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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Linda Rae'Lee Klein, an individual,
Plaintiff,

v.

**Arizona State University and the
Walter Cronkite School of Journalism
and Mass Communication; and Kristin
Grady Gilger,**
Defendants.

CASE NO. _____

VERIFIED COMPLAINT

**(Denial of Student's
Right of Expression under the First
Amendment, Section 1983;
A.R.S. § 15-1864)**

(Injunctive Relief Requested)

(Demand for Jury Trial)

Plaintiff Linda Rae'Lee Klein ("Rae'Lee Klein," or "Plaintiff"), for her Verified Complaint against Defendants Arizona State University ("ASU") and the Walter Cronkite School of Journalism and Mass Communication, and Kristin Grady Gilger ("Dean Gilger," and collectively the "Defendants") hereby alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff was a resident of Maricopa County, Arizona at all times relevant hereto.

1 raping a woman in front of her child, was something that readers would find repugnant,
2 disturbing or upsetting.

3 26. Ms. Klein's presentation of the article and opinion were civil and not intended to,
4 nor did they, incite violence or harm.

5 27. Rather than support Ms. Klein's efforts to exchange contrary facts or views, Dean
6 Gilger told Ms. Klein that as a result of her personal tweet, "staying on as station manager is not
7 an option." (See September 15, 2020 email sent at 2:30 PM, attached as **Exhibit "A"** hereto and
8 incorporated as if set forth herein.)

9 28. The student "board" also locked Ms. Klein out of the station. The board members
10 deleted her online user account, so she can no longer access or manage the station (which is
11 online), completely preventing her from doing her job.

12 29. ASU pays for and owns The Blaze radio.

13 30. Plaintiff has demanded, but ASU has failed or refused, to restore Plaintiff's access
14 to the station.

15 31. Dean Gilger admits that Plaintiff is not "unfit to be a station manager." (See
16 **Exhibit "B"** hereto, email from Kristin Gilger dated September 17, 2020 at 9:59 AM.)

17 32. As a result of the foregoing actions, ASU has constructively or actually terminated
18 Ms. Klein from her position as station manager, unlawfully, based on the content of her free
19 speech.

20 **"Cronkite News," and the "Social Media Guidelines"**

21 33. Every student of the journalism school is required to participate in the "Cronkite
22 News" program.

23 34. The "Cronkite News" program requires that every participating student have their
24 own personal Twitter account.

1 35. The “Cronkite News” program encourages students to use their personal account to
2 share news articles, and to engage their “followers” and the public with commentary. The
3 program even goes so far as to assign students a grade for how often they use their personal
4 account, and how large their “audience” is (how many “followers”/readers they attract).

5 36. The “Cronkite News” program recommends that students follow the Cronkite
6 school’s “social media guidelines” when using their personal social media accounts. According
7 to the school, the guidelines are intended “to ensure the highest journalistic standards,” and the
8 guidelines “reflect the Society of Professional Journalists’ Code of Ethics core principles.”⁴

9 37. These “guidelines” that are distributed to students state that “Personality is
10 important: Don’t sound like a robot. Self-promotion is encouraged, but personal accounts differ
11 from organization accounts. Your audience wants to connect to a real person, so sound like one!
12 But keep in mind you’re a journalist. Journalists often use social media to raise questions, make
13 smart observations about other reporting and share content.”

14 38. The guidelines also recommend that students “avoid posting information to social
15 networking sites or blogs that could call into question your ability to act independently as a
16 journalist. This includes expressing political views, sports fandom or opinions about newsmakers
17 or sharing internal communications, even if you are participating in what is supposed to be a
18 private group.”

19 39. The guidelines also state: “[r]ecognize that affiliations and sponsorships jeopardize
20 your independence and could affect your assignments.”

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⁴ Partially online, at <https://cronkite.asu.edu/degree-programs/admissions/student-resources/social-media-guidelines>.

1 40. Faculty, staff and students of the Cronkite school regularly share or display their
2 political views, sports fandom or opinions about newsmakers, as well as affiliations or
3 sponsorships, on their personal social media accounts.

4 41. For example, the faculty advisor who was assigned to the radio station at all
5 relevant times, Ali Forbes, displayed pro-police messages on her Facebook during all relevant
6 times, as well as images/messages indicating that, even though she had been a sports journalist,
7 she was a fan of the Toronto Raptors.

