

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

JOHN F. KNIGHT, JR., et al.,)	
)	
Plaintiffs and Plaintiffs-Intervenors,)	
)	
UNITED STATES OF AMERICAN,)	
)	
Plaintiff-Intervenor,)	
)	
v.)	CIVIL ACTION NO. CV 83-M-1676-S
)	
THE STATE OF ALABAMA, et al.,)	
)	
Defendants.)	

**UNIVERSITY OF MONTEVALLO'S ANSWERS TO PLAINTIFFS'
DISCOVERY REQUEST REGARDING COMPLIANCE WITH APRIL 3, 2002, ORDER**

The University of Montevallo ("UM") responds to plaintiffs' discovery request regarding compliance with the April 3, 2002, order, as follows:

1. **INTERROGATORY:** *Do you believe that there is a critical mass of African Americans on your faculty?*
 - a. *If yes, what evidence do you rely on to reach this conclusion?*
 - b. *If no, how long do you believe it will take, if ever, to achieve such a critical mass of African Americans on your faculty, and how will you know you have achieved it?*
 - c. *Has your answer to this interrogatory been reviewed by your campus' advisory committee?*
 - i. *If yes, please provide all written responses from the committee and from members of the committee.*
 - ii. *If no, please explain why your advisory committee has not been consulted.*

ANSWER: The concept of "critical mass" (as used by plaintiffs) is not a recognized or relevant legal standard in the context of this case. UM cites and adopts the joint

position of the defendant institutions ("PWI's") in opposition to plaintiffs' motion to modify or amend the remedial decree. UM further states that the "critical mass" concept as used by plaintiffs is predicated on notions that are inherently subjective, fluid, and speculative, and that cannot be identified or measured. It also requires the defendant to effectively establish numerical employment criteria on the basis of assumptions about the thoughts, feelings, and perceptions that are presumed to be held by all actual or prospective African American students and employees.

Without waiving its objections, UM has taken steps and embraced positions which, when considered in the context of significant limiting factors (e.g., state funding shortages, availability of qualified applicants, competition from other colleges and universities) confirm UM's commitment to attainment of the objectives of the court's decree. These include ongoing efforts to recruit African American faculty, administrative staff, and students; the high degree of involvement in student life enjoyed by African American students; conscientious implementation of the mandates of the court's decrees; leadership in seeking to rectify the funding disparities that have handicapped recruitment and retention efforts; and an abiding commitment from UM leadership (at all levels) to full participation on the part of African American faculty, staff, and students in university life and decisionmaking processes.

Because interrogatory 1.c. calls for a legal response, UM did not seek a review of the answer from its advisory committee.

2. **INTERROGATORY:** *Do you believe that there is a critical mass of African Americans in high-ranking administrative positions on your campus?*

a. *If yes, what evidence do you rely on to reach this conclusion?*

b. *If no, how long do you believe it will take, if ever, to achieve such a critical mass of African Americans in high ranking administrative positions, and how will you know you have achieved it?*

c. *Has your answer to this interrogatory been reviewed by your campus' advisory committee?*

i. *If yes, please provide all written responses from the committee and from members of the committee.*

ii. *If not, please explain why your advisory committee has not been consulted.*

ANSWER: See answer to interrogatory No. 1.

3. **INTERROGATORY:** *Please provide the name, race, address, phone number and job position of each person appointed to your campus' advisory committee, giving the date each person was appointed.*

ANSWER: Please see page C-11 of UM's Annual Remedial Decree and Consent Decree Report ("ARDCDR").

4. **INTERROGATORY:** *Please provide the dates of all meetings of the advisory committee, the names of the persons who attended, and copies of all minutes, reports and recommendations produced by the advisory committee, including any dissenting or minority reports.*

ANSWER: Please see page C-12 of UM's ARDCDR and supplemental report enclosed herewith as Exhibit "A."

5. **INTERROGATORY:** *Please provide the names of all persons nominated by your campus' black faculty organization and/or the Knight plaintiffs to serve on the advisory committee.*

ANSWER: UM does not have a black faculty organization.

