okay. Why do you believe he was
20 discriminating against you on the basis
21 of your age?

22 A. That also you should ask Don.

23 Q. And I'm going to ask you a few others
24 just in -- in connection. Why was he
25 discriminating -- excuse me.

1 Why do you believe he was
2 discriminating against you on the basis
3 of your national origin, your religion,
4 your sex?

5 A. That question also should be directed to
6 Donald.

7 Q. And same question with respect to your
8 color?

9 A. It should be directed to Donald.

10 Q. Do you know what DOSI is, D-O-S-I?

11 A. Department of Scientific Integrity?

12 Q. Yeah. That's correct. Yeah. Duke
13 Office of Scientific Integrity. When
14 did you realize that they were first
15 involved in this situation?

16 A. On March 9th.

17 Q. And March 9th, you had a meeting, and I
18 think the people there were
19 Dr. McDonnell, Donna Kessler,
20 Dr. Abou-Donia, yourself, and then
21 someone from IT?

22 A. Yeah, Ron Weiss.

23 Q. Okay. Was there anyone else there?

24 A. Anyone else? No.

25 Q. Okay. When had that meeting been

1 Donald and Abou-Donia went into his
2 office, and he said he's going to meet
3 with the Dean. I said, do you want me
4 to come to meet with the Dean?

5 **Q. Uh-huh.**

6 A. And he said, no, you go with Kessler.

7 **Q. So you and Donna Kessler go to the lab?**

8 A. Yeah.

9 **Q. Okay. Why were you going to the lab?**

10 A. She wanted to get the data.

11 **Q. The data for what?**

12 A. I had no idea -- clue. It is -- data
13 was hyped up, and I have repeatedly told
14 him I have not generated data because
15 samples have not arrived, but I'm ready
16 to compile the data. That is why I am
17 doing a complete data platform, so I can
18 have my study in it to -- every
19 experimental details that will be there,
20 and whoever registers it can have an --
21 access to it because it is a public
22 fund.

23 **Q. Uh-huh.**

24 A. And as -- every taxpayers have to know
25 what is being -- what is being used for,

1 THE VIDEOGRAPHER: This begins
2 media number three in the deposition of
3 Dr. Brahma Mulugu. The time is 2:38.

4 MR. SUMMEY: Thank you for the
5 brief pause as we switched tapes.

6 BY MR. SUMMEY:

7 Q. Picking up about that March 9th, 2020,
8 meeting, what did Donna Kessler take
9 with her at -- after she left the lab?

10 A. My personal computer.

11 Q. Did she take anything else?

12 A. I don't know.

13 Q. Okay. Where did she take your personal
14 computer?

15 A. To Donald.

16 Q. Do you believe that personal computer
17 was imaged?

18 A. Yes.

19 Q. Okay. And why do you believe that?

20 A. Because she told me.

21 Q. Donna told you that?

22 A. Yes.

23 Q. Okay. And I understand you went and
24 talked to Donald twice to get your
25 computer back; is that right?

1 A. Yes.

2 Q. And both of those conversations were
3 recorded?

4 A. I assume so.

5 Q. Okay. I saw on the files you produced
6 this morning, there were two McDonnell
7 conversations with that date. Does that
8 refresh your memory?

9 A. Oh probably. Yeah.

10 Q. Okay. And is this when you contend that
11 Donald said that he had executive
12 authority?

13 A. Yes.

14 Q. Okay. And that he also threatened to
15 destroy you?

16 A. Yes.

17 Q. Okay. Did he say that on tape?

18 A. I don't know. It should be there. It's
19 the end part.

20 Q. Okay. So at the end of one of those
21 tapes?

22 A. I think so.

23 Q. And if he doesn't say that on tape, then
24 would you agree that didn't happen?

25 A. No, it happened. Because first time, he

1 Q. When is the last time you did listen to
2 those?

3 A. That was with my lawyer.

4 Q. Do you think your memory could have been
5 impacted or gotten worse?

6 A. My memory is -- no.

7 Q. Okay.

8 A. My -- you know, that is one thing --
9 maybe it's a blessing in disguise or
10 it's a blessing or it's a curse. My
11 memory is pretty -- pretty consistent
12 because with all my experiments, you
13 know, I trust my memory.

