

University's violation of and retaliation against her because of her efforts to seek equitable pay for herself and her assistants, in violation of the Equal Pay Act of 1963, in addition to Title IX and the Ledbetter Fair Pay Act of 2009. She also brings suit for recovery of her position as cheerleading coach, and recovery of monies she had earned which have been wrongfully withheld without explanation, accounting or Court Order in violation of her due process rights; 42 U.S.C. § 1983. Greenwell also brings a claim under Alabama common law that prohibits defamation. Greenwell seeks both monetary damages and injunctive relief. Despite Greenwell's having developed the cheer program at the University of Alabama from the time she began work as a part time employee in 1987 into the model program that it had become, and despite receiving only superlative reviews from her supervisors, she was summarily terminated on February 2, 2009 by assistant athletic director, Dave Hart. The University of Alabama has subjected Greenwell to a continuing series of retaliatory acts as a result of her exercising her protected rights to advocate for equitable treatment of student athletes under her direction and her efforts in seeking fair pay for herself and others similarly situated. She was removed from her position and her office, stripped of all records and contacts after 24-plus years of service, and escorted out of the building. Although she has requested an explanation for her termination and payment of the money she earned which has been withheld, she has not received any satisfactory

response. Her professional reputation and her life's work has been discredited and ruined. She was forced to seek work at nominal pay in another town in order to preserve her state retirement, as she lacked only 10 months to be eligible to retire at the time of her termination. She has lost income, and has still not recovered the remaining monies she earned for the last summer of camps she conducted. She has suffered emotional and mental distress as a result of the discriminatory and retaliatory treatment at the hands of the defendants.

PARTIES

2. Plaintiff Greenwell is an adult female citizen of the State of Alabama. At all times relevant hereto, Plaintiff was an employee of the State of Alabama at the University of Alabama in the Athletic Department.

3. Defendant Board of Trustees of the University of Alabama was and is a public entity and the duly empowered governing authority for the University of Alabama. U of A is a public institution of higher education located in Tuscaloosa, Alabama, and is a recipient of federal funding.

4. Defendant Does 1 through 17 were at all times employees, agents, representatives, and/or members of the Defendant Board of Trustees of the University of Alabama. The true names and capacities of Does 1 thru 17 are not known, and they are therefore sued by fictitious names. Upon information and belief, all are residents of the State of Alabama.

5. Defendants Mal Moore, Dave Hart and Robert Witt were at all times relevant hereto employees of the University of Alabama. Moore was the athletic director, Hart was the assistant athletic director, and Witt was the President of the University of Alabama.

JURISDICTION

6. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 and the common law pendant jurisdiction doctrine. An EEOC Complaint was properly and timely filed within 180 days of the termination, and a right to sue letter was received by the Plaintiff, authorizing this suit to go forward, dated April 22, 2011. This suit is timely brought in compliance with all relevant statutes. *See* Exhibit A, Notice of Right to Sue.

7. Venue is proper as all of the acts complained of herein occurred in the Northern District of Alabama in Tuscaloosa County, Alabama.

FACTS GIVING RISE TO RELIEF

8. Greenwell began her employment as Director of Cheerleaders at the University of Alabama in 1987. She was deemed a permanent part time employee, and was paid \$2,000 that first year for her services. She was given no orientation or training, and was simply told that she would take over control of the cheerleading program. She had been a cheerleader at Alabama herself. The program had previously been overseen by a University administrator as an

additional duty prior to Greenwell coming on board. However, Greenwell had a vision of what the program could be, and immediately set about to create a program unlike any other, to be worthy of the University she loved and had cheered for herself.

9. In her first year, she developed the high school cheer camps into a \$20,000 profitable program, and was paid a \$1,000 bonus. That first year was just the beginning of the camps. Without any formal training or assistance from anyone in the athletic department, Greenwell developed the cheer program over the next 24 years into one of the highest profit programs within the U of A athletic department, second only to men's football. Adjusted gross profits in 2008 were nearly \$400,000.00. The money went to the athletic department general fund. She was given no control or voice in how any of the funds were used, and was continually denied increases in her athletes' scholarships and benefits. She was considered the authority on collegiate cheer teams in the southeast, if not the nation. The high school cheer camps at U of A became known as the very best. They were well organized and considered full service camps. Security was superb, which was a top priority when dealing with thousands of high school girls gathered on campus. No detail was overlooked. Greenwell had developed a tradition of offering complete packages. She had a videographer lined up, at a nominal expense to the campers. In order to avoid the chaos of multiple campers ordering food late at

night, she arranged to have pizza available for purchase by the campers inside the dorm where the girls were “sequestered” in order to limit the opportunity for the girls to leave or for unwelcome visitors to infiltrate the dorm. All of this was for the security and convenience of the minor campers and their adult chaperone’s.

10. Greenwell’s organization of the camps benefited the University by securing business over the summer for the housing and dining programs. The camps brought hundreds of thousands of dollars to the Tuscaloosa County economy. Each camper represented a potential U of A student, so the recruitment value to the University was significant.