6. **INTERROGATORY:** *Please provide the names, positions and tenure status of all black faculty members and high ranking administrators at your campus.*

ANSWER: Information pertaining to black faculty members is found on pages C-7 and C-8 of the ARDCDR and on Exhibit "B" attached hereto. At present, UM employs no high ranking administrators as the term is defined in the consent decree; however, four (4)

professional staff members who are not classified as administrators are currently employed by UM.

7. **INTERROGATORY:** *Please provide the name, position, current address and phone number of each black faculty member or administrator who left your institution during the past year.*

ANSWER: None

8. **INTERROGATORY:** *Please identify all tenure track and non-tenure track academic and high ranking administrative vacancies at your institution during the 2002-2003 school year, and for each vacancy provide:*

- a. *the name and race of each person hired or transferred to fill the vacancy;*
- b. *the name, address and phone number of all African Americans considered for the vacancy;*
- c. *the name, address and phone number of all African Americans submitted by the advisory committee and/or by the black faculty organization as candidates for the vacancy.*

ANSWER:

- a. See Exhibit "C," attached.
- b. See Exhibit "C," attached.
- c. There is no black faculty organization on campus; the advisory committee did not make any recommendations.

9. **INTERROGATORY:** *Please provide the name and race of each faculty member granted tenure during the year.*

ANSWER: (W) Ms. Kathleen Barone (Library)
(W) Dr. Houston Byrd (Chemistry)
(W) Dr. Kristen Gilbert (Psychology)
(W) Dr. John Hoerner (Communication Arts)
(W) Dr. Margaret Johnson (Communication Science and Disorders)
(B) Dr. Karolyn Morgan (Mathematics)
(W) Dr. Michael Patton (Philosophy)
(W) Dr. Elizabeth Thrower (Counseling, Leadership, & Foundations)

10. **INTERROGATORY:** *Please provide the name and race of each faculty member denied tenure during the year.*

ANSWER: None.

11. **INTERROGATORY:** *Please provide copies of all advisory committee recommendations accepted and all recommendations rejected by the President.*

ANSWER: See Exhibit "D," attached.

12. **INTERROGATORY:** *Please identify all SREB black scholars enrolled during the year.*

ANSWER: No SREB black scholars are enrolled at UM because UM does not have any doctoral programs.

13. **INTERROGATORY:** *Please identify all SREB graduates considered for a faculty or administrative position during the year, and the results.*

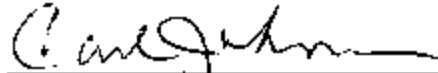
ANSWER: UM does not know which, if any, candidates are "SREB" graduates.

14. **INTERROGATORY:** *Please provide copies of all written requests by administrators and faculty members for use of the funds made available to your institution by the Court's order of April 3, 2002, submitted to the President or other official(s) authorized to approve same, and for each such request provide:*

- a. *any written evidence that the request was reviewed by the advisory committee and any recommendation by the advisory committee concerning the request, and*
- b. *all documents reflecting disposition of the request by the decision maker(s).*

ANSWER: See Exhibit "E," attached.

BISHOP, COLVIN, JOHNSON & KENT
1910 First Avenue North
Birmingham, AL 35237
(205) 251-2881
(205) 254-3987



Carl Johnson (ASB 5997-078C)
Attorney for The University of Montevallo

CERTIFICATE OF SERVICE

I hereby certify that on this 15 day of October, 2003, I have served a copy of the foregoing by U. S. mail, first class postage prepaid, addressed to the following:

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Court Monitor
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Atlanta, GA 30345

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Mary C. Dollarhide, Esq.
Paul, Hastings, Janofsky & Walker
1055 Washington Boulevard
Stamford, CT 06901



Carl Johnson

Advisory Committee
Meeting Attendance Record

March 25, 2003:

President Robert McChesney
Ms. Eleanor Davis
Mr. Roy Dixon
Dr. Wilson Fallin
Dr. Glenda Isenhour
Ms. Cynthia Jarrett (for Mr. Doug Batson)
Dr. Anthony Pattin
Dr. Randall Scott
Dr. Wayne Seelbach

