

March 24, 2023

Filed Via Process Server, First Class U.S. Mail, and Certified U.S. Mail

Arizona Board of Regents

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Arizona Board of Regents

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NOTICE OF CLAIM

The University of Arizona sacrificed Professor Tom Meixner's life, repeatedly ignoring the clear and present danger of a hostile and dangerous student who openly advertised his intent to murder. Murad Dervish had a well-documented, lengthy history of violence and intimidation, a history the University chose to ignore. Many faculty members, including Dr. Meixner, pleaded over and over with all the "right" University departments for protection. Instead, in repeated acts and omissions of outrageous callousness and disregard, the University allowed the entirely foreseeable to unfold and occur: Dervish went to the University campus unimpeded and murdered Dr. Meixner, precisely as he promised he would.

The law firms of Zwillinger Wulkan and Kuykendall & Associates represent Dr. Meixner's bereaved widow, Kathleen, and Kathleen and Dr. Meixner's sons: Sean and Brendan. This notice is their notice of claim.

FACTUAL HISTORY

On October 5, 2022, Dervish walked onto the University of Arizona campus without being stopped or followed. At approximately 1:30 p.m., he entered the Harshbarger Building looking for several faculty members whom he had previously threatened, multiple times, to kill. He found Dr. Meixner and thereafter shot him in front of several witnesses. Dr. Meixner died. His last words were: "I knew you were going to do this!"

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Dr. Meixner's murder was not a random act of violence. The University knew Dervish planned to kill him and allowed it. Dr. Meixner's death was a direct consequence of the danger created by the University of Arizona's failure to appropriately respond to Dervish's repeated harassment, intimidation, and violent threats. Nearly a year before the murder, the University knew all about Dervish's violent criminal past, as well as his threats against students and faculty members. Despite this knowledge, the University demonstrated deliberate indifference to both the legal and University's administrative standards specifically designed to address the dangers posed by people like Dervish.

Dervish's harassment began in November of 2021. Dervish approached Dr. Meixner about a disputed grade, as Dr. Meixner served as head of the Hydrology and Atmospheric Sciences Department ("HAS"). Dr. Meixner suggested Dervish speak with his professor about the grade. Instead, Dervish began arguing so loudly everyone could hear him throughout the first floor of the building. The confrontation resulted in two HAS faculty members filing a Code of Conduct violation with the Dean of Students. Dervish retaliated by sending HAS faculty members racist and antisemitic emails. Faculty provided the University's Office of General Counsel and the Dean of Students all of these emails. Yet, the Office of General Counsel and Dean of Students did nothing besides communicate to Dervish what he already knew--that his actions violated the Student Code of Conduct. Multiple faculty members pleaded for more: that the University conduct a Risk Assessment on Dervish because of his behavior. Instead, the Dean of Students claimed, since Dervish failed to make *specific* threats of violence against himself or others, no Risk Assessment was needed.

Significantly, in January of 2022, the University of Arizona Police Department ("UAPD") learned of an Order of Protection against Dervish from his previous university, where he was dismissed, for harassing behavior. University of Arizona policy dictates that when the University learns of a student's prior criminal record, a thorough analysis be conducted to confirm the suitability of the student's placement at the University. The University failed to follow its own policy. Whether UAPD ever ran a full criminal background check on Dervish—and kept the results secret from Dr. Meixner and the other faculty and students Dervish threatened—is unknown. If UAPD had run the required background check, Dervish's extensive criminal record and incarceration for multiple instances of harassment, brandishing weapons, attacking his father with a crowbar, and attempting to kill his own mother would have become known.

