



position in July 2014, Professor Tao then moved his family—including his then nine-year-old son and daughter—certain team members, and his lab instruments, to KU in August 2014.

3. From November 2018 through February 2022, the U.S. Department of Justice (“DOJ”) operated a “China Initiative” which was ostensibly designed to thwart Chinese national security threats including economic espionage. The program has been widely criticized for racial profiling, xenophobia, and discrimination against Chinese Americans.<sup>1</sup>

4. In 2019, as a result of discriminatory and illegal actions taken by KU, Professor Tao became the first professor arrested under the China Initiative, with baseless and humiliating charges brought against him by the DOJ.

5. Professor Tao endured over three years of criminal prosecution plus two years of appellate litigation which inflicted substantial damage to his reputation, his career, his life savings, and his emotional well-being.

6. After his arrest, KU placed Professor Tao on administrative leave, but before the criminal proceedings had concluded, and without procedural process guaranteed to tenured faculty, it unfairly and unlawfully terminated Professor Tao. Even after he was ultimately acquitted of all charges, KU refused to reinstate Professor Tao to its faculty. To this day, it refuses to reinstate Professor Tao.

7. KU’s actions and discrimination against its own tenured professor—before, during, and after his criminal prosecution, and even after his full exoneration—violated its contractual, ethical, and legal obligations to Professor Tao. Among other things, it failed to objectively investigate wild accusations by a disgruntled visiting student who had tried to extort Professor Tao, it rushed to judgment based on xenophobia and racial prejudice, it sought out,

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<sup>1</sup> See, e.g., Yu Xie, et al., Caught in the crossfire: Fears of Chinese-American scientists, Proc. Nat’l Acad. Sci. U.S.A., June 27, 2023.

collected, and provided false and misleading information to the DOJ, it unlawfully surveilled Professor Tao, it collaborated with the DOJ to persecute Professor Tao, it unlawfully terminated him before his criminal proceedings even concluded, and it refused—and continues to refuse—to reinstate him despite his acquittal on all counts.

8. KU also violated its own policies and procedures for faculty as well as a July 2, 2020 agreement it signed with Professor Tao, promising to wait until the end of the criminal proceedings before taking any action on his employment status.

9. Professor Tao’s life, career, reputation, and finances are in shambles as a result of KU’s egregious conduct. Rather than embracing academic rigor and enlightened, critical judgment, the university allowed itself to join in fear mongering and racist witch hunting. It failed its own vision of being a “home to innovative research and the constant pursuit of knowledge” and to be guided by “perseverance, positivity, and restless innovation.” KU was wrong, should be ashamed of its actions, and deserves to be held accountable for the damage it caused to Professor Tao.

### **PARTIES**

10. Plaintiff Franklin Tao resides in Kansas and is a citizen of Kansas.

11. Professor Tao is a U.S. permanent resident. He is East-Asian, Han-Chinese, and of Chinese national origin.

12. Defendant KU is a state-supported educational institution whose main campus is located in Lawrence, Kansas. KU is an “employer” within the meaning of Title VII.

13. Upon information and belief, Defendant Douglas Girod resides in Kansas and is a citizen of Kansas.

14. Douglas Girod became Chancellor of KU in July 2017 and has served continuously in that role since July 2017.

15. As Chancellor, Douglas Girod has the authority to hire, terminate, and reinstate professors at KU. The Chancellor is the ultimate supervisor of all KU employees and administrators.

16. Douglas Girod's actions as Chancellor of KU were taken "under color of state law" within the meaning of 42 U.S.C. § 1983.

17. Upon information and belief, Defendant Barbara Bichelmeyer resides in Kansas and is a citizen of Kansas.

18. Barbara Bichelmeyer became Provost and Executive Vice Chancellor of KU in February 2020 and has served continuously in that role since February 2020.

19. As Provost and Executive Vice Chancellor, Barbara Bichelmeyer has the authority to hire, terminate, and reinstate professors at KU.

20. Barbara Bichelmeyer's actions as Provost and Executive Vice Chancellor of KU were taken "under color of state law" within the meaning of 42 U.S.C. § 1983.

### **JURISDICTION & VENUE**

21. This is an employment case arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* ("Title VII"), 42 U.S.C. §1983, and 42 U.S.C. §1981.

22. This Court has subject matter jurisdiction as this case arises under federal law and presents a federal question. *See* 28 U.S.C. § 1331.

23. This Court has personal jurisdiction over defendants, all of whom reside in Kansas. Moreover, the vast majority, if not all, of the unlawful acts and practices set forth below occurred in the State of Kansas.

24. Venue is proper as the relevant events occurred in the District of Kansas.

25. On June 16, 2023, Professor Tao filed a charge of discrimination with the Equal Employment Opportunity Commission (“EEOC”) alleging ongoing violations of Title VII by KU related to his termination from his tenured professorship at the university. He specifically charged that the discrimination based on race, color, and national origin started on August 20, 2019 and was “continuing” in nature.

26. On October 7, 2024, the EEOC issued a Notice of Right to Sue. Professor Tao received the Notice of Right to Sue on October 7, 2024.<sup>2</sup>

## **STATEMENT OF FACTS**

### **The “China Initiative”**

27. The DOJ’s China Initiative was officially launched in 2018 and created task forces within the FBI and federal prosecution offices to purportedly target economic espionage. The program was terminated in 2022 because it was found to fuel racial profiling and chill advances in the U.S. scientific community.<sup>3</sup> The stated goal of targeting economic espionage and hacking had turned into a focus on disclosures on academic forms.<sup>4</sup> Accordingly, “[t]here

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<sup>2</sup> On May 1, 2025, Professor Tao filed a second charge of discrimination with the EEOC to provide additional detail on his prior charge, and also to raise retaliation allegations based on KU’s conduct after Professor Tao filed the first charge. That second charge is still pending with the EEOC.

