

“EXHIBIT A”

AFFIDAVIT

STATE OF ALABAMA

COUNTY OF MONROE

Before me this day personally appeared Alberta Davison, being duly sworn, deposes and says as follows:

My name is Alberta Davison, and I am over the age of 18, competent to testify, and have personal knowledge of the facts and matters addressed herein below:

Complainant had an unusually bitter relationship with attorney M.J. Menge prior to filing her case in federal court. Central to complainant’s allegations of judicial misconduct based on extrajudicial interests is this relationship as well as the seemingly inseparable relationship that existed between the college, the community (from which the presiding judges came), and, most importantly, Mr. Menge, the college’s general counsel.

The college reputedly was one of Florida’s most powerful and politically connected state institutions. In addition, it, along with its powerful foundation, had been the cornerstone of the Pensacola establishment for many years. At the heart of its existence was its powerful, longtime, legal counsel—attorney M. J. Menge. Mr. Menge reputedly was the most powerful man in Northwest Florida and reportedly wielded tremendous influence not only in Florida but also in Washington as well. He served on virtually every major board or committee in Northwest Florida, including Florida’s powerful federal Judicial Nominating Commission which nominated judges to be appointed to the federal bench and on which he was considered the most influential individual (was the only local member of the Northern District panel). In addition, he had very strong ties to the military establishment. But his name was synonymous with Pensacola Junior College, and his actions suggested that he considered an allegation against the college to be an allegation against him.

Notwithstanding the college’s legal counsel, it appeared that the institution operated without the restraint of law. The governing body, the board of trustees, appeared to be abjectly subservient to its subordinate president, and the appropriate state agency with jurisdiction appeared to exercise little, if any, oversight. It appeared further that the restraints that applied to the faculty did not similarly apply to the top management team. Moreover, it appeared that with the board of trustees’ obvious acquiescence, the administration did whatever it wanted to do, regardless of the consequences. If, for example, the administration had no reason to fire a person, it would invent one. If it had no evidence to support the firing, it would fabricate it. In addition, taxpayers’ money allegedly was used to reward those who would bear false witness against those who dared to complain. It appeared that there was no refuge for an honest person to seek when confronted with the choice of perjuring himself or losing his job. In addition to being faced with the choice of dishonor or dismissal, it appeared that any employee who dared to bring to the attention of his superior a matter which suggested administrative culpability was summarily dismissed. However, with Mr. Menge as its powerful legal counsel, along with his ability to retain top labor law firms in the state, the college seemingly had invariably been successful in defending itself

against any and all charges of discrimination filed against it with the Equal Employment Opportunity Commission (EEOC) or any other federal agency with jurisdiction, regardless of the evidence supporting the charges.

In the face of the intimidating environment delineated above, complainant complained of sexual harassment and retaliation against her supervisor/department head. Accordingly, she was terminated from her position as instructor at the college on or about June 16, 1987. Prior to and immediately after the termination, complainant filed three separate charges of discrimination with the EEOC (sexual harassment, race discrimination, and retaliation). Given the institution's record in successfully defending itself against such charges, however, complainant feared that she would not prevail before the EEOC.

Thus, following her termination, from about September of 1987 and continuing thereafter up to and including June of 1991, complainant undertook and carried out an arduous and thorough investigation of the college's activities in order to document and support her allegations of discrimination against the institution. She was motivated not by personal vendetta, even though she had been the victim of violence in this matter, but by her long-held belief that no one is above the law. While documenting and supporting her allegations of discrimination, however, complainant inadvertently uncovered additional and unrelated wrongdoing on the part of college officials and other prominent individuals in the Pensacola community. As per the advice of a law enforcement friend, she thereafter provided the information to the appropriate state and federal authorities, including the Criminal Investigation Division of the Internal Revenue Service. At the time, the agency was investigating a high profile criminal case which involved alleged criminal activity on the part of Pensacola-based Gulf Power Company (reputedly another cornerstone of the Pensacola establishment), the Southern Company in Atlanta (Gulf's parent company), and prominent individuals in the Pensacola area. In providing the information to this agency, she later discovered that individuals who were under scrutiny in the high-profile federal probe were inextricably intertwined with individuals connected to the college. As a consequence and out of concern for her safety, complainant established and maintained ongoing relationships with individuals in law enforcement.

