

FILED
DOUGLAS COUNTY
DISTRICT COURT

Case No.

Division

Pursuant to K.S.A. Chapter 60

Pursuant to K.S.A. Chapter 60

Pursuant to K.S.A. Chapter 60

2014 DEC 4 2:08
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Kansas Open Records Act Request (“KORA Request”) on August 5, 2014, a copy of which is attached to the Petition as Exhibit 1.

4. Because Dr. Hall has provided advance notice to counsel for the University and to SSF, the requirements of K.S.A. 60-903 for issuing a restraining order without notice are inapplicable.

5. Thus, K.S.A. 60-901 *et seq.* permits this Court to issue a temporary restraining order without bond to preserve the status quo until further Order of the Court.¹ The issuance of a restraining order is a matter for the sound discretion of the Court.²

6. Dr. Hall is an individual residing in Douglas County, Kansas.

7. The University is an agency of the State of Kansas, with its main campus located in Lawrence, Kansas.

8. On August 5, 2014, SSF submitted, by and through its President, Schuyler Kraus, a Kansas Open Records Act (“KORA”) request (“KORA Request”) to the University. A copy of the KORA Request is attached to the Petition as Exhibit 1.

9. The KORA Request seeks, in part, emails and other correspondence or documents allegedly created by, owned by, and otherwise pertaining to Dr. Hall, specifically including documents, emails, or other correspondence concerning Dr. Hall’s involvement with the Center for Applied Economics at the University’s School of Business.

10. Dr. Hall asserts that the information sought by the KORA Request, specifically including Dr. Hall’s private correspondence, is protected from disclosure or production under the

¹ *Unified School Dist. No. 503 v. McKinney*, 236 Kan. 224, 227, 689 P.2d 860, 865 (1984) (restraining orders “preserve the status quo until the hearing is held for the temporary injunction, the status quo being the last actual, peaceable, noncontested position of the parties which preceded the pending controversy”)

² *Id.*

terms and provisions of KORA, as well as under First Amendment principles of academic freedom as recognized by the United States Supreme Court.

11. Notwithstanding Dr. Hall's assertions, on December 2, 2014, the University informed Dr. Hall that "as you were previously told, we plan to produce the records [in response to the KORA Request] on **December 5, 2014** unless we are ordered by a court to do otherwise." (emphasis added). A copy of the December 2, 2014 correspondence from the University is attached to the Petition as Exhibit 2.

12. Allowing the University to disclose, produce, or provide access to the subject documents, emails, correspondence, or other data, information, or things in response to the KORA Request may result in irreparable harm to Dr. Hall, which may include a widespread chilling effect on academic freedom within the academic community or stifling academic debate, as well as an impingement upon constitutional protections for academic freedom, which may harm the public by discouraging academic research by state colleges and universities.

13. Dr. Hall may therefore suffer irreparable injury and harm from the University's actions should a restraining order not immediately issue enjoining and restraining the University and its agents from disclosing, producing, or providing access to any documents, emails, correspondence, or other data, information, or things in response to the KORA Request, unless and until specifically permitted to do so by further Order of this Court after due consideration and rulings on the underlying merits.

14. Any harm that the University may allegedly incur as a result of the requested injunctive relief is outweighed by the harm to Dr. Hall or the public should a restraining order not issue.

15. Injunctive relief is not adverse to the public interest.

16. The requested temporary restraining order must be granted to avoid immediate irreparable injury, loss, and damage to Dr. Hall.

WHEREUPON, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant, the University of Kansas, and its agents, are restrained and enjoined from disclosing, producing, or providing access to any documents, emails, correspondence, or other data, information, or things in response to the KORA Request.

IT IS FURTHER ORDERED that this Temporary Restraining Order issue without bond, pursuant to K.S.A. 60-901 *et seq.*, subject to further order of this Court.


IT IS FURTHER ORDERED that a copy of this Temporary Restraining Order be served on Defendant, the University of Kansas, forthwith.

IT IS FURTHER ORDERED that this Temporary Restraining Order shall remain in full force and effect until further Order of this Court expressly modifying or lifting this Temporary Restraining Order.

IT IS SO ORDERED.

Dated: December 4, 2014

Time: ~~2:00~~ ^{2:00} P.M.


DISTRICT JUDGE

Submitted by:

LATHROP & GAGE LLP

By: 

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ATTORNEYS FOR PLAINTIFF

V

FILED
DOUGLAS COUNTY
DISTRICT COURT

IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS

ARTHUR HALL,

Plaintiff,

v.

THE UNIVERSITY OF KANSAS,

Defendant.

