

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

**WEST VIRGINIA UNIVERSITY  
BOARD OF GOVERNORS for and on  
behalf of WEST VIRGINIA UNIVERSITY,**

**PLAINTIFF,**

v.

**Civil Action No.:** \_\_\_\_\_

**RICHARD RODRIGUEZ,**

**DEFENDANT.**

**PLAINTIFF'S COMBINED FIRST REQUEST FOR ADMISSIONS,  
INTERROGATORIES, AND REQUEST FOR PRODUCTION OF DOCUMENTS TO  
DEFENDANT, RICHARD RODRIGUEZ**

TO: Richard Rodriguez

Pursuant to Rule 36 of the West Virginia Rules of Civil Procedure, comes now the plaintiff, West Virginia University Board of Governors, for and on behalf of West Virginia University (hereinafter "University"), and demands the defendant admit the truth of the following matters with forty-five (45) days after service hereof. Also, pursuant to Rule 33 of the West Virginia Rules of Civil Procedure, the defendant is requested to answer the following interrogatories separately and fully, in writing, under oath, and to serve his answers on the undersigned within forty-five (45) days after service of the same upon the defendant. Moreover, pursuant to Rule 34 of the West Virginia Rules of Civil Procedure, the defendant is hereby requested to produce for inspection, examination and copying at the law offices of Flaherty, Sensabaugh & Bonasso, P.L.L.C., 200 Capitol Street, Charleston, West Virginia 25301 within forty-five (45) days of the service of this request all documents described below.

For purposes of the defendant's responses, the following instructions are provided and are to be used throughout:

1. The words “and” and “or” also have the meaning “and/or.”
2. “Document” means the original and all drafts of all written or graphic matter, however produced or reproduced, maintained or stored, whether or not sent or received, and all copies thereof that are different in any way from the original, including, but not limited to, any paper, book, memorandum, advertising material, letter, report, record, transcript, analysis, study, research, worksheet, note, notation, working paper, interoffice communication, chart, graph, minute, index sheet, recording of any telephone or other conversation or communication, or of any interview, or of any conference, or any other written, recorded, transcribed, punched, taped, videotaped, filmed or graphic matter, of which defendant or anyone acting or purporting to act on defendant’s behalf has knowledge. “Document” also means information recorded and/or stored on tape, disc, record or by any electronic or other means, as well as to information stored in microfilm, microfiche and the like. Any document containing written or other interlineations in addition to that contained on another document must be produced in addition to that other document. “Document” also includes and refers to the file or any other item which holds, binds, or otherwise contains documents or which once held, bound or otherwise contained any documents, as well as to any writing or printing which might appear on such file, binder or container.
3. The terms “Identify,” “Indicate,” “Describe” and “List:”
  - a. When used in reference to a natural person means state the name, present or last-known business and residence address, telephone number and position of the natural person during the time specified;
  - b. When used in reference to any other entity, means state the current or last-known business name and business address, telephone number, nature of

the business, and identity of the Chief Executive Officer(s)and/or General Manager(s)of the entity throughout the specified time;

- c. When used in reference to a document, means state the date of its preparation, the identity of its author, the type of document it is, its contents and identify all persons who received copies of it; and
- d. When used in reference to an action or event, means state the date of the event or action, the persons involved in the action or event, and a description of the action or event.

4. "Agreement" means, collectively, the Employment Agreement entered into on or about December 21, 2002, between the defendant and the University for the defendant to serve as head coach of the West Virginia University football team, the First Amendment to the Employment Agreement for Richard Rodriguez entered into on or about June 24, 2006, and the Second Amendment to the Employment for Richard Rodriguez entered into on or about August 24, 2007.

5. The Interrogatories are continuing in character so as to require defendant to file supplementary answers thereto if further information is obtained subsequent to the date of your initial response.

6. Where knowledge, information or possession of a party is requested, such request includes knowledge of the party's directors, officers, agents, representatives and, unless privileged, his attorneys.

7. Use of a singular noun shall include the plural and vice versa.

8. Where the answer or response to any of the Interrogatories may be derived or ascertained from any records of defendant or its agents or from an examination, audit or

inspection of such records or from a compilation, abstract or summary based thereon, please specify the records from which the response may be derived or ascertained.

**REQUESTS FOR ADMISSION, INTERROGATORIES, AND  
REQUESTS FOR PRODUCTION OF DOCUMENTS**

**Request for Admission No. 1:** Admit that the Employment Agreement, First Amendment to the Employment Agreement for Richard Rodriguez and Second Amendment to the Employment Agreement for Richard Rodriguez, attached as Exhibits A, B and C to the Complaint for Declaratory Judgment and Other Relief are authentic, true and complete and that there is no other written contract between the University and Richard Rodriguez.