On January 14, 2022, a HAS faculty member expressed fear to UAPD that Dervish would physically retaliate against department personnel. UAPD acknowledged the concern in a report but failed to follow up in any way with the faculty member. UAPD's report inaccurately, and with no basis whatsoever, concluded Dervish "was not an immediate threat." On January 18, 2022, the University placed Dervish on Interim Suspension barring him from engaging in university activities, including attending classes and accessing

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campus property, as well as contacting HAS faculty members. Yet, the University did absolutely nothing to enforce its interim suspension. Faculty repeatedly expressed written concern not only for their own safety, but for the safety of all students within the department. Instead of proactively doing *anything* about these legitimate safety concerns, the University did the opposite, warning faculty to not distribute any identifying information on Dervish for fear of violating *his* privacy rights. The University was far more concerned about defending a baseless defamation suit from Dervish than about the physical safety of its students, staff, and faculty. This defense-of-the-University-Administration-at-all-costs mindset is exemplified by its refusal to provide additional information to faculty so they could have an Order of Protection filed and served.

For the safety of Dr. Meixner and everyone else, HAS leadership requested the University to move all classes, within the department, online. The Office of General Counsel specifically told faculty members that safety concerns should *not* be cited as the justification to move courses online. Dr. Meixner and other faculty members again requested the University obtain an Order of Protection against Dervish. But the Office of General Counsel refused and advised them if they decided to seek such protection personally, to do so only after Dervish's expulsion.

On February 2, 2022, the University finally expelled Dervish. He was prohibited from being on campus and told he could be arrested for trespassing should he come to school. The University finally permitted the HAS department to circulate Dervish's photo and inform their students to contact the police if they saw Dervish on campus. On March 4, 2022, someone spotted Dervish on campus and called the police. But rather than act, UAPD did absolutely nothing. Consistent with UAPD's outrageous and consistent refusal to follow either its own policy or facts, the police report on the incident stated, "there is no active Exclusionary Order on file against Dervish, or injunctions against harassment."

Four days later, the University's Dean of Students issued a No Contact Order between Dervish and four HAS faculty members. Yet, Dervish persistently violated the Order without a single repercussion *for months*, continuing to send threatening and harassing emails to faculty members protected by the Order. Despite HAS faculty diligently providing these blatant violations of law to UAPD, and the rest of the University administrative apparatus, the University initiated no action of any kind against Dervish. Again, on March 14, 2022, students spotted Dervish on campus, duly reported the violation, and again UAPD and the Dean of Students failed to take any action, whatsoever. Later that month, a female undergraduate student submitted *five* police reports with UAPD, documenting Dervish's continued sexual harassment and stalking.

In April of 2022, a Dean of Students administrator filed a police report against Dervish for sending threatening emails. UAPD charged Dervish with two misdemeanors. The charges

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were later dismissed. When the charges were dismissed, UAPD had not sent Pima County the criminal reports against Dervish submitted by HAS faculty or the female student. Facing absolutely no consequences from his actions, Dervish was emboldened and continued to send even more threatening emails, including one to Dr. Meixner on May 28, 2022, which stated, “you are the most disgusting piece of shit I ever met, I hope somebody blows your fuckin head off.” Again, faculty forwarded these emails to UAPD, the Dean of Students, and the Office of General Counsel. And again, the University ignored Dervish’s violent threats. Dervish’s actions were not confined to just virtual communications. There are two instances of Dervish approaching Dr. Meixner, and other faculty members, in public, harassing them. All of these incidents were reported to UAPD, the Dean of Students, and the Office of General Counsel.

In August of 2022, the situation had escalated so much that an HAS Associate Department Head personally obtained a court ordered Injunction Against Harassment from Dervish. This Associate Department Head remained so concerned about Dervish that he emailed the University, urging UAPD, the Dean of Students, and the Office of General Counsel to consider Dervish a continuing threat. In response, UAPD claimed it intended to press criminal charges against Dervish, and on September 9, 2022, UAPD filed a criminal report to the Pima County Attorney’s Office. In stark contrast to reality, however, the UAPD’s report falsely stated they had not charged Dervish earlier because, “there was an administrative appeal process ... taking place and staff members wanted that process to resolve prior to taking legal action.” The report continued to falsely state, “there is no indication at this time that Dervish intends to return to campus.” The UAPD’s counterfactual report came after *multiple reported* sightings of Dervish on campus. Neither this criminal complaint nor the prior complaint sent in May were made with issuing appointments which would have indicated their urgency. Instead, they were sent in with a batch of other misdemeanor complaints. In fact, the September 9, 2022 charge was not even opened by the Pima County Attorney’s Office until after the murder of Dr. Meixner. While Dr. Meixner and his department lived with fear and anxiety, the UAPD was indifferent to a grave threat. Even now, the attitude of the UAPD is one of complacency and insensitivity to Dr. Meixner’s family, pouring salt in a very deep wound.

