



## **COMPLAINT**

Plaintiff Joy Laskar, Ph.D. (“Plaintiff” or “Dr. Laskar”) files this Complaint against the named Defendants, respectfully showing the Court the following:

### **INTRODUCTION**

This Complaint relates to the termination of Dr. Laskar as a tenured professor at the Georgia Institute of Technology (“Georgia Tech”) by its President, G.P. “Bud” Peterson, which termination was approved by the Board of Regents of the University System of Georgia (“Board of Regents”). Defendant Peterson, the Board of Regents, and the individual members of the Board of Regents violated Dr. Laskar’s due process rights under the Georgia and federal constitutions by failing to provide him with an adequate and sufficient hearing and opportunity to be heard.

Following the Board of Regents’ affirmance of Defendant Peterson’s termination decision, Dr. Laskar filed a Petition for Certiorari with the Superior Court of Fulton County, Georgia. The trial court dismissed the petition for lack of subject matter jurisdiction. On appeal to the Georgia Court of Appeals, the appellate court affirmed the dismissal. The Court of Appeals explained that the faculty hearing procedures provided to Dr. Laskar by Georgia Tech were not “quasi-judicial,” and thus, not subject to review on a petition for certiorari, because neither Defendant Peterson nor the Board of Regents conducted a hearing, and

neither Defendant Peterson nor the Board of Regents was required to consider or rely upon the facts and findings of the prior faculty hearing. The Court of Appeals noted, however, that Dr. Laskar could file a separate lawsuit for violation of his due process rights.

Dr. Laskar now files the lawsuit recommended by the Georgia Court of Appeals. Put simply, if Defendant Peterson's decision and the Board of Regents' affirmance were not "quasi-judicial" because they did not conduct a hearing, then the decision violated Dr. Laskar's constitutionally protected rights.

### **PARTIES, JURISDICTION, AND VENUE**

1.

Dr. Laskar is a resident of California.

2.

The Board of Regents exists under a constitutional mandate, Ga. Const. Art. 8, § 4, ¶ I, and it is a state-chartered corporation incorporated under O.C.G.A. § 20-3-20(a).

3.

The people of the State of Georgia exclusively vest in the Board of Regents the governance, control, and management of the University System of Georgia and each of its institutions (including Georgia Tech).

4.

Georgia Tech is a research university of the University System of Georgia, but it is not a legally distinct entity from the Board of Regents, and, as opposed to the Board of Regents, it cannot sue or be sued in its own capacity.

5.

Defendant Peterson is the President of Georgia Tech.

6.

The Chancellor of the University System of Georgia is the chief administrative officer of the University System as well as the chief executive officer of the Board of Regents.

7.

The offices of the Board of Regents are located at 270 Washington Street, S.W., Atlanta, Fulton County, Georgia, 30334, and the Board of Regents is subject to process by service effected on its Chancellor or Clerk at that location.

8.

Kenneth R. Bernard, Jr., is, and was at all relevant times, a member of the Board of Regents, and he may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.

9.

Larry R. Ellis is, and was at all relevant times, a member of the Board of Regents, and he may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.

10.

Rutledge A. Griffin, Jr., is, and was at all relevant times, a member of the Board of Regents, and he may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.

11.

Robert F. Hatcher was, at all relevant times, a member of the Board of Regents, and he may be served at his business address at 201 Second Street, Suite 950, Macon, Georgia 31201.

12.

C. Thomas Hopkins, Jr., is, and was at all relevant times, a member of the Board of Regents, and he may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.

13.

W. Mansfield Jennings, Jr., was, at all relevant times, a member of the Board of Regents, and he may be served at his business address at 6600 Hawkinsville Highway, Macon, Georgia 31206.

14.

James R. Jolly was, at all relevant times, a member of the Board of Regents, and he may be served at his business address at 347 Ivey Gate Ridge #2, Dalton, Georgia 30720.

15.

Donald M. Leeburn, Jr., is, and was at all relevant times, a member of the Board of Regents, and he may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.

16.

William H. NeSmith, Jr., is, and was at all relevant times, a member of the Board of Regents, and he may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.

17.

Neil L. Pruitt, Jr., is, and was at all relevant times, a member of the Board of Regents, and he may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.

18.

Wanda Yancey Rodwell was, at all relevant times, a member of the Board of Regents, and she may be served at her home address at 199 14<sup>th</sup> Street, NE, Apt. No. 2511, Atlanta, Georgia 30309.

19.

Doreen Stiles Poitevint is, and was at all relevant times, a member of the Board of Regents, and she may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.

20.

Willis J. Potts, Jr., was, at all relevant times, a member of the Board of Regents, and he may be served at his business address at 2614 Horseleg Creek Road, Rome, Georgia 30165.

21.

Kessel D. Stelling, Jr., is, and was at all relevant times, a member of the Board of Regents, and he may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.

22.

Benjamin Tarbutton, III, is, and was at all relevant times, a member of the Board of Regents, and he may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.

23.

Richard L. Tucker is, and was at all relevant times, a member of the Board of Regents, and he may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.

24.

Larry Walker is, and was at all relevant times, a member of the Board of Regents, and he may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.



25.