8 42. The “Interim Dean” of the Journalism School herself, Defendant Dean Gilger, has
9 retweeted controversial “political views” and “opinions about newsmakers” as recently as August
10 5, 2020, when she retweeted an interview with a woman who wrote a book entitled “Why White
11 Evangelicals Worship at the Altar of Donald Trump.”⁵ In the interview, the author claims that
12 evangelical Christians’ religious beliefs contribute to “coronavirus denial”; that evangelical
13 Christians should be “following the rules” instead of “listen[ing] to President Trump, who is
14 going to claim that we have it [coronavirus] under control, even though we don’t”; and that
15 President Trump engages in “magical thinking” and is living in a “fantasy land.” The author also
16 refers to evangelical Christians’ use of the courts “to press claims of violation of constitutional
17 rights” as “extremely disturbing.” At the end of the interview, the interviewer—who is an ASU
18 professor of religious studies—claims that “Trump has just pulled out the stops on his racist
19 rhetoric [over the last week], there’s no attempt to even hide it now”; and she asks, “is that
20 playing into this set of dynamics that you’ve identified that keep white evangelicals in thrall to
21 Trump, even through a pandemic”? (To which the author answers, “yes.”)

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25 ⁵ <https://twitter.com/RecoveringTruth/status/1291110582079242240>

1 **COUNT ONE**
2 **(Unconstitutional Denial of Student’s**
3 **Right of Expression under the First Amendment, Section 1983)**

4 43. The preceding allegations are incorporated as if set forth herein.

5 44. The First Amendment is applicable to Arizona State University through the
6 Fourteenth Amendment.

7 45. A state, division of the state, or state official may not retaliate against a person by
8 depriving him of a valuable government benefit that that person previously enjoyed, conditioning
9 receipt of a government benefit on a promise to limit speech, or refusing to grant a benefit on the
10 basis of speech. Those limitations apply even if the aggrieved party has no independent or
11 affirmative right to that government benefit.

12 46. Pursuant to 42 U.S.C.A. § 1983, every person who, under color of any statute,
13 ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia,
14 subjects, or causes to be subjected, any citizen of the United States or other person within the
15 jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the
16 Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or
17 other proper proceeding for redress.

18 47. By refusing to allow Ms. Klein to continue as station manager of The Blaze
19 because of the content of her tweet, Defendants have illegally deprived Plaintiff of a valuable
20 government benefit that she previously enjoyed on the basis of her speech.

21 48. Ms. Klein made the tweet in her personal capacity and not on behalf of the
22 university.

23 49. Her speech was “pure speech” that did not intrude upon the work of the school or
24 the rights of other students.

25 50. Defendants’ conduct was in reckless disregard of the Plaintiff’s rights.

1 51. Plaintiff is entitled to seek injunctive relief under 42 U.S.C.A. § 1983, as well as
2 any and all damages caused by the Defendants' conduct, and punitive damages as allowed at law.

3 52. Plaintiff is also entitled to seek her attorneys' fees and costs under
4 42 U.S.C.A. § 1988.

5 **COUNT TWO**

6 **(Violations of student's right to speak
7 in a public forum, A.R.S. §§ 15-1864 et seq.)**

8 53. The preceding allegations are incorporated as if set forth herein.

9 54. Pursuant to A.R.S. § 15-1864(A), "[a] university or community college shall not
10 restrict a student's right to speak, including verbal speech, holding a sign or distributing fliers or
11 other materials, in a public forum..."

12 55. Pursuant to A.R.S. § 15-1864(C), "Individual conduct that materially and
13 substantially infringes on the rights of other persons to engage in or listen to expressive activity
14 is not allowed and is subject to sanction."

15 56. Pursuant to A.R.S. § 15-1864(G), "[a]n individual student or a faculty or staff
16 member of a university or community college may take a position on the public policy
17 controversies of the day, but the institution is encouraged to attempt to remain neutral, as an
18 institution, on the public policy controversies of the day unless the administrative decisions on
19 such issues are essential to the day-to-day functioning of the university or community college."

20 57. Pursuant to A.R.S. § 15-1864(H), "[t]he university or community college may not
21 take action, as an institution, on the public policy controversies of the day in a way that requires
22 students or faculty members to publicly express or endorse a particular view of a public policy
23 controversy."

