

IN THE CIRCUIT COURT FOR MADISON COUNTY, ALABAMA

DR. JACQUELINE U. JOHNSON, as)	
Personal Representative of THE ESTATE)	
OF DR. ADRIEL D. JOHNSON, SR., deceased,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO. CV-2011-900038.00
)	
DR. VISTASP M. KARBHARI, DR. AMY)	
BISHOP aka AMY BISHOP ANDERSON, and)	
JAMES ANDERSON,)	
)	
Defendants.)	

FIRST AMENDED COMPLAINT

This First Amended Complaint is filed based on newly-discovered material information further detailing Defendant Dr. Vistasp M. Karbhari’s (“Karbhari”) knowledge of Dr. Amy Bishop’s (“Bishop”) mental instability and his acknowledgement of the danger it posed. Upon learning that her appeal of the denial of her tenure was unsuccessful, Bishop threatened suicide to a faculty member of the tenure review committee, indicated her intention to speak directly with Karbhari about the denial, and Karbhari, upon learning of this, immediately summoned University of Alabama Huntsville (“UAH”) armed police to protect himself and other administration officials by barring her entrance to the administration building, Shelbie King Hall.

INTRODUCTION

This civil case arises out of the tragic massacre of Dr. Adriel D. Johnson, Sr. (“Dr. Johnson”) and his colleagues on the campus of UAH on February 12, 2010, and the inexcusable failure by UAH personnel to abide by mandatory life-safety regulations that would have prevented Bishop from gunning down co-workers at a staff meeting. Dr. Johnson was a

distinguished and honored professor at UAH. He was the beloved husband of Dr. Jacqueline U. Johnson and loving father of Adriel D. Johnson, Jr. and Jeriel Johnson.

UAH is a public, co-educational, state-supported research university within the University of Alabama System. UAH is governed by the University of Alabama System Board of Trustees, which vests authority in the campus president to lead the university and adopt such regulations as necessary to effectively manage that responsibility. The president is assisted by the provost and numerous vice presidents.

Bishop and Defendant James Anderson (“Anderson”) are the developers of a patented device known as the InQ. The patent has been assigned to UAH. Bishop, Anderson, and UAH are, upon information and belief, partners in the development and sale of this device through InQ Biosciences Corporation. The patent, product, and resultant business relationship between Bishop, Anderson and UAH are believed to be very lucrative.

The life-safety regulations at UAH clearly mandate that persons experiencing emotional, mental or psychological instability must be referred to police, who in turn will work with counseling professionals, in order to protect the lives and safety of persons on campus. Such regulations are consistent with the law in Alabama requiring every employer to use safeguards, methods and processes to render places of employment reasonably safe, and “do everything reasonably necessary to protect the life, health and safety” of employees. Thus, university personnel must notify University Police when a faculty member is experiencing psychological crisis. Specifically, the UAH regulation provides:

Psychological Crisis

Faculty/Staff: A faculty/staff member experiencing a psychological crisis should be directed to the nearest hospital emergency room or call their family physician. If a faculty/staff member is experiencing a severe psychological crisis, contact the

University Police for assessment and transport to the nearest hospital emergency room.

Procedures. Should you come into contact with someone experiencing a psychological crisis, **DO NOT** attempt to handle the potentially dangerous situation alone. Notify University Police at **824-6911** or **911**. *** The safety of the person in crisis and those around him should be of first concern. University Police will work closely with campus counseling professionals when necessary. (Emphasis in original.)

The regulation states: “A psychological crisis exists when an individual is threatening harm to themselves or others, or is delusional and out of touch with reality.” It also identifies that the psychological crisis may be manifested as paranoia, hallucinations, uncontrolled behavior (anger, yelling), disruptive behavior, complete withdrawal, or self injury.

These life-safety regulations are “intended for use by faculty, staff members, and students at UAH.” UAH’s life-safety regulation is set forth in a fluorescent Emergency Procedures Handbook that is likely prominently posted in offices and buildings throughout campus. The UAH Handbook requires that all staff “should” be familiar with these regulations and procedures.

The University of Alabama System’s rules also mandate that persons experiencing emotional, mental or psychological instability must be referred to police or counseling professionals in order to protect the lives and safety of persons on campus. For example, the life-safety regulations at the University of Alabama promulgated under the authority conveyed by the Board of Trustees state that it is “**vital**” that persons experiencing emotional instability be *immediately* reported to the police or counseling services because doing so “may save someone from being harmed.” One such life-safety regulation specifically provides:

Mental Health Emergency

On occasions, people can experience tremendous stress or emotional instability that could result in harm to themselves or others. Should you encounter someone who fits these criteria, it is **vital** that you immediately report it to either the University Police or the University Counseling Center. Doing so may save someone from being harmed. (Emphasis in original.)