Philip A. Wilheit, Sr., is, and was at all relevant times, a member of Board of Regents, and he may be served at the Board of Regents office located at 270 Washington Street, SW, Atlanta, Georgia 30334.

26.

This action arises under the Fourteenth Amendment to the United States Constitution; Ga. Const. Art I, § 1, ¶ 1; and 42 U.S.C. §§ 1983 and 1985(3).

27.

Jurisdiction is proper pursuant to 28 U.S.C. §§ 1331 and 1343.

28.

This action properly lies in the Northern District of Georgia, Atlanta Division, pursuant to 28 U.S.C. § 1391(b) and Local Rule 3.1, because the claim arose in this judicial district and some or all of the Defendants reside in Fulton County.

29.

Declaratory, injunctive, and equitable relief is sought pursuant to 28 U.S.C. §§ 2201 and 2202.

30.

Compensatory and punitive damages are sought pursuant to 42 U.S.C. §§ 1983 and 1985(3).

31.

Costs and attorneys' fees are sought pursuant to 42 U.C.G. § 1988 and Fed. R. Civ. Pro. 54.

### **FACTS COMMON TO COUNTS**

#### **DR. LASKAR'S WORK IN FIELD OF MIXED SIGNAL COMMUNICATION SYSTEMS DESIGN**

32.

Dr. Laskar is a world-renowned electrical engineer specializing in the innovation, design and development of mixed signal integration circuits (ICs and chips) for use in wireless and digital communication systems.

33.

Dr. Laskar has spearheaded the development of high performance mixed signal solutions in very low power usage scenarios (e.g., 100 to 1,000 times lower in power) at substantially lower cost structures (e.g., development of solutions costing less than \$10 that previously cost more than \$10,000).

34.

Examples of Dr. Laskar's direct research impact include: (a) the original design and development of the power amplifier (key component of the transmitter) used in today's Intel Centrino Platform; (b) the development of high speed equalization chips (i.e., techniques to preserve information in high speed data links) used by Intersil for improved data connectivity in servers used by Google, Microsoft, and Cisco; and (c) the development of technology building blocks for miniaturizing military grade radar systems on a chip.

35.

Dr. Laskar received his B.S. in Computer Engineering from Clemson University in 1989.

36.

Dr. Laskar received his M.S. and Ph.D. in Electrical Engineering from the University of Illinois at Urbana-Champaign in 1989 and 1991, respectfully.

37.

Dr. Laskar has written and presented scholarly papers throughout the country and the world on mixed signal design, including five (5) books, one hundred seventy-four (174) peer-reviewed journal articles, and three hundred fifty-two (352) peer-reviewed conference presentations.

38.

Dr. Laskar has over fifty (50) patents awarded or pending in the field of mixed signal design, and he is considered a technical leader (in both academia and industry) in the areas of power amplifier design for cellular communications, cognitive radio and 60GHz transceiver design.

39.

Dr. Laskar has received numerous honors and awards for his scholarship and leadership in the field of mixed signal design, including but not limited to the following:

- a. Army Research Office Young Investigator Award (1995);
- b. NASA Invention Award: “Integrated Noise Generator” (1996);
- c. National Science Foundation CAREER Award (1996);
- d. National Science Foundation Packaging Research Center Faculty of the Year Award (1998);
- e. National Science Foundation Packaging Research Center Educator of the Year Award (1999);
- f. Rappaport Award from the Institute of Electrical and Electronics Engineers (1999);
- g. Georgia Tech Faculty Graduate Student Mentor of the Year (2001);

- h. Appointment as Senior Member of the Institute of Electrical and Electronics Engineers (2002);
- i. Clemson University College of Engineering Young Alumni Award (2003);
- j. Outstanding Young Engineer Award of the Institute of Electrical and Electronics Microwave Theory and Techniques Society (2003);
- k. NAE/Humboldt Foundation Featured Speaker for Frontiers of Engineering (2003);
- l. Appointment as Fellow of the Institute of Electrical and Electronics Engineers (2005);
- m. Institute of Electrical and Electronics Engineers EDS Distinguished Lecturer (2006-07);
- n. Georgia Tech's "Outstanding Faculty Research Author" Award (2007);
- o. Georgia Tech ECE's Distinguished Mentor Award (2008);
- p. Vice Chair of the Institute of Electrical and Electronics Engineers MTT-S Executive Committee (2008-09);
- q. Chair of the Institute of Electrical and Electronics Engineers MTT-S Executive Committee (2010);

- r. 2011-Present IEEE MTT-S Web Publishing Subcommittee Chair;
- s. 2011-Present Strategic Planning Committee Image & Visibility;
- t. 2012-Vice-Chair IEEE MTT-S Image and Visibility Committee;
- u. 2012-Present Editorial Board Member for the Proceedings of the IEEE;
- v. 2013-Present Elected Member of the IEEE MTT-S ADCOM; and
- w. 2014-General Chair of the IEEE International Wireless Symposium.

**GEORGIA TECH'S EMPLOYMENT OF DR. JOY LASKAR**

40.

In 1995, Dr. Laskar was appointed to the faculty of Georgia Tech as an Assistant Professor, and in 1998, he was appointed Associate Professor. In 2002, Dr. Laskar received tenure and was appointed the Joseph M. Pettit Professor of Electronics. In 2007, Dr. Laskar was appointed the Schlumberger Chair in Microelectronics at the School of Electrical and Computer Engineering.

