

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(SOUTHERN DIVISION)**

BARRY D. BRAAN, SR.
10520 Beechwood Drive
Waldorf, Maryland 20601

Plaintiff,

V.

UNIVERSITY OF MARYLAND
MEDICAL SYSTEM CORPORATION
250 West Pratt Street
24th Floor
Baltimore, MD 21201

Serve On Resident Agent:
Mary Elizabeth Zorzi
250 West Pratt Street
24th Floor
Baltimore, MD 21201

and

JOAN CRITTENDEN
30 Steeplechase Drive,
La Plata, Maryland 20646

and

SUSAN VOGEL
9340 Mudd Farm Lane,
La Plata, Maryland 20646

and

ANNE WEEKLEY
27354 Yowaiski Mill Road,
Mechanicsville, Maryland 20659

Defendants.

* * * * *

COMPLAINT

Plaintiff, BARRY D. BRAAN, SR., by his undersigned counsel, files this Complaint against Defendants, UNIVERSITY OF MARYLAND MEDICAL SYSTEM CORPORATION, JOAN CRITTENDEN, SUSAN VOGEL, and ANNE WEEKLEY, and states:

INTRODUCTION.

1. Plaintiff BARRY BRAAN, SR. (“Braan”) is a dedicated and long serving Minister, Healthcare Chaplain, and Board-Certified Pastoral Counselor, who specializes in the area of end-of-life, hospice, and palliative care.

2. Defendant UNIVERSITY OF MARYLAND MEDICAL SYSTEM CORPORATION (“UMMSC”) is a private nonprofit corporation established by the Maryland General Assembly. Charles County Regional Medical Center (“the Medical Center”) is a hospital located in Charles County Maryland and a component and arm of UMMSC.

3. Defendant JOAN CRITTENDEN (“Crittenden”) is an individual residing in Charles County, Maryland.

4. Defendant SUSAN VOGEL (“Vogel”) is an individual residing in Charles County, Maryland.

5. Defendant ANNE WEEKLEY (“Weekley”) is an individual residing in St. Mary’s County, Maryland.

6. This case arises from the Defendants' intentional actions to misappropriate for their own benefit Braan's intellectual property with regard to Braan’s development from scratch of a detailed Pastoral/Spiritual Care Plan (“the Plan”) for the Medical Center’s benefit.

7. Braan relied upon the Defendants to convey the Plan to the Medical Center’s Board of Directors, and Braan reasonably expected that the Defendants would work with him in

good faith to implement the Plan. Instead, the Defendants, in an effort to hide the fact that the program was being run in violation of industry standards and to take credit for a well-developed plan, plagiarized the contents of the Plan, and took sole credit for Braan's work and product. Vogel and others made defamatory remarks to management regarding Braan's character, and in an effort to silence Braan, banned him from performing chaplaincy services at the Medical Center.

8. In return for the misappropriation of Braan's intellectual property, Defendant Crittenden was appointed to the paid position of Palliative Care Chaplain for the Medical Center.

9. Braan's Plan was instituted at the Medical Center and continues to be implemented without Braan's participation. In receiving the benefit of Braan's valuable services and intellectual property without compensating him therefor, the Medical Center and Crittenden have been unjustly enriched.

JURISDICTION.

10. This Court has subject matter jurisdiction over Plaintiff's claims for copyright infringement and related claims pursuant to 17 U.S.C. §§ 101, *et. seq.*, and 28 U.S.C. §§ 1331 and 1338(a).

11. This Court has supplemental jurisdiction over Plaintiff's claims arising under the laws of the State of Maryland pursuant to 28 U.S.C. § 1367(a) because these claims are so related to Plaintiff's claims under Federal Law that they form part of the same case or controversy and derive from a common nucleus of operative facts.

12. The Court has personal jurisdiction over Defendants, as the Defendant Medical Center operates in the State of Maryland and Defendants Crittenden, Weekly, and Vogel are residents of the State of Maryland.

FACTUAL BACKGROUND.

13. In August 2014, Braan took his wife to University of Maryland Charles Regional Medical Center (formerly d/b/a Civista Medical Center) for emergency medical treatment. While they awaited test results, Braan asked the nurse and other staff members if there was a chaplain in the hospital, and where and how he could contact one if so.

14. The general response was that the staff did not know the chaplain's name, or where the chaplain's office was, and that the chaplains did not make regular rounds in the emergency room. There was no evidence that the staff members were receiving pastoral care to help them cope with the stresses of caring for sick and dying patients.

