

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF GENESEE**

NICHOLE ROLFE,
Plaintiff,

Case No.: 15-_____-CK
Honorable _____

v.

**COMPLAINT WITH
JURY DEMAND**

BAKER COLLEGE,
Defendant

_____ /

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*There is no other known pending or resolved
civil action arising out of the same transaction
or occurrence as alleged in the complaint.*

COMPLAINT

NOW COMES Plaintiff NICHOLE ROLFE, by and through counsel, and as her complaint asserts as follows:

PARTIES

1. Plaintiff NICHOLE ROLFE (formerly known as Nichole Bruff) is a resident of the State of Michigan.
2. Defendant BAKER COLLEGE is a domestic nonprofit corporation formed under the laws of the State of Michigan with its registered office located at G-1050 West Bristol Road, Flint, MI 48507 operating under the assumed name of Baker College of Owosso in Owosso, Michigan.

JURISDICTION

3. This Court has general jurisdiction over this matter pursuant to MCL 600.601 and 600.605 as the amount in controversy is greater than \$25,000.00 as pled.

4. Venue is proper pursuant to MCL 600.1621(1) because Defendant BAKER COLLEGE has a place of business, and/or conducts business, and/or has a registered office located in this county.

GENERAL ALLEGATIONS

5. On or about August 11, 2011, Plaintiff NICHOLE ROLFE applied for admission to the Owosso, Michigan campus of Defendant BAKER COLLEGE with a program interest in nursing. See **Exhibit A**.

6. It was Plaintiff NICHOLE ROLFE's goal then and explicitly reaffirmed later in an essay she wrote as part of her nursing program that she was to become a nurse practitioner.

7. Plaintiff NICHOLE ROLFE was duly and unconditionally matriculated into Defendant BAKER COLLEGE starting the Fall 2011 semester.

8. Once accepted, Plaintiff NICHOLE ROLFE applied to the nursing program and was accepted for the Spring 2013 semester.

9. Plaintiff NICHOLE ROLFE undertook the difficult and laborious nursing program with zeal and vigor, something which is encouraged and expected of students in this program heavy with substantial classwork and clinicals.

10. After some time in the program, Plaintiff NICHOLE ROLFE was having a conversation with another student, Student "J," at a clinical site in St. John, Michigan about the exciting forthcoming arrival of his son and how his new son was going to be 'tortured' by his big sisters' 'girly' things, like fingernail painting.

11. Student J laughed and responded that no son of his was going be gay.

12. Another student "C," not a party to the conversation, interjected into the private conversation about how homosexuality is taught behavior and that homosexuals are going to hell.

13. Plaintiff NICHOLE ROLFE was quite surprised by Student C's self-joining the conversation and responded that it was not their place as potential nurses to judge individuals and how Plaintiff NICHOLE ROLFE disagreed with Student C's views.

14. Student C became upset by Plaintiff NICHOLE ROLFE's neutral stance on homosexuality and complained to the director of the nursing program, Shannon Meijer, that Student C felt 'harassed' by Plaintiff NICHOLE ROLFE because of her personal neutral stance on homosexuality.

15. Unexpectedly, Director Meijer actually took issue with Plaintiff NICHOLE ROLFE's stance and, despite protests from Plaintiff NICHOLE ROLFE, asked Plaintiff NICHOLE ROLFE to enter into a Behavior Contract.

16. Director Meijer stated that this Behavior Contract is not "big black "X" over your head" and is "somewhat of a tracking system" for Defendant BAKER COLLEGE but was confidential and protected by "FERPA."

17. Director Meijer deemed Student C's self-inclusion into a private conversation solely between Plaintiff NICHOLE ROLFE and J.P. which "offended" Student C to be a violation of "a policy" at Defendant BAKER COLLEGE.

18. Such is not a violation of a policy at Defendant BAKER COLLEGE but rather a self-policing 'heckler's veto' self-created by Director Meijer involving a conversation Student C had no right to interject herself into.