From about May of 1988 and continuing thereafter up to and including October of 1988, the EEOC issued its long-awaited findings regarding complainant's charges of discrimination against the college. She received three separate reasonable cause findings (sexual harassment/race discrimination/retaliation) from the EEOC under the chairmanship of Clarence Thomas during the Reagan administration. However, the college showed no contrition. It refused to conciliate the case and vehemently claimed that it had not committed any error.

From about October of 1988 and continuing thereafter up to and including July of 1990, the results of complainant's inquiry into the activities of the college were made public. The reaction of Mr. Menge and other powerful community leaders to the ensuing negative publicity was one of anger and hostility toward the complainant. It was at this juncture that she began to incur the wrath of Mr. Menge—wrath, which complainant would later discover, served as a prelude to what lay in wait for her at the federal judiciary.

Complainant found herself embroiled in a protracted and extremely acrimonious battle with Mr. Menge as a result of the following: In the fall of 1988, the Milton, Florida Press-Gazette, at the behest of a sitting college board member, to whom complainant had shown evidence of alleged wrongdoing, printed a long series of articles detailing the college's alleged wrongdoing and complainant's role in uncovering it. Also during this time, the major television stations and the city's major talk radio station, WCOA, provided coverage, including editorials condemning the college's inaction with respect to complainant's three reasonable cause findings from the EEOC. On February 21, 1989, Florida's Office of the Auditor General released a scathing audit of the college based on information provided by the complainant which

revealed, among other things, that the college allegedly padded student enrollment for state funding, including the enrollment of dead students. On March 5, 1989, the St. Petersburg Times printed on its Sunday front page the article "Audit asks: Did college enroll dead students?" According to the article, "Investigators heard from Alberta Davison, a former secondary education instructor who was fired two years ago. A tireless investigator herself, Davison filed three equal opportunity complaints against the school and won all three." Within days of the newspaper article, the St. Petersburg Times printed a scathing editorial on the college entitled "Students in name only." In addition, the story was picked up by The Miami Herald, The Tampa Tribune, and USA TODAY. Thereafter on or about April 18, 1989, complainant appeared on the nationally syndicated television newsmagazine "Inside Edition."

On or about March 21, 1989, in the face of the negative publicity which ensued, the college's response was given by Mr. Menge at a board meeting. The board minutes read as follows:

Mr. Menge discussed the editorial that was published in the St. Petersburg Times, and stated he felt the article did contain defamatory statements against the college, the Board, and the leading administrators of this institution. He stated he had discussed sending a letter to the St. Petersburg Times on behalf of the College with Dr. Hartsell to let them know that the Board considered the article to be defamatory and ask for a retraction. Mr. Timmons moved that the Board write a letter to the St. Petersburg Times and ask for a retraction in the article they published.

On or about April 18, 1989, the college's second response was given by Mr. Menge at a board meeting. It was given as a status report relative to complainant's EEOC findings. The board minutes read as follows:

Mr. Menge brought a status report on the three separate complaints filed by Ms. Alberta Davison which had gone through conciliation with PJC's attorney, Reynolds Allen, and the EEOC. No conciliation was reached, and as a matter of course EEOC will now either give Ms. Davison a "right to sue" letter, or they will forward the complaint to their district office in Miami to see if they wish to pursue the matter. Mr. Menge stated that he had been advised that the College has never been informed of the specifics of the allegations; Ms. Davison did not choose to file a formal complaint with the College. An investigator for EEOC indicated it had reason to believe that two other women who had been on the College campus had been sexually harassed by the individual Ms. Davison had accused of sexual harassment. These two women have been located and specifically deny that they were ever subjected to any sexual harassment by the individual accused by Ms. Davison. One of them has had her statement taped by Mr. Allen, and arrangements have been made to tape the statement of the other individual.