**ADMIT:**        \_\_\_\_\_        **DENY:**        \_\_\_\_\_

**Interrogatory No. 1:**        If the response to **Request for Admission No. 1** is other than an unqualified admission, please provide a full statement of all the facts and reasons which form the basis for defendant's failure to make an unqualified admission.

**Response:**

**Request for Production No. 1:**        If the response to **Request for Admission No. 1** is other than an unqualified admission, please provide all documents which form the basis of, or relate to, defendant's failure to make an unqualified admission, including, but not limited to, any and all documents which the defendant contends constitute a contract between the defendant and the University.

**Response:**

**Request for Admission No. 2:** Admit that the University did not materially and substantially breach the Agreement between the University and the defendant prior to defendant's resignation from the position as head coach of the West Virginia University Football team.

**ADMIT:** \_\_\_\_\_ **DENY:** \_\_\_\_\_

**Interrogatory No. 2:** If the response to **Request for Admission No. 2** is other than an unqualified admission, please provide a full statement of all the facts and reasons which form the basis for defendant's failure to make an unqualified admission.

**Response:**

**Request for Production No. 2:** If the response to **Request for Admission No. 2** is other than an unqualified admission, please provide all documents which form the basis of, or relate to, defendant's failure to make an unqualified admission, including, but not limited to, any and all documents or other tangible items which demonstrate or support any contention that the University materially and substantially breached the Agreement between the University and the defendant.

**Response:**

**Request for Admission No. 3:** Admit that the defendant did not give written notice to the University of any alleged material and substantial breach of the Agreement by the University within ninety (90) days of such breach.

**ADMIT:** \_\_\_\_\_ **DENY:** \_\_\_\_\_

**Interrogatory No. 3:** If the response to **Request for Admission No. 3** is other than an unqualified admission, please provide a full statement of all the facts and reasons which form the basis for defendant's failure to make an unqualified admission.

**Response:**

**Request for Production No. 3:** If the response to **Request for Admission No. 3** is other than an unqualified admission, please provide all documents which form the basis of, or relate to, defendant's failure to make an unqualified admission, including, but not limited to, any and all documents or other tangible items which reflect or support any contention that the defendant provided written notice to the University of any material and substantial breach of the Agreement by the University.

**Response:**

**Request for Admission No. 4:** Admit that any alleged material and substantial breach of the Agreement by the University has not gone uncured for thirty (30) days after the University's receipt of written notice of such breach.

**ADMIT:** \_\_\_\_\_ **DENY:** \_\_\_\_\_

**Interrogatory No. 4:** If the response to **Request for Admission No. 4** is other than an unqualified admission, please provide a full statement of all the facts and reasons which form the basis for defendant's failure to make an unqualified admission.

**Response:**

**Request for Production No. 4:** If the response to **Request for Admission No. 4** is other than an unqualified admission, please provide all documents which form the basis of, or relate to, defendant's failure to make an unqualified admission, including, but not limited to, any and all documents or other tangible items which reflect or support any contention that any alleged material and substantial breach of the Agreement by the University has gone uncured for thirty (30) days after the University's receipt of written notice of such breach.

**Response:**

**Request for Admission No. 5:** Admit that the defendant terminated his employment under the Agreement for a reason other than as set forth under Article V(D)(1) of the Agreement.

**ADMIT:** \_\_\_\_\_ **DENY:** \_\_\_\_\_

**Interrogatory No. 5:** If the response to **Request for Admission No. 5** is other than an unqualified admission, please provide a full statement of all the facts and reasons which form the basis for defendant's failure to make an unqualified admission.

**Response:**

**Request for Production No. 5:** If the response to **Request for Admission No. 5** is other than an unqualified admission, please provide all documents which form the basis of, or relate to, defendant's failure to make an unqualified admission, including, but not limited to, any and all documents or other tangible items reflecting defendant's termination of his employment under the Agreement for reasons other than as set forth under Article V(D)(1).

**Response:**

**Request for Admission No. 6:** Admit that the defendant terminated his employment under the Agreement after August 31, 2007 and before August 31, 2008.

**ADMIT:** \_\_\_\_\_ **DENY:** \_\_\_\_\_

**Interrogatory No. 6:** If the response to **Request for Admission No. 6** is other than an unqualified admission, please provide a full statement of all the facts and reasons which form the basis for defendant's failure to make an unqualified admission.

**Response:**

**Request for Production No. 6:** If the response to **Request for Admission No. 6** is other than an unqualified admission, please provide all documents which form the basis of, or relate to, defendant's failure to make an unqualified admission.