<sup>3</sup> Ryan Lucas, The Justice Department is ending its controversial China Initiative, NPR (February 23, 2022, 9:15 PM), <https://www.npr.org/2022/02/23/1082593735/justice-department-china-initiative>; *see* Jenny J. Lee, et al., Racial Profiling Among Scientists of Chinese Descent and Consequences for the U.S. Scientific Community, Committee of 100 (October 28, 2021); *supra* n.1.

<sup>4</sup> Eileen Guo, et al., The US Crackdown on Chinese economic espionage is a mess. We have the data to show it., MIT Technology Review (December 2, 2021), <https://www.technologyreview.com/2021/12/02/1040656/china-initiative-us-justice-department/>.

was a clear mismatch between the severity of the crimes that the DOJ and FBI alleged publicly and the charges which the DOJ prosecuted.”<sup>5</sup>

28. Consistent with its name, the China Initiative targeted individuals of Chinese descent. In addition to promoting racial profiling and bias, the China Initiative ultimately proved to be a statistical failure: “in over three years of investigations, over 150 defendants, and at least 77 cases, the China Initiative secured just one single conviction in a court of law.”<sup>6</sup>

29. Professor Tao was the first professor arrested under the China Initiative, and also a prime example of its racial profiling and unlawful targeting of innocent academics who happen to be Chinese.

### **Professor Tao’s Academic Career**

30. Professor Tao moved to the United States in 2002 after being accepted into Princeton University’s PhD program.

31. In 2006, Professor Tao received a PhD in Chemistry from Princeton University.

32. From 2006-2010, he served as a postdoctoral fellow at the University of California, Berkeley.

33. In 2010, Professor Tao joined the faculty at the University of Notre Dame as a tenure-track assistant professor in the Department of Chemistry and Biochemistry.

34. In 2014, he was recruited by KU to join its faculty as tenured associate professor in the Department of Chemical and Petroleum Engineering.

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<sup>5</sup> Anton Louthan, The China Initiative and its Implications for American Universities, Foreign Policy Research Institute (April 11, 2022), <https://fpri.org/article/2022/04/the-china-initiative-and-its-implications-for-american-universities/>.

<sup>6</sup> CAPAC Members Applaud the Second Anniversary of the Termination of the China Initiative, Congressional Asian Pacific American Caucus (February 23, 2024), <https://capac-chu.house.gov/press-release/capac-members-applaud-second-anniversary-termination-china-initiative>.

35. Academic tenure is an employment status whereby a tenured faculty member can only be terminated for justifiable cause or under extraordinary circumstances.

36. Professor Tao moved his family to Kansas and began his employment as a tenured faculty member at KU in August 2014.

37. Professor Tao's research specialties include sustainable chemical transformation, energy conversion, environmental sustainability, and clean energy harvest. At KU, Professor Tao built a lab and led a research group focused on nanocatalysis—the use of nanomaterials as catalysts to accelerate and improve chemical and energy transformations.

38. Professor Tao's research projects have been supported by the National Science Foundation ("NSF") and U.S. Department of Energy ("DOE"). Between 2012 and 2019, Professor Tao was awarded over \$4 million across twelve NSF and DOE projects which totaled over \$10 million.

39. Professor Tao also taught numerous undergraduate and graduate level courses at KU. He has served as a research advisor to over 15 graduate students at the University of Notre Dame and KU.

40. Professor Tao has received numerous academic awards and honors. From KU alone, Professor Tao received the Miller Research Award in 2014, the Bellow Scholar Award in 2018, and the University Scholarly Achievement Award in 2019—the highest honor awarded to KU midcareer faculty members, recognizing "truly outstanding" scholarly contributions.

41. On April 3, 2019, when it announced the University Scholarly Achievement Awards, KU's Office of Public Affairs described Professor Tao as follows:

**Franklin (Feng) Tao** joined the chemical & petroleum engineering faculty in 2014 and has demonstrated an outstanding record of scholarly achievement in his field. He has enhanced KU's capability in the field of heterogeneous catalysis. He has made distinguished contributions to the fields of rational design of catalysts and in

situ/operando studies of catalysis at a molecular level with advanced techniques. Tao is the recipient of a National Science Foundation CAREER award for his work, and he also has been named as a Fellow of the American Association for the Advancement of Science and Royal Society of Chemistry.

42. On April 24, 2019, Defendant Douglas Girod personally presented the University Scholarly Achievement Award to Professor Tao and praised him for his research contributions and numerous publications and citations. He commended Professor Tao (and the other three award recipients) for having “helped to elevate our university through their work” and said his “inspiring achievements demonstrate the breadth and depth of the contributions to society that are possible through the work of one of America’s leading research universities.”

### **The Baseless Prosecution of Professor Tao**

43. Less than a week later, on April 30, 2019, an anonymous source sent an online tip, falsely accusing Professor Tao of “espionage” based on “internet exploration” purportedly showing that he held another full-time position in China.

44. At the time, KU’s Office of Global Operations & Security was headed by Director Carl Taylor, a former military intelligence officer with the U.S. Army and civilian intelligence officer with the Department of Defense. Mr. Taylor developed and led the KU Office of Global Operations & Security to protect research and identify risks and threats university-wide.

45. While heading the KU Office of Global Operations & Security, Mr. Taylor was also a co-Principal Investigator for KU’s U.S. Intelligence Community Center for Academic Excellence (ICCAE) Program, founded in September 2017 to recruit and train students “to serve as qualified intelligence professionals to carry out the nation’s long-term national security initiatives.”