41.

In 2003, Dr. Laskar founded and became the Director of the Georgia Electronic Design Center ("GEDC").

42.

The GEDC is an inter-disciplinary center at Georgia Tech broadly focused on fostering technology at the intersection of today's communications applications: wireless/RF, wired/copper and fiber channels. The GEDC has been one of the largest, if not the largest, source of commercialization at Georgia Tech.

43.

While employed by Georgia Tech, Dr. Laskar, as principal investigator or co-principal investigator, obtained or managed grants and research contracts for which Georgia Tech received in excess of \$70 million, which made Dr. Laskar among the most productive faculty members as measured by grants, research contracts, academic publications and graduated Ph.D. students.

44.

These grants and research contracts were for: (a) national and international companies such as Hewlett-Packard, Texas Instruments, General Electric, National Semiconductor, Samsung, BellSouth, IBM, Northrop Grumman, and Microsoft; and (b) governmental organizations such as NASA, the U.S. Army, the U.S. Navy, the U.S. Defense Advanced Research Projects Agency and the U.S. National Science Foundation.

45.

While employed by Georgia Tech, Dr. Laskar, was the advisor for more than fifty (50) Ph.D. candidates.

46.

No other professor at Georgia Tech advised and graduated more Ph.D. candidates during the same time period.

47.

Each year during the course of his employment at Georgia Tech, Dr. Laskar entered into a Fiscal Year Employment Contract with the Board of Regents. Each of these Fiscal Year Employment Contracts consisted of a form agreement setting forth the terms of Dr. Laskar's employment.

48.

Among the terms of the 2009 Contract executed by Dr. Laskar was the following: "This agreement is made expressly subject to applicable state and federal laws and to the statutes and regulations of this institution and to the Bylaws and Policies of the Board of Regents, which are available for your inspection upon request."



49.

The bylaws and policies of the Board of Regents at all times relevant here were set forth in the Board of Regents Policy Manual (“the Regents Manual”).

50.

The statutes and regulations of Georgia Tech at all times relevant here were set forth in the Georgia Tech Faculty Handbook (“the Faculty Handbook”).

51.

As a tenured professor, Dr. Laskar had a constitutionally protected property right in continued employment, and he could not be terminated without due process in compliance with the due process requirements of the U.S. Const., Ams. V and XIV and Ga. Const., Art. I, § 1, ¶ 1.

**BOARD OF REGENTS AND GEORGIA TECH POLICY  
REGARDING THE TERMINATION OF TENURED FACULTY**

52.

Section 5.10.1 of the Faculty Handbook states that “[t]enured Faculty members ... may be dismissed for any of the following reasons provided that the Institute has complied with procedural due process requirements.”

53.

Among the reasons for termination listed in Section 5.10.1 are (a) “Professional incompetence, neglect of duty, or default of academic integrity in

teaching, research, or scholarship”; (b) “False swearing with respect to official documents filed with the Institute”; and (c) “Disruption of any teaching, research, administrative, disciplinary, public service, or other authorized activity.”

54.

Similarly, Section 8.3.9.1 of the Regents Manual provides: “A tenured ... faculty member may be dismissed ... for any of the following reasons, provided that the institution has complied with procedural due process requirements[.]”

55.

Under Section 8.3.9.1, these reasons include (a) “Professional incompetency, neglect of duty, or default of academic integrity in teaching, in research, or in scholarship”; and (b) “False swearing with respect to official documents filed with the institution.”

56.

In addition, both the Faculty Handbook and the Regents Manual provide that tenured faculty members should be afforded certain preliminary procedural protections, including (a) discussion between the faculty member and appropriate administrative officers “looking toward a mutual settlement”; (b) informal inquiry by a Faculty Status and Grievance Committee, which is authorized to recommend dismissal to the President; and (c) a letter of warning to the affected faculty

member indicating that (i) he is about to be terminated; (ii) that he can obtain a formal statement of the charges against him; and (iii) that he can request a formal hearing on the charges before a Faculty Hearing Committee. See Faculty Handbook at Section 5.10.2 (Preliminary Procedures); Regents Manual at Section 8.3.9.2 (Preliminary Procedures).

57.

Furthermore, each of the Faculty Handbook and the Regents Manual sets forth detailed procedures to govern the termination process, including but not limited to the requirements that (a) “public statements and publicity” should be avoided by the parties “until the proceedings have been completed”; and (b) the parties “shall be afforded a reasonable opportunity to obtain necessary witnesses and documentary or other evidence.”

#### **DR. LASKAR’S SUSPENSION WITHOUT PAY**

58.

By letter dated May 17, 2010, Defendant Peterson, President of Georgia Tech, told Dr. Laskar: “In reviewing the recent cost overruns within the Georgia Electronic Design Center (GEDC), the Institute’s Department of Internal Auditing discovered what they believe to be substantial evidence of malfeasance on your

part including the misappropriation of Institute resources for the benefit of a company, Sayana Wireless, LLC, of which you are part owner.”

59.

Defendant Peterson further informed Dr. Laskar in this letter, “effective immediately, I am suspending you *without pay* until the Institute concludes its investigation of this matter.” (emphasis added).

