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December 29, 2022

**VIA EMAIL (IMOISA@AALRR.COM)**

Irma Rodríguez Moisa  
ATKINSON, ANDELSON, LOYA, RUUD & ROMO  
12800 Center Court Drive South, Suite 300  
Cerritos, CA 90703-9364

Re: Your Frivolous Legal Threat

Dear Ms. Rodriguez Moisa:

I am litigation counsel to Elizabeth Power Robison (“Ms. Robison”). This letter is in anticipation of litigation.

I have reviewed your letter of December 18, 2022. It is perhaps the most remarkable and aggressively meritless threatening letter I have encountered in my career, including ones I have received from pro se litigants and federal prisoners. It follows Whittier College’s *previous* entirely frivolous legal threat to Ms. Robison sent on September 15, 2021 by a different law firm. Ms. Robison’s prior counsel ably and thoroughly exposed the fatuities of that threat in his October 4, 2021 response. Apparently, Whittier College’s leaders did not learn from the experience.

I note that Ms. Robison’s prior attorney instructed Whittier College’s prior attorney to communicate only through him. As you know, California Rule of Professional Conduct 4.2(a) prohibits an attorney from communicating directly with a person when they know that person to be represented by counsel on the matter. I presume that you sent your letter directly to Ms. Robison because Whittier Counsel is not keeping its successive attorneys informed on its history of threatening correspondence.

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In your letter, you assert that Ms. Robison improperly accessed a confidential Whittier College financial document: an Excel file named “Whittier College Financial Analysis.xlsx.” This is false. Ms. Robison has not improperly accessed, taken, or retained any confidential document. Ms. Robison recently *drafted the document herself*. She did so based on public records including Whittier College’s website, the Department of Education’s Independent Postsecondary Education Data System, and publicly available IRS Form 990s and audited financial statements. The fact that Whittier College is making this accusation strongly suggests that its current administration does not understand Whittier College’s financial operations or how they are reflected in public records. That is regrettable.

Next, you assert that Ms. Robison has made “derogatory, misleading, and negative” statements about Whittier College and President Linda Oubré, and claims that the statements “serve no legitimate purpose” and “are solely intended to create a hostile work environment for President Oubre.” You speculate that Ms. Robison’s aim is to “discredit President Oubré” and “create an atmosphere that causes her to resign.” You bumptiously demand that Ms. Robison “cease making statements or engaging in other conduct that undermines President Oubré’s reputation, authority, and position.”

This is entirely specious. Ms. Robison has a first Amendment right to make derogatory and negative statements about Whittier College and President Oubré, to discredit her, and to encourage her to resign. She has a First Amendment right to speak out to undermine President Oubré’s reputation, authority, and position. She requires no “legitimate purpose” other than being in the United States and wanting to express herself on a topic of public interest. No serious lawyer or modestly successful middle-school civics student would say otherwise.

Though you claim in passing Ms. Robison has been “misleading,” I note that you do not specify even a single *false* statement she’s made. In my experience such vagueness in a defamation threat is an unmistakable sign of vexatious legal thuggery. If you could point to even *one* provably false statement of fact that Ms. Robison has made, no doubt you would do so in order to make your legal threat more explicit. She’s made no such false statement of fact, so you cannot. Feel free to try now. Ms. Robison is prepared to engage, through me, any disagreements with specific statements.

Moreover, your letter suggests you may not know who Ms. Robison is, where she works, or what area of law is relevant. You refer to a “hostile work environment,” which could be relevant Under Title VII or Title IX of the Civil Rights Act if Ms. Robison were employed at Whitter College, which she is not and has not been for years. The notion President Oubré could have a hostile work environment claim against members of the public for criticizing Whittier College’s administration is simply preposterous. So, to, is your threat under the Unruh Civil Rights Act, which governs public accommodations. *See, e.g., Munson v. Del Taco, Inc.* (2009) 46 Cal.4th 661, 667. That Act does not purport to, nor could it consistent with the First Amendment, govern a private citizen’s right to criticize a public figure. Finally, you cite a string of California Government code sections implying that Ms. Robison’s criticism of President Oubré and Whitter College may amount to violent or

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coercive violation of civil rights, gender violence, and sexual orientation violence. This is offensively ridiculous.

I see only three possibilities. One is that you thought you could intimidate Ms. Robison, who is not a lawyer, with a string cite of impressive-sounding statutes. Inasmuch as Ms. Robison retained a lawyer the last time Whittier College attempted (to the best of its modest ability) to threaten her, that would be a foolish strategy. The second possibility, which I would prefer not to entertain, is that you think that the Civil Rights Act and the Unruh Act and various California civil rights laws genuinely prohibit private citizens from criticizing public figures. The third possibility is that you and Whittier College simply recycled language from a threatening letter to a Whittier College employee or even a member of the Board of Trustees – a letter that was no doubt itself frivolous and intended to silence President Ourbe's critics. Each of these possibilities should be deeply embarrassing to you and to Whittier College.

I hope that Whittier College is not as prepared to bring vexatious lawsuits as it is to make frivolous threats. If Whittier College sues Ms. Robison upon this farrago of nonsense, I will bring a motion to strike under California's robust anti-SLAPP statute, Code of Civil Procedure section 425.16. Such motions are my specialty. When I prevail, Whittier College or President Oubré – whoever is the plaintiff -- will be personally responsible for my fees, which will be substantial. But even if a judge denies the anti-SLAPP motion, the statute gives Ms. Robison the right of an immediate appeal. *See* Code Civ. Proc., § 4215.16, subd. (i). That means that Whittier College will not be able to coerce or intimidate Ms. Robison through litigation.

For some reason, Whittier College is making terrible decisions about issuing frankly stupid legal threats to critics. I don't know whether President Oubré and the Board of Trustees are getting bad legal advice, whether they are emotionally or intellectually impervious to good legal advice, or whether their sense of entitlement not to be criticized has outweighed the legal advice. Ultimately, though, they are acting in a manner inconsistent with their fiduciary duties to Whittier College. If they press further, it will get substantially worse for them, and for the school they purportedly serve.

Ms. Robison reserves all rights and remedies. I respectfully invite Whittier College to stop and think. If and when the college's foolish course of action becomes public, its ineffectual censoriousness will be far more harmful to its reputation than anything Ms. Robison has said. Sensible university leaders avoid cultivating a reputation for meritless censorship attempts.

Very truly yours,



Kenneth P. White

for BROWN WHITE & OSBORN LLP