46. Eager to be involved in a national security matter with the federal government, Carl Taylor reported the complaint to Douglas Girod and recommended that the allegations be



shared with the FBI. Without speaking to Professor Tao, and without conducting any investigation of the source, the facts, or the circumstances, Chancellor Girod directed Mr. Taylor to report Professor Tao to the FBI.

47. On May 1, 2019, at Chancellor Girod's direction, Mr. Taylor reported Professor Tao to the FBI on May 1, 2019, describing the issue as "high" importance.

48. In fact, the allegations by the anonymous source were completely false, and had been made by a visiting student at KU who was angry with Professor Tao for not giving her credit on a paper. The anonymous complainant had demanded \$300,000 from Professor Tao for her allegedly unacknowledged effort and threatened to report him to the FBI for economic espionage if her demands were not met. Professor Tao refused to be extorted.

49. Professor Tao had no idea that the visiting scholar had sent an online tip because KU did not tell him. Rather than protecting its own faculty or giving him the benefit of the doubt, KU took action behind his back in an effort to confirm the sensational allegations on the second day of receiving the report.

50. KU worked with the government throughout the spring and summer of 2019 to investigate and build a case against Professor Tao.

51. On information and belief, Chancellor Girod authorized and directed Carl Taylor and Kimberly Grunewald, KU's Deputy General Counsel (later promoted to and currently holding the position of General Counsel) to help the FBI in its investigation of Professor Tao, including through secret, unlawful surveillance of Professor Tao, the collection of incomplete and one-sided "evidence" against Professor Tao, and the fabrication of evidence against Professor Tao.

52. When KU and the federal government found no evidence of espionage by Professor Tao, they shifted gears to try and develop criminal charges for wire fraud, program fraud, or false statement against Professor Tao.

53. For example, in the summer of 2019, KU made unplanned federal grant payments to Professor Tao so that his salary would meet the minimum threshold amount required for a program fraud charge.

54. At the FBI's request, KU also scrutinized every form ever submitted by Professor Tao looking for a misstatement. When it became clear that Professor Tao had never made an affirmative misstatement on any of the forms, KU worked to find a way to suggest that there was a material omission on one of the forms.

55. Ultimately, KU developed a counter-factual position that Professor Tao had submitted a Conflict of Interest ("COI") form<sup>7</sup> in September 2018 that failed to disclose a relationship with Fuzhou University—a university in Fujian, China.

56. Professor Tao did not certify or submit a COI form in 2018.

57. Upon information and belief, the KU e-compliance system cloned a copy of a COI form that Professor Tao submitted prior to 2018 and, although he did not certify or submit a COI form in 2018, KU decided to treat it as submitted in order to assist the federal government in bringing a case against Professor Tao.

58. In 2017, Fuzhou University contacted Professor Tao about potentially joining Fuzhou University as a professor of chemistry. After a family visit to China in January 2018,

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<sup>7</sup> Faculty members are required to submit annual conflict of interest ("COI") forms, also known as Institutional Responsibilities forms, to disclose any "significant financial interests worth \$5,000 or more" and "time commitments in external professional activities."

Professor Tao's family decided they did not want to move to China and Professor Tao declined the offer from Fuzhou University.

59. Professor Tao never signed an employment agreement with Fuzhou University. He never contracted to work for Fuzhou University.

60. A job offer from another university is not information that is customarily shared with current employers, or something that other KU faculty members disclose on COI forms.

61. In early summer 2018, Professor Tao submitted a proposal to KU for a research collaboration with Fuzhou University. In conjunction with that proposal, Professor Tao also submitted a request for a course buyout for the Spring 2019 semester. A course buyout in academia is a mechanism whereby a faculty member is released from teaching a course (by having a portion of their salary paid from an external source) to allow that faculty member to focus on research. Professor Tao's request proposed that funds from the research collaboration would be used for the course buyout.

62. On June 25, 2018, Dr. Laurence Weatherley, the Chair of the Department of Chemical and Petroleum Engineering, approved Professor Tao's buyout request. However, Fuzhou University did not move forward with the research collaboration and instead decided to work with a different professor. Therefore, Professor Tao's Spring 2019 course buyout was ultimately funded by an NSF grant.

63. KU's Assistant Vice Chancellor for Research, Alicia Reed, would later tell the FBI (falsely) that KU had not approved the Spring 2019 course buyout request.

64. In 2019, Professor Tao worked on a different course buyout proposal for Fuzhou University and was again engaged with KU about the potential collaboration. Indeed, he reached out to KU's Office of Research in Spring 2019 to discuss.

65. Because KU was working to persecute Professor Tao behind his back, however, KU secretly reviewed and selectively forwarded certain of Professor Tao's communications about collaboration with Fuzhou University to the federal government.

66. KU lied to Professor Tao to delay and avoid discussion with him on the subject, and never sought information or clarification from Professor Tao, because it was not interested in the truth.

67. In July 2019, Professor Tao had a scheduled meeting with Chris Brown, KU's Vice Provost for Faculty Development, to discuss Fuzhou University. Carl Taylor suggested that Mr. Brown cancel the meeting because KU was intent on helping the federal government arrest Professor Tao and on supporting the false narrative it had developed with the federal government. At Mr. Taylor's request, Mr. Brown cancelled the meeting and lied to Professor Tao.

