

IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT  
IN AND FOR POLK COUNTY, FLORIDA

JAMIE ANN NAUGHRIGHT,

Plaintiff,

vs.

Case No. 53-2002-CA-00-2228-0000-00

PEYTON MANNING, ARCHIE  
MANNING, JOHN WARREN  
UNDERWOOD, PEYDIRT, INC. and  
HARPERCOLLINS PUBLISHERS,  
INC.

Defendants.

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**FACTS OF THE CASE**

FILED IN OPPOSITION TO DEFENDANTS'

MOTION FOR SUMMARY JUDGMENT

MAY, 2001

"DR. VULGAR MOUTH WHITED"

On May 16, 2001, Dr. Jamie Naughtright (formerly Dr. Jamie Whited<sup>1</sup>), returned to her office at Florida Southern College in Lakeland, Florida. Dr. Naughtright, an Assistant Professor of Athletic Training and Director of the Athletic Training Educational Program at Florida Southern College, had

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<sup>1</sup>Naughtright is her maiden name. Whited was her married name and the name she used during the nine years she was married. [Tab 22 - Naughtright Depo. Vol. I at pgs. 8-16] Except in cases where a document, affidavit, or transcript is being quoted, she will be referred to in this pleading as Dr. Naughtright.

just returned from a trip to South Africa with several of her Florida Southern College students. The purpose of the trip was to allow those students to learn Emergency Medical Treatment and first aid skills in an African country. [Tab 2 - Benn Depo at pg. 16<sup>2</sup>]

As Dr. Naughtright and her mother, who volunteered from time to time at Florida Southern College [Tab 2 - Benn Depo at 117], approached the door to Dr. Naughtright's office, Dr. Naughtright noticed that an envelope, addressed to "Dr. Vulgar Mouth Whited" [Exhibit 100<sup>3</sup>], had been placed in a receptacle on her door [Tab 24 - Naughtright Depo. Vol III at pg. 76]. The envelope contained what appeared to her to be excerpts from some type of publication. As Dr. Naughtright would learn later that same day, the excerpts in the envelope were from a book titled *Manning*, written by Peyton Manning, Archie Manning, and John Underwood [Exhibits 91-93]. These excerpts had been mailed to her office at Florida Southern College and had been opened and read by her supervisor, Kathleen Benn [Tab 2 - Benn Depo at 24].

Prior to May of 2001, Dr. Naughtright had been a highly respected professor and program director at Florida Southern College [Exhibits 329-330, 404]. As just one of her many excellent evaluations read:

Dr. Jamic Naughtright-Whited: Dr. Whited continues to be a hard working leader of the Athletic Training Program. Her attention to details and effective writing skills contributed to our recent acceptance of the self-study and our April NATA site visit. Her work ethic makes her an excellent role model for the athletic training students. The activity report shows her commitment to Florida Southern College, her profession and the Physical Education

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<sup>2</sup>Deposition citations are to the two volume set of depositions provided to Judge Kornstein and which are condensed copies of those filed with the Clerk.

<sup>3</sup>A binder containing Exhibits cited by Plaintiff has also been furnished to Judge Kornstein.

Department. Her student evaluations and her advising are excellent. Jamie will continue to represent the college nationally by being active on several NATA committees. She also continues to be very active in the FSC recruiting process as a tireless worker at all Day On-Campus events. I know if I need anything done Jamie will not only do what I ask but will go above and beyond my request to enhance the Physical Education programs. I strongly recommend Dr. Jamie Whited for a exemplary salary increase. [Exhibit 404 - Memo dated 02/13/01 from Kathleen M. Benn]

This evaluation, recommending Dr. Naughtright for the highest salary increase in the Florida Southern College promotion system, exemplary, was written only weeks before the receipt of the "Dr. Vulgar Mouth Whited" communication in May [Tab 7 - Conner Depo Vol. II at 235]. The evaluation reflected the fact that in just a little over two (2) years, Dr. Naughtright's total annual compensation at Florida Southern had increased almost twenty thousand dollars to \$63,022.85 [Exhibits 67 & 78; Tab 23 - Naughtright Depo. Vol. II at pgs. 222-232] By the end of that same year, **only one semester hence**, Dr. Naughtright would go from being described in evaluations with words or phrases such as "hard working", "work ethic is beyond reproach", "outstanding", "excellent", "excellent leader", "tireless", "above and beyond", "teaching is strong", "dedicated advisor to students", "conscientious advisor", "student evaluations...are excellent", "leadership...has been superior", "asset to our campus", and "exemplary" [Exhibits 329-330, 404 & 449-450] to "difficult", "demanding", "ego-centric", "combative", "defensive", "retaliatory", "aggressive", "ambitious", "manipulative", "hostile", "obsessed", "vindictive", "complete power trip", "confrontational", "erratic" and "altered perception of reality" [Exhibits 362, 417 & 420] As noted by one faculty member, "[T]his is a real change from before." [Exhibit 417] Another noted "last April or May" as "TURNING POINT." [Exhibit 420]

Although she did not know it at the time, the receipt of the letter addressed to Dr. Vulgar Mouth Whited in May was in fact a "turning point" for Dr. Naughtright and was to change her life completely and culminate with Florida Southern College demoting her and removing her as Program Director. This fall from grace at Florida Southern College in such a short period of time can only be logically attributed to one thing, the book *Manning*, the effect it would have emotionally on Dr. Naughtright, and the effect it would have on the staff, administration, faculty, and students at Florida Southern College.