The Tuscaloosa and Huntsville campuses share information regarding such life-safety regulations and crisis management in the University of Alabama System generally, and, specifically, through the Office of the Vice-Chancellor for Systems Relations. These life-safety regulations were specifically adopted to provide baseline requirements for the protection of staff and students in the University of Alabama System from emotionally disturbed persons on campus, and result, in part, from numerous high-profile incidents of bloodshed at schools nationwide, including Columbine High School, Virginia Tech, Appalachian School of Law, Northern Illinois University and, locally, the Discovery Middle School in Madison, Alabama. Dr. Johnson was in the class of persons intended to be protected by these life-safety regulations.

Bishop had a history of severe, observable mental instability and violence dating back more than 20 years. UAH and, in particular, its Provost and Executive Vice President for Academic Affairs, Defendant Karbhari, was directly aware of Bishop's emotional instability. In late 2008 and early 2009, a group of students petitioned to have her removed from the faculty because of her "odd, unsettling ways." Students and colleagues observed that Bishop was angry, stressed, distracted, disruptive, and displayed inappropriate behavior. One colleague openly referred to Bishop as "crazy," refused after requested by UAH to retract that assessment, and justified his position by claiming that within five minutes of meeting Bishop it was obvious to him that she was "crazy." Bishop's criminal defense counsel has publicly stated that Bishop "has had a serious mental disease for a great number of years."

Defendant Karbhari was also directly aware of how Bishop's instability was evident following the denial of her tenure, manifesting in anger, threats toward, and harassment of colleagues. Bishop wrote her UAH colleagues that the tenure decision was a "grave injustice." She wrote that she was "fighting for my life and my life has been put squarely in the hands of the department by Vistasp . . ." One UAH Dean documented threats by Bishop against her and the department, and wrote about actively avoiding Bishop after the tenure decision because she was "harassing" and "hounding" her. Neither Defendant Karbhari nor other UAH administrators took action to intervene or follow UAH's clear life-safety regulation.

Beyond this, Bishop threatened suicide to other members of the UAH community after her bid for tenure was denied. In one conversation with another faculty member, Bishop threatened suicide and then said she was on her way to see Defendant Karbhari. The professor called Defendant Karbhari, who immediately summoned the UAH armed police to protect himself and other administration officials by barring Bishop's entrance to the administration building, Shelbie King Hall. Despite Defendant Karbhari's recognition of Bishop's psychological crisis and efforts to protect himself, he did not report Bishop as being in psychological crisis and request that the matter be handled by UAH police as a psychological crisis.

The above-referenced and, upon information and belief, other facts and circumstances were brought to the attention of and known by Defendant Karbhari, yet he acted beyond his authority by failing to abide by the very UAH life-safety regulations he helped draft and/or was obligated to implement as a member of the University Emergency Management Structure's Policy Group and one of only three who sign the UAH Emergency Management Plan's letter of promulgation. By failing to abide by these and other mandatory regulations, Defendant Karbhari

failed to protect Dr. Johnson, and his colleagues, from the ensuing massacre, despite having knowledge of Bishop's psychological crisis and threatening behavior toward herself and colleagues. Had Defendant Karbhari followed life-safety and other mandatory regulations as required, the sworn officers in the UAH police force, who have direct access to the National Crime Information Center ("NCIC"), would have in the proper course investigated Bishop and discovered her prior criminal record of violence, which includes allegations of murdering her brother and being involved in the attempted bombing of a colleague, and a conviction of assault. Bishop's dangerous instability would be confirmed and the lies in her employment application to UAH discovered. UAH counseling services would have in the proper course provided her with critically-required mental health services, confirmed her dangerous instability as well, and mandatory actions to protect the life and safety of Bishop's colleagues and the UAH community would have been undertaken. UAH regulations and generally recognized standards of safety would have prevented her from attending a meeting of staff that included persons she had threatened, where she killed and maimed her colleagues.

This case also seeks to hold Bishop responsible for her outrageous misconduct in killing Dr. Johnson, despite the fact that she was likely severely mentally impaired and unstable. Bishop's husband, Defendant Anderson, is also responsible for the bloodshed as he had direct knowledge of his wife's impairment, her history of violence, her anger and threats toward colleagues over the denial of tenure, and her acquisition and use of a firearm shortly before the massacre. Upon information and belief, that firearm belonged to Defendant Anderson, who assisted her in taking target practice, and he left the weapon entrusted in her possession despite her obvious impairment, anger and threats toward, and danger to her colleagues. This lawsuit seeks to hold Anderson, individually and jointly with his wife, accountable for his misconduct in

causing, and for providing material assistance to and failing to prevent his wife from causing, the death of Dr. Johnson and the massacre at UAH.

Finally, this case seeks to hold all Defendants responsible for their combined and concurring negligence and wrongful conduct that led to the tragic events of February 12, 2010, including the death of Dr. Johnson.