### **KU's Role in Professor Tao's Arrest and Superseding Indictment**

68. In August 2019, KU worked with the FBI to arrange a surprise search of Professor Tao's lab and home on August 20, 2019. Text exchanges between Kimberly Grunewald, Carl Taylor, and the FBI case agents reflect an improper collaboration between KU and the DOJ to target Professor Tao:

Kimberly Grunewald: "Heard you boys are heading out tomorrow, which, from a personal & totally selfish standpoint, ticks me off, as I really want my Wonder Twins present tomorrow. But duty calls. So, keep us updated. And...be careful. Seriously—if anything happens to you guys, I will kick both of your asses."

FBI: "Ok mom."

69. On August 21, 2019, based largely on "evidence" provided by KU, the government arrested and charged Professor Tao at his home with one count of wire fraud and three counts of program fraud.

70. The wire fraud count was based on the COI form allegedly submitted by Professor Tao in September 2018 that failed to disclose a relationship with Fuzhou University. The program fraud counts alleged that by failing to disclose his relationship with Fuzhou University on the form, Professor Tao defrauded KU of his salary, and the federal funding agencies.

71. Upon learning that Professor Tao had been placed in custody, Kimberly Grunewald congratulated the FBI by phone text: “Job well done, gentlemen. Congrats, and thanks.”

72. Upon his arrest, KU placed Professor Tao on administrative leave and banned him from campus. KU threatened to have him arrested if he appeared on campus.

73. Following Professor Tao’s arrest, KU continued to actively work with the government to look for evidence that could support additional criminal charges against Professor Tao, or to strengthen the government’s case.

74. For example, in September 2019, Carl Taylor directed the KU Center for Technology Commercialization to run searches in its database to confirm the absence of the name Luan Nguyen (Professor Tao’s post-doc researcher at KU) on patent applications. Mr. Taylor then forwarded the information to the federal government to assist it in developing a theory that Professor Tao had stolen intellectual property from Mr. Nguyen.

75. When that theory did not hold, in late October 2019, the government asked Carl Taylor and Kimberly Grunewald to go back through all of his patent applications to try to find false statements, calling it an important “tactical move.” Carl Taylor told the government that he and Ms. Grunewald would add it to their list. They then recruited the Vice Chancellor for

Research, Simon Atkinson, and the Assistant Vice Chancellor for Research, Alicia Reed, to assist them with this endeavor.

76. On January 15, 2020, the government filed a first superseding indictment, charging Professor Tao with two counts of wire fraud and one count of program fraud.

77. On information and belief, throughout 2020, KU continued to assist the federal government in persecuting Professor Tao and perpetuating lies and inflammatory accusations to damage his reputation and destroy his career.

78. On June 24, 2020, the government filed a second superseding indictment, charging Professor Tao with seven counts of wire fraud and three counts of false statements.

79. In October 2020, KU's radio station, Kansas Public Radio ("KPR"), which covers urban and rural areas of Kansas as well as parts of Missouri, broadcast a false news story that Professor Tao was arrested for being a spy who stole intellectual property and secretly worked for a university in China while employed at KU. Despite requests to do so, KU and KPR refused to correct the false and defamatory statement until Professor Tao's counsel demanded they do so, and then only printed a one sentence correction on the website.

### **KU Terminates Professor Tao and Continuously Refuses to Reinstate Him**

80. As part of the KU faculty, Professor Tao was entitled to certain rights under the KU Faculty Code of Rights, Responsibilities, and Conduct ("FCRRC").

81. Article III.7 of the FCRRC states:

Faculty members have a right to due process in all disciplinary matters. Faculty members have the right to peer judgment through the hearing process. The sanctions listed in Article VI of this Code may not be imposed upon a faculty member without notice of the charges against him or her and the opportunity to request a hearing before the Judicial Board or the Faculty Rights Board.

82. Article VI of the FCRRC states that “[s]anctions of censure, suspension, or dismissal shall be applied only after the faculty member has the opportunity for a hearing before the Faculty Rights Board.”

83. The KU Procedure for Appeals to the Faculty Rights Board for Tenure and Promotion Decisions (the “Procedure for Appeals”) provides that, after the Provost makes a negative recommendation, the faculty member may file an appeal with the Faculty Rights Board (“FRB”) and request a hearing on the provost’s recommendation.

84. On September 17, 2019, before trial, the KU Interim Provost & Executive Vice Chancellor, Carl Lejuez, recommended dismissal of Professor Tao as a tenured faculty member (the “Proposed Administrative Action”). Chancellor Douglas Girod agreed with the recommendation.

85. On February 14, 2020, Carl Lejuez informed Professor Tao that KU believed it “is still appropriate” to terminate him.

86. Two weeks later, on February 28, 2020, Carl Lejuez notified Professor Tao of KU’s intention to formally dismiss him on March 9, 2020.

87. On March 13, 2020, Professor Tao appealed and requested a hearing on the Proposed Administrative Action to the FRB under the Procedure for Appeals.

88. On April 6, 2020, in response to Professor Tao’s request, Carl Lejuez sent a letter to the FRB listing a Statement of the Charges and stating that the FRB will conduct a hearing on the charges at a time and place to be communicated to Professor Tao.

89. On July 2, 2020, Professor Tao and KU’s Provost and Executive Vice Chancellor, Dr. Barbara Bichelmeyer (“Vice Chancellor Bichelmeyer”), signed an agreement (the “July 2, 2020 Agreement”) to suspend the appeal and any FRB hearing under the Procedure for Appeals

until the conclusion of the criminal proceeding. Chancellor Douglas Girod approved the July 2, 2020 Agreement.

90. The July 2, 2020 Agreement includes provisions that state:

3. At the conclusion of the Criminal Proceeding, the University has the right to reinstate the Proposed Administrative Action . . .  
 . . .