15. Braan was advised that the method for contacting a chaplain was to call the hospital telephone operator to request a chaplain's services. Braan was also advised that the chaplain's office may be near the chapel on the second floor, but Braan found no such office. As Braan was searching for the office, he noticed a woman in an office with the door open and asked where he might find the chaplain's office. The woman answered that she was not sure, but asked for and received Braan's contact card which contained his photo, church affiliation, church address and telephone number, personal home telephone numbers (Voice and Fax), and email address. The woman promised to pass on Braan's information to the person whom she knew had a way of contacting the chaplain. Braan thanked her and returned to the emergency room.

16. One year later, in or about September 2015, Braan was contacted by Carol Kenney ("Kenney"), advising that she was the Medical Center's Chaplain Coordinator, and asking if Braan was interested in volunteering as a chaplain at the Medical Center. Braan met with Kenney and Lucy Dettor ("Dettor") on October 5, 2015, and, during the interview, they read Braan's resume and made a number of comments which included them comparing their

education and experience to Braan's. As Braan was listening to Kenney and Dettor, he became concerned that these two chaplains were not ordained ministers, yet they were supervising chaplains. Braan left the interview greatly troubled and concerned about the qualifications of the chaplains at the Medical Center and the quality of care that patients and staff were receiving. He felt that there could be well meaning people trying to help patients and, in the process, unintentionally doing emotional or spiritual harm which may not be realized before the patient was discharged from hospital care.

17. Braan thereafter requested that he be provided an outline of the organizational structure of pastoral care at Medical Center, and Dettor provided Braan written "guidelines," advised that there was not yet any ongoing training, and that the guidelines were intended to be a tool which chaplains could use as a review of their original training. Dettor further advised that there was no supervisor for the chaplaincy program, that there was limited ability to require training for the chaplains, and that there was no way to conduct periodic evaluations of each other's skills. Dettor stated, "So, we pray, trust that God will use us as He will."

18. Braan was also provided with a statement of the qualifications of the volunteer chaplains. According to the information provided, only one chaplain was an ordained minister. This caused Braan great concern as he saw no evidence that the other chaplains were acknowledged or endorsed by any church or faith group as being called to ministry and possessing the required skills and authority to perform or provide religious support and pastoral care.

19. Thereafter Braan began attending volunteer chaplain's meetings, and he became more concerned based upon comments that he heard from other chaplains regarding their role as a chaplain and the care and services that they do or do not provide. Braan advised that some of

their practices were inconsistent with the standards of professional chaplaincy. Joan Crittenden moved that Braan be asked to give a presentation about his understanding of the role of a chaplain at a community-based hospital such as the Medical Center. The motion carried and Braan agreed to give the presentation and expressed his desire to improve chaplaincy services at the Medical Center. Crittenden thanked Braan for agreeing to give the presentation and further stated that she and Carol Kenney had tried to get information from the employees of the University of Maryland Baltimore Medical Center chaplain office, but the University of Maryland Medical Center employees would not talk to Crittenden or Kenny, asserting that they were not chaplains.

20. In preparing for the presentation and reviewing the practices of the Medical Center with regard to its chaplains, Braan found that the Medical Center's practices were indeed not in accordance with the applicable Joint Commission on Accreditation of Healthcare Organizations ("JCAHO"), the Joint Commission on Accreditation of Pastoral Care Services ("JCAPS"), and the Association of Professional Chaplains ("APC") standards.

21. Thereafter, Braan spent over one hundred hours of valuable time and labor researching, preparing, and finalizing the Plan to revitalize the chaplaincy program at the Medical Center, bring its procedures and policies in line with the applicable JCAHO, JCAPS and APC standards, and improve the quality of care provided by the Medical Center.

22. When he completed the Plan, Braan asked Vogel to deliver the Plan to the Medical Center's Board of Directors. Despite her promise, upon information and belief, Vogel never delivered the Plan to the Board of Directors.

23. On February 11, 2016, Braan gave a presentation entitled "What Does A Chaplain Do" at the Medical Center's volunteer chaplain's meeting. Braan did not circulate the Plan in the

meeting. However, Helen Burroughs (“Burroughs”) from the Performance Improvement Department of the Medical Center, came to the meeting with a copy of Braan’s Plan and shared information from the Plan with Kenney. Burroughs had not been authorized by Braan to copy or disseminate the Plan, and at no time did Braan authorize any of the persons present at the meeting or any other person to copy or utilize the Plan without his consent. On February 27, Kenney falsely asserted that the document Burroughs showed her was a proposal written by Dettor, not Braan. However, on February 23, Vogel had confirmed that she had given a copy of the Plan to Burroughs, and would send it to Kenney next.