11. As a result of Greenwell’s reputation for organizing camps, one of the major national cheerleading companies (UCA) secured her assistance in planning their “train the trainers” camps, UCA also scheduled some of their college cheerleading training camps at the University of Alabama, benefiting the University with additional revenues and prestige. In exchange for the college camp program being held at the U of A, all of the University’s squad, approximately 50 students were allowed to attend the camp at no charge to the University of Alabama. This saved about \$250 per student or about \$12-13,000 per year. It also allowed Greenwell to have the first priority in selecting trainers to use at her U of A high school camps. This granted additional clout to the

University's cheerleading program, and further substantiated the image of the University of Alabama as a national sports icon.

12. The responsibilities of Greenwell's position included every aspect of oversight of the cheerleading program. In addition, from 1992 through 2004, she also oversaw the University Dance Team, which consisted of about 30 girls who performed choreographed dances at the men's basketball games. (At the end of 2004, she informed Mal Moore that she was not willing to continue the work with the dance team, and a new employee was hired at the rate of \$24,000 a year to replace her duties to that one team.) Her work hours were dictated by the sports schedules of the University's intercollegiate teams, the class schedules of the cheerleaders, and the hectic demands of 6 to 8 weeks of summer camps. Typically, Greenwell's work hours exceeded 60 hours per week, and often more, if an out of town trip was scheduled which required the cheer teams participation.

13. The salary for this demanding job was set by Mal Moore, the athletic director, who typically "told" Greenwell each year what she would be paid. She was asked to sign a "waiver of the FLSA" each year, resulting in her forfeiting (without realizing it) overtime pay for all work in excess of 40 hours per week. Her staff salary did gradually increase from the \$2,000 paid the first year to about \$20,000 a year by 1996, and eventually up to \$31,000 by 2005. In addition to her nominal staff salary, Debbie was eventually paid a small percentage (about 10%)

of the adjusted gross revenues of the high school cheer camps, beginning in about 1993, her seventh year in the position, when the adjusted profits from the camps were near \$200,000. This resulted in her \$12,000 annual salary being “supplemented” by the \$20,000 camp proceeds. Prior to her being paid a percentage of the camp earnings in 1993, she was given only a small “bonus” of \$1,000 or so by Mal Moore for each of the seven summer camps she had operated. As soon as she was paid a percentage of the camp “profits”, the camp income became the larger portion of her annual income, having grown to approximately \$50,000 by 2007. Her salary at that time had just increased to \$35,000 a year, so she had combined income of \$85,000. At this point, the position of head football coach at the University of Alabama paid over \$4,000,000 per year. That coach was responsible for only one intercollegiate season, and was allowed to “own” his high school football summer camps, and keep the profits earned by the camps, while paying the University approximately 10% for the use of their facilities. It was at this point that Mal Moore called Greenwell in and told her that he was going to increase her salary from \$35,000 to \$50,000, but he also informed her that her percentage of camp earnings would be capped at \$35,000, in effect limiting her income to \$85,000 on a permanent basis, despite her extraordinary performance of the difficult job, the fact that she worked year round, and had personally grown the camps to the profit making level outdone only by the football program, and despite

the success of her squad in National Competition standings. He totally disregarded the years of loyal development of the program, and the significant number of hours required to be worked by Greenwell, not to mention the expertise and experience she brought to the position.

14. On one occasion, Greenwell kept up with the hours she had worked for a 30- day period and brought the figures to the attention of the athletic Director, Mal Moore. The summary covered 49 straight days of her employment from September 23, 2002 to November 10, 2002. During this time, she had only 3 days off work. She itemized a total of 478.5 hours, or an average of 10.41 hours per day. Moore told her that he felt she was “well paid for what she did.”

15. On one occasion, August 28, 2006, a group of parents of Greenwell’s athletes wrote a detailed letter to the University President, Robert Witt, asking him to intervene on behalf of the cheerleaders to Mal Moore, so that they would be provided academic support equivalent to that provided to the other intercollegiate scholarship athletes. No response was ever received. On September 14, 2006, Greenwell met with Mal Moore, with a list of specific requests for additional support she felt her athletes needed, including academic support and assistance with class scheduling. She pointed out the time commitment required of the cheerleaders, and the discrepancies in what they were provided in comparison to members of the band and the athletic trainers. She pointed out the benefits of the

program to the athletic department overall. None of the requested support was ever provided.

16. Greenwell has been told by various University officials that she did not “deserve” more money because she was not actually a coach, as the cheerleaders are not an NCAA regulated sport. However, the duties and responsibilities of Greenwell’s position are in fact identical to the duties and responsibilities of any other coach of an intercollegiate sports team at the U of A. She was referred to as the cheerleader coach in the football program, and on the Universities web site. She was referred to as the Cheerleader Coach on the business cards provided for her use by the University. The Equal Pay Act specifically defines that it is the actual job duties, and not the description or job title, that will determine whether positions are comparable or not. There is no logical reason for the regulation by the NCAA to have a bearing on whether or not job duties are comparable. She was at all times held to similar responsibilities as those required by the NCAA. She was never, however, provided any of the support and benefits provided to other coaches and their student teams.

