

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 16-cv-00318

DANIELE LADONNE,

Plaintiff,

v.

DR. BEVERLEE MCCLURE, in her official capacity as President of Adams State University and in her individual capacity; and

PAUL GROHOWSKI, in his official capacity as Chief of the Adams State University Police Department, and in his individual capacity,

Defendants.

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**DEFENDANTS' ANSWER TO PLAINTIFF'S FIRST AMENDED  
COMPLAINT**

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Defendants, by and through the Office of the Colorado Attorney General, submit the following Answer to Plaintiff's First Amended Complaint.

INTRODUCTION

1. Defendants admit that Dr. McClure signed a no-trespass order regarding Mr. Ladonne, and that the order was delivered to Plaintiff by defendant Grohowski on or about October 14, 2015. The document speaks for itself, and Defendants deny any allegations that misstate or mischaracterize its content. Defendants deny the remaining allegations of paragraph 1.
2. Defendants deny the allegations of paragraph 2.

3. Defendants admit that members of the general public use campus facilities and programs. Defendants deny that the campus is open to the public as a matter of right and deny the remaining allegations of paragraph 3.
4. With respect to the allegations of paragraph 4, Plaintiff's pleadings speak for themselves. Defendants admit that the public is and has been allowed to enter the campus of Adams State, but deny that the campus of Adams State University is or has been open to the public as a matter of right.
5. With respect to the allegations of paragraph 5, Plaintiff's pleadings speak for themselves.

### **JURISDICTION AND VENUE**

6. Defendants admit the allegations of paragraph 6.
7. Defendants admit the allegations of paragraph 7.
8. Defendants admit the allegations of paragraph 8.

### **PARTIES**

9. Defendants admit the allegations of paragraph 9.
10. Defendants admit that Dr. McClure is the president of Adams State University in Alamosa. As for the remaining allegations of paragraph 10, Plaintiff's pleadings speak for themselves.

11. Defendants admit that Paul Grohowski is the chief of the Adams State University police department. As for the remaining allegations of paragraph 11, Plaintiff's pleadings speak for themselves.

12. Defendants respond to the allegations of paragraph 12 as set forth elsewhere in this Answer. To the extent that paragraph 12 asserts separate or additional allegations, Defendants have insufficient information to admit or deny these allegations and therefore deny them.

### **Factual Allegations**

13. Defendants have insufficient information to admit or deny the allegations of paragraph 13 and therefore deny them.

14. Defendants have insufficient information to admit or deny the allegations of paragraph 14 and therefore deny them.

15. Defendants have insufficient information to admit or deny the allegations of paragraph 15 and therefore deny them.

16. Defendants admit the allegations of paragraph 16.

17. With respect to the allegations of paragraph 17, Defendants admit that Adams State hired Emberwilde Productions to perform video work from September 2013 through August 2015. Defendants admit that Adams State University hired Plaintiff to perform video work from August 2011 through September 2013. Defendants admit that some of the videos are

embedded in various places on the Adams State webpage. Defendants deny the remaining allegations of paragraph 17, if any.

18. Defendants admit that on or about December 2013, Plaintiff applied for a full time faculty position to begin the following school year. Defendants admit that Plaintiff was not chosen for the position and that the position was not filled after the initial search in 2014. Defendants have insufficient information to admit or deny the remaining allegations of paragraph 18 and therefore deny them.

19. Defendants admit the allegations of paragraph 19.

20. With respect to the allegations of paragraph 20, Defendants admit that many of Plaintiff's departmental evaluations were "meritorious." At this time, Defendants have insufficient information to admit or deny the remaining allegations of paragraph 20 and therefore deny them.

21. Defendants admit the allegations of paragraph 21.

22. Defendants admit that Plaintiff applied for the full time position cited in paragraph 22 on or about November or December 2014.

23. Defendants admit that Plaintiff was told in February 2015 that he would not receive an initial interview for the position, meaning that he was not under consideration as a finalist for the position. Defendants deny the remaining allegations of paragraph 23, if any.

24. With respect to the allegations of paragraph 24, Defendants admit that Plaintiff filed a complaint alleging that the hiring process was flawed, and that an investigation of the complaint revealed that his allegations were meritless.

25. Defendants have insufficient information to admit or deny the allegations of paragraph 25 and therefore deny the allegations.

26. Defendants have insufficient information to admit or deny the allegations of paragraph 26 and therefore deny them.

27. Defendants have insufficient information to admit or deny the allegations of paragraph 27 and therefore deny them.

28. Defendants admit the allegations of paragraph 28.

29. Defendants admit the allegations of paragraph 29.

30. Defendants admit the allegations of paragraph 30.

31. With respect to the allegations of paragraph 31, the content of the website speaks for itself, and to the extent that Plaintiff mischaracterizes the content, Defendants deny these allegations. Defendants have insufficient information to admit or deny the remaining allegations of paragraph 31 and therefore deny them.