)
) Case No. 2014 DEC -4 P 1:39 14 CV 464
)
) Division 4Y 122
)
)
) Pursuant to K.S.A. Chapter 60
)
)

APPLICATION FOR TEMPORARY RESTRAINING ORDER

Plaintiff, Arthur (Art) Hall, Ph.D. ("Dr. Hall"), pursuant K.S.A. 60-901 *et seq.*, hereby applies to the Court for a temporary restraining order against Defendant, the University of Kansas ("University") and its agents. In support of this application, Dr. Hall states:

1. The Court has jurisdiction over the parties and the subject matter of this action. More specifically, this Court has jurisdiction to enforce the Kansas Open Records Act, K.S.A. 45-215 *et seq.*, pursuant to K.S.A. 45-222(a). Venue is proper in this Court pursuant to K.S.A. 45-222(a).

2. K.S.A. 60-901 *et seq.* provides for a restraining order with or without notice. As Dr. Hall has provided notice to counsel for the University, as well as to Schuyler Kraus, President of Students for a Sustainable Future, schuyler.kraus@ku.edu, in advance of the hearing on this Application for Temporary Restraining Order, the requirements of K.S.A. 60-903 for issuing a restraining order without notice are inapplicable.

3. Thus, K.S.A. 60-901 *et seq.* permits this Court to issue a temporary restraining order without bond to preserve the status quo until further Order of the Court.¹

¹ *Unified School Dist. No. 503 v. McKinney*, 236 Kan. 224, 227, 689 P.2d 860, 865 (1984) (restraining orders "preserve the status quo until the hearing is held for the temporary injunction, the status quo being the last actual, peaceable, noncontested position of the parties which preceded the pending controversy").

4. The issuance of a restraining order is a matter for the sound discretion of the Court.²

5. Dr. Hall incorporates paragraphs 1 through 61 of his contemporaneously-filed Petition as if those paragraphs were fully set forth herein.

6. As set forth in the Petition, the University has indicated its intent to produce documents, emails, correspondence, or other data, information, or things in response to the KORA Request “on **December 5, 2014 unless [] ordered by a court to do otherwise.**”³ Thus, a temporary restraining order must be issued immediately—and no later than December 4, 2014—to preserve the status quo and thus prevent irreparable to Dr. Hall.

WHEREFORE, Plaintiff, Arthur Hall, Ph.D., requests immediate entry of a temporary restraining order from this Court enjoining and restraining Defendant, the University of Kansas, and its agents from disclosing, producing, or providing access to any documents, emails, correspondence, or other data, information, or things in response to the KORA Request, unless and until specifically permitted to do so by further Order of this Court after due consideration and rulings on the underlying merits.

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² *Id.*

³ Ex. 2 to Petition, at p. 2 (emphasis added).

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FILED
DOUGLAS COUNTY
DISTRICT COURT

IN THE DISTRICT COURT OF DOUGLAS COUNTY, KANSAS

ARTHUR HALL,

Plaintiff,

v.

THE UNIVERSITY OF KANSAS,

Defendant.

)
) Case No. 14 CV 464 2014 DEC -4 P 1:37
)
) Division 4 BY RL
)
)
) Pursuant to K.S.A. Chapter 60
)

PETITION

1. Plaintiff, Arthur (Art) Hall, Ph.D. ("Dr. Hall"), is an individual residing in Douglas County, Kansas.

2. Defendant, the University of Kansas ("University"), is an agency of the State of Kansas, with its main campus located in Lawrence, Kansas, and pursuant to K.S.A. 60-304(d)(5), may be served with process by serving Derek Schmidt, Kansas Attorney General, 120 SW 10th Ave., 2nd Floor, Topeka, Kansas 66612.

3. Dr. Hall is the founding Executive Director of, and lecturer at, the Center for Applied Economics at the University's School of Business in Lawrence, Kansas, which was established in 2004.

Overview

4. On August 5, 2014, a group known as "Students for a Sustainable Future" ("SSF") submitted, by and through its President, Schuyler Kraus, a Kansas Open Records Act ("KORA") request ("KORA Request") to the University. A true and accurate copy of the KORA Request is attached hereto as **Exhibit 1**.

5. As detailed below, the KORA Request seeks, in part, emails and other correspondence or documents created by, owned by, and otherwise pertaining to Dr. Hall,

specifically including documents, emails, or other correspondence concerning Dr. Hall's involvement with the Center for Applied Economics at the University's School of Business.

6. As Dr. Hall has informed the University, the information sought by the KORA Request, specifically including Dr. Hall's private correspondence, is protected from disclosure or production under the terms and provisions of KORA, as well as under principles of academic freedom as recognized by the United States Supreme Court.

7. Nevertheless, on December 2, 2014, the University informed Dr. Hall (through Dr. Hall's undersigned counsel) that "as you were previously told, we plan to produce the records [in response to the KORA Request] on **December 5, 2014** unless we are ordered by a court to do otherwise." (emphasis added). A true and accurate copy of the December 2, 2014 correspondence from the University to undersigned counsel is attached hereto as **Exhibit 2**.

8. Accordingly, Dr. Hall is left with no choice but to seek relief from this Court from the immediate and irreparable harm that will otherwise result should the University be permitted to disclose the requested information in violation of its own Electronic Mail Policy, KORA, and the principles of academic freedom as recognized by the United States Supreme Court.