10. The Parties agree that if the Criminal Proceeding results in a conviction, Dr. Tao's dismissal as a tenured faculty member will be a final administrative action, and Dr. Tao waives his right to appeal the dismissal or request a hearing before the FRB, except with respect to the University's decision to seek restitution. If Dr. Tao is convicted in the Criminal Proceeding, the University will notify Dr. Tao of any Proposed Administrative Action seeking restitution, which Dr. Tao shall have the right to appeal.

11. The Parties agree that if the Criminal Proceeding is dismissed or results in an acquittal, Dr. Tao's appeal of the Proposed Administrative Action, if reinstated or revised by the University, will be unabated, and the University will resubmit a Statement of Charges to the FRB.

91. On or about March 22, 2022, Professor Tao's trial on six counts of wire fraud and two counts of making a false statement began.<sup>8</sup>

92. During the trial, KU's Assistant Vice Chancellor for Research, Alicia Reed, falsely testified that Professor Tao submitted the September 2018 COI form.

93. On or about April 7, 2022, a jury found Professor Tao guilty on three counts of wire fraud and one count of making a false statement, and found him not guilty on the remaining four counts. Professor Tao immediately moved for acquittal on those counts notwithstanding the verdict. The District Judge expressly invited post-verdict motions and observed that "there are some significant issues in this case."

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<sup>8</sup> On February 14, 2022, the District Court granted the Government's unopposed Motion to Dismiss Counts Three and Eight of the second superseding indictment, leaving eight counts remaining.



94. On April 15, 2022, notwithstanding the significant issues with the verdict that were yet to be decided by the District Court, KU's Associate General Counsel Eric Aufdengarten informed Professor Tao that KU intended to proceed with termination because of the jury verdict.

95. In response, on April 19, 2022, Professor Tao's employment lawyer stated to Eric Aufdengarten that the criminal action had not yet concluded because a "conviction" under the law requires that "a judgment of conviction has been rendered, the availability of appeal exhausted, and the time for a petition for certiorari elapsed or a petition for certiorari finally denied." KU did not respond.

96. On September 20, 2022, the District Court acquitted Professor Tao on the three wire fraud counts on the ground that "the evidence was legally and factually insufficient to support Tao's wire fraud convictions." Therefore, only one count of false statement remained. The Court also concluded that "there is no evidence that Tao's conduct put KU or NSF at any risk of loss."

97. Professor Tao's sentencing was scheduled for January 18, 2023. KU actively supported and assisted the federal government in seeking a 30-month prison sentence and a \$100,000 fine for the one remaining count.

98. On January 6, 2023, while KU witnesses prepared to testify for the government at Professor Tao's sentencing, Chancellor Girod and Vice Chancellor Bichelmeyer terminated Professor Tao from his tenured position. KU refused to wait for sentencing or the appeal process and refused to conduct a pre-termination hearing as required by KU's own rules and policies.

99. At the January 18, 2023 sentencing hearing, KU made disparaging, baseless comments against Professor Tao. KU's Assistant Vice Chancellor for Research, Alicia Reed, testified that Professor Tao had caused significant financial damage to the university.

100. The District Court criticized KU’s assertion that Professor Tao had caused damage and neglected his responsibilities:

I went into this trial frankly thinking I was going to hear evidence that there was a loss. . . . I thought frankly what I might hear at trial and I never heard was that he wasn’t entitled to his salary at KU because during the semester or whenever he was in China, he wasn’t doing any work for KU so he was double-dipping so to speak and pulling a salary from KU that he didn’t earn. But I didn’t hear that. I heard the contrary. I heard that this is a man that is obsessed with his work. . . . I heard even when he was in China, Germany, or wherever he might be, he worked [his students] to death and he worked himself to death. And he earned his salary at KU. . . . What I heard . . . was that wherever Dr. Tao was, . . . he was on the phone, he was emailing his post-docs and his graduate students and he worked them to death, and it was as if he was there full time. . . . He did the work he was supposed to do.

101. The District Court denied the Government’s request for a 30-month prison sentence and \$100,000 fine, concluding that “[t]here was no loss proved at trial. The things that the government argues now in terms of being a loss, there was no evidence of such, and they don’t constitute loss.”, and “[t]here’s no loss from the fact that KU paid him a salary. There was no loss in federal research dollars. There was no evidence that the research wasn’t conducted, that NSF and DOE for that matter did not receive what they paid for in terms of research and all that that entitled.”

102. On January 25, 2023, Professor Tao filed a notice of intent to appeal his conviction on the sole count of making a false statement in violation of 18 U.S.C. 1001. In that appeal, Professor Tao argued that the evidence at trial was insufficient to sustain the conviction.

103. On July 11, 2024, the Court of Appeals for the Tenth Circuit agreed with Professor Tao and reversed his conviction, finding that the Government failed to carry its burden to prove that the alleged false statement was material, and remanded the case for the district court to enter a judgment of acquittal. Specifically, the Appellate Court found that “the evidence supports neither [of the Government’s] materiality theor[ies],” that some of the Government’s

assertions were made “without analysis,” and that the Government made assertions that “border[] on misrepresentation.” The Appellate Court further admonished the Government that, “as should be obvious, the government may not manufacture materiality by charging someone with a federal crime.”

104. Although Professor Tao was ultimately acquitted of all charges brought against him, he spent a week in jail and 3.5 years confined to his home with an ankle monitor as a result of the criminal prosecution that was triggered by, and supported by, KU’s irresponsible, reckless, and discriminatory actions.

105. To this day, KU has expressed no contrition, regret, or self-reflection about its actions. Nor has it ever apologized to Professor Tao. Instead, the defendants continue to besmirch his reputation and repeat inflammatory accusations that have no factual basis.