60.

This suspension without pay was not authorized by the Faculty Handbook. See Faculty Handbook at Section 5.10.5 (“The President in consultation with the Executive Board shall determine whether a Faculty member confronted with a dismissal charge shall be temporarily relieved of duties. Unless legal considerations forbid, any such relief from duties will be *with pay*.”) (emphasis added).

61.

Dr. Laskar subsequently sued the Board of Regents on account of his suspension without pay in Laskar v. Board of Regents, Fulton Co. Sup. Ct., Civil Action No. 2010CV194600, filed on December 17, 2010.

62.

Rather than fight this lawsuit, the Board of Regents entered into a Consent Order and Judgment in which it agreed to pay to Dr. Laskar the full value of his withheld salary and retirement benefits plus pre-judgment interest and the attorneys' fees incurred by Dr. Laskar in filing the case, totaling \$241,500.07.

**DISMISSAL PROCEEDINGS AGAINST DR. LASKAR**

63.

On June 15, 2010, Dr. Gary May, Chair of the School of Electrical and Computer Engineering, wrote a letter to Dr. Laskar stating: "This letter shall serve as notice of the Institute's intent to initiate dismissal proceedings under Section 5.10 of the Faculty Handbook."

64.

Dr. May's letter further informed Dr. Laskar: "Section 5.10.2 of the Handbook prescribes preliminary procedures for removal of tenured faculty members. The first step is '[d]iscussion between the Faculty member and appropriate administrative Officers looking toward a mutual settlement.' In this instance, the appropriate administrative Officer is Dr. Gary B. Schuster, Provost, who is available to meet with you in his office in the Carnegie Building on campus."

65.

Dr. Laskar met with Dr. Schuster on June 24, 2010.

66.

At that meeting, Dr. Schuster did not initiate or participate in any discussion with Dr. Laskar regarding the possibility of a “mutual settlement” of Dr. Laskar’s employment status.

67.

In fact, Dr. Schuster has testified under oath: (a) that he declined to discuss the allegations of misconduct with Dr. Laskar; (b) that it was clear to him that no resolution was to be had; and (c) that – although he did not allude to it in his discussion with Dr. Laskar – the only resolution that would have been satisfactory to him would have been one resulting in Dr. Laskar’s resignation.

68.

Dr. Shuster further testified under oath that, in response to Dr. Laskar’s questions regarding the substance of the allegations against Dr. Laskar, he told Dr. Laskar that he would learn the allegations against him “through the rest of the process but not today.”

69.

Dr. Schuster made the above statement to Dr. Laskar even though the next stage of the process was an informal inquiry by a Faculty Status and Grievance Committee that may not have resulted in any recommendation for discipline.

70.

In other words, Dr. Schuster assumed that the Faculty Status and Grievance Committee would recommend that dismissal procedures be initiated against Dr. Laskar even though Dr. Laskar had not been informed of the charges and even though there had not yet been an informal inquiry by the Faculty Status and Grievance Committee.

71.

In a letter to Dr. Laskar dated July 1, 2010, Dr. Gary May, the chair of Dr. Laskar's department, stated: "Because you have failed to come to an agreement with the Institute, I have referred your case to the Faculty Status and Grievance Committee in accordance with Section 5.10.2 of the Georgia Tech Faculty Handbook."

72.

At the subsequent faculty hearing, Dr. Laskar's counsel asked Georgia Tech representatives what information was provided to the Faculty Status and Grievance

Committee and what “informal inquiry” was made by the Faculty Status and Grievance Committee.

73.

Georgia Tech did not introduce any substantive evidence in response to these inquiries.

74.

On July 9, 2010, one week after the letter from Dr. May informing Dr. Laskar that his “case” was being referred to the Faculty Status and Grievance Committee, Defendant Peterson wrote a letter to Dr. Laskar informing him (a) that “[i]n accordance with the procedures outlined in Section 5.10.2 of the Georgia Tech Faculty Handbook ..., the Faculty Status and Grievance Committee voted in favor of dismissal proceedings being undertaken against you”; and (b) that he “was entitled to a statement of charges and to a formal hearing upon request.”

75.

By letter dated July 28, 2010, Dr. Laskar requested a hearing and further requested a written statement of charges against him.

76.

Notwithstanding repeated follow-up requests, Georgia Tech did not provide Dr. Laskar with a written statement of charges against him until ten (10) weeks



later, by means of a letter from Dr. May to him, dated October 6, 2010 (“Statement of Charges”).

77.

Thus, even though Dr. Laskar had been suspended without pay on May 17, 2010, and even though Dr. Laskar and his counsel repeatedly had asked Georgia Tech representatives for an explanation of the grounds for the suspension and subsequent initiation of dismissal procedures, Georgia Tech did not tell Dr. Laskar what he was alleged to have done wrong for more than twenty-five (25) weeks (i.e., almost six months) *after* he was suspended without pay.

78.