9. Thus, as detailed below, Dr. Hall brings this lawsuit in short order to obtain injunctive relief against the University, specifically including a temporary restraining order to preserve the status quo until a final decision can be reached on the merits, which would prevent the University from disclosing or producing the protected information sought by the KORA Request. Dr. Hall also seeks relief in the form of a declaration that the information sought by the KORA Request is, in whole or in part, protected from disclosure.

Dr. Hall and the KU Center for Applied Economics

10. The mission of the KU Center for Applied Economics is, *inter alia*, to advance the economic development of the State of Kansas and the region by offering economic analysis and economic education relevant for policy makers, community leaders, students, and other interested citizens.

11. In support of its mission, the KU Center for Applied Economics conducts original research on economic development and synthesizes existing research to convey relevant information to decision-makers in the public policy and business communities.

12. As Director of the KU Center for Applied Economics, Dr. Hall actively engages in the Center's scholarship by conducting original research and by ensuring the accessibility of existing research to the Center's constituents. To that end, Dr. Hall has authored and co-authored dozens of publications, testified at legislative hearings, and presented in a number of forums.

13. The KU Center for Applied Economics also provides education in economics to traditional students, graduate students, and professionals in a variety of forums including classes, seminars, and workshops.

14. As a lecturer at the KU Center for Applied Economics, Dr. Hall has taught multiple classes, specifically including undergraduate level classes in managerial economics and graduate level classes in managerial economics. Among the multiple awards, honors, and distinctions during his long tenure, Dr. Hall was just recently honored by KU students with the 2014 MBA Association Educator of the Year Award.

15. The Director of the KU Center for Applied Economics is a "self-funded" position responsible for the fundraising necessary to maintain the position. A true and accurate copy of the Position Description is attached hereto as **Exhibit 3**.

The KORA Request

16. On August 5, 2014, SSF sent its KORA Request to the University, a copy of which is attached hereto as Exhibit 1.

17. In the KORA Request, SSF states that it is concerned with the “manifestation of policies practiced by the university that systematically undermine academic integrity and freedom.” Additionally, in the KORA Request, SSF complains about the need to investigate Dr. Hall’s “affiliations” because of *public* testimony that he gave, consistent with University policy and First Amendment rights, related to renewable energy issues.

18. Among other voluminous requests, the KORA Request seeks:

a) Copies of all contracts and correspondence (written, electronic or oral), including but not limited to letters, emails, faxes, reports, meeting and teleconference agendas, minutes, notes, transcripts, tape recordings and phone logs generated by or involving Dr. George Bittlingmayer, Dr. Koleman Strumpf, and Dr. Arthur P. Hall regarding their being hired at the University of Kansas. This would include the job posting, recruiting process, applications received, and interview schedules for other candidates considered for the respective positions for which they were hired.

b) Copies of all contracts/memorandums of understanding and correspondence regarding donations/payments/contributions, including all restrictions associated with these, given to the University of Kansas Endowment, KU School of Business, Center for Applied Economics, Dr. Arthur Hall, University of Kansas, or any person(s) affiliated with these, from any single or combination of the following entities: Fred C. and Mary R. Koch Foundation, Charles Koch Foundation (formerly the Charles G. Koch Charitable Foundation), Charles Koch Institute, Claude R. Lambe Charitable Foundation, David H. Koch Foundation, American Legislative Exchange Council, Cato Institute, Heartland Institute, Koch Industries, Kansas Policy Institute (and its former name Flint Hills Research Institute), or Reason Foundation between January 1995 to present.

c) Copies of all correspondence to or from Dr. Arthur Hall, Dr. Koleman Strumpf, and/or Dr. George Bittlingmayer containing any or all of the following subjects: Kansas Policy Institute, Reason Foundation, Americans for Prosperity, Cato Institute, Koch Industries, American Legislative Exchange Council, Heartland Institute, Fred C. and Mary R. Koch Foundation, any of the aforementioned Koch Family Foundations (part b), or S.B. 433 from January 2004 to present.

d) Dr. George Bittlingmayer's and Dr. Arthur Hall's personal finance disclosure forms, conflict of interest disclosure forms, CVs, statements of substantial interests, and any disclosures of external payments since their respective employments began at KU.

(emphases and strikethrough text omitted).

The University's Response

19. In response to the KORA Request and the corresponding concerns and objections raised by Dr. Hall thereto, the University memorialized its position in a letter dated December 2, 2014, a copy of which is attached hereto as Exhibit 2.

20. The University's letter states, in part:

Accordingly, while we understand and appreciate the concerns [Dr. Hall] ha[s] expressed, about academic freedom and otherwise, [the University] believe[s] we have an obligation under the Open Records Act to proceed with disclosure of the documents that have been identified [in response to the KORA Request].