24. In email correspondence with Braan beginning on February 19, 2016, Kenney discussed a meeting scheduled with Braan for mid-March, and requested that the meeting be rescheduled so that Crittenden, who was very eager to attend, would be able to do so. Braan initially understood that the intention of this meeting was for him to work together with the core volunteer chaplains group to discuss implementation of his program Plan. However, upon information and belief, the intent of this meeting was for the members of the core volunteer chaplains group to gain further information from Braan to further their goal of misappropriating his work towards their own ends. After further discussion, such a meeting never materialized.

25. Thereafter, Braan continued to attend volunteer chaplains meetings, and provide chaplain services for the Medical Center on a volunteer basis. He heard nothing further from the Medical Center or its representatives regarding his Plan, and he was neither offered a paid position as a chaplain at the Medical Center, nor informed of any such employment opportunities.

26. On August 11, 2018 Braan attended a chaplain’s meeting where it was announced that Joan Crittenden had been selected to be the Palliative Care Chaplain, a position for which

Crittenden was unqualified. During the meeting, Kenney stated that Crittenden had been very instrumental in establishing the Palliative Care program at the Medical Center, and further announced that the Palliative Care Chaplain would be a paid position involving the training and supervision of chaplains. Crittenden also announced that she was very happy that she would be ordained as a deacon in the Episcopal Church the following month.

27. Braan thereafter learned that the Defendants took actions to misappropriate his product to their own personal gain. Braan's Plan was plagiarized by these individuals in the process of creating the department's new Volunteer Chaplain Program, for which individuals other than Braan were given credit. In so doing, the Defendants sought to conceal the existing Volunteer Chaplain Program's shortcomings from the Medical Center's Board of Directors and executives, as well as take undue credit for Braan's efforts to rectify them. In particular, Defendant Crittenden was at numerous times credited for being instrumental in the formation of the department's policies and guidelines, all of which were taken directly from the work of Braan.

28. Crittenden was then able to parlay the misappropriation of Braan's Plan into a paid Palliative Care Chaplain position, a position for which Braan was not only vastly more qualified, but for which he had laid the groundwork with his many hours of hard work on the program Plan.

29. On December 18, 2018, Braan, in his capacity as chaplain, arrived at the Medical Center to visit a patient in the ICU. When he arrived, Braan signed in and called the operator to announce his presence in the hospital, and told the operator that he was there to see a patient in the ICU.

30. While Braan was sitting in the room with the patient, Defendants Weekley and Vogel entered the room, stated that they were making executive rounds, and asked about the quality of the service and treatment that was provided. Vogel introduced herself to Braan as though she did not know him.

31. When she saw Braan's ID card and noticed that Braan was a chaplain, Vogel asked how the patient was doing. After Braan told her the patient was doing well, Vogel and Weekley left the room and continued their rounds in the ICU.

32. While he was in the hospital that day, Braan responded to three (3) emergency calls that the operator announced on the PA system. Weekley was present at the calls and saw Braan caring for the patients and family members. During the last call, Braan prayed for the patient and comforted her father, gave him water and tissues, listened to him, and provided emotional support.

33. Braan then returned to the ICU and discovered that his Medical Center security pass did not work. Braan went to the security office to tell them that his pass was not working, at which point he saw a note attached to a monitor which read, "Barry Braan (highlighted in yellow) deactivate per Anne Weekley and Susan Vogel." Braan asked what it was about and was told that Weekley and Vogel did not want him in the building.

34. On December 19, 2018, Braan wrote to the President and CEO of the Medical Center requesting an explanation of why his card was de-activated.

35. On January 10, 2019, Braan received a response from the Medical Center's Vice President of Human Resources stating that Braan's badge was deactivated for the following reasons:

1. Non-compliance with the Hospital's requirements as follows:

- a. Chaplains are required to be on the on-call schedule for six months. You were not.
- b. You did not get a flu shot, as required.
- c. You did not complete your Joint Commission competency training, as required.
- d. You did not complete your annual department training, as required.

2. Your behavior at the August, 2018 meeting, when you were informed that non-compliance with the items noted above, made you ineligible for the coordinator position.

- a. As reported, you became irate and inappropriate. Even though you clearly have made very little, if any effort to comply with, and show some basic respect for our policies, you continued to assert that you should be allowed to be an officer in our Volunteer Chaplaincy Program, in spite of the group telling you that they wanted you on the team, but you needed to meet the participation requirements to be included.