24 58. Pursuant to A.R.S. § 15-1864(I), "[a] person whose expressive rights were violated
25 by a violation of this article" "may bring an action in a court of competent jurisdiction to enjoin
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1 any violation of this article by any university, community college, faculty member or
2 administrator or to recover reasonable court costs and reasonable attorney fees.”

3 59. Pursuant to A.R.S. § 15-1864(J), “if the court finds that a violation of this article
4 occurred, the court shall award the aggrieved person injunctive relief for the violation and shall
5 award reasonable court costs and reasonable attorney fees. The court shall also award damages of
6 one thousand dollars or actual damages, whichever is greater.”

7 60. By refusing to allow Plaintiff to continue as station manager of The Blaze due to
8 the content of her tweet, ASU is impermissibly restricting her right to speak in a public forum,
9 and/or taking action on a public policy controversy of the day that requires her to endorse a
10 particular view of the controversy—namely, the position that Jacob Blake’s arrest warrant, and/or
11 other facts/evidence which would tend to show that the police interaction with Blake was
12 primarily for criminal justice reasons, should not be read, shared, or commented upon.

13 61. Plaintiff is entitled to injunctive relief, as well as an award of her actual damages or
14 one thousand dollars, whichever is greater; to punitive damages, as warranted by law; and to her
15 reasonable attorneys’ fees and costs.

16 **GENERAL PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff seeks as relief against Defendants:

- 18 A. An order of the Court enjoining Defendants from removing Plaintiff as
19 station manager;
- 20 B. For any and all damages incurred as the result of Defendants’ conduct, or
21 one thousand dollars pursuant to A.R.S. § 15-1864(J), whichever is
22 greater; and for punitive damages as warranted at law;
- 23 C. Attorneys’ fees and costs pursuant to 42 U.S.C. § 1988, A.R.S. § 15-1864,
24 28 U.S.C. § 1920, and any other applicable authority;
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- 1 D. Pre-judgment and post-judgment interest on the above sums pursuant to
2 any applicable authority;
3 E. Any other relief that the Court deems proper.

4 **RESPECTFULLY SUBMITTED** this 12th day of October, 2020.

5 **WILENCHIK & BARTNESS, P.C.**

6 /s/ John D. Wilenchik
7 John “Jack” D. Wilenchik, Esq.
8 The Wilenchik & Bartness Building
9 2810 North Third Street
10 Phoenix, Arizona 85004
11 admin@wb-law.com
12 *Attorneys for Plaintiff*

13 **CERTIFICATE OF SERVICE**

14 I hereby certify that on October 12, 2020, the foregoing document was electronically
15 transmitted to the Clerk’s Office using the CM/ECF System for filing, and a copy emailed to:

16 Jose Cardenas
17 General Counsel of Arizona State University
18 jcardenas@asu.edu

19 David Bodney
20 BodneyD@ballardspahr.com

21 /s/ Christine M. Ferreira

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VERIFICATION

(28 U.S.C.A. § 1746)

I, Rae'Lee Klein, declare as follows:

I have read the foregoing Verified Complaint. The statements made therein are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10/9/2020.

DocuSigned by:
Linda Rae'Lee Klein
ED3EBD07FF304F0...

By: Rae'Lee Klein

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— A PROFESSIONAL CORPORATION —

EXHIBIT A



----- Forwarded message -----

From: **Kristin Gilger** <Kristin.Gilger@asu.edu>

Date: Tue, Sep 15, 2020 at 2:30 PM

Subject: RE: It's past noon

To: Rae'Lee Klein <raelee.klein18@gmail.com>

As we've discussed, staying on as station manager is not an option. You have three options:

- Reassignment to another student worker position
- Remain on the board with the assignment I outlined
- Start your own station

Which of these do you prefer?