PARTIES, JURISDICTION AND VENUE

1. Plaintiff JACQUELINE U. JOHNSON is the surviving wife of Dr. Adriel D. Johnson, Sr. and was appointed Personal Representative for the ESTATE OF ADRIEL D. JOHNSON, SR. by a court of competent jurisdiction in Madison County, Alabama, giving her full legal authority to maintain this action on behalf of his Estate. This order is attached to Plaintiff's Complaint filed January 14, 2011, as Exhibit A.

2. Defendant Karbhari is an individual over the age of 19 years and resident of Madison County, Alabama. At all relevant times he was Provost and Executive Vice President for Academic Affairs, member of the Policy Group of the University Emergency Management Structure, and an agent, servant, and employee of UAH, a public co-educational, state-supported research university within the University of Alabama System, governed by the University of Alabama System Board of Trustees. Suit is brought against Defendant Karbhari in his personal capacity.

3. Defendant Bishop, aka AMY BISHOP ANDERSON, is an individual over the age of 19 years and a resident of Madison County, Alabama. At all relevant times she was married to Defendant Anderson.

4. Defendant Anderson is an individual over the age of 19 years and a resident of Madison County, Alabama. At all relevant times Anderson was married to Bishop.

5. Fictitious Party Defendants Nos. 1 and 2, whose correct names and identities are unknown to Plaintiff, but who will be correctly named and identified when ascertained, are the respective persons who fit the descriptions above.

6. Plaintiff brings this action for wrongful death pursuant to Alabama's Wrongful Death Act, Code of Ala. § 6-5-410 *et seq.*

7. Venue is appropriate in Madison County because at least one of the defendants is a permanent resident of Madison County and because the acts that give rise to this action occurred in Madison County.

GENERAL BACKGROUND FACTS

8. In 1989, UAH hired Dr. Johnson as associate professor of biological science. He earned a Ph.D. in animal science and nutritional physiology from North Carolina State University. Dr. Johnson received an Artium Baccalaureatus in biology from Washington University, and he earned two M.S. degrees: one in biology-population genetics from Tennessee Technological University, and the second in biology-muscle protein biochemistry from UAH. He taught multiple biology courses at UAH for more than 20 years and during that time was a distinguished and honored faculty member as well as a dedicated UAH alumnus. Dr. Johnson was a leader in the efforts to increase the diversification of the faculty and student body at UAH, including serving as advisor for the Minority Graduate Student Association and Campus Director of the Louis Stokes Alliance for Minority Participation Program sponsored by the National Science Foundation. Dr. Johnson was the beloved husband of Dr. Jacqueline U. Johnson and loving father of Adriel Johnson, Jr. and Jeriel Johnson.

9. In 2003, UAH hired Bishop as a probationary faculty member in its Department of Biological Sciences.

10. The terms of Bishop's employment allowed her to work as a probationary faculty member at UAH for up to seven years, with the final tenure decision made in the sixth year. Her continued employment before achieving tenure was subject to favorable annual employment reviews.

11. Upon information and belief, Bishop did not receive favorable employment reviews for interactions with students and colleagues. Her mental instability is believed to have been a reason that UAH denied her faculty tenure.

12. In fall of 2008 and early 2009, a group of students wrote a letter to and met with Dr. Gopi K. Podila ("Dr. Podila"), the Biological Sciences Department Chair, to express their concerns over Bishop, including her "odd, unsettling ways."

13. In 2009, a group of students drafted and signed a petition calling for the removal of Bishop as faculty member.

14. In 2009, a tenured professor at UAH stated to his colleagues multiple times that Bishop was "crazy." Based on this professor's interactions with Bishop, he reported that she displayed a pattern of erratic behavior, had gone "ballistic," and he avoided her when possible because she was "out of touch with reality." This professor was a voting member of Bishop's tenure-review committee. As a result of these observations, Bishop filed a gender bias claim against UAH with the Equal Employment Opportunity Commission ("EEOC"). The Associate Provost for UAH asked the professor if he would recant his remarks in order to resolve the EEOC suit. The professor refused, claiming that he recognized Bishop to be "crazy" within five minutes of meeting her. Upon information and belief, the fact of and seriousness of his concerns about Bishop's mental instability were directly communicated to and known by defendant Karbhari. "I said she was crazy multiple times and I stand by that," this professor is publicly

quoted as saying. “The woman had a pattern of erratic behavior. She did things that were not normal.” Upon hearing of the February 12, 2010, massacre, yet before being apprised of any details regarding the identity of the shooter, the “first thought” that came to this professor’s mind was “Oh my God, I bet it was Amy Bishop.” For his own safety, this professor asked the press to withhold his identity.

15. In April 2009, UAH denied tenure to Bishop. The tenure process involves a vote by faculty colleagues. Upon information and belief, this decision was based in part upon credible observations, reports and conclusions regarding Bishop’s severe emotional instability.