19. Believing she had no choice and not wanting to make waves as being new to the nursing program, Plaintiff NICHOLE ROLFE signed the behavior contract.

20. On June 10, 2013, Plaintiff NICHOLE ROLFE and Defendant BAKER COLLEGE entered into a Behavior Contract, a copy of which is attached as **Exhibit B**.

21. Plaintiff NICHOLE ROLFE took her new obligations seriously, despite the vague nature of how the Behavior Contract was written and the way Director Meijer improperly admonished Plaintiff NICHOLE ROLFE rather than bigoted beliefs of Student C in light of a nurse's duty to provide non-judgmental care.

22. All then continued as normal and Plaintiff NICHOLE ROLFE obtained admirable academic marks and reviews by her professors and instructors as part of her work with the nursing program.

23. The circumstances surrounding the basis of this legal action originated as classroom discussions regarding immunizations, which took place on campus during electronic health records (EHR) training for clinicals.

24. This class-training was taught by Connie Smith, Assistant Director of Nursing.

25. During this training session about electronic health records, Smith stated that the students of Group E, including Plaintiff NICHOLE ROLFE, were to immunize, via an injection, the female patients and their partners on the obstetrics floor of the hospital against DTaP (diphtheria, tetanus acellular pertussis).

26. Plaintiff NICHOLE ROLFE inquired, during this records training session, the rationale (i.e. what the nursing students are taught to understand as 'evidence based practice') behind this expected activity given that it takes anywhere from four

weeks to six weeks for an injected DTaP vaccination to begin to become effective against pertussis (i.e. whooping cough).

27. Injecting a person on the obstetrics floor of the hospital would not protect a newborn child on the obstetrics floor given it takes at least several weeks' time for the body to utilize the materials contained within the immunization to build the requisite levels of immunity in a recipient's body.

28. In response, Smith stated that this was just the way it went and further stated that the students of Group E were to affirmatively misrepresent to patients certain facts about the immunization injection, in case the patient (all new mothers and their partners) were concerned about autism or other medical and ethical concerns as potential side effects of receiving vaccinations.

29. Plaintiff NICHOLE ROLFE then asked why she would be required to misrepresent facts to gain patient compliance when the ethical standards of the nursing profession makes it unethical to lie to gain compliance for suggested medical procedures as being contrary to the legal standard of a patient's informed consent.

30. Smith stated that patients' partners would not be allowed onto the obstetrics floor of the hospital upon the partners' refusal of the pertussis vaccine.

31. The entire exchange between Smith and Plaintiff NICHOLE ROLFE was, for all intents, uneventful and being expected as a reasonable and professional inquiry expected of a student seeking to learn and understand the skills and standards of nursing as part of her education pursuits, especially when the directed course of action was contrary to the legal, ethical, and moral standards of the nursing profession.

32. Two days on Sunday, October 6, 2013, the students of Group E were finalizing and completing their required clinical educational experience and interactions with patients, hospital staff, and patients' visitors in the pediatrics department at Sparrow Hospital (hereinafter the "Debriefing").

33. The Debriefing involved discussion on various aspects of the clinical experience just undertaken, as part of the educational requirements of Defendant BAKER COLLEGE.

34. The clinical onsite instructor was Alysia Osoff, also known then as Alysia Gilreath (hereinafter "Osoff").

35. During the Debriefing, Osoff, like Smith two days prior, began advocating that the students of Group E vaccinate children admitted to the hospital who were 'behind' on their vaccinations.

36. The discussions of immunizations and vaccinations were initially raised by Osoff as part of the Debriefing.

37. Calmly and professionally (i.e. using in-door voices) as part of her educational understanding, Plaintiff NICHOLE ROLFE inquired how the students of Group E could effectuate this procedure since the same is contraindicated according to the immunization drug inserts, wherein if a child is sick enough to be a patient within the hospital, the child is not well enough to receive a vaccination according to the vaccination standard protocol.