106. On July 26, 2024, Professor Tao wrote to Vice Chancellor Bichelmeyer to request the reinstatement of his tenured faculty position.

107. On August 20, 2024, KU—specifically, Chancellor Girod and Vice Chancellor Bichelmeyer—refused to reinstate him to a tenured faculty position, but offered to grant him unpaid administrative status so that he could request an appeal.

108. On September 6, 2024, KU provisionally reinstated Professor Tao solely for the purpose of the FRB appeal and issued a revised Proposed Administrative Action, again recommending dismissal.

109. Between December 2024 and February 2025, KU and Professor Tao engaged in settlement discussions but could not reach an agreement. Attempts at a mediated or negotiated resolution were exhausted.

110. Accordingly, on February 14, 2025, Professor Tao notified KU of his intent to appeal the Proposed Administrative Action to the FRB.

111. On February 28, 2025, KU issued a Statement of Charges against Professor Tao.

112. The FRB was missing a chair in February and March 2025, and therefore the appeal proceedings could not move forward.

113. On March 31, 2025, KU informed Professor Tao that it had “created a temporary FRB” with a non-tenured faculty member as chair, and that both parties must consent to proceed before the temporary FRB committee.

114. On April 11, 2025, Professor Tao informed KU that he does not consent to the temporary FRB committee, and noted that he was entitled under KU’s policies to an FRB comprised of tenured faculty members, which is particularly important because his appeal relates to faculty tenure rights.

115. KU responded that “[t]he FRB chair was officially appointed with the Chancellor’s approval of the update to the FRB membership allowing all faculty to be members.”

116. On April 16, 2025, Professor Tao requested that KU reconsider the composition of the FRB for his appeal and asserted that the change in the composition of the FRB to include non-tenured faculty was a violation of his due process rights.

117. The KU Faculty Senate Rules and Regulations adopts policy statements of the American Association of University Professors (“AAUP”). The AAUP’s statement on Academic Freedom and Tenure provides that “[t]he precise terms and conditions of every appointment should be stated in writing and be in the possession of both institution and teacher before the appointment is consummated.”

118. As of the date of Professor Tao’s appointment in August 2014, as well as the date of his provisional reinstatement for the purpose of the FRB appeal (September 6, 2024), the FRB was limited to tenured faculty members. The composition of the FRB is therefore a term and condition of Professor Tao’s employment and KU may not unilaterally change those terms. K.S.A. 75-4322; 75-4322(t).

119. The Chancellor’s change to the requirements for FRB membership, and the appointment of a non-tenured faculty member to chair the FRB, is not only a breach of Professor Tao’s employment rights, but also compromises the independence of the committee.

120. The employment and promotion prospects of untenured faculty are subject to KU’s discretion, creating a situation that falls squarely within the definition of “Conflict of Interest” set forth in policy statements by the AAUP.

121. Professor Tao formalized his objection to the FRB composition in a letter to KU dated May 5, 2025.

122. On May 19, 2025, KU issued a written response insisting that the change to the FRB composition was “authorized and appropriate.”

### **The University of Kansas’s Continued Discrimination Against Professor Tao**

123. KU’s intentional discrimination against Professor Tao is evident from its actions and statements going back to the receipt of the anonymous complaint in April 2019 and continuing to this day.

124. The reasons given for Professor Tao’s termination—the purported failure to disclose ties to a foreign university on the 2018 COI form—were pretextual because faculty members who are not of Chinese descent and national origin, and who had significant

interactions with foreign universities, were not targeted, disparaged, reported to law enforcement, or subjected to adverse employment action for failing to include those interactions on COIs.

125. For example, upon information and belief, Comparator Professor 1 (“CP 1”) is non-Chinese and has been a KU professor since 2007. CP 1 was a guest professor at a German university in 2015 and 2018.

126. Similarly, upon information and belief, Comparator Professor 2 (“CP 2”) is non-Chinese and has been a KU professor since 1984. CP 2 has had several connections to foreign universities, including as a visiting professor at a French university from 1995 through 2002, 2006 through 2007, and 2009 through 2010; a visiting scholar at a Chinese university from 2004 to present; and a Fulbright scholar at a Ukrainian university in 2005.

127. Comparator Professor 3 (“CP 3”) is non-Chinese and, during his tenure as a professor at KU, was also a visiting professor at a Japanese university in 2007.

128. Comparator Professor 4 (“CP 4”) is non-Chinese and has been a KU professor since 2009. CP 4 was a visiting professor at a Japanese university from 2019 through 2020 under a fellowship program.

129. Comparator Professor 5 (“CP 5”) is non-Chinese and was employed by KU between 2005 and 2019. CP 5 had several connections to universities outside of the U.S., including as a visiting professor at a British university and a Chinese university between 2016 and 2019 and coauthor of at least one research article in which he listed his affiliation as both KU and a foreign university.

130. Comparator Professor 6 (“CP 6”) is non-Chinese and was employed by KU from 2008 through 2023. CP 6 had several connections to universities outside of the U.S., including an appointment as a chair professor at a Chinese university between October 2013 and October

2016 through a China talent program, and an appointment as a professor at a different Chinese university between May 2015 and May 2018. CP 6 co-authored at least one publication in 2016 in which he listed his affiliation as both KU and a Chinese university.

131. Comparator Professor 7 (“CP 7”) is non-Chinese and was employed by KU from 1998 through 2023. CP 7 had several connections to universities outside of the U.S., including an appointment as a professor with a French university in 2009, appointments as a professor at two different Chinese universities in 2012 and 2013, and as co-author of a number of publications of research funded by the Chinese government and a Chinese university in 2017-2020. CP 7 also received certificates and awards in 2015 and 2013 from a Chinese university and a Chinese municipal government.