16. Upon information and belief, Bishop was vocal in her resentment over being denied tenure and voiced loud, inappropriate, and threatening remarks in staff meetings, writings and elsewhere on campus. Bishop desperately claimed to “Departmental Colleagues” that she was “fighting for my life” as she appealed the tenure decision. She claimed that she was the “sole supporter for my family and need to have an intact career to do this and tenure and promotion is instrumental in this. I desperately need your support!” One UAH administrative official documented threats by Bishop against her and the Department to reconsider the tenure decision. That administrative official sought to avoid contact with Bishop, stating that Bishop was “harassing” and “hounding” her. In her professional communications to her “Departmental Colleagues” regarding, among other things the status of her tenure denial, Bishop openly made a crass and inappropriate statement about people in the department “having balls” to take action she sought.

17. In November 2009, UAH reviewed and denied Bishop’s appeal of its tenure decision. Upon information and belief, this was, again, based in part upon credible observations, reports and conclusions regarding Bishop’s severe emotional instability, harassment of and

threats toward others. Bishop then filed an EEOC claim against UAH, claiming that it had discriminated against her.

18. Upon information and belief, Bishop threatened suicide to faculty members and coworkers at UAH, both verbally and in writing.

19. Upon information and belief, in a conversation with a UAH faculty member, Bishop threatened suicide and then said she was on her way to see Karbhari. The faculty member called Karbhari, who immediately summoned UAH armed police to protect himself and other administration officials by barring Bishop access to the administration building, Shelbie King Hall. Karbhari did not report the incident as a matter of psychological crisis needing appropriate evaluation by proper personnel, or ever again follow up to ensure that others would be safe.

20. Upon information and belief, these and other observations, reports, threats, and conclusions were brought to the attention of and directly known by Defendant Karbhari.

21. On the morning of February 12, 2010, Bishop was allowed to attend a meeting of UAH faculty members, including those she had been harassing, hounding and threatening. She sat through 30-40 minutes of the meeting, then opened fire on her colleagues, shooting several of them in the head with a 9 millimeter P85 semi-automatic Ruger. Bishop shot and killed Dr. Johnson, Dr. Podila, and Dr. Maria Ragland Davis, and critically injured Dr. Joseph G. Leahy, Stephanie Monticciolo and Dr. Luis Rogelio Cruz-Vera. Dr. Johnson was shot in the head and died from this injury.

22. Bishop's background before killing Dr. Johnson includes, among other things, violence, deadly use of firearms, assault, anger management problems, lying and severe mental instability spanning more than 20 years.

23. In 1986, Bishop shot and killed her 18-year-old brother in Braintree, Massachusetts. She later pulled a loaded gun on two employees of a nearby auto body shop and demanded a car. Following a renewed inquest into the shooting, Bishop is currently facing first-degree murder charges in the death of her brother.

24. In 1993, police investigators questioned Bishop and Anderson in connection with the attempted mail bombing of Harvard University professor Dr. Paul Rosenberg, who lived in Newton, Massachusetts and who was, at the time, reviewing Bishop's doctoral work. He was not expected to give it a favorable review. Rosenberg told investigators at the time that he played a role in Bishop's resignation from her job as a post-doctoral research fellow in Children's Hospital's neurobiology lab. He told investigators that "he felt she could not meet the standards required for the work," that he thought "that she was not stable," "had problems with depression," and had "exhibited violent behavior."

25. In 2002, Bishop was charged with disorderly conduct and criminal assault and battery of a customer at an International House of Pancakes restaurant in Peabody, Massachusetts. Bishop was accused of punching the customer – a mother with young children – in the head and screaming at her because the customer had received the restaurant's last child booster seat. Bishop pled guilty, was sentenced to probation and ordered by the court to attend anger management counseling.

26. In 2009, Bishop falsified information in a research publication by listing her husband and three of her minor children as coauthors of a published scientific research article.

27. After the shooting, Bishop's husband, Defendant James Anderson, stated publicly that he had hoped "it would have never have come to this." He also told the Associated Press that a few weeks earlier he and his wife had gone target shooting together. He stated that he did

not know where Bishop got the gun that she used for shooting practice that day. He told the Chronicle of Higher Education that Bishop had recently borrowed a handgun and had practiced with it at an indoor gun range. He said she would not reveal who loaned her the gun and was “very cagey” about where it came from. Upon information and belief, the handgun was purchased in 1989 for defendant James Anderson.

FIRST CAUSE OF ACTION
NEGLIGENCE OF DEFENDANT KARBHARI
(Failure to perform prescribed safety regulations and obligations)