14 Q. Uh-huh. But the recording would --
15 would tell us exactly what was said;
16 correct?

17 A. I think so.

18 Q. Of the 30 recordings that you submitted
19 at 2:00 a.m. this morning, have -- have
20 you altered them in any way?

21 A. No.

22 Q. So those are the full recordings from
23 when you hit record until you hit stop?

24 A. Yes.

25 Q. Okay. After -- well, you got your

1 computer back that day, didn't you?

2 A. Yeah. After -- at 5:30.

3 **Q. Okay. And --**

4 A. Because Hendricks told me -- I sent an
5 e-mail -- Ericka and Jason told me to
6 send an e-mail to Donald saying that
7 it's your computer, ask him to give it
8 back to you. And then I needed to go to
9 Hendricks, and Hendricks' office, it was
10 already five past. The building
11 automatically closes. So Hendricks and
12 Scott --

13 **Q. Gibson?**

14 A. No. Blue some -- Scott --

15 **Q. Was it another Duke lawyer?**

16 A. Duke lawyer.

17 **Q. Okay.**

18 A. And both of them came, and Hendricks
19 talked to me, and he said, he shouldn't
20 have taken your personal computer.
21 Sorry. And then I didn't record that
22 conversation. I wish I had.

23 **Q. Why did you not record that one?**

24 A. Because I was running around.

25 **Q. Okay. In one of the recordings, you get**

1 Duke. It was Donald's drama, and I
2 actually separated the department from
3 Duke. I thought Duke University, you
4 know, the higher officials will have a
5 fair as the policy says. It'll be fair
6 because it started with Donald as
7 internal investigation, and there is no
8 point in -- for him to go through
9 internal investigation just because I
10 reported sexual harassment. Why would
11 sexual harassment be an investigation by
12 Donald? Why would CITI show any
13 concern? And why was he retaliating me,
14 and he took that as an opportunity,
15 so --

16 **Q. Were -- were you worried that Duke would**
17 **find something on your personal computer**
18 **that it would use against you later?**

19 A. There is nothing against me. It is what
20 I am; right? Personal computers are
21 personal computers.

22 **Q. After March 9th, your personal computer**
23 **stopped working correctly; right?**

24 A. Yes.

25 **Q. Okay. Did it -- was it completely**

1 broken?

2 A. It is -- it is completely -- it is
3 irreparable.

4 Q. Okay. And you believe that Duke
5 sabotaged that computer?

6 A. Definitely.

7 Q. Okay. Do you believe Donald sabotaged
8 that computer?

9 A. Definitely, because it was -- it was
10 locked, and I went there to see. Donna
11 said -- and he said, it is locked in his
12 -- that's what Donald -- Donna Kessler
13 said.

14 Q. Uh-huh.

15 A. It is locked in his thing.

16 Q. How long did Donald have the computer
17 for?

18 A. From morning till 5:30.

19 Q. Okay. Was it before 10:00 in the
20 morning?

21 A. Probably.

22 Q. Okay.

23 A. 10:00 or 11:00, I don't know.

24 Q. Okay. I'm going to show you a document
25 I'm marking as Exhibit 18.

1 A. I would send e-mails.

2 **Q. Okay. So you've never even spoken to**
3 **her directly?**

4 A. No. And it is in her power, destroy,
5 the person gets destroyed by any means.
6 As -- if Donald can have this much of a
7 power, imagine what Klotman could have.

8 **Q. And so you also believe that Donna**
9 **Kessler was taking orders from**
10 **Dr. McDonnell; correct?**

11 A. Donna -- Donna Kessler, her face
12 reveals. The -- the tape of the voice
13 memos are there and a screen recording
14 is also there. I've given it to you.
15 And you have to have a fair judgment on
16 seeing those.

17 **Q. And you believe those recordings --**

18 A. She was -- she was confused. And
19 that -- that -- it is that.

20 **Q. So you believe the recording showed that**
21 **Donna Kessler was confused about the**
22 **situation and was --**

23 A. And she was going along.

24 **Q. And was going along with what McDonnell**
25 **was telling her?**

1 A. Oh, okay.

2 Q. Yeah. I just know the tape can sound
3 kind of scratchy if that happens. Thank
4 you.

5 So with respect to Dr. Swamy --
6 I -- I just want to clarify -- is it
7 your testimony that she did not have
8 personal intent to discriminate against
9 you, but that she was taking orders from
10 Dr. McDonnell?