38. Moreover, the issue of immunizations and vaccinations was then and is today controversial with varying public opinions on the efficacy, safety, and propriety, particularly with babies and small children.

39. Osoff stated and indicated to the students of Group E that they were to do whatever possible to convince visitors to the pediatrics department at Sparrow Hospital to consent to immunizations and vaccinations, even over the objections of the patient (which could also include the patient's visitors).

40. Osoff stated and instructed that the students of Group E should tell patients and their partners that failure to have immunization/vaccination for pertussis could result in the patient to have to pay for their entire stay at the hospital, that the state would deny payment coverage, and that those on Medicare (traditionally underprivileged members of the community) would be personally liable to pay for all damages suffered by those in the hospital.

41. In other words, Osoff was instructing students to wrongfully threaten and panic patients into receiving an immunization to override a patient's informed consent.

42. Obtaining uninformed or false consent for a medical procedure under false pretenses is assault and battery under both criminal and civil law.

43. Obtaining uninformed or false consent for a medical procedure under false pretenses is a violation of the American Nursing Association Code of Ethics for nurses.

44. Obtaining uninformed or false consent for a medical procedure under false pretenses is contrary to the practice of family center care and gaining and securing the trust of patients.

45. In other words, the instruction by Osoff was wrong legally, morally, and ethically.

46. Based on the reading and literature required in the course, Plaintiff NICHOLE ROLFE knew this instruction to be immoral and illegal, and moreover ineffective.

47. Surprised by the statements, Plaintiff NICHOLE ROLFE inquired, calmly and professionally, whether such actions were proper in light of the questionable methodology (i.e. lying) advocated by Osoff.

48. Osoff then became completely unhinged and angry for Plaintiff NICHOLE ROLFE questioning her 'instruction,' in front of Group E, as to Osoff's strong and zealot-like belief in immunizations and vaccinations, particularly regarding pertussis, by any means necessary.

49. Contrary to the disproportion response by Osoff, Plaintiff NICHOLE ROLFE's inquiry to Osoff, while in class, were professional, polite, and not threatening in any way despite Osoff's illegal, unethical, and immoral instructions.

50. Plaintiff NICHOLE ROLFE asked questions of Osoff to learn and understand why Osoff was instructing her and the students of Group E directly contrary to the assigned medical readings reviewed as part of the clinical class, contrary to the American Nursing Association Code of Ethics for nurses, contrary to law, contrary to common sense, and contrary to basic common decency to patients.

51. The questions Plaintiff NICHOLE ROLFE, as a student, asked to Osoff, as an instructor, are the types and kinds reasonably and normally expected from a student who is attempting to learn the art and skill of nursing before having such responsibilities in a real hospital setting and having to sit for nursing admittance examinations.

52. Osoff's instruction was a zealot-like political stance rather than based on the medical literature, law, ethics, and common sense.

53. Osoff became even more unhinged by the mere asking of legitimate educational questions and inquiry by a student.

54. Despite the later false characterization of the discussion, Osoff told the students of Group E that she would discuss the issue of immunizations at the next lecture period.

55. The discussion on immunizations ended and the class carried on, uneventfully.

56. On information and belief, Osoff likely became alarmed by the illegal, immoral, and unethical instruction she had just given a group of students, particular to Plaintiff NICHOLE ROLFE, in light of her inquiries.

57. On information and belief, Osoff knew of Plaintiff NICHOLE ROLFE's Behavior Contract.

58. Osoff then falsely accused Plaintiff NICHOLE ROLFE of acting "aggressively" and "argued" with Osoff in hopes of triggering, improperly, the provisions

of the Behavior Contract to get back at Plaintiff NICHOLE ROLFE by having her expelled from the nursing program.