**Response:**

**Request for Admission No. 7:** Admit that prior to the defendant's termination of his employment under the Agreement, the defendant engaged in discussions with representatives of the University of Michigan regarding employment as the head coach of the University of Michigan football team.

**ADMIT:** \_\_\_\_\_ **DENY:** \_\_\_\_\_



**Interrogatory No. 7:** If the response to **Request for Admission No. 7** is other than an unqualified admission, please provide a full statement of all the facts and reasons which form the basis for defendant's failure to make an unqualified admission.

**Response:**

**Request for Production No. 7:** If the response to **Request for Admission No. 7** is other than an unqualified admission, please provide all documents which form the basis of, or relate to, defendant's failure to make an unqualified admission.

**Response:**

**Request for Admission No. 8:** Admit that prior to the defendant terminating his employment under the Agreement, the defendant engaged in discussions with representatives of the University of Michigan regarding his employment as the head coach of the University of Michigan football team without the prior knowledge or consent of the University.

**ADMIT:** \_\_\_\_\_ **DENY:** \_\_\_\_\_

**Interrogatory No. 8:** If the response to **Request for Admission No. 8** is other than an unqualified admission, please provide a full statement of all the facts and reasons which form the basis for defendant's failure to make an unqualified admission.

**Response:**

**Request for Production No. 8:** If the response to **Request for Admission No. 8** is other than an unqualified admission, please provide all documents which form the basis of, or relate to, defendant's failure to make an unqualified admission.

**Response:**

**Request for Admission No. 9:** Admit that prior to the defendant's termination of his employment under the Agreement, the defendant and/or other individuals under the defendant's direction contacted or communicated with student athlete recruits of the University for the 2008 football season regarding defendant's employment as the head coach of the University of Michigan Football team.

**ADMIT:** \_\_\_\_\_ **DENY:** \_\_\_\_\_

**Interrogatory No. 9:** If the response to **Request for Admission No. 9** is other than an unqualified admission, please provide a full statement of all the facts and reasons which form the basis for defendant's failure to make an unqualified admission.

**Response:**

**Request for Production No. 9:** If the response to **Request for Admission No. 9** is other than an unqualified admission, please provide all documents which form the basis of, or relate to, defendant's failure to make an unqualified admission.

**Response:**

**Request for Admission No. 10:** Admit that the defendant voluntarily resigned from the position of head coach of the University Football team, effective December 19, 2007.

**ADMIT:** \_\_\_\_\_ **DENY:** \_\_\_\_\_

**Interrogatory No. 10:** If the response to **Request for Admission No. 10** is other than an unqualified admission, please provide a full statement of all the facts and reasons which form the basis for defendant's failure to make an unqualified admission.

**Response:**

**Request for Production No. 10:** If the response to **Request for Admission No. 10** is other than an unqualified admission, please provide all documents which form the basis of, or relate to, defendant's failure to make an unqualified admission.

**Response:**

**Request for Admission No. 11:** Admit that the defendant's termination of his employment under the Agreement with the University was not the result of the defendant's death, disability or permanent retirement.

**ADMIT:** \_\_\_\_\_ **DENY:** \_\_\_\_\_

**Interrogatory No. 11:** If the response to **Request for Admission No. 11** is other than an unqualified admission, please provide a full statement of all the facts and reasons which form the basis for defendant's failure to make an unqualified admission.

**Response:**

**Request for Production No. 11:** If the response to **Request for Admission No. 11** is other than an unqualified admission, please provide all documents which form the basis of, or relate to, defendant's failure to make an unqualified admission.

**Response:**

**Interrogatory No. 12:** Please state the date, location and participants of all meetings, including all meetings conducted by telecommunication or other electronic communication, between the defendant, or representatives of the defendant, and representatives of the University of Michigan regarding employment of the defendant as the head coach of the University of Michigan Football team.

**Response:**

**Request for Production No. 12:** Please produce all documents or other tangible items reflecting and/or relating in any manner to all meetings, including all meetings conducted by telecommunication or other electronic communication, between the defendant or representatives of the defendant, and representatives of the University of Michigan regarding defendant's employment as the head coach of the University of Michigan Football team.

**Response:**

**Interrogatory No. 13:** Please state the name and date of contact of all student athlete recruits of the University for the 2008 football season contacted by any means by the

defendant or others under the direction of the defendant from December 16, 2007 up to and including December 18, 2007.

**Response:**

**Request for Production No. 13:** Please produce full and complete copies of all cell phone records, text message records, phone records, and e-mails for the time period between December 1, 2007, up to and including December 18, 2007.

**Response:**

**WEST VIRGINIA UNIVERSITY  
BOARD OF GOVERNORS for and on  
behalf of WEST VIRGINIA  
UNIVERSITY,**

**By Counsel,**



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