28. The allegations in the Introduction and in paragraphs 1 through 27 are re-alleged and incorporated herein.

29. At all relevant times, Defendant Karbhari was Provost and Executive Vice President for Academic Affairs at UAH.

30. Pursuant to the UAH Faculty Handbook, as Provost, Defendant Karbhari was responsible for reviewing and evaluating the recommendations regarding tenure prepared by the tenure-review committee, the department chair, the dean of the candidate’s college, and the UAH promotion and tenure advisory committee. Based upon the candidate’s comprehensive file and the collection of recommendations, Defendant Karbhari prepares the final decision regarding tenure and informs the tenure candidate and UAH President in writing of the decision. Following written notification, the tenure candidate may, upon request, be verbally informed by Defendant Karbhari of the reason(s) for not being granted tenure, and upon further request from the candidate, a written statement of the reason(s) for not being granted tenure is provided by the Provost. Before filing an official appeal of the tenure decision, a candidate, like Defendant Bishop, first discusses the outcome with the department chair, the dean, and then the Provost, in that order. As Provost, Defendant Karbhari was or should have been well informed of Bishop’s

mental instability, harassment of and threats toward herself and others, if for no other reason than by the tenure evaluation process, though his knowledge of her extreme mental instability and psychological crises was likely based on far more since there were a number of reports to his department about Bishop's instability. Two such reports were from students, including a petition requesting her removal from classes because of her mental instability. Other reports were from faculty. Bishop somehow learned of the confidential tenure vote, and she "hounded" and threatened faculty, particularly those who voted to deny tenure, to support her appeal.

31. Karbhari, both individually and in his position at UAH, received knowledge of Bishop's psychological crises, harassment of and threats toward herself and others.

32. Karbhari's position at UAH also included a position in the Policy Group, one of the four major components of the University Emergency Response Management Structure. This position is centrally involved in formulating, reviewing, and implementing the regulations and practices which ensure the safety of students and staff.

33. On or before February 12, 2010, Defendant Karbhari knew, or reasonably should have known, that Defendant Bishop, because of her reported history of severe and observable psychological crisis and threatening behavior, presented a probability of danger to herself and others and needed to be referred to those who possessed the skills to make such judgments before she caused such harm.

34. Defendant Karbhari knew, or reasonably should have known, of his obligation to adhere to the written UAH life-safety regulations, undertaken by UAH to protect students and staff. UAH's life-safety regulation is set forth in a fluorescent Emergency Procedures Handbook that is likely prominently posted in offices and buildings throughout campus. The UAH Handbook requires that all staff "should" be familiar with these life-safety regulations and

procedures. The reporting requirement in the regulation is mandatory and, like its counterpart regulation at UA, “vital” for the protection of human life. Given its role in protecting human life, the reporting requirement was not a decision subject to individual judgment or discretion, particularly by academics with no meaningful training, experience, or access to law enforcement databases to determine whether multiple reports of emotional instability, threats and harassing behavior may turn violent.

35. Defendant Karbhari knew, or reasonably should have known, that a primary reason for the mandatory reporting requirements in UAH’s Psychological Crisis and UA’s Mental Health Emergency regulations was because it is reasonably foreseeable that individuals who experience tremendous stress or emotional instability, and who have been reported to have engaged in threatening and harassing behavior, can cause, and have caused, harm to themselves or others in acts of campus violence.

36. Defendant Karbhari knew, or reasonably should have known, that primary reason for the mandatory reporting requirements in UAH’s Psychological Crisis and UA’s Mental Health Emergency regulations was because it is reasonably foreseeable that reporting people who experience tremendous stress or emotional instability may save someone from being harmed in an episode of campus violence. UAH’s Psychological Crisis regulations specifically sets forth procedures to be followed, including:

Procedures.

Should you come into contact with someone experiencing a psychological crisis, **DO NOT** attempt to handle the potentially dangerous situation alone. Notify University Police at **824-6911** or **911**. All suicide attempts should be immediately reported to Police. The safety of the person in crisis and those around him should be of first concern. University Police will work closely with campus counseling professionals when necessary. (Emphasis in original.)

Such regulations are consistent with the law in Alabama requiring every employer to use safeguards, methods and processes to render places of employment reasonably safe, and “do everything reasonably necessary to protect the life, health and safety” of employees.

37. At all relevant times, Defendant Karbhari knew, or reasonably should have known, of extensive, credible information, reports, and conclusions that Bishop was severely unstable, abusive, threatening, and experiencing tremendous stress, and that being denied tenure exacerbated those signs and symptoms of her mental instability and caused her to focus anger toward her colleagues.

38. At all relevant times, Defendant Karbhari knew, or reasonably should have known, that Defendant Bishop was credibly reported to be a person who was experiencing a manifestation of a psychological crisis, including being delusional, out of touch with reality, paranoid, and exhibiting disruptive, uncontrolled and threatening behavior – and specifically that she had threatened to harm herself and others – and that being denied tenure exacerbated those signs and symptoms of her mental instability and caused her to focus anger toward her colleagues. As she openly described, she was fighting for her life in seeking to obtain tenure.

39. Defendant Karbhari had a clear, written, mandatory duty to follow the reporting rules in UAH’s written “Psychological Crisis” regulation, and as that mandatory duty is similarly set forth in UA’s written “Mental Health Emergency” regulation.

40. On or before February 12, 2010, Defendant Karbhari negligently or wantonly failed to report to UAH police or to the UAH Counseling Center that Defendant Bishop was severely mentally unstable.