On or about April 26, 1989, in the face of mounting negative publicity, Mr. Menge and other powerful community leaders sought to discredit complainant by carrying their case to the court of public opinion. They held a press conference whereby Mr. Menge vilified the complainant. He expressed great disdain

for her and vowed to put an end to her allegations against the college. In disparaging remarks, which were later repeatedly broadcasted on WCOA, the leading talk radio station in Pensacola, Mr. Menge could be heard hour after hour for a day and a half attacking the complainant's character and even derogatorily asserting, among other things, that his mother would not call complainant a "lady." He said, instead, his mother would call her a "WOMAN." In addition, the following morning after the news conference, the Pensacola News-Journal printed a very unflattering article regarding complainant. In the article, Mr. Menge impugned complainant's character and accused her of trying to ruin the college's reputation. The article suggested that the complainant was either emotionally disturbed or a liar.

On or about May 16, 1989, in the face of persisting negative publicity, college officials and community leaders intensified their actions through Mr. Menge to alleviate the problem. The board minutes read as follows:

Mr. Menge asked that Mr. Bob Gowing, corporate secretary of the PJC Foundation, Inc., and Mr. Larry Barrow, president of the PJC Alumni association, Inc. be recognized. Mr. Gowing stated that the Foundation had been very concerned over the past few months about the negative publicity both in newspaper, locally and on a statewide basis, and as a result of the "Inside Edition" program. In a meeting with the Alumni Association and the Foundation, the Board of Governors of the Foundation offered their services to the College to develop a speakers' bureau to present the true facts to the community. They also asked that Mr. Menge explore with counsel having expertise in the area of libel and slander to determine if it is feasible for the Foundation to pursue legal action on behalf of the College and Dr. Hartsell [the president of the college] personally for the defamatory reports that had been publicized by the media. Mr. Gowin felt that the College could possibly be damaged economically in terms of current and future enrollment, activities of the Foundation, the Future Fund development, and the favorable reputation that PJC has previously had. Mr. Menge will be reporting back to the executive committee of the Foundation on what avenues they may be able to take.

The conditions that sparked such reaction would continue in the months that followed. On or about June 26, 1989, the program "Inside Edition" re-aired throughout the United States.

Thereafter in August of 1989, the criminal division of the Internal Revenue Service seized the financial records of the Pensacola Junior College Foundation in conjunction with its investigation of Gulf Power Company and individuals. The records were delivered to the federal grand jury in Atlanta which had been investigating numerous tax-fraud allegations against Gulf Power. Then on October 31, 1989, Gulf Power admitted "that it violated tax laws by instructing vendors to make political contributions and then to bill back the utility with inflated invoices." The government's complaint listed "83 schemes through which the utility made hidden, corporate contributions to community events and organizations, including the Pensacola Open golf tournament and the Pensacola Junior College Foundation." The investigation of individuals continued. Later, on or about July 27, 1990, the then Office of Thrift Supervision in Atlanta seized the Citizens and Builders Federal Savings Bank in Pensacola at the behest of the Senate Banking Committee in Washington, D. C., which had been provided information by complainant regarding Mr. Menge and college activities in connection with the bank, reportedly resulting in Mr. Menge (who was

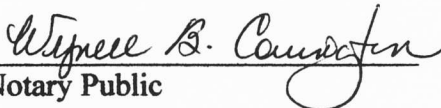
one of the founders of the bank, a member of the board of directors, as well as the bank's legal counsel) losing a tremendous amount of money.

By December of 1989, the unintended consequence of trying to document and support her allegations of discrimination against the college was the elevation of the college's actions against complainant via its powerful defense counsel and other prominent community leaders. It was in this political climate that complainant filed her case in federal court on December 19, 1989. The lawsuit engendered more negative publicity for the institution. However, in spite of the hostility she was afforded by Mr. Menge and other community leaders, she had no reservations regarding filing her case in federal court in Pensacola, for she fervently believed the federal judiciary to be beyond reproach as well as the guardians of individual rights under due process of law. She had every confidence that the federal jurist presiding over her case in Pensacola would adhere to the constitutional requirement of "rule of law" and the Code of Judicial Conduct, particularly with respect to the following: "A judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned" and "It is the obligation of a judge to disclose all facts that might be grounds for disqualification."

FURTHER AFFIANT SAYETH NOT.


Alberta Davison

Sworn to and subscribed before me this 13th day of January, 2000.


Notary Public

My commission expires My Commission Expires 1-21-2002.