Kristin Gilger

Interim Dean

Reynolds Professor in Business Journalism

Walter Cronkite School of Journalism and Mass Communication

480-273-6128

@kristingilger

<http://cronkite.asu.edu>

<http://businessjournalism.org>

Co-author: ["There's No Crying in Newsrooms: What Women Have Learned about What It Takes to Lead"](#)

From: Rae'Lee Klein <raelee.klein18@gmail.com>
Sent: Tuesday, September 15, 2020 1:31 PM
To: Kristin Gilger <Kristin.Gilger@asu.edu>
Subject: Re: It's past noon

Hi Dean Gilger,

After long consideration about the situation, I am declining to willingly step down from my position as Station Manager. I truly believe I did nothing wrong that is worthy of removal. No one has communicated to me any law, written standard, or rule I violated with my actions. I shared a factual argument, and although I shared an opinion, that I was disgusted by the sexual assault of a woman, I have done nothing more erroneous than my peers. The board of directors issued a written opinion of me, and published it. From that fact alone, we should all be punished equally. Other students wrote highly opinionated statements in regards to articles on this situation, and many others. I was told to tweet as part of my assignment at Cronkite News, and as a student, am learning how to do so to standard. The issue remains, many students at the school don't know what that standard is.

I stand by the belief I am being treated unfairly, and the school and faculty advisers have failed to protect me and my rights as a student and individual. I am fully confident I can lead this station forward, and have shared the various propositions in how to do so with the board and other members. I'm struggling to understand how removing anyone from their position is even an option, as we should be learning to work together through challenging circumstances, not against each other.

Thank you for your time and consideration, I hope you and the school make the right decision moving forward.

Best,

Rae'Lee Klein

On Tue, Sep 15, 2020 at 12:37 PM Kristin Gilger <Kristin.Gilger@asu.edu> wrote:

I really do need a response from you right away. I don't want to make this decision for you, but we need to make a decision.

Kristin Gilger

Interim Dean

Reynolds Professor in Business Journalism

Walter Cronkite School of Journalism and Mass Communication

480-273-6128

@kristingilger

<http://cronkite.asu.edu>

<http://businessjournalism.org>

Co-author: ["There's No Crying in Newsrooms: What Women Have Learned about What It Takes to Lead"](#)

EXHIBIT B



----- Forwarded message -----

From: **Kristin Gilger** <Kristin.Gilger@asu.edu>

Date: Thu, Sep 17, 2020 at 9:59 AM

Subject: Your position

To: Rae'Lee Klein <raelee.klein18@gmail.com>

Rae'Lee,

Let me first clarify that we are not saying you are unfit to be a station manager. If that were the case, we would not have included as an option going forward the opportunity to start your own station. As I have proposed, you will be station manager for a new internet radio station that the school and the university would support financially and with access to studio space as well as the usual support we provide all student clubs (i.e. a faculty advisor, listing on our clubs page, invitation to student org night, etc.). You will retain your title, rank and pay as a station manager.

As this shows, you are not being punished for your tweet. To your credit, you apologized for the tweet and, as I told you from the start, I would not remove you as a station manager because of it. Allowing you to continue as a station manager is not a punishment.

When I said that staying on as station manager is not an option I was referring to continuing as station manager of Blaze. That is simply a reflection of the reality that Blaze Radio is a student organization and the relationship between you and the board of directors, and a majority of the student staff members and producers has deteriorated to the point that they have lost confidence in you as a leader. This is the result not simply of the tweet, which you admitted was poorly worded and gave the wrong impression of your views, but of subsequent actions that left students unsatisfied that those who disagree with you would nevertheless be able to participate fully in Blaze Radio.

Heading up a new radio station will give you a fresh leadership opportunity. To ensure your success, and in response to your request for a further explanation as to the issues that have been raised, let me add that there are lessons to be learned here: As you yourself have acknowledged, your tweet was not consistent with the "Social Media Guidelines for Student Journalists." <https://cronkite.asu.edu/degree-programs/admissions/student-resources/social-media-guidelines> The applicable provisions include:

Avoid posting information to social networking sites or blogs that could call into question your ability to act independently as a journalist. This includes expressing political views, sports fandom or opinions about newsmakers or sharing internal communications, even if you are participating in what is supposed to be a private group. Recognize that even hashtags can imply support and take care to avoid those instances.

Station managers have a special responsibility to maintain apparent neutrality for the benefit both of the organization's overall credibility and its internal climate as an organization that welcomes all members regardless of their views. As stated in your job description, "The General Manager sets the standards for organization, respectful and inclusive conduct and collaboration with all Blaze volunteers and stakeholders."

Rae'Lee I do hope that you will accept this proposal. It gives you a chance to use the lessons learned from this experience and to move on to what I believe will be a successful tenure as a station manager.

Sincerely,

Kristin Gilger

Interim Dean

Reynolds Professor in Business Journalism

Walter Cronkite School of Journalism and Mass Communication

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