The Statement of Charges contained five distinct charges against Dr. Laskar:

- Charge 1: You are charged with willful violations of the policies of the Board of Regents and Georgia Tech relating to professional incompetency or neglect of duty by using, or causing to be used, Institute monies and other Institute resources to benefit your private, for-profit company, Sayana Wireless LLC (“Sayana”).
- Charge 2: You are charged with the violation of the policies of the Board of Regents and Georgia Tech relating to professional incompetency or neglect of duty by altering GEDC membership agreements.
- Charge 3: You are charged with the violation of the policies of the Board of Regents and Georgia Tech relating to false swearing with respect to official documents filed with the

Institute by failing to disclose the true nature of your ownership interest in Sayana.

Charge 4: You are charged with the violation of the policies of the Board of Regents and Georgia Tech relating to the disruption of teaching and Institute research by diverting Georgia Tech students and other resources from certain research contracts.

Charge 4:<sup>1</sup> You are charged with the violation of the policies of the Board of Regents and Georgia Tech relating to the disruption of teaching and Institute research by diverting Georgia Tech resources to benefit Sayana.

#### **FACULTY HEARING**

79.

Five (5) months later, Georgia Tech convened a Faculty Hearing Committee to conduct a hearing pursuant to Section 5.10.4 of the Faculty Handbook and Section 8.3.9.2 of the Regents Manual.

80.

Prior to the hearing, counsel for Dr. Laskar requested access to Georgia Tech employees to interview them prior to the hearing, and Dr. Laskar requested that Georgia Tech produce relevant and potentially exculpatory documents.

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<sup>1</sup> The Statement of Charges mistakenly had two charges denoted as “Charge 4.”

81.

Georgia Tech refused to coordinate the interviews of witnesses for Dr. Laskar's counsel.

82.

Georgia Tech refused to produce any documents in response to requests from Dr. Laskar's counsel, stating that it already had produced documents in response to separate requests by Dr. Laskar's counsel under the Georgia Open Records Act, even though Georgia Tech had objected to many of these Open Records Act requests and had refused to produce many responsive documents, and even though a lawsuit already had been filed by Dr. Laskar's counsel to enforce Georgia Tech's compliance with the Georgia Open Records Act.

83.

Also prior to the hearing, counsel for Dr. Laskar asked for Georgia Tech's assistance in arranging for certain designated employees of Georgia Tech to attend and testify at the hearing because faculty members did not have the authority to subpoena and compel the attendance of witnesses at the hearing.

84.

Georgia Tech refused to cooperate or assist in arranging for its employees to attend and testify at the hearing.

85.

At the hearing, over the objection of counsel for Dr. Laskar, the parties were limited to five (5) hours of presentation, including opening statements, direct examinations of witnesses, cross examinations of witnesses, introduction of written evidence, and closing argument.

86.

At the hearing, Georgia Tech was able to arrange for all of its witnesses against Dr. Laskar to attend and testify, but no Georgia Tech employees agreed to attend and testify at the request of Dr. Laskar.

87.

On May 7, 2011, the Faculty Hearing Committee sent a report to Defendant Peterson finding that:

a. Charge 1 was established only insofar as the evidence showed that certain chips were paid for by Georgia Tech and shipped to a third party, ETRI, on behalf of Sayana (although it further noted on this score that “[t]here [was] some evidence that this may have been a common practice for start up companies in GEDC under Laskar’s leadership.” The committee further found that the second part of the charge, “regarding the falsified quote, [was] not proven”;

b. Charge 2 was “not proven”;

c. Charge 3 was established because certain Conflict of Interest Forms submitted by Dr. Laskar to Georgia Tech “did not fully disclose the extent of Laskar’s participation in Sayana, nor the clear conflicts that were created in the case of ETRI.” Nevertheless, the committee further found that the “testimony of May and Allen [another Georgia Tech administrator] indicate[d] that each of them knew of Laskar’s involvement with Sayana, and neither pursued any concern about conflicts”;

d. Charge 4 was “not proven”; and

e. Charge 5 was established in that “Sayana was using GT offices, lab space, equipment, and IT resources for its own research and its own business without GT authorization, that would have been granted with a cost center or lease/rental agreement with the Institute.” Again, the committee added a caveat to its finding, stating: “There [was] evidence that other start up companies and members used Georgia Tech resources as well under Laskar’s leadership, without raising flags.”

88.

The Faculty Hearing Committee concluded its report by recommending that Defendant Peterson dismiss Dr. Laskar from the faculty.

89.

The report and recommendation were not provided to Dr. Laskar in accordance with the requirement of Section 5.10.4 that the report and recommendation be provided to *both* the President and the faculty member.

**TERMINATION OF DR. LASKAR  
AND APPEAL OF DECISION TO BOARD OF REGENTS**

90.

On May 14, 2011, Defendant Peterson wrote a letter to Dr. Laskar informing him that he had received the report of the Faculty Hearing Committee, that a copy of the report was attached, and that “your tenure is revoked and your employment is terminated, effective immediately.”

91.

By letter dated June 3, 2011, addressed to the Board of Regents, and in accordance with the requirements of Section 5.10.4 of the Faculty Handbook and Section 8.3.9.2 of the Regents Manual, Dr. Laskar appealed the decision by Defendant Peterson to terminate his employment at Georgia Tech.

92.