17. The University replaced Greenwell with a male who was approximately 20 years younger than her. This was the person she had selected to be hired as her assistant, and had mentored. After her termination, he was told he should not have any contact with her whatsoever.

18. There is no adequate remedy at law for many of the harms Greenwell and the cheerleading program at the University of Alabama are suffering as a result of the U of A's retaliatory and discriminatory actions against Greenwell. She has been threatened with criminal prosecution for some unknown financial wrongdoing. Despite numerous requests, no explanation for the accusation has been provided to Greenwell, and she has not been paid the monies she had earned in 2008, totaling \$19,649.65, nor provided any due process hearing concerning the taking of her property. Damages for Greenwell's loss of professional and personal reputation is difficult if not impossible to ascertain, and will continue without this Court's intervention.

COUNT I

(Retaliation in Violation Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq, and 34 C.F.R. § 100.7)

19. Plaintiff Greenwell incorporates by reference and re-alleges each of the allegations contained in paragraphs 1-18 of this Complaint as if set out here in full.

20. U of A terminated Greenwell from her position without just cause and without due process, denied her the money she had earned and has sought to discredit her as a person and as a professional because of her complaints about Title IX inequities in how the athletes under her direction were treated, and as a result of her complaints about her compensation.

21. She was replaced with a male coach who was much younger than her, further evidence of the discriminatory action against her as a result of her age as well as her gender.

22. As a direct and proximate result of U of A's unlawful acts, Coach Greenwell has suffered lost earnings and benefits, emotional pain, suffering, professional and personal embarrassment, humiliation, loss of enjoyment of life, and inconvenience.

COUNT II

Violation of Equal Pay Act, (29 U.S.C. §206(d), Fair Labor Standards Act, 1938 amended (29 U.S.C. 209) Age Discrimination in Employment Act of 1967, 29 U.S.C.621 Rehabilitation Act of 1973 (29 U.S.C. §213) and The Lilly Ledbetter Fair Pay Act of 2009 (42 U.S.C, §2000 et seq.), Individual Due Process Rights, 42 U.S.C. 1983

23. Plaintiff Greenwell incorporates by reference and re-alleges each of the allegations contained in paragraphs 1-22 of this Complaint as if set out here in full.

24. The defendants have violated the Plaintiff's right to equal pay for equal work. They have paid her less than men who do comparable work. They have replaced her with a younger worker. They have failed to pay her overtime, or to compensate her in a manner that reflects the financial value of her well established contributions to the U of A as cheer coach. They have deprived her of her profession and some of her earnings without due process of law.

25. As a direct and proximate result of U of A's unlawful acts, Coach Greenwell

has suffered lost earnings and benefits, emotional pain, suffering, professional and personal embarrassment, humiliation, loss of enjoyment of life, and inconvenience.

COUNT III
Defamation

26. Plaintiff Greenwell incorporates by reference and re-alleges each of the allegations contained in paragraphs 1-25 of this Complaint as if set out here in full.

27. The actions of U of A, through their agents, in summarily removing Greenwell from her long standing position as cheer coach, as well as the directives to other U of A employees to not talk to Greenwell, have resulted in false negative information about Greenwell being knowingly published to third parties, therefore subjecting the Plaintiff to ridicule and damage to her professional reputation. See Feb. 8, 2009 Spiritpost.com. She has been wrongfully threatened with criminal prosecution for some undefined financial offense, and has suffered the loss of monies withheld since her termination.

27. As a direct and proximate result of U of A's unlawful acts, Coach Greenwell has suffered lost earnings and benefits, emotional pain, suffering, professional and personal embarrassment, humiliation, loss of enjoyment of life, and inconvenience.

PRAYER FOR RELIEF

WHEREFORE, the premises considered, Plaintiff respectfully prays that this Honorable Court:

1. Enter judgment on behalf of the Plaintiff Greenwell against Defendants;
2. Order preliminary and permanent injunctive relief to reinstate Plaintiff Greenwell into the position of Head Cheerleading Coach with all attendant benefits;
3. Award Coach Greenwell lost back pay, including the \$19,649.65 withheld from her earnings from the 2008 camps, with post judgment interest, as well as front pay, and compensatory damages;
4. Award Greenwell her court costs and expenses, including attorney's fees;
5. Award Plaintiff Greenwell pre-judgment interest and post-judgment interest;
6. Declare that Defendant's conduct is in violation of the Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq., and its implementing regulations; as well as in violation of the statutes and constitutional protections set forth herein, and
7. Grant such other relief as this Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury on all issues contained herein the foregoing Complaint.

Respectfully submitted on this 28th day of June, 2011.

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