April 23, 2003:

Ms. Eleanor Davis
Dr. Wilson Fallin
Ms. Cynthia Jarrett (for Mr. Doug Batson)
Dr. Karolyn Morgan
Dr. Randall Scott
Dr. Wayne Seelbach

May 8, 2003:

Ms. Eleanor Davis
Ms. Cynthia Jarrett (for Mr. Doug Batson)
Dr. Karolyn Morgan
Dr. Anthony Pattin
Dr. Randall Scott
Dr. Wayne Seelbach

EXHIBIT "A"

17 JZ 10
Dixon

Jarrett, Cynthia

From: Seelbach, Wayne
Sent: Wednesday, June 04, 2003 11:47 AM
To: Batson, Doug; Davis, Eleanor; Dixon, Roy C.; Fallin, Wilson; Isenhour, Glenda E; Jarrett, Cynthia; Morgen, Carolyn; Pattin, Anthony; Scott, Randall; Watts, Denise
Subject: Draft Recommendation
Importance: High

Dear Committee Members,

As agreed at our last meeting, I have prepared and am distributing the attached revised draft of our recommendations for your review and comments. Please send me any comments/suggests no later than June 20. Thanks.



Tentative
Recommendations.doc

*Wayne C. Seelbach
Provost & Vice President for Academic Affairs
University of Montevallo (www.montevallo.edu)
Montevallo, AL 35115
205-665-6015 voice
205-665-6018 fax*

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EXHIBIT "A"

Committee on Increasing Black Participation
Recommendations & Suggestions
May, 2003

Recommendation 1

The Committee recommends that President McChesney establish three categories for expenditure of available funds for the recruitment and retention of black faculty and administrative staff.* The categories are as follows:

Departmental Incentive Awards for Hiring Black Faculty or Administrative Staff

One-time awards of \$3,500 to departments for each black faculty or administrative staff member who is hired. The incentive funds are for departmental operating expenses.

Research Incentive Awards for Black Faculty

Four annual awards in the amount of \$2,500 each to recruit and retain black faculty by assisting them in meeting the requirements for tenure and promotion. The Research and Special Projects Committee would review proposals and make the awards for current black faculty; and, the Provost/VPAA would make the awards used to recruit black faculty. The funds would be for materials, supplies, and research assistants. Any research funds not awarded would be available for use through the development fund.

Black Faculty and Administrative Staff Development Fund

Remaining funds to be held in reserve to purchase "start-up" equipment for new faculty, for supplemental advertisements, or other expenditures approved by the President for recruitment, retention, and professional development of black faculty and administrative staff. The dollar value of the contingency fund would vary annually depending on the number of incentive awards given.

Recommendation 2

The Committee recommends the following allocations of the \$24,871 remaining for 2003-2004:

\$ 3,500	Department of Art (<i>Departmental Incentive Award</i>)
\$ 3,500	Department of Music (<i>Departmental Incentive Award</i>)
\$10,000	Research & Special Projects Committee (<i>Research Incentive Awards</i>)
\$ 1,500	Department of Art (start-up equipment for additional faculty)
<u>\$ 6,371</u>	Development Fund for Black Faculty and Staff
\$24,871	

Recommendation 3

The Committee recommends that any funds remaining at the expiration of the Court Order be used to fund any of the initiatives described in Recommendation 1.

Suggestion

Noting that financial considerations are the reasons that black faculty leave the University and also recognizing that the Court funds are temporary, the Committee suggests that the University consider the possibility of increasing the CUPA 85% salary "floor" for black faculty.

* "Administrative Staff" is defined as follows: Positions (including division heads, deans, and directors) that are reported to the Court in the H-10 category, Executive Administrative.