11 A. Correct.

12 Q. Okay.

13 A. Maybe take -- taking orders from
14 Dr. McDonnell and Klotman.

15 Q. Okay. And Klotman was also taking
16 orders from -- or, excuse me, was
17 concurring with what McDonnell was
18 doing?

19 A. That's a better word.

20 Q. Yeah. You're right. Because she's the
21 Dean of the School of Medicine.

22 A. Uh-huh. Yeah. She doesn't have to take
23 any -- anyone's orders. She is beyond
24 that.

25 Q. Okay.

1 Q. Okay. Did you have any reason to
2 believe that any of the committee
3 members were biased against you?

4 A. Oh, definitely.

5 Q. Why?

6 A. They were -- they were following the
7 protocol that is given by -- that was
8 instructed by Geeta -- that is
9 instructed by Geeta to Kessler --
10 Donna --

11 Q. Uh-huh.

12 A. -- Kessler and everyone.

13 Q. Okay. So is it your testimony that
14 McDonnell instructed Swamy, then Swamy
15 instructed Kessler, and then --

16 A. Yeah.

17 Q. -- Kessler instructed the committee?

18 A. I don't know how the dynamics worked --

19 Q. Okay.

20 A. -- but they were all, you know, in it.

21 Q. Okay. And you believe that they were
22 instructing the committee to find
23 against you?

24 A. Definitely.

25 Q. Okay. Why do you believe that?

1 the inquiry started?

2 A. Yes.

3 Q. Okay. Do you believe that members of
4 the committee personally had a
5 discriminatory animus against you?

6 A. I don't know them personally. I'm --
7 I'm -- you have to understand, I'm a
8 small person, and they have to protect
9 Donald, and they have to protect
10 everyone.

11 Q. So it's correct you do not know if any
12 of the committee members had a personal
13 intent to discriminate against you?

14 A. I am no one to them, and why should they
15 have a personal vendetta?

16 Q. Okay. So you don't believe that they
17 had a personal vendetta against you?

18 A. I don't know.

19 Q. Okay.

20 A. I don't know them. How much of they
21 know me, I don't know.

22 Q. Are you aware that the committee was the
23 one that recommended retraction of the
24 papers?

25 A. The -- I didn't know.

1 lock, I bought it. And it's a -- it's a
2 long lock, so nobody can duplicate --

3 **Q. Uh-huh.**

4 A. -- the thing. And it is not about
5 anyone stealing the sample, but it is a
6 human sample. It's a human sample.
7 According to a procedure, we have to
8 keep it locked.

9 **Q. Your position was grant funded; correct?**

10 A. Yes.

11 **Q. And at the time of Exhibit 27, the only**
12 **grant you were approved for was the DoD**
13 **grant; correct?**

14 A. Because he didn't allow me to write any
15 other grant.

16 **Q. So -- and that was going to be my**
17 **follow-up, but you had not been allowed**
18 **to apply for new grants; right?**

19 A. Yes.

20 **Q. So you had only one existing grant?**

21 A. Exactly.

22 **Q. Okay.**

23 A. And they didn't allow me to work on that
24 grant.

25 **Q. And so when Dr. Swamy decided to**

1 terminate that grant, that removed all
2 funding for your position?

3 A. That was their plan.

4 Q. Okay. And so, in effect, Dr. Swamy
5 caused the termination of your
6 employment?

7 A. Definitely. It -- it -- it is not only
8 her. Donald used her, and it was a team
9 effort. I -- I don't know. I'm not
10 that powerful. Sometimes when I think
11 about it, it's like a drama that they
12 played, but why on me?

13 Q. I'm going to show you a document I'm
14 going to mark as Exhibit 28.

15 (EXHIBIT NUMBER 28 WAS MARKED.)

16 Q. And once you've had a chance to review
17 it, is Exhibit 28 an e-mail you received
18 from Colin Duckett on September 15th,
19 2021?

20 A. Uh-huh.

21 Q. Is that a yes?

22 A. Yes.

23 Q. Okay. And is this e-mail and its
24 attachment the official notice that your
25 position is being terminated?

1 Q. Okay. When you -- these are just -- I'm
2 going to jump around just because I
3 missed a couple of things, so bear with
4 me.