32. Defendants deny the allegations of paragraph 32.

33. Defendants have insufficient information to admit or deny the allegations in paragraph 33 regarding Plaintiff's position with the Southern Colorado Film Festival and therefore deny these allegations. Defendants admit the remaining allegations of paragraph 33.

34. With respect to the allegations of paragraph 34, Defendants admit that articles concerning Adams State University were published on the website. The published documents speak for themselves. Defendants deny any allegations in paragraph 34 that misquote or mischaracterize the published documents. Defendants have insufficient information to admit or deny the remaining allegations of paragraph 34, if any, and therefore deny these allegations.

35. Defendants admit that Dr. McClure informed Plaintiff on October 13, 2015 that he was not permitted to attend university administrative meetings. Defendants have insufficient information to admit or deny the remaining allegations of paragraph 35 and therefore deny these allegations.

36. Defendants admit that Defendant Grohowski delivered a no-trespass order to Plaintiff on October 14, 2015, and that the order was signed by Dr. McClure. Defendants have insufficient information to admit or deny

the remaining allegations of paragraph 36 and therefore deny these allegations.

37. With respect to the allegations of paragraph 37, the Order speaks for itself. Defendants deny the any allegations concerning the content of the Order to the extent that Plaintiff mischaracterizes or misquotes it.

38. With respect to the allegations of paragraph 38, the Order speaks for itself. Defendants deny the any allegations concerning the content of the Order to the extent that Plaintiff mischaracterizes or misquotes it.

39. Defendants admit that Plaintiff was not given advance notice of the order or offered a hearing prior to the time the no-trespass order was issued. Defendants deny the remaining allegations of paragraph 39, if any.

40. With respect to the allegations of paragraph 40, the Order speaks for itself. Defendants deny the any allegations concerning the content of the Order to the extent that Plaintiff mischaracterizes or misquotes it. Defendants admit that Plaintiff contacted Ms. Salazar to appeal the order, and that Ms. Salazar referred him to Vice President Kurt Cary. Defendants deny the remaining allegations of paragraph 40, if any.

41. The correspondence referred to in paragraph 41 speaks for itself. Defendants deny any allegations concerning the content of the

correspondence to the extent that Plaintiff mischaracterizes or misquotes it.

42. The correspondence referred to in paragraph 42 speaks for itself.

Defendants deny the any allegations concerning the content of the correspondence to the extent that Plaintiff mischaracterizes or misquotes it. Defendants deny any remaining allegations in paragraph 42.

43. Defendants deny the allegations of paragraph 43.

44. Defendants deny the allegations of paragraph 44.

45. The university code referred to in paragraph 45 speaks for itself.

Defendants deny any allegations concerning the content of the university code to the extent that Plaintiff mischaracterizes or misquotes it.

46. The university code referred to in paragraph 46 speaks for itself.

Defendants deny any allegations concerning the content of the university code to the extent that Plaintiff mischaracterizes or misquotes it.

47. Defendants admit that a persona non-grata policy received a first reading at the President's Cabinet on October 14, 2015, that the policy was withdrawn for revision from a second reading in November, and that the policy was adopted in January 2016. Defendants deny the remaining allegations of paragraph 47.



48. Defendants have insufficient information to admit or deny the allegations of paragraph 48 and therefore deny them.

49. Defendants have insufficient information to admit or deny the allegations of paragraph 49 and therefore deny them.

50. Defendants have insufficient information to admit or deny the allegations of paragraph 50 and therefore deny them.

51. Defendants have insufficient information to admit or deny the allegations of paragraph 51 and therefore deny them.

52. Defendants have insufficient information to admit or deny the allegations of paragraph 52 and therefore deny them.

53. Defendants have insufficient information to admit or deny the allegations of paragraph 53 and therefore deny them.

54. Defendants admit that Plaintiff is travelling to Peru in the summer of 2016, and that Plaintiff has paid for the trip. Defendants have insufficient information to admit or deny the remaining allegations of paragraph 54 and therefore deny them.

55. Defendants have insufficient information to admit or deny the allegations of paragraph 55 and therefore deny them.

56. Defendants have insufficient information to admit or deny the allegations of paragraph 56 and therefore deny them.

57. Defendants have insufficient information to admit or deny the allegations of paragraph 57 and therefore deny them.

58. Defendants admit that Alamosa is in the San Luis Valley, that the area surrounding Alamosa is rural, and that Adams State University is an important intellectual and cultural asset to the community. Defendants admit that the public may attend many events at the university but deny that the campus is open to the public as a matter of right. Defendants deny the remaining allegations of paragraph 58, if any.