We understand that you may wish to challenge the University's decision to disclose the records that have been requested. While we have no desire to litigate against a KU faculty member or a KU student, we understand Dr. Hall's interest in seeking judicial resolution. Accordingly, and as you were previously told, we plan to produce the records on December 5, 2014 unless we are ordered by a court to do otherwise.

KORA, K.S.A. 45-215 et seq.

21. The Kansas Open Records Act ("KORA") is set forth at K.S.A. 45-215 et seq.

22. Among its provisions, KORA generally provides that "*public* records shall be open for inspection by any person unless otherwise provided by this act." K.S.A. 45-216(a) (emphasis added).

23. KORA does not apply, however, to *non-public* records.

24. More specifically, KORA defines "public record" as "any recorded information, regardless of form or characteristics, which is made, maintained or kept by or is in the possession of any public agency." K.S.A. 45-217(g)(1).

25. However, “[p]ublic record’ shall not include records which are owned by a private person or entity and are not related to functions, activities, programs or operations funded by public funds” K.S.A. 45-217(g)(2) (emphasis added).

26. Additionally, regardless of label of “public” or “non-public” record, KORA specifically exempts the following from disclosure under its express terms and provisions:

Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to any regulatory, supervisory or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.

K.S.A. 45-221(a)(14).

27. Similarly, KORA also specifically exempts the following from disclosure under its express terms and provisions:

Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.

K.S.A. 45-221(a)(20).

28. KORA also specifically exempts the following from disclosure under its express terms and provisions:

Personnel records, performance ratings or individually identifiable records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries, or actual compensation employment contracts or employment-related contracts or agreements and lengths of service of officers and employees of public agencies once they are employed as such.

K.S.A. 45-221(a)(4).

29. Additional specific exemptions under KORA are set forth in K.S.A. 45-221.

The University's Email Policy

30. The University has established an "Electronic Mail Policy" ("Email Policy") which "applies to faculty, staff, students, official university affiliates, and any other individuals who use University electronic mail."

31. The Email Policy states, in part, that "KU also permits incidental personal use provided that such use does not interfere with KU operations, does not generate incremental identifiable costs to KU, or does not negatively impact the user's job performance."

32. The Email Policy further states, in part: "Faculty members may use electronic systems for course-related discussions of political topics. Individuals may use email to exchange ideas and opinions, including those dealing with political issues. The latter is generally considered an incidental use of the email system."

33. Additionally, the Email Policy emphasizes the confidentiality of University email, stating that although "complete confidentiality or privacy of email cannot be guaranteed," "[t]he University supports a climate of trust and respect and does not ordinarily read, monitor, or screen electronic mail":

The University supports a climate of trust and respect and does not ordinarily read, monitor, or screen electronic mail. However, complete confidentiality or privacy of email cannot be guaranteed. Confidentiality cannot be guaranteed because of the nature of the medium, the need for authorized staff to maintain email systems, and the University's accountability as a public institution. The provost or his designee may authorize access to employee or student email in a number of circumstances including, but not limited to, situations involving the health or safety of people or property; possible violations of University and Board of Regents codes of conduct, regulations, or policies; possible violations of state or federal laws; subpoenas and court orders; other legal responsibilities or obligations of the University; or the need to locate information required for University business.

Principles of Academic Freedom

34. In addition to protections afforded by KORA, the United States Supreme Court has recognized First Amendment protections and interests in academic freedom:

[T]here unquestionably was an invasion of petitioner's liberties in the area[] of academic freedom . . . The essentiality of freedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation . . . Scholarship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.

Sweezy v. State of N.H. by Wyman, 354 U.S. 234, 250 (1957).

35. The United States Supreme Court reiterated the importance of academic freedom in *Keyishian v. Bd. of Regents of Univ. of State of N.Y.*, 385 U.S. 589, 603 (1967):

[O]ur Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned. That freedom is therefore a special concern of the First Amendment, which does not tolerate laws that cast a pall of orthodoxy over the classroom. The vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.

The University's Declared Intent to Produce Documents in Response to the KORA Request Would Violate Dr. Hall's Rights, Specifically Including those Afforded by KORA, the Email Policy, and Principles of Academic Freedom

36. Dr. Hall's rights, including those afforded to him by KORA, the Email Policy, principles of academic freedom, and otherwise, would be immediately and irreparably violated should the University be permitted to follow through with its expressed intent to disclose or produce Dr. Hall's documents, emails, or other correspondence in response to the KORA Request, particularly where such documents, emails, or correspondence are confidential and owned by Dr. Hall.

37. For instance, the University's disclosure of Dr. Hall's documents, emails, or other correspondence would be antagonistic to Dr. Hall's First Amendment interest in academic freedom, as well as his confidentiality and ownership interests in such things, as confirmed by the University's Email Policy.

38. Dr. Hall's rights would be further violated because his documents, emails, and other correspondence are not public records as contemplated by KORA, and thus are not open for inspection.