5 You started in Abou-Donia's lab
6 in 2016; is that right?

7 A. Yes.

8 Q. Okay. And did you immediately realize
9 that it didn't have a lot of the
10 resources you thought it should?

11 A. Yes.

12 Q. Okay. There's some reference in the
13 amended complaint that you believe you
14 should have gotten some kind of
15 reappointment letter in 2018?

16 A. Yes.

17 Q. What -- explain that to me.

18 A. So Sharon on I think June of '19 or
19 some -- some date.

20 Q. Yeah.

21 A. I don't know the exact date, but it is
22 June of 2019, right after I -- we had a
23 discussion with Dr. McDonnell. Sharon
24 said she wanted to meet me, and that day
25 I couldn't meet and we fixed a date, and

1 my -- I need the grant by August 1st,
2 because their cycle starts from October
3 -- September/October. And I said --
4 I -- I sent him a copy of the budget --

5 **Q. Uh-huh.**

6 A. -- the complete package, and I said,
7 if -- if you can expedite it, that will
8 be helpful, and the funding was released
9 by August 1st.

10 **Q. Did -- did you miss a paycheck during**
11 **that window?**

12 A. No.

13 **Q. Okay. And so your claim is that Sharon**
14 **didn't give you a reemployment letter**
15 **and that was discrimination; correct?**

16 A. That is definitely discrimination
17 because --

18 **Q. Okay.**

19 A. -- having -- having promise -- having --
20 having given a termination letter --

21 **Q. Okay.**

22 A. -- we will give you a reappointment
23 letter. When did this happen? After
24 Donald's meeting -- meeting with Donald,
25 and he was the one who said he will

1 Q. Okay. May 2019?

2 A. 20 -- 2018.

3 Q. '18. Okay.

4 A. May 29th, 2018.

5 Q. I understood your testimony from other
6 folks to be that they were largely
7 concurring with or taking orders from
8 Donald.

9 A. Uh-huh.

10 Q. So whatever he was discriminating
11 against you, they were doing; is that
12 correct?

13 A. Yes.

14 Q. Okay.

15 A. Including Sharon.

16 Q. Okay. Now -- but you're also saying
17 with Sharon, she's making derogatory
18 comments about India?

19 A. Basically directly, right. Directly at
20 me during the conversation.

21 Q. Okay.

22 A. For example --

23 Q. What did she say about India?

24 A. For -- for example, you're -- you're
25 dispensable.

1 Q. Okay. That's really what you mean,
2 isn't it?

3 A. No, but independently, she would
4 comment. See, independently, it is an
5 intimidating comment.

6 Q. When someone says that --

7 A. And --

8 Q. -- Sharon is Donald's mom, that
9 intimidated you?

10 A. No, no, no, no. That is -- that is --
11 that doesn't intimidate, but that shows
12 what role she played for Donald.

13 Q. Okay.

14 A. And in front of the whole group, Donald
15 has made certain statements.

16 Q. What statements?

17 A. I will tell you when the time comes.

18 Q. Now is your time.

19 A. No. I don't want to go back to that
20 memory. It's hurtful.

21 Q. If -- if you decline to answer now, you
22 cannot use whatever you're holding as
23 evidence in this case. And I will
24 absolutely ask the judge to hold that
25 back. So if you -- if you claim there's

1 IRB was not approved. First, I could
2 not even register because I don't have a
3 faculty deposition. And, number two,
4 you know, they wanted me to upload the
5 whole grant. I don't have the grant.

6 **Q. Okay. You didn't have a copy of the**
7 **grant?**

8 A. I -- I -- I had a copy of what I
9 submitted.

10 **Q. Okay.**

11 A. That's what I gave to IRB, but that was
12 not sufficient for them.

13 **Q. And what else did they need?**

14 A. They wanted -- they wanted all the
15 budget. I said, I have a copy of the
16 budget I can give you. No, we want the
17 package. And I said the NAHI have seen
18 the package, but I have not seen a DoD
19 as a package, and where do I get it?
20 Your department should have it. I asked
21 department. I asked Sonya Owens. I
22 asked Sharon.