41. The negligent or wanton failure of Defendant Karbhari to report to the UAH police or UAH Counseling Center allowed Bishop’s anger and threats toward, and harassment

of, her colleagues to continue unabated, increased the likelihood that Defendant Bishop would harm those colleagues, and constituted acts and conduct of Defendant Karbhari beyond his authority or under a mistaken interpretation of the law, or a failure on the part of Defendant Karbhari to discharge his duties pursuant to the detailed rules or regulations of UAH.

42. Defendant Karbhari further breached his duties and was negligent, by, *inter alia*:

- (a) failing to follow UAH's "Psychological Crisis" regulation;
- (b) failing to follow UA's "Mental Health Emergency" regulation;
- (c) failing to report Dr. Amy Bishop to campus police, intervene, or cause the intervention by qualified mental health professionals;
- (d) using his own judgment or discretion, and thereby acting outside the scope of his authority, by not reporting Bishop's condition when the UAH "Psychological Crisis" regulation and UA's "Mental Health Emergency" regulation set forth rules that allowed for no discretion and clearly mandated reporting Bishop's condition to police;
- (e) and was otherwise negligent.

43. Had Defendant Karbhari performed his duties, the sworn officers in the UAH police force, who have direct access to the National Crime Information Center ("NCIC"), would have readily discovered Bishop's prior criminal record of violence in the exercise of its responsibilities, confirmed her dangerous instability, and uncovered lies in her employment application to UAH. UAH counseling services would have in the proper course provided her with critically-required mental health services, confirmed her dangerous instability as well, and mandatory actions to protect the life and safety of Bishop's colleagues and the UAH community

would have been undertaken. UAH regulations would have prevented her from attending the staff meeting of people she had threatened where she killed Dr. Johnson.

44. As a direct and proximate result of Defendant Karbhari's breaches of his duties, Dr. Johnson died.

45. All of the allegations in this Count are also asserted against the Fictitious Defendants.

46. Defendant Karbhari is liable to Dr. Johnson's estate for punitive damages directly related to the gravity of his breach of duties that proximately caused Dr. Johnson's death.

47. The Fictitious Defendants are liable to Dr. Johnson's estate for punitive damages directly related to the gravity of their breach of duties that proximately caused Dr. Johnson's death.

WHEREFORE, the Plaintiff demands judgment against Defendant Karbhari and the Fictitious Defendants in an amount to be determined by a jury, and such other, further or different relief to which he may be entitled.

SECOND CAUSE OF ACTION
NEGLIGENCE OF DEFENDANT KARBHARI
(Failure to protect Dr. Johnson and colleagues in Special Circumstances)

48. The allegations in the Introduction and in paragraphs 1 through 47 are re-alleged and incorporated herein.

49. Defendant Karbhari knew, or reasonably should have known, that Bishop was mentally unstable, extremely angry over being denied tenure at UAH, and that her anger was focused on and being expressed toward the faculty colleagues who she believed had betrayed her and put her in a fight for her life by their votes on her r tenure.

50. Defendant Karbhari knew, or reasonably should have known, that Bishop, because of her history of severe and observable mental instability, threatening behavior, reported complaints and conclusions regarding the same, and harassment of colleagues that there was a probability of her engaging in conduct that would harm her colleagues, including Dr. Johnson.

51. Defendant Karbhari's knowledge of Bishop's severe emotional instability, extreme anger and threats toward, and harassment of colleagues who were involved in her tenure decision created special circumstances under law obligating him to intervene and/or protect Dr. Johnson and colleagues from Bishop. Bishop was "hounding" her colleagues.

52. Defendant Karbhari was negligent by breaching his duty to intervene and/or protect Dr. Johnson and colleagues from probable harm by Bishop, thereby acting outside the scope of his authority.

53. As a direct and proximate result of Defendant Karbhari's negligence and breach of duties, Dr. Johnson died.

54. All of the allegations in this Count are also asserted against the Fictitious Defendants.

55. Defendant Karbhari is liable to Dr. Johnson's estate for punitive damages directly related to the gravity of his breach of duties that proximately caused Dr. Johnson's death.

56. The Fictitious Defendants are liable to Dr. Johnson's estate for punitive damages directly related to the gravity of their breach of duties that proximately caused Dr. Johnson's death.

WHEREFORE, the Plaintiff demands judgment against Defendant Karbhari and the Fictitious Defendants in an amount to be determined by a jury, and such other, further or different relief to which he may be entitled.

THIRD CAUSE OF ACTION
NEGLIGENCE OF DEFENDANT KARBHARI
(Assumed Duties)

57. The allegations in the Introduction and in paragraphs 1 through 56 are re-alleged and incorporated herein.

58. UAH, UA and the University of Alabama System undertook to enact mandatory policies and procedures to protect the lives and safety of school personnel, including Dr. Johnson. UAH undertook obligations to require that its personnel, such as Defendant Karbhari, act in accordance with and assume such duties.