**Current Black Faculty and Administration
2002 - 2003**

Division	Last name	First name	Tenure	(Position Title) Rank	Count
Administration	None				0
Faculty	Education	Bluiett	On Tenure	Instructor	1
	Arts & Sciences	Fallin Jr.	Tenure	Professor/Advisor to the Pres Min/Affai	2
	Arts & Sciences	Mahaffey	On Tenure	Asst Professor	3
	Arts & Sciences	Morgan	Tenure	Asst Professor	4
	Fine Arts	Packwood	On Tenure	Instructor	5
	Fine Arts	Pattin	Tenure	Professor	6
	Fine Arts	Pearson	Tenure	Chairperson/Professor	7
	Fine Arts	Thurman*	Demondrae Ladratus	Not on Tenure	Adjunct Instructor

EXHIBIT "B"

*Part-time

**Faculty and Administration Vacancies
2002 - 2003**

Position	Name	Race
Asst Professor-Art	Bennett, Misty J.	White
Asst Professor-Art	Duran, Michelle Marie	Hispanic
Asst Professor-Biology/Chemistry	Wicknick, Jill A.	White
Asst Professor-Communication Arts	Rovinsky, Vladimir Sergeyeovich	White
Asst Professor-English	Rozelle, Hugh Edward Lee	White
Asst Professor-English	Smith, Jonathan R.	White
Asst Professor-Foreign Language	Gonzalez, Leonor Vazquez	Hispanic
Asst Professor-Kinesiology	Nevett, Michael E.	White
Asst Professor-Mathematics	Clark, Sally Ann	White
Asst Professor-Mathematics	Spicer, Erin R.	White
Asst Professor-Music	Landers, Hugh J.	White
Chair/Professor Art	Pearson, Clifton	Black
Chair/Professor Music	Jones, Cynthia Perry	White
Dean College of Business	Rupp, William T.	White
Dean College of Education	Riley, John	White
Director of Admissions	Garganus, Lynn	White
Director of Inservice	Abbott, Betty Harris	White
Instructor- Communication Arts	Ford, Sherry	White
Instructor-Business Admin	Valentine, Randall C.	White
Instructor-English	Miller, Christopher Brokaw	White
Instructor-Family & Consumer Sci	Pickering, Lloyd E.	White
Instructor-Music	Packwood, Gary Denall	Black
Instructor-Music	Wood, Charles Eugene	White
Temporary Faculty-Curriculum/Instruction	Andrews, Charles C.	White
Temporary Faculty-English	Hutchison, Melissa A.	White
Temporary Faculty-Family & Consumer Sci	Frazier, Linda W.	White

EXHIBIT "C"