132. Comparator Professor 8 (“CP 8”) is non-Chinese and has been a KU professor since 2006. CP 8 has had several connections to Chinese universities, including as a visiting research speaker at an institute of the Chinese academy of Science at Chongqing in 2014. CP 8 also co-authored a few publications of research solely funded by the Chinese government.

133. Comparator Professor 9 (“CP 9”) is non-Chinese and has been a KU professor since 1996. CP 9 has had connections to a Chinese university since at least 2012, including as a visiting professor.

134. KU’s termination of Professor Tao, its continual refusal to reinstate him, and its continued efforts to disparage him, vilify him, and destroy his career, are all acts of unlawful discrimination under the laws of the United States.

**CLAIMS**

**COUNT I**

**Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) *et seq.***  
**Discrimination on the Basis of Race, Color, and National Origin**  
*Against the University of Kansas*

135. Professor Tao restates and realleges paragraphs 1-134 as if fully set forth herein.

136. Professor Tao is East-Asian, Han-Chinese, and of Chinese national origin.

Professor Tao is therefore a member of a protected class as defined by Title VII.

137. KU is a covered employer as defined in Title VII.

138. On June 16, 2023, Professor Tao filed a charge of discrimination with the EEOC alleging ongoing violations of Title VII by KU relating to his termination from his tenured professorship at the university. On October 7, 2024, Professor Tao received the Notice of Right to Sue from the EEOC.

139. From at least August 20, 2019 to the present, KU has engaged in ongoing discrimination against Professor Tao based on his race, ethnicity, and/or national origin. Among other things, KU targeted him, branded him a spy and a liar without evidence, harassed him, disparaged him, stripped him of his rights without due process, collaborated with the federal government against him as part of the “China Initiative,” unlawfully surveilled him, manufactured evidence, and terminated him because of his race, ethnicity, and Chinese national origin.

140. KU’s discrimination was severe and pervasive enough to alter the terms, conditions, and privilege of Professor Tao’s employment.

141. KU’s ongoing hostility and attacks on his work, character, and reputation subjected Professor Tao to a hostile work environment.



142. KU's discrimination ultimately culminated in Professor Tao's termination, which qualifies as an adverse employment action under Title VII.

143. KU's discriminatory intent is evident from its past conduct and statements reflecting xenophobia, including its treatment of the anonymous tip against Professor Tao and its assistance to the federal government leading up to Professor Tao's arrest.

144. KU's discriminatory intent is also evident from the difference in the way it treats other professors who are not of Chinese descent and national origin, who had interactions with foreign universities that were not disclosed on COI forms, but who were not targeted, disparaged, reported to law enforcement, or subjected to adverse employment action.

145. Thus, Professor Tao was subject to both a hostile work environment and disparate treatment in violation of Title VII.

146. Professor Tao is entitled to reinstatement, back pay, and compensatory damages for KU's ongoing discrimination against Professor Tao in violation of Title VII. Pursuant to the third-party litigation exception, Professor Tao is also entitled to attorneys' fees and costs related to the criminal proceeding that was caused by KU's tortious conduct.

## COUNT II

### **Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e) *et seq.*** **Wrongful Termination on the Basis of Race, Color, and National Origin** *Against the University of Kansas*

147. Professor Tao repeats and realleges paragraphs 1-146 as if fully set forth herein.

148. Professor Tao was highly qualified for his position at KU as a tenured professor of chemistry and chemical engineering.

149. KU's termination of Professor Tao was wrongful and motivated by non-legitimate, discriminatory reasons, which is evident from its actions and statements relating to his termination, including (1) ongoing collaboration with the federal government as part of the

“China Initiative,” (2) exaggerated and false testimony provided by KU at Professor Tao’s sentencing, and (3) treatment of Professor Tao’s communications with Chinese people to suggest nefarious activity.

150. Moreover, the termination of Professor Tao for an alleged failure to disclose ties with a foreign university on a COI form is far more severe than KU’s treatment of other faculty members who do not disclose significant ties with foreign universities.

151. KU’s assertion that it terminated Professor Tao because of the felony conviction is clearly pretextual because after the conviction was overturned, KU refused to reinstate Professor Tao.

152. Professor Tao is entitled to reinstatement, back pay, and compensatory damages for KU’s wrongful termination of him in violation of Title VII. Pursuant to the third-party litigation exception, Professor Tao is also entitled to attorneys’ fees and costs related to the criminal proceeding that was caused by KU’s tortious conduct.

**COUNT III**  
**42 U.S.C. § 1983**  
**Fourteenth Amendment**  
**Deprivation of Procedural Due Process**

*Against Douglas Girod and Barbara Bichelmeyer in their Official Capacities*

153. Professor Tao repeats and realleges paragraphs 1-152 as if fully set forth herein.

154. As a tenured professor at a public university, Professor Tao possesses a constitutionally protected property interest in his tenure.

155. Chancellor Girod and Vice Chancellor Bichelmeyer have the authority to hire, terminate, and reinstate professors at KU.

156. Chancellor Girod and Vice Chancellor Bichelmeyer, acting under color of state law, terminated Professor Tao without holding a hearing or affording him an appeal of the Proposed Administrative Action.

157. Chancellor Girod and Vice Chancellor Bichelmeyer deprived Professor Tao of his right to procedural due process in violation of the Fourteenth Amendment and KU's own policies which require that Professor Tao have an opportunity to be heard, a fair hearing, and an appeal before the FRB comprised of tenured faculty members.

