

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Case No. 9:16-cv-80655-RLR

JAMES TRACY,

Plaintiff,

v.

FLORIDA ATLANTIC UNIVERSITY  
BOARD OF TRUSTEES, a/k/a FLORIDA  
ATLANTIC UNIVESRITY, et al.,

Defendants.

**DEFENDANTS FLORIDA EDUCATION ASSOCIATION, UNITED FACULTY  
OF FLORIDA, ROBERT ZOELLER, AND MICHAEL MOATS ANSWER TO  
SECOND AMENDED COMPLAINT**

Defendants FLORIDA EDUCATION ASSOCIATION, UNITED FACULTY OF FLORIDA, ROBERT ZOELLER, and MICHAEL MOATS (collectively, “Union Defendants”), by way of Answer to the Plaintiff’s Second Amended Complaint state as follows:

1. Denied.
2. The Union Defendants are without knowledge with respect to paragraph 2.
3. Denied.
4. Denied as to damages, otherwise admitted.
5. Denied.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.

10. Admitted.
11. Admitted.
12. Admitted.
13. Admitted.
14. The Union Defendants are without knowledge with respect to paragraph 14, therefore denied.
15. The Union Defendants are without knowledge with respect to paragraph 15, therefore denied.
16. The Union Defendants are without knowledge with respect to paragraph 16, therefore denied.
17. The Union Defendants are without knowledge with respect to paragraph 17, therefore denied.
18. The Union Defendants are without knowledge with respect to paragraph 18, therefore denied.
19. Admitted.
20. Admitted.
21. Admitted.
22. Admitted.
23. Admitted.
24. Admitted.
25. Admitted.
26. Admitted.
27. Admitted.

28. Admitted.
29. Admitted.
30. Admitted.
31. Admitted.
32. Admitted.
33. Admitted.
34. Admitted.
35. Admitted.
36. Admitted that Plaintiff operated a blog, otherwise denied.
37. Admitted.
38. The Union Defendants are without knowledge with respect to paragraph 38, therefore denied.
39. Admitted.
40. Admitted that Plaintiff operated a blog, otherwise denied.
41. Denied.
42. Denied.
43. Denied.
44. The Union Defendants are without knowledge with respect to paragraph 44, therefore denied.
45. The Union Defendants are without knowledge with respect to paragraph 45, therefore denied.
46. Admitted that Plaintiff posted his views on his blog, otherwise denied.
47. Admitted that the Sun Sentinel published articles, otherwise denied.

48. The Union Defendants are without knowledge with respect to paragraph 48, therefore denied.
49. The Union Defendants are without knowledge with respect to paragraph 49, therefore denied.
50. The Union Defendants are without knowledge with respect to paragraph 50, therefore denied.
51. The Union Defendants are without knowledge with respect to paragraph 51, therefore denied.
52. The Union Defendants are without knowledge with respect to paragraph 52, therefore denied.
53. The Union Defendants are without knowledge with respect to paragraph 53, therefore denied.
54. The Union Defendants are without knowledge with respect to paragraph 54, therefore denied.
55. The Union Defendants are without knowledge with respect to paragraph 55, therefore denied.
56. Admitted that a meeting was held, otherwise denied.
57. Admitted that a meeting was held, otherwise denied.
58. Admitted.
59. Admitted.
60. Admitted.
61. Admitted that Defendant Moats gave Plaintiff advice regarding the University's policy, otherwise denied.

62. Admitted that Defendant Moats gave Plaintiff advice regarding the University's policy, otherwise denied.
63. Admitted that Defendant Moats gave Plaintiff advice regarding the University's policy, otherwise denied.
64. Admitted that Defendant Moats gave Plaintiff advice regarding the University's policy, otherwise denied.
65. Admitted.
66. Admitted.
67. Admitted.
68. The Union Defendants are without knowledge with respect to paragraph 68, therefore denied.
69. The Union Defendants are without knowledge with respect to paragraph 69, therefore denied.
70. The Union Defendants are without knowledge with respect to paragraph 70, therefore denied.
71. Admitted that a grievance was filed, otherwise denied.
72. The Union Defendants are without knowledge with respect to paragraph 72, therefore denied.
73. The Union Defendants are without knowledge with respect to paragraph 73, therefore denied.
74. The Union Defendants are without knowledge with respect to paragraph 74, therefore denied.
75. Admitted.

76. Denied.
77. The Union Defendants are without knowledge with respect to paragraph 77, therefore denied.
78. The Union Defendants are without knowledge with respect to paragraph 78, therefore denied.
79. Admitted that no disciplinary action was sought, otherwise denied.
80. Admitted that no disciplinary action was sought, otherwise denied.
81. The Union Defendants are without knowledge with respect to paragraph 81, therefore denied.
82. The Union Defendants are without knowledge with respect to paragraph 82, therefore denied.
83. Admitted.
84. The Union Defendants are without knowledge with respect to paragraph 84, therefore denied.
85. Admitted.
86. The Union Defendants are without knowledge with respect to paragraph 86, therefore denied.
87. The Union Defendants are without knowledge with respect to paragraph 87, therefore denied.
88. The Union Defendants are without knowledge with respect to paragraph 88, therefore denied.
89. The Union Defendants are without knowledge with respect to paragraph 89, therefore denied.