59. Osoff made these false and misleading statements to the Nursing Department via the Baker College Anecdotal Behavioral Documentation (hereinafter "Osoff Documentation") with the goal of getting Plaintiff NICHOLE ROLFE improperly removed from the Nursing program at Defendant BAKER COLLEGE to seemingly cover for the illegal, immoral, and unethical instruction given by Osoff and possibly Smith. **Exhibit F.**

60. Also as part of the Osoff Documentation, Osoff also falsely and misleadingly stated that an email sent by Plaintiff NICHOLE ROLFE on behalf of Group E "was unprofessional and made attempts to dictate how [Osoff] would facilitate [her] class time."

61. These statements are untrue, inaccurate, and misleading.

62. The seeming goal of these statements was to improperly add false support for Osoff's goal of having Plaintiff NICHOLE ROLFE removed from the Nursing program at Baker College for not accepting Osoff's zealot-like adherence to immunizations at any means necessary, legal or not.

63. The substantive portion of the email alleged to be "unprofessional" enough to support removal from the Nursing program was as follows as part of **Exhibit C:**

Mrs. Osoff,

We just were notified via blackboard announcements that you have added requirements for Thursdays presentation. I do not feel like you have given us enough time to accommodate your additional requirements. Our groups understanding is that it was a brief presentation not 30 min plus props. We are preparing for a test this week and no one in our group has the time to meet to work on this. Two days is not enough time.

Teaching the class is not what we are prepared to do at this time.

We all have discussed this at length during our clinical lunch break and I agreed to communicate this with you. Also, this presentation is not in the syllabus and as you know we have a multitude of papers to write this term.

Thank you
Group E

64. Osoff responded as follows as part of **Exhibit C**:

Nichole,

I am glad that you contacted me regarding this concern: An announcement was made after your 2nd exam as to what age groups each clinical group would be focusing on and a general idea of what information to include. I posted the group assignments in the week 3 folder last Thursday. There is no grade attached to this group work thus an expectation for syllabus inclusion is not applicable. Research is clear on improved student success through ownership/presentation of material. A few students had questions regarding specific ideas of what to study and/or present. The announcement that I posted last night in response to student questions was a suggestion guide to help direct your focus rather than specific requirements. The information that you will be studying for this activity directly relates to what will be on your next exam as well as your state board exam. Each group will have 30 minutes at the start of class to organize their presentation.

Your email has an unprofessional tone that frankly surprised me. I have concerns related to your level of professionalism in debriefing during clinical 1 when confronted with an opposing idea from your instructor. Finally, your lack of completion for both your pediatric and OB medication remediation exams last Thursday leads to concern in your academic component. I would like to plan a meeting with myself and Mrs. Meijer in the near future to discuss these concerns.

Alysia M. Gilreath BSN, RN, CEN
Baker College of Owosso
Nursing Specialty Coordinator
1020 S. Washington Street
Owosso, MI 48867

65. In response, Plaintiff NICHOLE ROLFE responded as follows as part of Exhibit C:

Mrs. Osoff,

I do believe that you misinterpreted today's email. While we understood the group project, none of us were prepared when the announcement on blackboard was updated. It was understood that we were presenting but no one knew that props, questions, and videos would need to be shared while presenting. It was the majority of us that feel overwhelmed with the amount of papers due this term and two tests this week.

Also, I don't believe a differing of opinion is considered opposition. It's rather difficult to comprehend when our books state that we are 1. Not to coerce a patient into a treatment that they decline. 2. The six patients rights and one of those being the right to refuse. And 3. Family centered care that involves the parent and the nurse working together while respecting their decisions and gaining their trust. It is very hard to reconcile all of what we are being taught when there is a hot topic such a vaccines. More and more people are declining them or delaying them. It wasn't opposition, but questioning the ethics behind the nature of how things are presented to the patient in hopes they conform and vaccinate their children.

Regarding the drug calc. We did discuss this and I didn't realize the peds were both pages. I also discussed with mrs smith that I froze while trying to complete hers. It was futile to try and complete when my mind was froze. I am sorry you took my email to be unprofessional. At no time was that the intent and I am sorry it was interpreted that way.