On August 10, 2011, J. Burns Newsome, Vice Chancellor for Legal Affairs at the Board of Regents, wrote a letter to Dr. Laskar informing him (a) that his

appeal regarding his “termination from the Georgia Institute of Technology was presented to the Board of Regents at its Aug. 9-10, 2011, meeting”; and (b) that “after investigation, review, and careful consideration, the Board has decided to uphold the decision of the institution in this matter.”

93.

Upon information and belief, notwithstanding Mr. Newsome’s statement that the Board of Regents had denied Dr. Laskar’s appeal “after investigation, review, and careful consideration,” neither the Board nor a committee of the Board considered the issue or evidence for more than fifteen (15) minutes.

94.

Dr. Laskar was not allowed to attend the Board of Regents meeting at which his appeal was purportedly considered and was not allowed to present evidence or cross-examine witnesses in front of the Board of Regents.

**OPEN RECORDS ACT LAWSUIT RULING IN FAVOR OF DR. LASKAR**

95.

Subsequent to the hearing before the Faculty Hearing Committee, the Fulton County Superior Court ruled in favor of Dr. Laskar in the separate lawsuit filed by Dr. Laskar against Georgia Tech for enforcement of requests he had made under the Georgia Open Records Act (“the Act”), and the court ordered Georgia Tech to

produce to Dr. Laskar 515,000 responsive documents previously withheld by Georgia Tech, which documents included the approximately 40,000 emails and other documents reviewed by Georgia Tech auditors in preparing the case against Dr. Laskar and which emails had not been produced to Dr. Laskar prior to the hearing.

96.

Subsequent to the hearing before the Faculty Hearing Committee, and in response to a separate request under the Georgia Open Records Act, Georgia Tech produced certain notes by Linda Viney, a member of the Faculty Hearing Committee, in which she expressed her opinion that Georgia Tech had not complied with the letter and spirit of the termination process in Dr. Laskar's case.

97.

In the "Summary" of her notes, Linda Viney stated:

a. "What should be questioned is how a faculty member can come to a resolution on a matter in which he or she had not been provided charges or evidence; shouldn't this be provided prior to or during the meeting with the Provost[?] Evidence showed the Provost appeared to be unprepared for the meeting with Laskar and not sure of [the] termination process. Given the purpose of the meeting, the Provost or a member of his staff should have been prepared to



put forth options that the Institute was willing to consider a resolution and if not resolved review the process going forward.”

b. “Further thought should be given to the review by the Grievance Committee, given the magnitude of this case and evidence, it would have been difficult for the Grievance Committee to adequately review and make a decision within 5 days . . . .”

**PETITION FOR CERTIORARI TO SUPERIOR COURT OF FULTON COUNTY**

98.

In accordance with O.C.G.A. § 5-4-6(a), Dr. Laskar filed a Petition for Writ of Certiorari or in the Alternative, Petition for Writ of Mandamus, with the Superior Court of Fulton County on September 9, 2011, “within 30 days after the final determination of the case” by the Board of Regents.

99.

The Board of Regents moved to dismiss Dr. Laskar’s petition on the ground that the court was without jurisdiction to review the decision to terminate Dr. Laskar, whether on a Petition for Writ of Certiorari or on a Petition for Writ of Mandamus, because the alleged deprivation of due process that Dr. Laskar suffered was not one of “major proportions.”

100.

On December 21, 2011, the superior court issued an order dismissing Plaintiff's petition, holding that only major deprivations of due process are subject to judicial review in Georgia and that the facts as pled by Dr. Laskar did not amount to a major deprivation.

**APPEAL TO GEORGIA COURT OF APPEALS**

101.

On February 21, 2012, Dr. Laskar filed his notice of application for discretionary appeal of the superior court's order to the Georgia Court of Appeals.

102.

On February 15, 2012 the Georgia Court of Appeals granted Dr. Laskar's petition for review.

103.

On May 30, 2012, Dr. Laskar filed his appellate brief, asserting that the proceeding that Dr. Laskar was given was quasi judicial in nature, that the superior court had jurisdiction to hear Dr. Laskar's appeal, and that the superior court's only rationale for stating that it did not have jurisdiction to hear the appeal was based on a misreading of precedent.

104.

On March 15, 2013, the Georgia Court of Appeals issued an opinion upholding the superior court's dismissal of Dr. Laskar's appeal.

105.

As grounds for its decision, the Court of Appeals stated that certiorari was not appropriate because, despite the fact that Dr. Laskar was entitled to a hearing before a faculty committee and an opportunity to present evidence at that hearing, the action terminating him was administrative and not quasi-judicial.

106.

The Court of Appeals based its decision on the fact that, although the faculty hearing committee was required to make its decision based solely on the evidence presented before it, the ultimate decision-maker, Defendant Peterson, was not bound by anything that occurred at the hearing.

107.

Rather, if Defendant Peterson disagreed with the decision of the hearing committee, he need only state his reasons in writing to the committee before making a final decision. "The final dismissal decision is left to the president, and if he decides that sufficient cause exists, he may dismiss the faculty member even if the Hearing Committee finds no adequate basis for such an action."

108.

The Court of Appeals explained that, although ‘the difference between an administrative function and a judicial/quasi-judicial function generally turns on whether the parties were granted notice and the opportunity to be heard ... *courts also consider whether the hearing officer was then required to examine and weigh the evidence and make a decision according to the law – to exercise discretion and judgment in application of the law to a particular set of facts.*’ (emphasis added).