39. Moreover, Dr. Hall's documents, emails, and other correspondence cannot be deemed a "public record" under KORA because they are owned by Dr. Hall, a private individual, and as confirmed by the Position Description for Director of KU's Center for Applied Economics, they are not related to functions, activities, programs or operations funded by *public* funds, but rather, private funds. *See* K.S.A. 45-217(g)(2).

40. Accordingly, these documents, emails, and other correspondence are not subject to KORA, and they cannot properly be disclosed or produced.

41. Yet upon information and belief, in response to the KORA Request, the University intends to produce emails sent to and from Dr. Hall's University email address that do not relate to "functions, activities, programs or operations funded by public funds."

42. Similarly, Dr. Hall's documents, emails, and other correspondence are protected from disclosure or production because they fall under specific exemptions that the Kansas Legislature provided in KORA, specifically including the exemptions found in subsections (4), (14), and (20), among others, of K.S.A. 45-221(a), excerpted above.

43. Nevertheless, upon information and belief, in response to the KORA Request, the University intends to produce documents disclosing correspondence between a public agency

and a private individual; notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other documents in which opinions are expressed or policies or actions are proposed; and personnel documents, performance ratings or individually identifiable documents pertaining to employees or applicants for employment, all of which are specifically exempted from disclosure pursuant to KORA.

44. The KORA Request submitted to the University by the organization with financial backing from outside sources targets Dr. Hall's academic research and legislative testimony. It seeks, *inter alia*, all of Dr. Hall's correspondence mentioning certain public policy research organizations and correspondence referring to the subject of Dr. Hall's recent legislative testimony, Renewable Portfolio Standards.

45. As highlighted herein, the documents sought in the KORA Request are not subject to disclosure under KORA. Nonetheless, the University has informed Dr. Hall that it intends to disclose the documents based on its incorrect belief that the documents are non-exempt public records under KORA.

46. The disclosure of documents pursuant to the KORA Request which targets public policy research would have a widespread chilling effect on academic freedom within the academic community. The utilization of documents produced pursuant to KORA requests—particularly documents that prematurely disclose ideas, opinions, recommendations, and proposals—as fodder to undermine or discredit certain professors by persons searching for a pretext to do so would stifle academic debate. To the extent that professors at state colleges and universities are unable to collaborate and engage in academic debate without subjecting every exchange to public scrutiny, they would be reluctant to do so.

47. In addition to impinging upon constitutional protections for academic freedom, disclosure of documents in this circumstance would harm the public. The provision of academic research is one of the primary services offered by state colleges and universities. However, the premature disclosure of the documents that underlie the research would substantially inhibit public policy research—research that by its nature is designed to advance the public interest, such as Dr. Hall’s economic development research.

COUNT I: DECLARATORY RELIEF

48. Dr. Hall incorporates paragraphs 1 through 47 above of this Petition as if those paragraphs were fully set forth herein.

49. Pursuant to K.S.A. 60-1701 *et seq.* and K.S.A. 45-222, this Court has the power to declare the rights, status, and other legal relations of the parties, as well as to construe and enforce the terms and provisions of KORA, specifically including the jurisdiction and authority to enforce such terms and provisions by injunction, mandamus, or other appropriate order.

50. Dr. Hall requests a declaratory judgment that: (1) the documents, emails, or other correspondence that the University intends to produce in response to the KORA Request are not public records within the meaning of KORA; and (2) the documents, emails, or other correspondence that the University intends to produce in response to the KORA Request are exempt from disclosure pursuant to KORA or otherwise.

WHEREFORE, Plaintiff, Arthur Hall, Ph.D., prays that this Court enter a judgment declaring the rights, status, and legal relations of the parties, including but not limited to a declaration that: (1) the documents, emails, correspondence, or other data, information, or things that the University intends to produce in response to the KORA Request are not public records within the meaning of KORA; and (2) the documents, emails, correspondence, or other data, information, or things that the University intends to produce in response to the KORA Request

are exempt from disclosure or production pursuant to KORA or otherwise. Dr. Hall further prays for a judgment against Defendant assessing his court costs against Defendant; and awarding such other and further relief as the Court deems just and proper.

COUNT II: INJUNCTIVE RELIEF

51. Dr. Hall incorporates paragraphs 1 through 50 above of this Petition as if those paragraphs were fully set forth herein.

52. Pursuant to K.S.A. 60-901 *et seq.* and K.S.A. 45-222, this Court has jurisdiction and authority to grant injunctive relief.

53. The disclosure or production of documents, emails, correspondence, or other data, information, or things pursuant to the KORA Request would violate Dr. Hall's rights and protections, as highlighted above.

54. Allowing the University to violate Dr. Hall's rights and protections would result, and would continue to result, in irreparable harm to Dr. Hall.

55. Dr. Hall would therefore suffer irreparable injury and harm from the University's actions and violations should a restraining order, temporary injunction, and permanent injunction not immediately issue enjoining and restraining the University and its agents from disclosing, producing, or providing access to any documents, emails, correspondence, or other data, information, or things in response to the KORA Request.