Thank you,
Nichole

66. As stated, Osoff indicated that she "would like to plan a meeting with myself and Mrs. Meijer in the near future to discuss these concerns." *Id.*

67. On October 16, 2013, Osoff also requested a meeting with Plaintiff NICHOLE ROLFE via a voicemail message.

68. There was no indication within the voicemail message as to the true scope and direction of the meeting which was actually to be undertaken as described below.

69. At this meeting, Plaintiff NICHOLE ROLFE was ambushed¹ by the unannounced addition of other nursing department personnel including Shannon Meijer, director of the nursing program, Laura Burroughs, Dean of Health Sciences and Human Services at Baker College's Owosso campus, Voula Effourth, student advocate, and Plaintiff NICHOLE ROLFE (hereinafter the "Dismissal Meeting").

70. Plaintiff NICHOLE ROLFE was not, until just prior to the Dismissal Meeting, informed of the nature of the Dismissal Meeting, raising the suspicions of Plaintiff NICHOLE ROLFE who brought a tape-recorder and made a recording of the meeting.

71. A true and reasonable recording of the Dismissal Meeting is contained with **Exhibit D** attached hereto.

72. At the Dismissal Meeting, Plaintiff NICHOLE ROLFE was presented with a pre-drafted document titled "Student Behavior Dismissal Contract" and pre-dated "10/16/[20]13." A copy of said document (hereinafter the "Dismissal Contract") is attached as **Exhibit E**.

73. The Dismissal Contract claims the behaviors that were reported, as clearly deriving from Osoff's reporting, were stated as follows:

Behaviors that were reported:

- *Disrupting the learning environment during Electronic Health Record Computer Training by continuously arguing with the Instructor about a personal belief regarding immunizations. Several attempts were made by the instructor to move forward with the training and the student kept bringing up the same argument.*
- *Clinical instructor reports observing persistent, aggressive, oppositional behavior demonstrated by student in a clinical group setting during a formative feedback session, disrupting the clinical learning environment.*
- *Email communications from student to Course Instructor were viewed as abrasive and unprofessional.*

74. Director Meijer had already drafted and prepared the Dismissal Contract because a decision had already been made by Defendant BAKER COLLEGE, without discussion, review, investigation, or inquiry of Osoff or Smith illegal and immoral

¹ During the meeting, Director Meijer indicated that Ms. Effourth was present on Plaintiff NICHOLE ROLFE's behalf during the Dismissal Meeting. This is disputed and expressly denied. Ms. Effourth was neither acting on the behalf of Plaintiff NICHOLE ROLFE or was there to represent Plaintiff NICHOLE ROLFE in any way. On information and belief, Effourth is not an attorney of this state.

instructions as to vaccinations, to terminate the relationship between Plaintiff NICHOLE ROLFE and Defendant BAKER COLLEGE.

75. Plaintiff NICHOLE ROLFE refused to sign the contract as presented because she disagreed with the provisions and/or truth of the Dismissal Contract.

76. The reasons provided by the Dismissal Contract were false and likely a pre-text to Osoff's and other's desire to removal Plaintiff NICHOLE ROLFE from the nursing program based on an arbitrary, capricious, and/or irrational basis.

77. Such actions did not violate any of the following: the Behavior Contract, Baker College Student Handbook, the Baker College Nursing Program Handbook, the Student Honor Code, NUR 161A Course Syllabus, or any other standard.

78. In short, Defendant BAKER COLLEGE expelled Plaintiff NICHOLE ROLFE from the nursing program for being a student seeking to understand and inquire about contradictory information being taught in the education setting.

79. Defendant BAKER COLLEGE, by and through its employees and agents, undertook the wrongful action of dismissing Plaintiff NICHOLE ROLFE from the nursing program when Plaintiff NICHOLE ROLFE had only 20 weeks of left before graduation.

80. Plaintiff NICHOLE ROLFE immediately undertook steps and affirmatively sought to appeal the decision of her dismissal from the nursing program at Defendant BAKER COLLEGE via a request to the Student Advocate and others.