### 1986 - THE UNIVERSITY OF TENNESSEE

The excerpts from the book *Manning* referred to an earlier period in Dr. Naughtright's life when she was a student and employee of the University of Tennessee in Knoxville, Tennessee. Dr. Naughtright entered the University of Tennessee as a freshman in 1986 [Exhibit 3]. She was from a working class family in New Jersey and the first member of her family to attend college. As an incoming freshman at the University of Tennessee, Dr. Naughtright was employed as a work-studies student and was assigned initially to the Intramural Recreation Department [Tab 22 - Naughtright Depo. Vol. 1 at pgs. 79-80]. Subsequently, she worked with the Lady Vols, the female athletes at the University. In 1989, Dr. Naughtright transferred to Men's Athletics, where she stayed for almost another ten (10) years, ultimately becoming the first female Associate Trainer in University of Tennessee history [Exhibits 3, 219 & 221] and the Director of Health and Wellness.<sup>4</sup> During this time she managed to earn a B.S. degree in Exercise Physiology with a minor in Coaching, a Masters

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<sup>4</sup>Contrary to assertions at pg. 10 in Defendants' Motion that she awarded herself the Health and Wellness title, University of Tennessee documents, some even signed by those who would now deny her the title, clearly show that she was in fact the Director of Health and Wellness. [Exhibits 123, 120-121; Tab 27 - Rollo Depo. at pg. 157]

Degree in Health Education and Promotion and ultimately, a Doctor of Education degree. [Exhibit 3]

### THE LADY VOLS & MEN'S ATHLETICS

After transferring from the Lady Vols to Men's Athletics at the University of Tennessee, Dr. Naughtright was immediately saddled by her boss, Associate Trainer Mike Rollo, with the name "Cunt Bumper", referring to perceived lesbian activity at the Lady Vols or, as more commonly referred to by Mr. Rollo, the "Lady Lickers." [Tab 22 - Naughtright Depo. Vol. I at pgs. 144-146; Tab 23 - Naughtright Depo. Vol II at pg. 51; Tab 28 - Rudolph Depo. at pgs. 114, 170-171] Exhibit 229, a summary of a University of Tennessee interview with Mike Rollo, refers to this episode:

Ms. Whited was called "Bumper," or some slightly different version of the term, "from the time she walked in the door in 1989." While the name "Bumper" may have been attributed to Mr. Rollo, Mr. Kerin and the rest of the staff had a hand in the development of the nickname. (Mr. Rollo does have a tendency to give nicknames to people, though he does not focus on sexual connotations or references.) Mr. Rollo took the lead in abbreviating a longer name – "Cunt Bumper," which Mr. Rollo did not coin or use since he felt that it was inappropriate and related to lesbian activity – to "Bumper," the latter of which was widely felt by the staff to refer to the fact that Ms. Whited is large-chested. Most of the staff, with the possible exception of some student trainers, called Ms. Whited "Bumper" until she complained in 1992. Mr. Rollo was never aware, until she complained in the Fall of 1992, that the nickname "Bumper" offended Ms. Whited." [Exhibit 229 at pgs. 15-16]

As testified to by Dr. Naughtright on deposition:

- A. He [Mike Rollo] called me Cunt Bumper because I used to work over at the Lady Vols and he felt that he referenced it to lesbian activity because that's what lesbians did according to him. They didn't have penises where they could penetrate. He just said they bumped together as in the physical activity.

Q. I see. You understood that from a comment that Mr. Rollo was making that he was accusing you of being homosexual; would that be fair?

A. Yes.

Q. Okay. Did you interpret the comment in any way referring to any specific part of your anatomy?

A. No. At that time it was quite clear because he was always referencing back to the Lady Vols. And when I went to complain about him calling me the word Cunt Bumper, he said if you don't like it here, you can go back across the street to the Lady Lickers. So for a significant period of time it was only in reference to that as far as in the Lady Vols.