59. Defendants admit that the Adams State library is open to the public, that members of the public may hold library cards and attend at least some library events. Defendants deny that the library or library programs or events are available to the public as a matter of right. Defendants have insufficient information to respond to the characterization of the San Luis Valley as a whole is a “library desert,” and thus deny the allegation. But upon information and belief, most if not all communities in the San Luis Valley have libraries, and their schools have libraries. Defendants deny that Alamosa, which has a public library and schools with libraries, is a “library desert.” Defendants have insufficient information to admit or deny the remaining allegations of paragraph 59, if any, and therefore deny these allegations.

60. With respect to the allegations of paragraph 60, the language on the website speaks for itself. Defendants deny any allegations concerning the content of the website to the extent that Plaintiff misquotes it.

61. Defendants have insufficient information to admit or deny the allegations of paragraph 61 and therefore deny the allegations.

62. Defendants have insufficient information to admit or deny the allegations of paragraph 62 and therefore deny the allegations

63. Defendants admit that Adams State offers educational, cultural, and intellectual opportunities. Defendants deny that the campus is open to Plaintiff as a matter of right. Defendants deny the remaining allegations of paragraph 63.

64. Defendants deny the allegations of paragraph 64.

65. The “open letter” referred to in paragraph 65 speaks for itself. Defendants deny any allegations concerning the content of the open letter to the extent that Plaintiff mischaracterizes or misquotes it. Defendants admit that Dr. Svaldi is the former president of Adams State University.

66. The newspaper article referred to in paragraph 66 speaks for itself. Defendants deny any allegations concerning the content of the article to the extent that Plaintiff mischaracterizes or misquotes it. Defendants deny the remaining allegations of paragraph 66, if any.

67. The memo referred to in paragraph 67 speaks for itself. Defendants deny any allegations concerning the content of the memo to the extent that Plaintiff mischaracterizes or misquotes it.

68. The press release referred to in paragraph 68 speaks for itself. Defendants deny any allegations concerning the content of the press release to the extent that Plaintiff mischaracterizes or misquotes it.

69. The written statement referred to in paragraph 69 speaks for itself. Defendants deny any allegations concerning the content of the statement to the extent that Plaintiff mischaracterizes or misquotes it.

70. With respect to the allegations of paragraph 70, Defendants admit that Dr. McClure appeared before the faculty senate on November 18, 2015. Defendants admit that Dr. McClure had with her a file or folder of documents. Defendants have insufficient information to admit or deny the remaining allegations of subparagraph (a) and therefore deny these allegations. With respect to subparagraphs (b) and (c), Defendants believe that the general topics referred to in these subparagraphs were discussed, but cannot state with certainty the exact wording or context of Dr. McClure's comments. Defendants therefore have insufficient information to admit or deny the allegations in subparagraphs (b) and (c) and deny them. Defendants deny any remaining allegations of paragraph 70.

71. Defendants deny the allegations of paragraph 71.

72. Defendants admit the allegations of paragraph 72.

73. Defendants have insufficient information to admit or deny the allegations of paragraph 73 and therefore deny the allegations.

74. Defendants deny the allegations of paragraph 74.

75. Defendants deny the allegations of paragraph 75.

76. Defendants have insufficient information to admit or deny the allegations of paragraph 76 and therefore deny the allegations.

77. With respect to the allegations of paragraph 77, Defendants admit that two organizations requested that Plaintiff be allowed on campus to video events. Defendants deny the remaining allegations of paragraph 77, if any.

78. Defendants admit the allegations of paragraph 78.

79. Defendants admit that the university required Plaintiff to sign a letter outlining conditions for his presence on campus for events occurring from December 17 – 20, 2015. The letter speaks for itself. Defendants deny any allegations concerning the content of the letter to the extent that Plaintiff mischaracterizes or misquotes it. Defendants have insufficient information to admit or deny the remaining allegations of paragraph 79 and therefore deny these allegations.

80. Defendants admit that Plaintiff was allowed on campus to attend an on-campus art gallery opening on December 19, 2015. Defendants admit that Adams State received a letter from the San Luis Valley Ecosystem Council shortly before the event advising that the Council wished to use Plaintiff's services at the event, and that permission was given verbally that Plaintiff could attend the event. Defendants have insufficient information to admit or deny the remaining allegations of paragraph 80 and therefore deny these allegations.

81. Defendants have insufficient information to admit or deny the allegations of paragraph 81 and therefore deny these allegations.

82. Defendants have insufficient information to admit or deny the allegations of paragraph 82 and therefore deny these allegations.