Dr. Meixner and his family believed the University had his best interests at heart and would affirmatively protect him from Dervish. Dervish’s homicidal intentions, capacities and history, as well as his utter disregard for the University’s unenforced sanctions, were so patently obvious that the University’s multiple failures to protect Dr. Meixner constitute an outrage. The University of Arizona failed to protect Dr. Meixner, other faculty, staff, and students from the violent harassment perpetrated by Dervish, violating its own policies and standards. The University ignored the outcry of students and faculty concerned over Dervish’s actions and refused to make the necessary accommodations for the department based on safety concerns. The University did not, and still does not, have a comprehensive system to monitor and evaluate such violence risks, despite a recognition that their current

internal communication channels are ineffective. In fact, multiple other claims against the University demonstrate internal indifference to these situations and a pattern of passing responsibility from one department to another like a hot potato, rather than acting in a way that protects the University community.

The University's failures not only affected Dr. Meixner, but also quite predictably his family: Kathleen, Sean, and Brendan. After Dr. Meixner's death, the Faculty Senate at the University passed a resolution calling on the University to allocate funds to pay for healthcare for Kathleen, Sean and Brendan. Yet, just two weeks after Dr. Meixner's murder, the University notified Kathleen she no longer had health insurance. The University Human Resources Department later helped Kathleen navigate the family's self-pay health insurance options, but this remains a stark example of the callous disregard the University has for the Meixner family. Statements issued by the University continue to demonstrate it cares far more for its financial bottom line than for the utter wreckage it has caused to the Meixner family. To date, Kathleen and her children have been provided no financial accommodation to meet healthcare costs. Additionally, the Meixners continue to suffer unimaginable emotional trauma from the sudden, violent murder of their husband and father.

CONCLUSION

The Arizona Board of Regents is tasked with oversight of all Arizona state universities. Its failure to ensure the University of Arizona was properly handling credible threats of violence resulted in the untimely death of Dr. Meixner and the subsequent emotional and financial hardships suffered by his widow and children. The Arizona Board of Regents is not only liable to our clients for the University of Arizona's failure to follow its own policies and procedures which contributed to Dr. Meixner's death, but is also vicariously liable for the actions and inactions of its employees.

Our clients' injuries arising from Dr. Meixner's death include the past, present, and future loss of the love, affection and companionship of Dr. Meixner. Each of these claimants loved and was loved by Dr. Meixner. And each has experienced a loss which is immeasurable.

A.R.S. § 12-821.01 requires a claimant to include in a notice of claim a specific dollar amount for which their claim can be settled. That amount is \$9,000,000. That amount is eminently reasonable and intended to result in an early resolution to this case so that all of the parties may move forward and put this matter behind them. If this offer is not accepted, and should our clients choose to make any future settlement offers, our clients' settlement expectations will increase given the additional and substantial attorneys' fees and expenses they will be forced to incur in pursuing this matter further.

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The University, including its own President, has stated it recognizes its failures and consequent responsibilities to the Meixner family. Paying this claim will certainly not fix the harm caused, but it will allow the Meixner family members to move forward with some level of security, and accountability from the University of Arizona which Dr. Meixner served and loved.

Sincerely,

ZWILLINGER WULKAN PLC

A handwritten signature in black ink, appearing to be 'LJW', with a long horizontal stroke extending to the right.

Larry J. Wulkan
For the Firm

KUYKENDALL & ASSOCIATES

A handwritten signature in blue ink, appearing to be 'GK', with a long horizontal stroke extending to the right.

Greg Kuykendall
For the Firm