158. Chancellor Girod and Vice Chancellor Bichelmeyer have continuously refused to reinstate Professor Tao, even after he was acquitted of all charges. As of May 30, 2025, it has been 983 days since Professor Tao was acquitted.

159. Chancellor Girod and Vice Chancellor Bichelmeyer's ongoing refusal to reinstate Professor Tao constitutes a continuing violation of federal law.

160. Chancellor Girod's recent direction to change the composition of the FRB to include non-tenured faculty, and his refusal to abide by the terms of Professor Tao's employment which guarantee an appearance before an FRB composed of tenured faculty, is a further deprivation of Professor Tao's procedural due process.

161. Professor Tao is entitled to reinstatement of his tenured position as a result of Chancellor Girod and Vice Chancellor Bichelmeyer's violation of 42 U.S.C. §1983 in their official capacities.

**COUNT IV**  
**42 U.S.C. § 1983**

**Fourteenth Amendment**

**Deprivation of Procedural Due Process**

*Against Douglas Girod and Barbara Bichelmeyer in their Individual Capacities*

162. Professor Tao repeats and realleges paragraphs 1-161 as if fully set forth herein.

163. Chancellor Girod and Vice Chancellor Bichelmeyer were acting under color of state law when they terminated Professor Tao without holding a hearing or completing his appeal of the Proposed Administrative Action.

164. It has been well established law for over fifty years, since the Supreme Court decided *Perry v. Snidermann*, 408 U.S. 593 (1972) and *The Board of Regents of State Colleges v. Roth*, 408 U.S. 564 (1972), that tenured professors have a constitutionally protected property interest in their tenured positions which cannot be stripped from them without due process, including a right to be heard and a fair hearing.

165. Chancellor Girod and Vice Chancellor Bichelmeyer were or should have been aware that Professor Tao was entitled to due process under both the Fourteenth Amendment and KU's own policies before he could be terminated from his tenured faculty position.

166. Nonetheless, Chancellor Girod and Vice Chancellor Bichelmeyer intentionally terminated Professor Tao without due process.

167. Chancellor Girod and Vice Chancellor Bichelmeyer's actions are a direct and proximate cause of damage to Professor Tao, including lost back pay, employee benefits, diminished earning capacity, lost career and business opportunities, loss of reputation, humiliation, embarrassment, inconvenience, and mental and emotional anguish and distress.

168. Accordingly, Chancellor Girod and Vice Chancellor Bichelmeyer are jointly and severally liable to Professor Tao for compensatory damages in an amount to be proven at trial.

**COUNT V**  
**42 U.S.C. § 1983**

**Fourteenth Amendment**

**Discrimination on the Basis of Race in Violation of the Equal Protection Clause**

*Against Douglas Girod in his Official Capacity*

169. Professor Tao repeats and realleges paragraphs 1-168 as if fully set forth herein.

170. At all relevant times, Chancellor Girod has been the executive leader of KU.

171. At all relevant times, acting under color of state law, Chancellor Girod directed, authorized, approved, or permitted the aforementioned actions of Carl Taylor, Kimberly

Grunewald, Alicia Reed, Barbara Bichelmeyer, Chris Brown, and other KU employees, which actions were undertaken and approved to perpetuate discrimination against Professor Tao on the basis of race.

172. Professors who are not of Chinese descent and national origin, who were the subjects of complaints or who had interactions with foreign universities that were not disclosed on COI forms, were not subject to the hostility and targeted destruction that was perpetuated by KU's administration under Chancellor Girod's leadership on Professor Tao.

173. Professor Tao is entitled to reinstatement of his tenured faculty position as a result of the racial discrimination perpetrated by Chancellor Girod under color of state law.

**COUNT VI**  
**42 U.S.C. § 1981, seeking relief under 42 U.S.C. § 1983**  
**Fourteenth Amendment**  
**Discrimination on the Basis of Race in Violation of the Equal Protection Clause**  
*Against Douglas Girod in his Official Capacity*

174. Professor Tao repeats and realleges paragraphs 1-173 as if fully set forth herein.

175. Professor Tao is a member of a protected class within the meaning of the Equal Protection Clause.

176. Professor Tao's employment as a tenured faculty member of KU is governed by contract.

177. The performance and enjoyment of the benefits, privileges, terms, and conditions of a contract are protected activities as defined in 42 U.S.C. § 1981.

178. Professor Tao's employment contract was terminated by Chancellor Girod as a result of unlawful racial discrimination.

179. Accordingly, Chancellor Girod deprived Professor Tao of his right to enforce his employment contract to the full and equal benefit of all laws as enjoyed by other citizens by terminating him in violation of 42 U.S.C. § 1981.

180. Professor Tao is entitled to reinstatement of his tenured faculty position as a result of Chancellor Girod's interference with his right to enforce his employment contract to the full and equal benefit of all laws as enjoyed by other citizens.

**PRAYER FOR RELIEF**

**WHEREFORE**, based on the foregoing, Professor Tao respectfully requests the following relief:

- (a) an order requiring that Vice Chancellor Bichelmeyer and Chancellor Girod reinstate Professor Tao to his tenured position;
- (b) an award of damages for lost wages or backpay;
- (c) an award of damages for reputational injury, emotional distress, pain and suffering, and punitive damages;
- (d) an award of actual attorneys' fees and costs expended to defend against criminal charges brought as a result of KU's tortious acts;
- (e) an award of reasonable attorneys' fees and costs expended in the instant litigation; and
- (f) such other relief as the Court deems appropriate.

**JURY DEMAND**

Plaintiff demands a trial by jury of all issues which may be so tried.

Dated: June 30, 2025

Respectfully submitted,

/s/ Matthew Donnelly

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