**African Americans Considered for Vacancies
2002 - 2003**

Position	Name	Address	Phone
Assistant Professor Art	Jennings, Edward	P. O. Box 471, Huntsville, AL	256-362-2389
Assistant Professor Art	Freeman II, McArthur	3695 NW 27th Court, Ft. Lauderdale, FL	954-677-9693
Assistant Professor Art (Painting)	McArthur, Damon	4181 Scandling Center, Geneva, NY 14456	315-781-3859
Assistant Professor Biology/Chemistry	Achenjang, Fidells	3441 32nd St. SW, #304, Fargo, ND	218-236-8149
Assistant Professor Biology/Chemistry	Kipchumba, Alina J.	3325 Loma Road, Suite 2-161, Birmingham, AL	205-356-6190
Assistant Professor Biology/Chemistry	Talsch, Joseph	4711 Whitehall Drive NW, Huntsville, AL 35816	256-430-1974
Assistant Professor Biology/Chemistry	Temple, Ella	1426 Riverchase Trail, Hoover, AL 35294	205-989-8228
Assistant Professor Business	Doffon, Ako	P. O. Box 2244, Montclair, CA 91763	909-374-9677
Assistant Professor Business	Zekeri, Austin	71 Curry Drive, Jefferson, GA 30549	706-367-5952
Assistant Professor Communications Arts	Awori, Jonathan	18 Revere Cir Apt 11, Jackson, TN 38305	731-664-7173
Assistant Professor Communications Arts	Ronal, Stepheney	2034 W. Adirondack Ave, Flagstaff, AZ 86001	928-523-9594
Assistant Professor Communications Arts	Valentire, Ansley	129 W. University Street #2 Wooster, OH 44691	330-262-6465
Assistant Professor English	Eze, Chieloza	2450 Sycamore LN # 7B, W Lafayette, IN 47906	765-497-3830
Assistant Professor English (Linguistics)	Barrino, Edmund	648 St. Joseph St., Windsor, Ontario, Canada N9C3H4	519-253-1682
Assistant Professor Music (Voice)	Adams, Robert	185 Heath Way, Fayetteville, GA 30214-3458	770-461-2180
Assistant Professor Counsel/Leadership/Fnd	Shaw Jr., Don	76 Lealund LN, Jackson, TN 38305	721-424-3202
Assistant Professor Counsel/Leadership/Fnd	Victor, Ornbati	20 South Allen Street, Rockford, IL	518-441-2788
Chair/Professor Art	Pearson, Clifton	P. O. Box 455, Norma, AL 35762	205-665-6400
Dean Stephens College of Business	Amerikhenan, Felix E.	Dept of Acc, Fin, and Law Box 6951, Radford, VA 2414540-552-5605	398-253-4920
Dean, College of Education	Kimmons, Willie	1853 Lawrence Circle, Daytona Beach, FL 32117	680-627-5564
Dean, College of Education	Miller, Patricia	P. O. Box 903, Kirksville, MO 63501	937-431-1573
Director of Admissions	Tilman, Jerome	2445 Edgewater Dr. #4, Beavercreek, OH 45431	561-338-8850
Instructor Communication Arts (Comm Studies)	Tael, Badara Alcoure	254 SW 6th St., Boca Raton, FL 33432	205-328-6899
Instructor Family and Consumer Sciences	Williams, Chalethia	1900 31st Avenue North, Birmingham, AL 35207	205-989-8228
Instructor Family and Consumer Sciences	Temple, Ella	1426 Riverchase Trail, Hoover, AL 35294	308-348-1921
Instructor Family and Consumer Sciences	Banya, Kingsley	15340 S.W. 139th, Miami, FL 33196	386-253-4920
Instructor Family and Consumer Sciences	Kimmons, Willie	1653 Lawrence Circle, Daytona Beach, FL 32117	660-627-5584
Instructor Family and Consumer Sciences	Miller, Patricia	P. O. Box 903, Kirksville, MO 63501	205-665-6875
Instructor of Music	Packwood, Lloyd	P. O. Box 116, Montevallo, AL 35115	

INTERNAL CORRESPONDENCE

10/11/03 ✓
**Office of the Provost
University of Montevallo
Station 6015**

Date: July 3, 2003
To: Robert M. McChesney, President
From: Wayne Seelbach, Chair
Advisory Committee on Increasing Black Participation
Subject: Recommendations and Suggestions

In response to your charge that it assist you in determining how best to allocate funds made available by the State in response to Judge Murphy's order, the Advisory Committee on Increasing Black Participation developed the attached set of recommendations and suggestions for your consideration.

Please call on me if you have any questions about these recommendations and suggestions. Meanwhile, the Committee remains ready to further assist in any way that you might desire.

/ws

Attachment

c: Committee Members

EXHIBIT "D"

**Committee on Increasing Black Participation
Recommendations & Suggestions
July 1, 2003**

Recommendation 1

The Committee recommends that President McChesney establish three categories for expenditure of available funds for the recruitment and retention of black faculty and administrative staff.* The categories are as follows:

Departmental Incentive Awards for Hiring Black Faculty or Administrative Staff

One-time awards of \$3,500 to departments for each black faculty or administrative staff member who is hired. The incentive funds are for departmental operating expenses.

Research Incentive Awards for Black Faculty

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Remaining funds to be held in reserve to purchase "start-up" equipment for new faculty, for supplemental advertisements, or other expenditures approved by the President for recruitment, retention, and professional development of black faculty and administrative staff. The dollar value of the development fund would vary annually depending on the number of incentive awards given.