56. For example, absent immediate injunctive relief, Dr. Hall will suffer irreparable injury, including but not limited to infringement upon his First Amendment interest in academic freedom. More specifically, disclosure of the documents that the University intends to disclose pursuant to the request will cause Dr. Hall irreparable injury by infringing upon his First Amendment interest in academic freedom. Once disclosed, Dr. Hall's documents will permanently be part of the public domain.

57. Monetary damages would be insufficient to fully compensate or redress the injuries that he would sustain absent immediate injunctive relief, and monetary damages would be extremely difficult, if not impossible, to calculate.

58. Any harm that the University may allegedly incur as a result of the requested injunctive relief is overwhelmingly outweighed by the harm to Dr. Hall should a restraining order, temporary injunction, and permanent injunction not issue. Moreover, injunctive relief would not cause harm to the University, as the University has no interest in the disclosure of the documents or other things, apart from compliance with KORA.

59. Injunctive relief is not adverse to the public interest. In fact, injunctive relief is in the public's interest, as the protection of academic freedom promotes the public interest, and the public policy of the State does not provide for the disclosure of non-public or statutorily-exempt documents pursuant to KORA.

60. There is a substantial likelihood that Dr. Hall will prevail on the merits, in part because Dr. Hall's documents are not public records subject to disclosure under KORA, and because Dr. Hall's documents are exempt from disclosure pursuant to KORA.

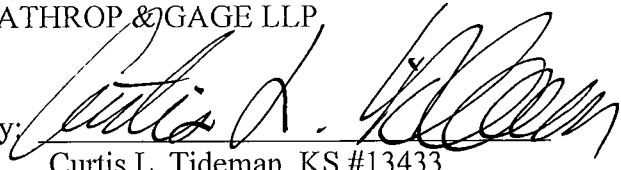
61. The requested injunctive relief must be granted to avoid immediate irreparable injury, loss, and damage to Dr. Hall.

WHEREFORE, Plaintiff, Arthur Hall, Ph.D, prays for judgment, specifically including a temporary restraining order, temporary injunction, and permanent injunction, enjoining and restraining Defendant, the University of Kansas, and its agents from disclosing, producing, or providing access to any documents, emails, correspondence, or other data, information, or things in response to the KORA Request, unless and until specifically permitted to do so by further Order of this Court after due consideration and rulings on the underlying merits. Dr. Hall further

prays for a judgment against Defendant assessing his court costs against Defendant; and
awarding such other and further relief as the Court deems just and proper.

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ATTORNEYS FOR PLAINTIFF

VERIFICATION

STATE OF KANSAS)
) ss.
COUNTY OF DOUGLAS)

I, Arthur Hall, Ph.D., of lawful age, and after being first duly sworn on oath, state that I am the named Plaintiff in the above-styled action, that I have read the Petition and know the contents thereof, and that all allegations of fact therein are true.



Arthur Hall, Ph.D.

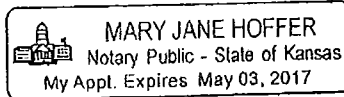
Subscribed and sworn to before me this 4th day of December, 2014.

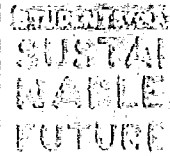


Notary Public

My Appointment Expires:

5 - 3 - 17





201 E 21st Street
Lawrence, KS 66046

facebook.com/studentsforasustainablefuture

Received

AUG 07 2014

Office of the Provost
University of Kansas

April 11, 2014 August 5, 2014

Jane E. Rosenthal
Custodian of Public Records
Office of the Provost
University of Kansas
1450 Jayhawk Boulevard, 250 Strong Hall
Lawrence, KS 66045-7555

Dear Ms. Rosenthal:

A. KANSAS OPEN RECORDS ACT REQUEST

In light of recent testimony made by Dr. Arthur P. Hall in favor of S.B. 493, an effort to repeal Kansas Renewable Portfolio Standards, Students for a Sustainable Future (SSF) endeavors to bring KU students and Kansas citizens greater transparency regarding Dr. Hall's background, connections, and affiliations to disclose significant conflicts of interest. Additionally, SSF is concerned that the processes by which Dr. Hall and others were hired at KU were orchestrated by Charles and/or David Koch, which would be just one manifestation of policies practiced by the university that systematically undermine academic integrity and freedom. If this is the case, the public has a legal and moral right to be informed. Certainly, so do tuition-paying students, including SSF's membership.

SSF thereby is submitting a legal Kansas Open Records Act request for all documents pertaining to:

- donations and associated restrictions by Koch family foundations;
- donations and associated restrictions contributed to Dr. Arthur Hall and/or the Center for Applied Economics;
- records of the hiring processes for Dr. Douglas A. Houston, Dr. Coleman Strumpf, and Dr. Arthur P. Hall;
- and the aforementioned faculties' CVs and personal affiliations.