81. Defendant BAKER COLLEGE had actual notice of the desire and intent of Plaintiff NICHOLE ROLFE to appeal and the Student Advocate confirmed that steps were being taken to review what rights Plaintiff NICHOLE ROLFE had in these circumstances.

82. On November 4, 2013, the Student Advocate left a voicemail for Plaintiff NICHOLE ROLFE regarding an appeal of the dismissal from the nursing program and stated that there is no appeal process at Defendant BAKER COLLEGE available to Plaintiff NICHOLE ROLFE to challenge the dismissal.

83. This lawsuit now follows.

COUNT I
STUDENT-UNIVERSITY CONTRACT
BREACH OF ACTUAL OR IMPLIED CONTRACT

84. The previous paragraphs are alleged as if set forth word for word herein.

85. The relationship between Plaintiff NICHOLE ROLFE and Defendant BAKER COLLEGE is one sounding in contract which actually or impliedly existed

starting Fall 2011 to Fall 2013 between Plaintiff NICHOLE ROLFE and Defendant BAKER COLLEGE.

86. Moreover, because Plaintiff NICHOLE ROLFE was duly admitted by Defendant BAKER COLLEGE, there is an actual or implied contract between Plaintiff NICHOLE ROLFE and Defendant BAKER COLLEGE that if Plaintiff NICHOLE ROLFE objectively complies with the objective terms² prescribed by Defendant BAKER COLLEGE, Plaintiff NICHOLE ROLFE will obtain a degree.

87. The foundation of the relationship between educational institutions, their students, and faculty is the understanding that the students will abide by and adhere to the disciplinary regulations and the academic standards established by the faculty and the university; and that upon the satisfactory completion of their studies, they will be awarded a degree in their chosen discipline.

88. Plaintiff NICHOLE ROLFE, by her actions recounted herein, did not violate or otherwise fail to meet the objective standards required of a student duly-admitted to Defendant BAKER COLLEGE.

89. The decision by Baker College to dismiss Plaintiff NICHOLE ROLFE was arbitrary, capricious, and/or lacking any discernable rational or reasonable basis in violation of the student-university contractual relationship.

90. By arbitrarily, capriciously, and/or irrationally expelling or otherwise terminating the student-university contractual relationship as to the nursing program is a breach of said contract.

91. Plaintiff NICHOLE ROLFE has suffered damages, including past and future lost earning capacity, to be remediated by entry of a judgment against Defendant BAKER COLLEGE.

**COUNT II
BEHAVIOR CONTRACT
BREACH OF CONTRACT**

92. The previous paragraphs are alleged as if set forth word for word herein.

93. By the terms and conditions of the Behavior Contract entered into on June 10, 2013, Defendant BAKER COLLEGE agreed and affirmed that Plaintiff NICHOLE ROLFE would continue and may continue the nursing program at Defendant BAKER COLLEGE with each making certain promises.

² Because the relationship between the parties is contractual, the terms must be reviewed objectively, not subjectively from Defendant Baker College's point of view. See e.g. *Kloian v Domino's Pizza, LLC*, 273 Mich App 449, 454; 733 NW2d 766 (2006).

94. Defendant BAKER COLLEGE promised that “[n]o further incidents of inappropriate, disrespectful, or harassing behavior will be reported by classroom and/or clinical instructors.”

95. Plaintiff NICHOLE ROLFE promised as follows:

Student will comply with all Baker College and Nursing Program policy regarding professional and respectful behavior.

Student will maintain positive relations with peers and interact with others in a respectful and professional manner.

Student to write:

- a minimum of a two page paper using APA formatting addressing incivility in the classroom/clinical setting using a minimum of two professional references.
- an action plan identifying strategies to develop and improve in the area of professional nursing behavior

Paper and action plan due to Director of Nursing by June 21, 2013. This may be submitted via email.