83. Defendants deny the allegations of paragraph 83.

84. Defendants admit the allegations of paragraph 84.

85. Defendants deny the allegations of paragraph 85.

86. With respect to the allegations of paragraph 86, Defendants deny that under the law, an actual and immediate controversy exists.

87. With respect to the allegations of paragraph 87, Plaintiff's pleadings speak for themselves. Defendants deny that the issuance of the no trespass order violated Plaintiff's right to due process. Defendants further deny

that the order was issued in retaliation for Plaintiff's exercise of his constitutional rights.

88. Defendants admit the allegations of paragraph 88.

89. Defendants deny that there is uncertainty or controversy under the law, and therefore deny the allegations of paragraph 89.

90. Defendants deny the allegations of paragraph 90.

91. Defendants respond to the allegations of paragraph 91 as stated elsewhere in this Answer.

92. Defendants deny the allegations of paragraph 92.

93. Defendants deny the allegations of paragraph 93.

94. Defendants deny that Plaintiff is entitled to the remedies he requests and therefore deny the allegations of paragraph 94.

### **First Claim for Relief**

95. Defendants have moved for the dismissal of Plaintiff's First Claim for Relief and therefore will not respond to paragraphs 95 - 120 (Plaintiff's First Claim for Relief). To the extent that a response to these paragraphs is required, Defendants deny the allegations.

### **Second Claim for Relief**

96. Defendants respond to the allegations of paragraph 121 as fully set forth elsewhere in this Answer.

97. Defendants admit the allegations of paragraph 122.

98. Defendants admit the allegations of paragraph 123.

99. Defendants deny the allegations of paragraph 124.

100. The allegations in paragraph 125 appear to refer to defendant Grohowski's letter of October 28, 2015, described in paragraph 65 of the Amended Complaint. This letter speaks for itself. Defendants deny any allegations concerning the content of the letter to the extent that Plaintiff mischaracterizes or misquotes it.

101. Defendants deny the allegations of paragraph 126.

102. Any publication of statements made by Dr. McClure speaks for itself. With respect to the allegations of paragraph 127, to the extent Plaintiff misquotes or mischaracterizes the published statements, Defendants deny the allegations.

103. Defendants deny the allegations of paragraph 128.

104. Defendants deny the allegations of paragraph 129.

105. Defendants deny the allegations of paragraph 130.

106. Defendants deny the allegations of paragraph 131.

107. Defendants deny the allegations of paragraph 132.

108. Defendants deny the allegations of paragraph 133.



109. Defendants deny that Plaintiff is entitled to the relief requested in paragraph 134.

### **Third Claim for Relief**

110. Defendants have moved for the dismissal of Plaintiff's Third Claim for Relief and therefore will not respond to paragraphs 135 - 142 (Plaintiff's Third Claim for Relief). To the extent that a response to these paragraphs is required, Defendants deny the allegations.

### **Fourth Claim for Relief**

111. Defendants have moved for the dismissal of Plaintiff's Fourth Claim for Relief and therefore will not respond to paragraphs 143 - 154 (Plaintiff's Fourth Claim for Relief). To the extent that a response to these paragraphs is required, Defendants deny the allegations.

112. With respect to the relief requested in Plaintiff's **REQUEST FOR RELIEF**, Defendants deny that Plaintiff is entitled to any relief on the claims he has brought, including but not limited to damages, declaratory judgments, injunctive relief, and attorney fees. Defendants deny that Plaintiff is entitled to the relief sought in paragraphs 1 through 7 of Plaintiff's **REQUEST FOR RELIEF**.

113. Defendants deny any allegations in Plaintiff's First Amended Complaint not specifically admitted in this Answer.

### **Affirmative Defenses**

1. Plaintiff has failed to state claims for relief.
2. Defendants are entitled to qualified immunity.
3. Plaintiff has been afforded all the rights, privileges, and immunities granted by the United States Constitution, the Colorado Constitution, and state and federal law.
4. Defendant reserves the right to assert additional affirmative defenses or rescind affirmative defenses after further investigation and discovery.

Wherefore, Defendants requests this Court to enter judgment in their favor and additionally request attorney fees, costs, and any other relief this Court deems just and proper.

CYNTHIA H. COFFMAN  
Attorney General

*s/ Kathleen Spalding*

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AG FILE:

DOCUMENT3

**CERTIFICATE OF SERVICE**

This is to certify that on April 14, 2016, I duly served the within  
**DEFENDANTS' ANSWER TO PLAINTIFF'S FIRST AMENDED**  
**COMPLAINT** upon all parties herein by filing the document with the Court's  
electronic filing system (ECF), which will send copies to the following:

N. Reid Neureiter  
Kayla Scroggins  
[neureiter@wtotrial.com](mailto:neureiter@wtotrial.com)  
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Mark Silverstein  
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*Kathleen Spalding*

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