59. Defendant Karbhari knew, or reasonably should have known, that Bishop was mentally unstable, extremely angry over being denied tenure at UAH, and that her anger was focused on and being expressed toward the faculty colleagues who she believed had betrayed her by voting to deny her tenure.

60. Defendant Karbhari knew, or reasonably should have known, that Bishop, because of her history of severe and observable mental instability, threatening behavior, reported complaints and conclusions regarding the same, and harassment of colleagues that there was a probability of her engaging in conduct that would harm her colleagues, including Dr. Johnson.

61. Defendant Karbhari's knowledge of Bishop's severe emotional instability, extreme anger and threats toward, and harassment of colleagues who were involved in her tenure decision created obligations under duties assumed by him to take action with respect to Bishop and and/or protect Dr. Johnson and colleagues from Bishop.

62. Defendant Karbhari was negligent by breaching such duties, thereby acting outside the scope of his authority.

63. As a direct and proximate result of Defendant Karbhari's negligence and breach of duties, Dr. Johnson died.

64. All of the allegations in this Count are also asserted against the Fictitious Defendants.

65. Defendant Karbhari is liable to Dr. Johnson's estate for punitive damages directly related to the gravity of his breach of duties that proximately caused Dr. Johnson's death.

66. The Fictitious Defendants are liable to Dr. Johnson's estate for punitive damages directly related to the gravity of their breach of duties that proximately caused Dr. Johnson's death.

WHEREFORE, the Plaintiff demands judgment against Defendant Karbhari and the Fictitious Defendants in an amount to be determined by a jury, and such other, further or different relief to which he may be entitled.

FOURTH CAUSE OF ACTION
WRONGFUL CONDUCT OF DEFENDANT BISHOP

67. The allegations in the Introduction and in paragraphs 1 through 66 are re-alleged and incorporated herein.

68. On or before February 12, 2010, Defendant Bishop negligently, wantonly or intentionally shot and killed the Plaintiff's decedent, Dr. Johnson, with a Ruger 9 millimeter P85 pistol, during a staff meeting at UAH.

69. The negligent, wanton or intentional conduct of Defendant Bishop proximately caused or contributed to cause the wrongful death of the Plaintiff's decedent, Dr. Johnson.

70. Defendant Bishop is liable to Dr. Johnson's estate for punitive damages directly related to the gravity of her intentional, outrageous misconduct that proximately caused Dr. Johnson's death.

WHEREFORE, the Plaintiff demands judgment against Defendant Bishop in an amount to be determined by a jury, and such other, further or different relief to which he may be entitled.

FIFTH CAUSE OF ACTION
NEGLIGENCE OF DEFENDANT ANDERSON

71. The allegations in the Introduction and in paragraphs 1 through 70 are re-alleged and incorporated herein.

72. At all relevant times, Defendant James E. Anderson (“Anderson”) knew many disturbing events in Bishop’s history, including, *inter alia*, that:

- (a) she shot and killed her brother in 1986 and, after fleeing the scene, pulled a gun on employees of a nearby auto body shop and demanded a car;
- (b) police questioned her in 1993 about the attempted bombing of Harvard Professor Dr. Paul Rosenberg, who was expected to negatively review her doctoral work, and who was of the opinion that she was unstable, depressed, and had displayed violent tendencies;
- (c) she pled guilty in 2002 to assaulting a mother in a Massachusetts restaurant, and was ordered by the court to attend anger management counseling;
- (d) she never attended any court-ordered anger management counseling;
- (e) her colleagues credibly reported that she was severely emotional, out of touch with reality, and was acting in a threatening manner toward them following denial of her tenure application;
- (f) she decided to begin target shooting with Anderson shortly before shooting her faculty colleagues, though she was facing no real threats in her life;
- (g) she refused to provide a truthful explanation of where she got the gun she used for target practice; and

(h) she used a handgun purchased for Anderson in 1989 following a dispute with a neighbor.

73. On or before February 12, 2010, Defendant Anderson knew, or reasonably should have known, that Defendant Bishop was extremely angry due to her being denied tenure by UAH and that her anger, threatening behavior and harassment was focused upon her faculty colleagues whom she believed had betrayed her by voting to deny her tenure.

74. On or before February 12, 2010, Defendant Anderson knew, or reasonably should have known, that Defendant Bishop also had a history of severe and observable mental instability, violence and deadly use of firearms.

75. On or before February 12, 2010, Defendant Anderson knew, or reasonably should have known, that the anger and history of mental instability, violence and deadly use of firearms of Defendant Bishop created a foreseeable risk that Defendant Bishop would engage in violent and harmful conduct against her fellow UAH faculty members, including the Plaintiff's decedent, Dr. Johnson. After the shooting, Anderson stated publicly that he had hoped "it would have never have come to this." That statement indicates that he was aware of Bishop's extreme anger over being denied tenure, that her anger was focused upon her faculty colleagues and that "it" was a situation that could lead to her acting out violently against her colleagues.