36. Each of these assertions was false, and the assertions as to Braan's "behavior" were defamatory and made with the intent of harming Braan and to prevent him from exercising his rights to free speech.

COUNT I – COPYRIGHT INFRINGEMENT

37. Plaintiff incorporates the preceding paragraphs by reference as if fully stated herein.

38. At all times relevant hereto, Braan has been the producer and owner of the literary work in the form of the Plan reproduced, distributed, and publicly displayed by Defendants in the form of the hospital's Volunteer Chaplain's Program.

39. Braan has applied for a copyright registration certificate from the United States Copyright Office for the work at issue in this matter.

40. Without authorization, Defendant Vogel reproduced and distributed the Plaintiff owned and copyrighted work, the *Proposal to Improve and Expand Pastoral Care Services at*

The University of Maryland Charles Regional Medical Center, as the hospital's Volunteer Chaplain's Program.

41. Braan did not authorize the Defendants' copying, display, or distribution of his work.

42. Defendants infringed the copyright in Braan's creative work and continue to infringe said copyright by reproducing, distributing, and/or publicly displaying the work in the form of the Volunteer Chaplain's Program without proper approval or authorization of Braan.

43. Defendants knew the infringed work belonged to Braan and that they did not have permission to exploit Braan's work.

44. Defendants knew their acts constituted copyright infringement.

45. Defendants' conduct was willful within the meaning of the Copyright Act.

46. As a result of their wrongful conduct, Defendants are liable to Braan for copyright infringement pursuant to 17 U.S.C. § 501. Braan has suffered, and will continue to suffer, substantial losses, including but not limited to loss of employment opportunities and economic benefit for work performed.

47. Braan is entitled to recover damages, which include his losses and any and all economic benefits Defendants have received as a result of their wrongful conduct. 17 U.S.C. § 504. Alternatively, Plaintiff is entitled to statutory damages under 17 U.S.C. § 504(c).

48. In addition, because Defendants' infringement was willful, the award of statutory damages should be enhanced in accordance with 17 U.S.C. § 504(c)(2).

49. Plaintiff is entitled to recover its attorneys' fees and costs of suit pursuant to 17 U.S.C. § 505.

WHEREFORE, Plaintiff, BARRY D. BRAAN, SR., demands that Judgment be entered against the Defendants, UNIVERSITY OF MARYLAND MEDICAL SYSTEM CORPORATION, JOAN CRITTENDEN, SUSAN VOGEL, and ANNE WEEKLEY, for a sum in excess of Seventy-Five (\$75,000.00) Thousand Dollars in compensatory damages, statutory damages, attorneys' fees, and such further and additional relief as justice may require.

**COUNT II – TORTIOUS INTERFERENCE
WITH PROSPECTIVE ADVANTAGE**

50. Plaintiff incorporates the preceding paragraphs by reference as if fully stated herein.

51. Upon information believed, Crittenden made statements to the Medical Center and took actions to induce the Medical Center to employ Crittenden rather than Braan.

52. Crittenden used improper means to accomplish this goal by taking improper credit for and appropriating Braan's Plan.

53. As a direct and proximate result of Crittenden's interference with the prospective advantage to which Braan was entitled, Braan has suffered substantial damages.

WHEREFORE, Plaintiff, BARRY D. BRAAN, SR., demands that Judgment be entered against the Defendant, UNIVERSITY OF MARYLAND MEDICAL SYSTEM CORPORATION and JOAN CRITTENDEN, for a sum in excess of Seventy-Five (\$75,000.00) Thousand Dollars in compensatory damages, and such further and additional relief as justice may require.

COUNT III – QUANTUM MERUIT

54. Plaintiff incorporates the preceding paragraphs by reference as if fully stated herein.

55. Plaintiff Braan rendered valuable services to Defendant UMCRCMC when he spent valuable time and labor creating a program plan for professional chaplaincy at the hospital.

56. In rendering the services, Braan expected to be involved in the management and implementation of his Plan.

57. The services were accepted by UMCRMC, and Braan's Plan was misappropriated by hospital staff to form their Volunteer Chaplain Program.

58. Despite implementing Braan's program plan, UMCRMC did not involve Braan in the implementation or management of his plan in any way.

WHEREFORE, Plaintiff, BARRY D. BRAAN, SR., demands that Judgment be entered against the Defendant, UNIVERSITY OF MARYLAND MEDICAL SYSTEM CORPORATION and JOAN CRITTENDEN, for a sum in excess of Seventy-Five (\$75,000.00) Thousand Dollars in compensatory damages, and such further and additional relief as justice may require.