90. The Union Defendants are without knowledge with respect to paragraph 90, therefore denied.
91. Denied that Defendant Zoeller met with General Counsel Larry Glick or that Defendant Zoeller agreed not to contest the discipline and termination of Plaintiff, otherwise admitted.
92. The Union Defendants are without knowledge with respect to paragraph 92, therefore denied.
93. Admitted.
94. Admitted.
95. Admitted.
96. Admitted.
97. Admitted.
98. Admitted.
99. Denied that Defendant Zoeller denied Plaintiff's right to file a grievance, otherwise admitted.
100. The Union Defendants are without knowledge with respect to paragraph 100, therefore denied.
101. The Union Defendants are without knowledge with respect to paragraph 101, therefore denied.
102. The Union Defendants are without knowledge with respect to paragraph 102, therefore denied.
103. The Union Defendants are without knowledge with respect to paragraph 103, therefore denied.

104. The Union Defendants are without knowledge with respect to paragraph 104, therefore denied.
105. The Union Defendants are without knowledge with respect to paragraph 105, therefore denied.
106. Admitted that Plaintiff submitted forms; the Union Defendants are without knowledge with respect to the remainder of paragraph 106, and therefore deny same.
107. Admitted.
108. The Union Defendants are without knowledge with respect to paragraph 108, therefore denied.
109. Admitted.
110. Denied.
111. Admitted that Defendant Moats spoke with Plaintiff on December 17 and 18 and that Defendant Moats emailed Plaintiff on December 17, otherwise denied.
112. Admitted.
113. Admitted.
114. Admitted.
115. Denied.
116. Denied.
117. Denied that the reason was “dubious,” otherwise admitted.
118. Denied.



119. The Union Defendants are without knowledge with respect to the reason for Plaintiff's termination, therefore denied.

120. The Union Defendants are without knowledge with respect to paragraph 120, therefore denied.

121. The Union Defendants are without knowledge with respect to paragraph 121, therefore denied.

COUNT I – 42 U.S.C. § 1983

122. – 137. COUNT I does not pertain to the Union Defendants.

COUNT II – 42 U.S.C § 1983 and 1985

138. The Union Defendants repeat their responses for Paragraphs 1 – 137 of the Second Amended Complaint as if fully set forth herein.

139. Admitted.

140. Denied.

141. The Union Defendants are without knowledge with respect to paragraph 141, therefore denied.

142. Denied.

143. Denied.

144. The Union Defendants are without knowledge with respect to paragraph 144, therefore denied.

145. The Union Defendants are without knowledge with respect to paragraph 145, therefore denied.

146. The Union Defendants are without knowledge with respect to paragraph 146, therefore denied.

147. The Union Defendants are without knowledge with respect to paragraph 147, therefore denied.
148. The Union Defendants are without knowledge with respect to paragraph 148, therefore denied.
149. Denied.
150. Denied.
151. Denied.
152. Denied.
153. The Union Defendants are without knowledge with respect to paragraph 153, therefore denied.
154. Denied.
155. The Union Defendants are without knowledge with respect to paragraph 155, therefore denied.
156. Denied.
157. The Union Defendants are without knowledge with respect to paragraph 157, therefore denied.
158. Denied.
159. Denied.
160. Denied.
161. Denied.
162. Denied.
163. Denied.
164. Denied.

165. Denied.

166. Denied.

167. Denied.

COUNT III – 42 U.S.C. § 1983

168. – 190. COUNT III does not pertain to the Union Defendants.

COUNT IV – 42 U.S.C. §1983

191. – 213. COUNT IV does not pertain to the Union Defendants.

COUNT V – 28 U.S.C. §§ 2201-2202

214. – 221. COUNT V does not pertain to the Union Defendants.

COUNT VI – State Law

222. – 232. COUNT VI does not pertain to the Union Defendants.

FIRST AFFIRMATIVE DEFENSE

Any damages Plaintiff claims to have suffered are the result of the Plaintiff's failure to file a grievance challenging his termination and not the result of any action or failure to act on the part of the Union Defendants.

SECOND AFFIRMATIVE DEFENSE

Plaintiff fails to state a cause of action for conspiracy to violate his constitutionally protected rights.

PRAYER FOR RELIEF

The Union Defendants request judgment by this Court in their favor and an award of the costs of this action.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on February 28, 2017, I filed this document with the Clerk of the Court by using the CM/ECF system, which will send notice to Louis Leo, IV, Esquire (Louis@floridacivilrights.org), Joel Medgebow, Esquire (joel@medgebowlaw.com), Matthew Benzion, Esquire (mab@benzionlaw.com), Florida Civil Rights Coalition, P.L.L.C. & Medgebow Law, P.A., 4171 W. Hillsboro Boulevard, Suite 9, Coconut Creek, Florida 33073; and to G. Joseph Curley, Esquire (gcurley@gunster.com), Gunster, Yoakley & Stewart, P.A., 777 F. Flagler Drive, Suite 500 East, West Palm Beach, FL 33401.

/s/ Robert F. McKee

ROBERT F. McKEE

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