96. In exchange for these promises, Plaintiff NICHOLE ROLFE and Defendant BAKER COLLEGE agreed as follows:

Disciplinary action will be taken by the following:

Failure to comply with expectations regarding Professional Behavior policies, Personal and Professional Conduct will result in failure of the current course and/ or dismissal from the Baker College Nursing program. This stipulation will remain in place for the duration of student’s enrollment in the Baker College of Owosso Nursing Program.

97. Plaintiff NICHOLE ROLFE has fulfilled and/or not breached her part of the contractual agreement.

98. By terminating or otherwise expelling Plaintiff NICHOLE ROLFE on this basis of this Behavior Contract when none of its terms were violated, Defendant BAKER COLLEGE has breached its contract with Plaintiff NICHOLE ROLFE.

99. Plaintiff NICHOLE ROLFE has suffered damages, including past and future lost earning capacity, to be remediated by entry of a judgment against Defendant BAKER COLLEGE.

**COUNT III
STUDENT HANDBOOKS
BREACH OF CONTRACT**

100. The previous paragraphs are alleged as if set forth word for word herein.

101. Defendant BAKER COLLEGE has propounded and made effective various policies contained within its Student Handbook effective during the relevant period.

102. Defendant BAKER COLLEGE has not disavowed or stated that said Student Handbook does not create contractual rights.

103. On information and belief (and discovery will likely reveal) that Defendant BAKER COLLEGE had following policies in place as to academic dismissal:

ACADEMIC DISMISSAL POLICY

Students are academically dismissed based on any of the following:

- 1. A student is unable to successfully complete (pass) any developmental education course within three attempts.*
- 2. A student received a prior academic suspension and his/her GPA falls below the step scale regarding good academic standing.*
- 3. A student fails to complete required work within 30 days of the beginning of a course in which he/she is enrolled. A Notice of Concern must be on file from the instructor indicating that the student has not completed any coursework within this time period or has not successfully completed (passed) enough work to receive a passing grade if the student remained in the class.*

The College reserves the right to academically dismiss any student whose level of achievement makes it inadvisable for the student to remain in school. Students who are academically dismissed may not attend classes in any future quarter, unless they apply for and receive Academic Amnesty. Readmission for developmental education academic dismissal may be considered earlier than the four year requirement if the student produces documentation of transferable college-level math and English courses which were completed following dismissal from Baker College. If a student requests Amnesty after four years and retakes COMPASS, he/she may be readmitted if COMPASS scores indicate that no developmental courses are needed.

104. By Plaintiff NICHOLE ROLFE's actions as outlined herein, Defendant BAKER COLLEGE lacked grounds to terminate or dismiss Plaintiff NICHOLE ROLFE from the nursing program as outlined in Student Handbook.

105. Plaintiff NICHOLE ROLFE fulfilled her part of the Student Handbook policies regarding dismissal by having successfully completed (pass) any developmental education course within three attempts, by not receiving a prior academic suspension and his/her GPA falls below the step scale regarding good academic standing, and by completing required work within 30 days of the beginning of a course in which he/she is enrolled. None of these reasons were cited by Director Meijer as a basis to dismiss Plaintiff NICHOLE ROLFE from the nursing program.

106. On information and belief (and discovery will reveal) that Defendant BAKER COLLEGE had following policies in place as to basic principles of student responsibility:

Students are expected to use language that promotes a comfortable environment. Use of language, gestures, or electronic media that are abusive or offensive in nature will result in disciplinary action, disciplinary suspension, or expulsion.

107. By Plaintiff NICHOLE ROLFE's actions as outlined herein, Defendant BAKER COLLEGE lacked grounds to terminate or dismiss Plaintiff NICHOLE ROLFE from the nursing program because she did not undertake an "[u]se of language, gestures, or electronic media that are abusive or offensive in nature."

108. Plaintiff NICHOLE ROLFE has suffered damages, including past and future lost earning capacity, to be remediated by entry of a judgment against Defendant BAKER COLLEGE.