SSF submits this request seeking to defend the principles on which academia was founded and restore justice to our fellow students and citizens.

Pursuant to The Open Records Act, K.S.A. 16-215 et seq., Students for a Sustainable Future requests access to and copies of each of the following documents, which are in the possession of or generated by the University of Kansas, regardless of the present location of the documents:

- a) Copies of all contracts and correspondence (written, electronic or oral), including but not limited to letters, emails, faxes, reports, meeting and teleconference agendas, minutes, notes, transcripts, tape recordings and phone logs generated by or involving ~~Dr. Douglas A. Houston~~ Dr. George Bittlingmayer, Dr. Coleman Strumpf, and Dr. Arthur P. Hall regarding their being hired at the University of Kansas. This would include the job posting, recruiting process, applications received, and interview schedules for other candidates considered for the respective positions for which they were hired.
- b) Copies of all contracts/memorandums of understanding and correspondence regarding donations/payments/contributions, including all restrictions associated with these, given to University of Kansas Endowment Association, KU School of Business, Center for Applied Economics, Dr. Arthur Hall, University of Kansas, or any person(s) affiliated with these, from any single or combination of the following entities: Fred C. and Mary R. Koch Foundation, Charles Koch Foundation (formerly the Charles G. Koch Charitable Foundation), Charles Koch Institute, Claude R. Lambe Charitable Foundation, David H. Koch Foundation, American Legislative Exchange Council, Cato Institute, Heartland Institute, Koch Industries, Kansas Policy Institute (formerly the and its former name Flint Hills Research Institute), or Reason Foundation or any person(s) affiliated with these between January 1995 to present.
- c) Copies of all correspondence to or from Dr. Arthur Hall, Dr. Coleman Strumpf, and/or Dr. ~~Douglas Houston~~ George Bittlingmayer containing any or all of the following subjects: Kansas Policy Institute, Reason Foundation, Americans for Prosperity, Cato Institute, Koch Industries, American Legislative Exchange Council, Heartland Institute, Fred C. and Mary R. Koch Foundation, any of the aforementioned Koch Family

EXHIBIT 1

Foundations (part b), any person(s) affiliated with these, Renewable Portfolio Standards (RPS), or S.B. 433 from January 2004 to present.

d) Copies of all contracts and correspondence regarding funds given to Center for Applied Economics and Dr. Arthur P. Hall, including all restrictions associated with respective donations, payments, or contributions from January 2002 to present.

d) Copies of Dr. Arthur Hall's and Dr. Douglas Houston's CVs and disclosures of outside income, contracts or affiliations; Dr. George Bittlingmayer's and Dr. Arthur Hall's personal finance disclosure forms, conflict of interest disclosure forms, CVs, statements of substantial interests, and any disclosures of external payments since their respective employments began at KU.

~~Students for a Sustainable Future also requests access to and copies of all correspondence between the Kansas Office of the Governor and Dr. Arthur Hall. We request that you search the above records for the time period of January 2004 to present.~~

If any or all parts of this records request cannot be provided, please cite each specific exemption that you believe justifies your withholding of information and provide an estimate of the cost of fulfilling this request. Please be sure to notify me of appeal procedures available under the law in the event of any denial.

B. FEE WAIVER JUSTIFICATION

We seek a waiver of all or a portion of fees accompanying the fulfillment and processing of this Kansas Open Records Act request for the following reasons:

- As public universities are bodies of the Commonwealth, there exists an obligation on the institution to provide transparency to all taxpayers in the state of Kansas and to those who make payments to the University of Kansas. This is especially true when mounting evidence suggests existing systemic or isolated instances of corruption, as is presently the case.
- It is justifiable that students paying tuition and other fees to the university have free access to information that will help us understand how University of Kansas' outside grant income affects the composition of KU departments, personnel, courses and other academic functions.

As concerned members of this community and university, we ask to waive the fees in the interest of the public for further understanding of the operations of the University of Kansas. In no way are we serving any commercial interests.

If there are any questions or additional information required in order to process the request, please do not hesitate to contact Schuyler Kraus or Madlyn Loelke.

Thank you for your cooperation and assistance

Sincerely,

Schuyler Kraus

[Redacted Signature]

Madlyn Loelke

[Redacted Signature]



December 2, 2014

Via Email: Curtis L. Tideman (ctideman@lathropgage.com)

Curtis L. Tideman
Lathrop & Gage, LLP
10851 Mastin Boulevard
Overland Park, Kansas 66210-1669

Dear Mr. Tideman:

This letter follows our discussion last Monday with you as counsel for KU faculty member Art Hall as it relates to the Kansas Open Records Act (KORA) request the University has received from Students for a Sustainable Future.