76. On or before February 12, 2010, Defendant Anderson negligently or wantonly failed to warn Defendant Bishop's fellow UAH faculty members, including the Plaintiff's decedent, Dr. Johnson, of the foreseeable risk that Bishop would engage in violent and harmful conduct against her fellow faculty members, including Plaintiff's decedent, Dr. Johnson.

77. On or before February 12, 2010, Defendant Anderson gave or provided to Defendant Bishop for her use, or negligently allowed her to use, the Ruger 9 millimeter P85 pistol that Defendant Bishop used to shoot and kill the Plaintiff's decedent, Dr. Johnson.

78. On or before February 12, 2010, Defendant Anderson knew, or reasonably should have known, that Defendant Bishop, because of her history of severe and observable mental instability, violence and deadly use of firearms, was likely to use the Ruger 9 millimeter P85 pistol in a manner involving the unreasonable risk of physical harm to other persons, including the Plaintiff's decedent, Dr. Johnson.

79. On or before February 12, 2010, Defendant Anderson negligently or wantonly entrusted the Ruger 9 millimeter P85 pistol to Defendant Bishop rendering the Ruger 9 millimeter P85 pistol in the hands of Defendant Bishop a dangerous instrument.

80. Defendant Anderson owed a duty to Bishop's fellow faculty members, including Dr. Johnson, to warn them and/or seek immediate professional help for Bishop's mental instability, stress, anger, threats, harassment, disorientation, lack of self-awareness and control, and compulsion to commit violence against others.

81. Defendant Anderson owed a duty to Bishop's fellow faculty members, including Dr. Johnson, to prevent Bishop from handling or possessing loaded firearms.

82. Defendant Anderson owed a duty to Bishop's fellow faculty members, including Dr. Johnson, to not assist, enable or encourage Bishop to engage in increasing her ability to handle and use firearms given her emotional instability and focused, irrational anger.

83. Defendant Anderson owed a duty to Bishop's fellow faculty members, including Dr. Johnson, to confiscate the gun Bishop possessed, search for other hidden guns and prevent Bishop's access to all firearms.

84. Defendant Anderson breached these duties.

85. The negligent or wanton conduct of Defendant Anderson proximately caused or contributed to cause the wrongful death of the Plaintiff's decedent, Dr. Johnson.

86. Defendant Anderson is liable to Dr. Johnson's estate for punitive damages directly related to the gravity of his negligence that proximately caused Dr. Johnson's death.

87. Defendants Anderson and Bishop are jointly liable to Dr. Johnson's estate for punitive damages directly related to the gravity of their negligence that proximately caused Dr. Johnson's death.

88. Upon information and belief, Defendant Anderson has or will fraudulently transfer assets, including but not limited to profits from InQ Biosciences Corporation, in order to shelter those assets from judgment.

WHEREFORE, the Plaintiff demands judgment against Defendant Anderson in an amount to be determined by a jury, and such other, further or different relief to which he may be entitled.

SIXTH CAUSE OF ACTION
COMBINED AND CONCURRING NEGLIGENCE OF ALL DEFENDANTS

89. The allegations in the Introduction and in paragraphs 1 through 88 are re-alleged and incorporated herein.

90. The combined and concurring negligence, wantonness and wrongful conduct as set out in the foregoing counts by all Defendants proximately contributed to Dr. Johnson's death.

91. All Defendants are jointly liable to Dr. Johnson's estate for punitive damages directly related to the gravity of their negligence and other wrongful conduct that proximately caused Dr. Johnson's death.

WHEREFORE, the Plaintiff demands judgment against Defendants in an amount to be determined by a jury, and such other, further or different relief to which he may be entitled.

WHEREFORE, PREMISES CONSIDERED, Plaintiff demands judgment against the defendants, DR. VISTASP M. KARBHARI, DR. AMY BISHOP ANDERSON and JAMES ANDERSON, and one or more of the fictitious defendants as set forth in the caption hereof, jointly and severally, and that punitive damages be awarded to the plaintiff in an amount which will fairly and adequately punish the defendants' negligent, reckless, willful, wanton, outrageous and/or wrongful behavior, and in an amount which will adequately reflect the enormity of the defendants' wrongful acts, and which will effectively prevent other similar wrongful acts. Further, the plaintiff requests that the Court enter judgment consistent with the verdict, and that it also award the plaintiff interest from the date of judgment and the costs incurred by the court in managing this lawsuit.

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RELIANCE ON DEMAND FOR JURY TRIAL

Plaintiff relies on demand for jury trial previously made.

J. ALLEN BRINKLEY
Attorney for the Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on April _____, 2011, I electronically filed the foregoing with the Clerk of the Court using the Ala-File system and have also served a copy of the foregoing by U.S. Mail to the following:

Jay M. Ezelle
STARNES DAVIS FLORIE LLP
100 Brookwood Place
Seventh Floor
Birmingham, AL 35209

and by Certified Mail to the following:

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