109.

The Court of Appeals further explained that, because the dismissal procedures effected by the Board of Regents “do not specifically require [Defendant Peterson] to base his decision solely on the evidence presented at the hearing,” but rather, leave the final decision to the president, “and if he decides that sufficient cause exists, he may dismiss the faculty member even if the Hearing Committee finds no adequate basis for such action,” Defendant Peterson’s decision was administrative and not subject to review on certiorari.

110.

The Georgia Court of Appeals further noted that Plaintiff was entitled to raise his due process claims in a direct action against the Board of Regents.

**DR. LASKAR'S SEARCH FOR COMPARABLE EMPLOYMENT**

111.

Dr. Laskar has engaged and continues to engage in an effort to secure comparable employment in academia and has been unable to secure such employment to date.

**COUNT ONE**

**Defendant Peterson and Board of Regents Violated Dr. Laskar's  
Constitutionally Protected Right to Due Process**

112.

Plaintiff hereby incorporates and realleges paragraphs 1 through 111 as if set forth fully herein.

113.

Defendants acted as officials of Georgia Tech and the University System of the State of Georgia in all actions described herein.

114.

In so doing, they acted under color of state law.

115.

As a tenured professor in the University System of Georgia, Dr. Laskar had a protected property interest in continued employment, and he could not be terminated from his position without first being afforded due process of law, including notice and a hearing at which a decision would be based upon the evidence presented at that hearing.

116.

According to the decision of the Georgia Court of Appeals, Dr. Laskar was not provided with a sufficient due process hearing that constituted a “quasi-judicial” proceeding because Defendant Peterson was not required to consider either the findings of the faculty hearing committee or anything presented at the hearing in deciding to terminate Plaintiff.

117.

Rather, under the Georgia Tech and Board of Regents policies, Defendant Peterson could terminate Dr. Laskar for any reason or no reason at all.

118.

The Board of Regents did not correct this deprivation of due process by providing Plaintiff with a hearing at which the termination decision would be based upon the evidence presented therein prior to affirming Defendant Peterson’s

decision to terminate Dr. Laskar's employment as a tenured professor at Georgia Tech.

119.

Accordingly, not only did Dr. Laskar suffer a procedural deprivation at the hands of Defendant Peterson, but he also suffered a violation of his due process rights at the hands of the Board of Regents, who failed to provide Dr. Laskar with an adequate post-deprivation means of redress satisfying the requirements of due process.

120.

Defendant Peterson and the individual members of the Board of Regents acted outside the scope of their authority.

121.

Defendant Peterson and the individual members of the Board of Regents knew or should have known that terminating a tenured professor without a hearing before an impartial decision-maker who would base his decision on the evidence presented violates both the United States and Georgia constitutional guarantees of due process of law.

122.

Defendant Peterson, in particular, should have been aware of Dr. Laskar's constitutional rights in light of Defendant Peterson having faced similar issues at Texas A&M and the University of Colorado, where he was formally employed as Provost or Chancellor.

123.

Accordingly, Defendant Peterson and the individual members of the Board of Regents, in their individual capacities, are not entitled to qualified immunity.

124.

The individual Defendants' knowing conduct in committing acts and/or omissions raise the level of Defendants' collective and personal culpability and exhibit an actual intent to violate Plaintiff's constitutionally protected rights and cause him harm.

## **COUNT TWO**

**(in the Alternative)**

### **Failure to Provide the Due Process Required by the Faculty Handbook**

Should this Court determine that the procedures set out in the Faculty Handbook provide sufficient due process protections, regardless of its failure to



require that the termination decision be based upon the evidence presented to the termination hearing, Plaintiff alleges this Count Two in the alternative.

125.

Plaintiff hereby incorporates the allegations contained in paragraphs 1-111 of this Complaint as if fully set forth herein.

126.

Defendant Peterson and Georgia Tech acted as officials of the University System of the State of Georgia in all actions described herein.

127.

In so doing, they acted under color of state law.

128.

As a tenured professor in the University System of Georgia, Plaintiff had a protected property interest in continued employment, and he could not be terminated from his position without first being afforded due process of law, including notice and a hearing at which a decision would be based upon the evidence presented at that hearing.

129.

Prior to the faculty hearing, Georgia Tech did not provide access to Dr. Laskar or his counsel to interview Georgia Tech employees.

130.

At the faculty hearing, Georgia Tech arranged for all of its witnesses who were employees of Georgia Tech to appear and testify, but it refused to do the same for Georgia Tech witnesses named by Laskar.

131.

Georgia Tech was well aware that Dr. Laskar did not have the authority to subpoena and compel the attendance of witnesses who were employees of Georgia Tech, who could be expected to be reluctant to testify voluntarily in opposition to a position taken by their employer.

132.

Georgia Tech's actions in this regard were a violation of the due process requirements set forth in Section 5.10.4 of the Faculty Handbook and Section 8.3.9.2 of the Regents Manual, which mandated that Georgia Tech afford tenured professors "a reasonable opportunity to obtain witnesses and documentary or other evidence."

133.