Recommendation 2

The Committee recommends the following allocations of the \$24,871 remaining for 2003-2004:

\$ 3,500	Department of Art (<i>Departmental Incentive Award</i>)
\$ 3,500	Department of Music (<i>Departmental Incentive Award</i>)
\$10,000	Research & Special Projects Committee (<i>Research Incentive Awards</i>)
\$ 1,500	Department of Art (start-up equipment for additional faculty)
<u>\$ 6,371</u>	Development Fund for Black Faculty and Staff
\$24,871	

Recommendation 3

The Committee recommends that any funds remaining at the expiration of the Court Order be used to fund any of the initiatives described in Recommendation 1.

Suggestion

Noting that financial considerations are the reasons that black faculty leave the University and also recognizing that the Court funds are temporary, the Committee suggests that the University consider the possibility of increasing the CUPA 85% salary "floor" for black faculty.

* "Administrative Staff" is defined as follows: Positions (including division heads, deans, and directors) that are reported to the Court in the H-10 category, Executive Administrative.

cc: Seelbach
Dunnell
Steck

Edward
2003
EXHIBIT "D"

Jarrett, Cynthia

From: Seelbach, Wayne
Sent: Friday, October 03, 2003 1:32 PM
To: Jarrett, Cynthia
Subject: FW: Minority Research Grants

FYI

-----Original Message-----

From: Seelbach, Wayne
Sent: Friday, October 03, 2003 2:31 PM
To: Hughes, Elaine
Subject: Minority Research Grants

Elaine,

President McChesney has approved funding for any and all of the minority research grant applications approved by the Research and Special Projects Committee. Please forward the Committee's recommendations to me along with its recommendations for the "regular" proposals. Thanks.

ws

EXHIBIT "D"

14/01/2003 ✓

UNIVERSITY OF MONTEVALLO

OFFICE OF THE PRESIDENT
Station 6001

July 25, 2003

MEMORANDUM

To: Dr. Wilson Fallin
From: Robert M. McChesney *RM*
Subject: Tarsha Bluiett

I am herewith approving a one-time expenditure of \$3000 from the special State desegregation moneys account to cover doctoral educational expenses for Tarsha Bluiett at the University of Alabama. Future expenditures for this purpose should come from other regularly budgeted funds for such and are contingent upon her unconditional admissions to doctoral study.

Please coordinate with Ms. Bluiett and Ms. Steib to effect this transaction.

c: Dr. Wayne Seelbach
Ms. Cynthia Jarrett ✓
Dean Jack Riley

EXHIBIT "E"

Jarrett, Cynthia

From: Seelbach, Wayne
Sent: Friday, July 25, 2003 9:17 AM
To: Fallin, Wilson
Cc: Jarrett, Cynthia
Subject: RE: Tasha Bluiett

Dear Dr. Fallin,

Dr. McChesney has not yet responded to our Committee's recommendations that were presented to him earlier this month. As you recall, the Committee's recommendations included the establishment of a "Black Faculty and Administrative Staff Development Fund" to finance "other expenditures approved by the President for recruitment, retention, and professional development of black faculty."

If Dr. McChesney responds positively to the Committee's recommendations and establishes the "development fund," it seems to me that one appropriate use of those funds could be to assist Ms. Bluiett with her expenses for this summer's course work. I'll confer with Dr. McChesney and one of us will let you know as soon as possible.

ws

-----Original Message-----

From: Fallin, Wilson
Sent: Friday, July 25, 2003 9:26 AM
To: Seelbach, Wayne
Subject: Tasha Bluiett

Dr. Seelbach,

Tarsha Bluiett has been approved for the Program to Promote Faculty Diversity. The program mandates that before funds can be released the person must be unconditionally accepted at an institution. Tarsha has been accepted at the University of Alabama pending her faculty screening interview, which is a minor requirement. She has already registered to take two courses this summer. Cynthia Jarrett informed me that she could not release funds until unconditional acceptance and suggested that I contact you to see if funds could be released from the recent minority funds for her summer course work. The stipend is usually \$3,000.

Tasha is anxious to begin her studies but needs funding to assist her. I hope something can be arranged and look forward to your reply.

Wilson Fallin

EXHIBIT "E"