As you know, that request seeks Dr. Hall's, Dr. George Bittlingmayer's, and Dr. Koleman Strumpf's correspondence containing subjects that relate to various entities allegedly supported by Koch Industries or related foundations. We have met with Dr. Hall to try to determine what, if any, records are responsive to the request, whether they are public records, and whether they fit within a recognized exception. We appreciate Dr. Hall's cooperation during this process.

After many hours of review, the University has now reached its conclusion regarding the remaining records related to Dr. Hall that should be produced. Those records have been provided to you and Dr. Hall for review and comment.

On behalf of Dr. Hall, you have generally objected to the production of any of this correspondence on a variety of legal theories, including academic freedom. The University strongly supports academic freedom and is committed to protecting it to the extent the law allows. As you know, the Kansas Open Records Act is premised on openness in government. Unfortunately, the Open Records Act does not have an academic freedom exception and does not otherwise appear to have the broad protection for faculty research-related work that, for example, Virginia has. Accordingly, while we understand and appreciate the concerns you have expressed, about academic freedom and otherwise, we believe we have an obligation under the Open Records Act to proceed with disclosure of the documents that have been identified.

1150 Jayhawk Blvd. • 245 Strong Hall • Lawrence, KS 66045-7535 • (785) 864-3276 • Fax (785) 864-4617

(0640980.4)

Main Campus, Lawrence • Medical Center, Kansas City and Wichita
Kansas Law Enforcement Training Center, Hutchinson

EXHIBIT 2

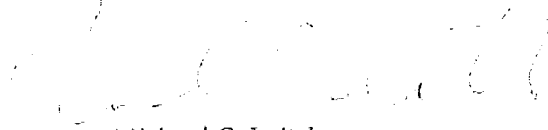
Curtis L. Tideman

December 2, 2014

Page 2

We understand that you may wish to challenge the University's decision to disclose the records that have been requested. While we have no desire to litigate against a KU faculty member or a KU student, we understand Dr. Hall's interest in seeking judicial resolution. Accordingly, and as you were previously told, we plan to produce the records on December 5, 2014 unless we are ordered by a court to do otherwise.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Michael C. Leitch", is written over a light blue horizontal line.

Michael C. Leitch

Associate General Counsel

MCL/trm

Position Description

DEPARTMENT: School of Business
TITLE: Director of Center for Applied Economics
FTE: 1.0
POSITION NUMBER: 00008152
SUPERVISOR: Associate Dean for Academic Affairs
LAST UPDATED: new
FLSA Status: Exempt

This position is responsible for directing and managing all aspects of the Center for Applied Economics. This position is a full-time position subject to annual review and based upon availability of funds from the Center. The Director reports to the Associate Dean for Academic Affairs.

Responsibilities:

1. Leadership:

- Develop and articulate a clear vision and mission for the Center through collaboration with key stakeholders (such as the School of Business, KTEC, and the Kansas Department of Commerce). Generally, the Center's mission is to support applied research and outreach activities that contribute to the understanding of the development of the local, state and regional economy, and serve as a resource center to effectively communicate this knowledge to policy makers and other stakeholders.
- Develop (and coordinate) programs that (1) are consistent with the Center's vision and mission and (2) leverage the Center's unique opportunities, relationships, and resources
- Meet regularly and consult with the Center's Faculty Advisory Committee to ensure the academic quality of the Center's research and outreach programs.
- Meet regularly and consult with the Center's Advisory Board. The Center's Advisory Board is composed of individuals representing stakeholders outside of the University.
- Develop and implement a talent recruitment strategy to maximize program effectiveness. Such strategies may include visiting scholar programs that help develop the Center's networks with researchers at other universities whose abilities and research agendas can help support the Center's mission.

2. Administrative:

- The Director is responsible for all of the Center's administrative tasks, including hiring and directing administrative assistants as needed or contracting with the School of Business for administrative support on a project-by-project basis.

- Ensure the financial stability of the Center by implementing and maintaining prudent fiscal management systems, and provide annual financial reports to the Dean of the School of Business and the Center's Advisory Board.
- Establish and manage the appropriate visibility of the Center (media, communications, outreach).

3. Fund Raising:

The Center for Applied Economics is 100% "self-funded." The Director is responsible for ensuring the financial viability and growth of the Center by building a fundraising network and implementing fundraising strategies. Fundraising includes obtaining funds for research projects from granting agencies, such stakeholders as KTEC and the Kansas Department of Commerce, and identifying and soliciting support from foundations and other potential donors.

4. Research:

The Director actively engages in the Center's scholarship through original applied research and working with other researchers to help ensure that the presentation of existing research is accessible and usable by policy makers and other constituents of the Center.

Required Qualifications:

- P.h.D. in Economics.
- Previous experience as an economist in a public or private enterprise.
- A successful record of research on the economics of public policy.
- Previous management experience in a non-profit research or policy institute, including experience in fundraising and working with advisory boards and other stakeholders in policy and strategy development.

EMPLOYEE _____ DATE _____

SUPERVISOR _____ DATE _____