As a result of this violation of his due process rights, Dr. Laskar was unable to present witnesses on his own behalf who, had they appeared, would have contradicted the testimony of Georgia Tech's witnesses.

134.

Despite the repeated requests of Dr. Laskar's counsel in advance of the formal hearing, Georgia Tech refused to turn over thousands of pages of evidence for Dr. Laskar's review.

135.

Specifically, Dr. Laskar, through his counsel, asked to review the "actual documents reviewed by the auditors in connection with the preliminary audit that formed the basis of the charges against Plaintiff" (the "Audit Set").

136.

Through conversations with Georgia Tech's legal department, Dr. Laskar's counsel understood the Audit Set to include approximately 40,000 emails and other documents.

137.

As noted above in connection with the Georgia Open Records Lawsuit, Georgia Tech refused to produce the entire Audit Set to Dr. Laskar.

138.

Instead, Georgia Tech provided only those documents it intended to use against Dr. Laskar, leaving out potentially exculpatory and explanatory documents.

139.

Georgia Tech's actions in this regard were a violation of the due process requirements of Section 5.10.4 of the Faculty Handbook and Section 8.3.9.2 of the Regents Manual, which mandated that Georgia Tech afford tenured professors "a reasonable opportunity to obtain witnesses and documentary or other evidence."

140.

The Faculty Hearing Committee unreasonably limited the presentations of counsel for the parties – including opening statements, direct and cross-examination of witnesses, introduction of other evidence, and closing arguments – to five (5) hours per side.

141.

As noted by Linda Viney, the magnitude of the charges and the evidence related to the charges was substantial, and Georgia Tech's limitations on the hearing violated Dr. Laskar's due process rights under both the Georgia and Federal constitutions.

142.

Beginning on May 17, 2010, and continuing at least through May 19, 2011, Defendant Peterson and Georgia Tech arranged for widespread publicity of Dr. Laskar's case, in violation of the due process requirements of Section 5.10.4 of the

Faculty Handbook and of Section 8.3.9.2 of the Policy Manual, which, with the exception of “simple announcements” regarding “the time of the hearing and similar matters,” mandate that “public statements and publicity about the case ... should be avoided.”

143.

This publicity generated by Georgia Tech damaged both Dr. Laskar’s ability to receive a fair hearing by an unbiased decision-maker and his rights in the termination process.

144.

Defendant Peterson’s review of the record of the faculty hearing was limited and superficial.

145.

The review of the record of the faculty hearing by the individual members of the Board of regents was limited and superficial.

146.

Neither Defendant Peterson nor the individual members of the Board of Regents afforded Dr. Laskar or his counsel the opportunity to present argument or answer questions.

147.

As a result of the actions of Defendant Peterson and the Board of Regents, Dr. Laskar has been denied due process of law and no means to remedy this violation has been made available by the state.

148.

Defendant Peterson and the individual members of the Board of Regents acted outside the scope of their authority in accepting the faculty committee's recommendation to terminate Dr. Laskar's employment and in affirming that decision on appeal to the Board of Regents.

149.

Defendant Peterson and the individual members of the Board of Regents knew or should have known that terminating a tenured professor without affording him a fair opportunity to a present evidence at a hearing before an impartial decision-maker who would base his decision on the evidence presented violates both the United States and Georgia constitutional guarantees of due process of law.

150.

Accordingly, Defendant Peterson and the individual members of the Board of Regents, in their individual capacities, are not entitled to qualified immunity.

151.

The individual Defendants' knowing conduct in committing acts and/or omissions raise the level of Defendants' collective and personal culpability and exhibit an actual intent to violate Plaintiff's constitutionally protected rights and cause him harm.

WHEREFORE, Plaintiff prays that this Court:

- a. That process issue and be served upon Defendants to appear and answer this Complaint as provided by law;
- b. That the Court rule in favor of Plaintiff and against Defendants on all counts of this Complaint;
- c. That the Court declare Defendants' conduct to be in violation of the due process rights of Plaintiff protected by the federal and Georgia constitutions;
- d. That the Court order the reinstatement of Plaintiff to the position of the Schlumberger Chair in Microelectronics at the School of Electrical and Computer Engineering, or in the alternative, if that is not possible, award prospective pay in an amount to be proved at trial;
- e. That the Court award Plaintiff the equitable remedy of back pay until reinstatement;

- f. That the Court order the individual Defendants to pay compensatory damages to Plaintiff in an amount to be proven at trial;
- g. That the Court order the individual Defendants to pay punitive damages to Plaintiff in an amount to be determined in the enlightened conscience of impartial jurors;
- h. That the Court award pre-judgment and post-judgment interest as provided by law;
- i. That the Court order Defendant to pay Plaintiff's reasonable attorneys' fees and expenses;
- j. That the Court grant Plaintiff a trial by jury of their peers on all issues triable by a jury; and
- k. That the Court award Plaintiff such other relief as is justified by the facts and the law and as the Court deems just and proper.

A jury trial is demanded.

Dated: May 10, 2013.

**/s/ Craig M. Frankel**  
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**CERTIFICATE OF COMPLIANCE**

Undersigned counsel certifies the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the Court in Local Rule 5.1(C) and 7.1 (D).

s/ Craig M. Frankel  
Georgia Bar No. 272880  
Attorney for Plaintiff