COUNT IV – UNJUST ENRICHMENT

59. Plaintiff incorporates the preceding paragraphs by reference as if fully stated herein.

60. Plaintiff Braan conferred a benefit on Defendants by spending valuable time and labor creating a program plan for professional chaplaincy at UMCRMC.

61. Defendants acknowledged this benefit by appropriating Braan's substantial work to reform the hospital's volunteer chaplaincy program.

62. Retention of the Defendant Braan's Plan makes it inequitable for Braan to retain this benefit without payment of its value.

WHEREFORE, Plaintiff, BARRY D. BRAAN, SR., demands that Judgment be entered against the Defendant, UNIVERSITY OF MARYLAND MEDICAL SYSTEM CORPORATION and JOAN CRITTENDEN, for a sum in excess of Seventy-Five (\$75,000.00) Thousand Dollars in compensatory damages, and such further and additional relief as justice may require.

**COUNT V –
FREEDOM OF SPEECH, FIRST AMENDMENT**

63. Plaintiff incorporates the preceding paragraphs by reference as if fully stated herein.

64. As set forth in the Facts section of this Complaint, Defendants retaliated against Plaintiff for exercising his rights to protected speech and deprived Plaintiff of his right to continue as a chaplain for the Medical Center and engage in protected speech in violation of the Free Speech Clause of the First Amendment as applied to the states and their political subdivisions under the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983.55.

65. Defendants' restriction on Plaintiff's speech is content- and viewpoint-based in violation of the Free Speech Clauses of the First Amendment.

66. Defendants' true purpose for their actions was to retaliate against Plaintiff and to silence the viewpoints expressed by Plaintiff. As a direct and proximate result Defendants' violation of the Free Speech Clause of the First Amendment, Plaintiff has and will suffer substantial damages as more particularly set forth supra.

WHEREFORE, Plaintiff, BARRY D. BRAAN, SR., demands that Judgment be entered against the Defendant, UNIVERSITY OF MARYLAND MEDICAL SYSTEM CORPORATION, for a sum in excess of Seventy-Five (\$75,000.00) Thousand Dollars in compensatory damages, and such further and additional relief as justice may require.

**COUNT VI –
MARYLAND DECLARATION OF RIGHTS**

57. Plaintiff incorporates the preceding paragraphs by reference as if fully stated herein.

58. As set forth in the Facts section of this Complaint, Defendants retaliated against Plaintiff for exercising his rights to protected speech and deprived Plaintiff of his right to continue

as a chaplain for the Medical Center and to engage in protected speech in violation of the Maryland Declaration of Rights.

59. Defendants' restriction on Plaintiff's speech is content- and viewpoint-based in violation of the Free Speech clause of the Maryland Declaration of Rights.

60. Defendants' true purpose for their actions was to retaliate against Plaintiff and to silence the viewpoint expressed by Plaintiff.

61. As a direct and proximate result Defendants' violation of the Free Speech Clause of the Maryland Declaration of Rights, Plaintiff has and will suffer substantial damages as more particularly set forth supra.

WHEREFORE, Plaintiff, BARRY D. BRAAN, SR., demands that Judgment be entered against the Defendant UNIVERSITY OF MARYLAND MEDICAL SYSTEM CORPORATION, for a sum in excess of Seventy-Five (\$75,000.00) Thousand Dollars in compensatory damages, and such further and additional relief as justice may require.

**COUNT VII –
DEFAMATION**

62. Plaintiff incorporates the preceding paragraphs by reference as if fully stated herein.

63. In their communications Defendants knowingly made false and defamatory statements about Braan, as more particularly described supra.

64. Defendants acted with intent, with the knowledge of the falsity of these statements, and maliciously for the purposes of harming and damaging Braan.

65. As a direct and proximate result of the false and defamatory statements made and published by Defendants, Plaintiff has and will suffer substantial damages as more particularly set forth supra.

WHEREFORE, Plaintiff, BARRY D. BRAAN, SR., demands that Judgment be entered against the Defendants, UNIVERSITY OF MARYLAND MEDICAL SYSTEM CORPORATION, JOAN CRITTENDEN, SUSAN VOGEL, and ANNE WEEKLEY, for a sum in excess of Seventy-Five (\$75,000.00) Thousand Dollars in compensatory damages, and such further and additional relief as justice may require.

/s/ Brian S. Jablon, Esq.
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JURY TRIAL PRAYER

Plaintiff requests that this matter be heard before a jury of his peers.

/s/ Brian S. Jablon, Esq.
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