23 **Q. Uh-huh.**

24 A. They said, I don't know. You should
25 have it, Brahma. And then I went back

1 to IRB, to Ronna Zimmer and June
2 Walker --

3 **Q. Yeah.**

4 A. -- and they said probably Grants and
5 Contracts would have it. I called
6 Grants and Contracts, and they said your
7 department will have a copy.

8 **Q. And that Sharon should have had it?**

9 A. Should have had it.

10 **Q. And she didn't have it?**

11 A. She didn't -- no, she didn't give me.
12 If she had, she didn't give me.

13 **Q. Did you eventually get the full
14 document?**

15 A. No.

16 **Q. Did you --**

17 A. So I wrote the complete detail to
18 Cianciolo.

19 **Q. Okay. Do you believe Sharon
20 purposefully lost it?**

21 A. I don't know whether she lost it or she
22 was not organized or -- I don't know.

23 **Q. In your complaint, you claim that she
24 did that to discriminate against you.**

25 A. Definitely, it is.

1 Sonya, you know, the --

2 Q. So we were talking about --

3 A. -- AAI --

4 Q. I -- I don't think we're anywhere close
5 to the question. I -- I have a simple
6 wrap-up question.

7 Do you believe that everything
8 negative that happened to you after 2018
9 was the result of discrimination or
10 retaliation?

11 A. Definitely.

12 Q. Okay. You also have a breach of the
13 duty of good faith and fair dealing
14 claim. And I think you identified two
15 things that you claim were a contract.
16 One is the SCAP, S-C-A-P; do you know
17 what that is?

18 A. Yes.

19 Q. Okay. Scientific Accountability Plan, I
20 believe.

21 A. Yes.

22 Q. Okay. You believe that's a contract
23 with Duke?

24 A. Contract? I don't know the -- the
25 amount of calling and the amount of

1 e-mails I got to sign that in 2020
2 raised a concern.

3 Q. Okay. And the other thing you've
4 identified is the Research Misconduct
5 Policy. Do you contend that's a
6 contract with Duke?

7 A. Which one?

8 Q. The Research Misconduct Policy.

9 A. Yes.

10 Q. You think that's a contract?

11 A. That is a contract. They -- they didn't
12 follow the policy.

13 Q. No, I'm asking you a simpler question.
14 Do you think the Research Misconduct
15 Policy is a legal contract?

16 A. Could be.

17 Q. Okay.

18 A. That, Duke has to decide.

19 Q. I agree.

20 The Investigation Committee --
21 I talked about the Inquiry Committee,
22 but there were three other folks that
23 were appointed to the Investigation
24 Committee, and they also found against
25 you. Do you remember that?

1 Q. With respect to the lost -- the --
2 the -- the grant document that was lost
3 during the IRB, Dean Klotman didn't have
4 anything to do with that; right?

5 A. IRB, Dean Klotman, she is the leader of
6 the institution. She is the policy
7 maker.

8 Q. Do you think she personally lost that
9 document?

10 A. Why would she -- personally lost --

11 Q. So you don't --

12 A. -- lose the document.

13 Q. -- think so?

14 A. But she is supposed to actually send a
15 memo to the person to say, where is the
16 document?

17 Q. So --

18 A. The department should have -- because
19 the -- once the Grants and Contracts
20 submits it, if you don't download it
21 before the website goes, it's only the
22 Grant -- Grant and Contracts has it, and
23 they share it with the department. And
24 it is a matter of just an e-mail to send
25 it to me.

1 Q. So you think Dean Klotman wasn't
2 responsible for losing the document;
3 right?

4 A. Physically losing, no.

5 Q. Okay.

6 A. But --

7 Q. But she could have sent a memo giving
8 you --

9 A. She is overseeing authority.

10 THE COURT REPORTER: Excuse me.

11 We're talking over each other a whole
12 bunch right now. If you could be --

13 MR. SUMMEY: Sorry.

14 THE COURT REPORTER: --

15 cognizant of each other, I'd appreciate
16 it.

17 BY MR. SUMMEY:

18 Q. So based on what I've heard today, I
19 understand that you believe more than a
20 dozen people at Duke were ultimately
21 involved in this conspiracy?