**COUNT IV
VIOLATION OF PUBLIC POLICY
BREACH OF CONTRACT**

109. Under Michigan law, a party to contract may not breach a contract between the parties for the failure or refusal to violate the public policies of this state in the course of activities of contract fulfillment.

110. This is commonly known as the public policy exemption to the law of contracts and creates a cause of action against the party who took adverse action in a contractual relationship (i.e. breached) for the refusal to follow along or undertake the illegal activity as being contrary to the public policy of this State.

111. This action seeks to have this Court recognize an analogous cause of action, as a matter of first impression, between a private college and a student in a clinical program interacting with real patients wherein the college took adverse

contractual action against a student who has questioned, refused to blindly follow and/or refused to undertake an illegal or unethical activity as being contrary to the public policy of this State.

112. The methodologies required by Smith and Osoff by the students of Group E in misrepresenting to patients to obtain false implied consent, as outlined above, through a.) misrepresenting a patient's legal and financial liability, b.) improperly scaring, panicking, and/or threatening an individual, and/or c.) lying or otherwise coerce statements and/or actions (hereinafter "Baker College False Consent Methods") is both criminally and civilly illegal and against the American Nursing Association Code of Ethics as objective sources of law and policy.

113. Advocacy and demands that students adopt and adhere to the Baker False Consent Methods is against the clear public policy of this state.

114. On information and belief, Smith, Osoff and/or Director Meijer realized, after instruction to the students of Group E and perhaps others, that the Baker False Consent Methods were against the clear public policy of this state and each, individually and collectively, took improper action to dismiss/expel Plaintiff NICHOLE ROLFE and all other students who spoke out against the Baker College False Consent Methods as a means of covering up the illegality of the instruction by Defendant BAKER COLLEGE in regards to patients under the students' clinical responsibility.

115. By and through agents of Defendant BAKER COLLEGE taking adverse and antagonistic actions against Plaintiff NICHOLE ROLFE for refusing to accept and/or under action the Baker College False Consent Methods, as being against the public policy of this state, Defendant BAKER COLLEGE breached its contract with Plaintiff NICHOLE ROLFE.

116. By Defendant BAKER COLLEGE requiring or otherwise advocating the Baker College False Consent Methods by at least two instructors at Defendant BAKER COLLEGE, Defendant BAKER COLLEGE forced or attempted to force Plaintiff NICHOLE ROLFE and others to violate the Student Code of Honor, attached as **Exhibit G**, by acting opposite of the requirements to:

- a. hold myself and my peers to the highest measure of honesty and integrity;
- b. always prepare completely to care for my patients/clients before attending clinicals;
- c. ensure a safe environment to my patient/client by reporting any errors or omission in the care I deliver prompt to the appropriate personnel; and
- d. do all in my power to maintain and elevate the standard of my chosen profession.

117. Plaintiff NICHOLE ROLFE has suffered damages, including past and future lost earning capacity, to be remediated by entry of a judgment against Defendant BAKER COLLEGE.

RELIEF REQUESTED

118. WHEREFORE, Plaintiff NICHOLE ROLFE requests against Defendant BAKER COLLEGE all of the following

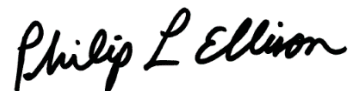
- a. entry of a money judgment against to reflect all damages suffered in excess of \$25,000.00;
- b. entry of an equitable order of this Court directing the removal of the dismissal from Plaintiff's school record(s) at Defendant BAKER COLLEGE;
- c. entry of an award of all costs, attorney fees, interest, and all other relief owed and due under any court rule, statute, or common law; and
- d. all other relief warranted and provide by law or equity.

JURY DEMAND

119. Plaintiff NICHOLE ROLFE requests a jury trial for all triable issues allowed by law.

RESPECTFULLY SUBMITTED:

OUTSIDE LEGAL COUNSEL PLC



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Date: April 6, 2015