22 A. Yes.

23 Q. And the conspiracy was intended to frame
24 you for scientific misconduct; is that
25 correct?

1 A. Yes.

2 Q. To terminate your grant; is that
3 correct?

4 A. That's correct.

5 Q. And retract your papers; is that
6 correct?

7 A. That's correct.

8 Q. And ultimately end your employment?

9 A. Exactly.

10 Q. Okay.

11 A. And to end -- and intention is to end my
12 scientific career.

13 Q. Do you believe it reflects well on Duke
14 that they had to terminate your grant?

15 A. It does not.

16 Q. Do you believe it reflects well on Duke
17 that they retracted your papers?

18 A. But when the intention is to retract,
19 they have already gone through one. And
20 in order to sabotage me, they would
21 easily do that, and which they are
22 facing the blunt end of it now when NIH
23 stopped all the grant, how do they feel?
24 And that pain, I felt because the --
25 that is my livelihood, and I'm born in a

1 will not be in this department. But if
2 it's a federal grant, how would you do?
3 Maybe one year, I can give a little
4 extension, and then.

5 Ericka Lewis asked, you know,
6 we can actually move you to another lab,
7 but -- which they didn't. And why? And
8 I -- I applied to Patty Lee. She made
9 me write a grant.

10 **Q. When did --**

11 A. She --

12 **Q. -- when did you apply to work with Patty**
13 **Lee?**

14 A. 2020, of April. And at that time, Duke
15 had a hiring freeze, and she -- she said
16 she will give me a junior faculty
17 position. And at that time, I was
18 submitting a pre-application, and COVID
19 grants were all on the thing, and even
20 DoD opened up. I told Patty Lee, I can
21 actually submit pre-application for DoD.
22 She said, okay, put my name as a
23 co-author -- co -- co-investigator and
24 submit.

25 And when I submitted, it was

1 Q. Okay. Did you also apply to move to a
2 Dr. Sanders?

3 A. Yes.

4 Q. Okay. When was that?

5 A. That was during the same time.

6 Q. Okay.

7 A. Because Burton Scott said -- I went and
8 met Burton Scott. He said, you know,
9 Duke, there are good people. And I have
10 informed him from the time Abou-Donia
11 was harassing me, Donald was harassing
12 me. And.

13 Q. Uh-huh.

14 A. Even I went and met Allan Kirk, the
15 Chairman of Surgery. He suggested me to
16 talk to another faculty, but because of
17 COVID, there was a hiring freeze and
18 everything was shut down, and it was an
19 unfortunate moment.

20 And -- and Sanders said, you
21 know, Donald released the grant and
22 there is no way resubmit it. And she --
23 I tried to submit a DoD pre-application
24 and pre-application, when I submitted,
25 it was blocked by Donald, and Traci --

1 Duckett sent an e-mail saying that,
2 because the investigation is going on,
3 you cannot apply to Duke. And I was --
4 I was informed by Teder (phonetic) and
5 by Laskowitz, be careful. If Donald is
6 involved in it, run. Run.

7 And I said, I have a grant. It
8 was -- Allan Kirk was the one who
9 said -- I told him that I would really
10 like to contact DoD and give back. I
11 cannot do the work because they are
12 entirely on me. And he said, no, that
13 is the credit you earned. Don't do
14 that.

15 **Q. How much money was your grant for? It**
16 **was a million dollars?**

17 A. It was for -- yeah.

18 **Q. Okay. Are you aware of Duke terminating**
19 **and returning the money of any other**
20 **grant ever?**

21 A. They don't -- I don't know.

22 **Q. You don't know? Okay. Have you earned**
23 **any compensation from other endeavors**
24 **outside of employment since 2021?**

25 A. No.

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CERTIFICATE

State of North Carolina
County of Wake

I, Charlene Stell, a notary public in and for the State of North Carolina, do hereby certify that there came before me on the 28th day of May, 2025, the person hereinbefore named, who was by me duly sworn to testify to the truth and nothing but the truth of her knowledge concerning the matters in controversy in this cause; that the witness was thereupon examined under oath, the examination reduced to typewriting.

I further certify that I am not counsel for, nor in the employment of any of the parties to this action; that I am not related by blood or marriage to any of the parties, nor am I interested, either directly or indirectly, in the results of this action.

In witness whereon, I have hereto set my hand, this the 10th day of June, 2025.



Charlene Stell
Professional Court Reporter