Q. And when do you recall that Mr. Rollo initially made that comment to you?

A. Within the first week of employment there as a student.

Q. As a student. That would have been 1989 some time in there?

A. The fall of '89.

Q. Did you ever hear Mr. Rollo make that comment after that time?

A. Yes.

Q. Approximately how many times did he make that comment?

A. It went on for approximately two years. The full name of Cunt Bumper he called me that the full name. [Tab 22 - Naughtright Depo. Vol. I at pgs.144-145]

At the time Dr. Naughtright started working, as a student, for the Men's Athletic Department at the University of Tennessee, in 1989, she was approximately twenty (20) years old. Not only did her boss immediately label her with the indecently obscene appellation "Cunt Bumper", but he

further informed her that she better get used to working around vulgarities because it was a way of life in Men's Athletics at Tennessee:

- A. One of the concerns when they hired me as being one of the first women, female, in the athletics department for men. They told me I was going to have to develop a tolerance of profanity and vulgar mouth from not just the student athletes, but also the coaches and that was part of the atmosphere. And if I could not tolerate it, then I needed not to work there.
- Q. Who told you that?
- A. I was told that by Mike Rollo. (Tab 22- Naughtright Depo. Vol. I at pg. 139)

Despite being told by her supervisor that she would be called "Cunt Bumper" and would be required to listen to constant vulgarities, Dr. Naughtright was determined to persevere and make a difference at the University of Tennessee. As she testified on deposition:

- Q. Yes. Did you say anything at all in response to Mr. Rollo when he told you that in order to continue working in the job you should be expected to hear a great deal of profanities both by the students and fellow workers?
- A. My response to that was that I thought we could minimize their use of profanity and vulgar language by developing policies and procedures. And also from a standpoint that while the coaches felt that we should not change the natural or normal conversation of a student athlete or the motivational use of profanity on the field, as in during football practice, that it was an understanding that there was going to have to be some tolerance of hearing profanity in that work setting.
- Q. And you accepted that condition to continue to work; is that

correct?

A. Yes. [Tab 22 - Naughtright Depo. Vol. I at pgs. 140-141]

Mike Rollo didn't shorten "Cunt Bumper" to "Bumper" out of the goodness of his heart. He did so after Dr. Naughtright complained and he was ordered to do so by his superiors. [Exhibit 229; Exhibit 138 attached to Metcalf Affidavit] After Mike Rollo and others ceased calling Dr. Naughtright "Cunt Bumper" and shortened the moniker to just "Bumper", they developed other explanations for its meaning. At times they would use "Bumper" in the context of her breasts being large and at other times they would use "Bumper" to allege that she was promiscuous, as in "Bumper-Pumper," a not so subtle reference to pumping as in f---ing. And sometimes they would still relate "Bumper" back to the Lady Vols as a reference to lesbian athletes or coaches. [Tab 23 - Naughtright Depo. Vol. II at pg. 125; Tab 4 - Benson Depo. at pgs. 38-41; Tab 5 - Click Depo. at pg. 100; Tab 11 - Fulmer Depo. at pg. 157; Affidavit of Rodney Riddick ; Tab 33 - Wyant Depo Vol. II at pgs. 20-21; Exhibit 229 at pg. 15] In fact, "Bumper", as a reference to lesbian athletes and coaches in the Lady Vols, outlasted Dr. Naughtright at the University of Tennessee. In what may have been the University's parting shot at Dr. Naughtright, the University of Tennessee marketed the 1997-1998 Lady Vols basketball team with the slogan "Raising Another Bumper Crop!" [Exhibits 97 & 230; Tab 24 - Naughtright Depo. Vol. III at pgs. 113-114] One wonders how many parents of the female student-athletes at the University of Tennessee are aware of the derivation of the word "Bumper" in relation to their daughters.



## PERSEVERANCE

Despite the environment in which she was working, Dr. Naughtright attempted to make a difference.<sup>5</sup> She rewrote policies to prohibit “foul or vulgar language and horseplay” in the training room [Exhibit 168, Tab. 22 - Naughtright Depo. Vol I at pg. 141; Tab 27 - Rollo Depo at pg. 165] She wrote other policies prohibiting “foul or vulgar language” by the Spirit Team (male cheerleaders) [Exhibit 169; Tab 22 - Naughtright Depo. Vol.I at pg. 141] She constantly counseled students and conducted classes for football players on the use of correct language in describing body parts. [Exhibit 148; Tab 22 - Naughtright Depo. Vol. I at pgs. 137-139] She even wrote a memo to University of Tennessee coach Doug Brown regarding a student-athlete’s use of profanity in the training room [Exhibit 119; Tab 22 - Naughtright Depo. Vol. I at pg. 141]. It is therefore quite ironic that Peyton Manning would, several years hence, falsely label Dr. Naughtright with having a “vulgar mouth” when it was she that worked the hardest to temper the vulgar environment of Men’s Athletics at the University of Tennessee. But, as we will see, Peyton Manning had his own motives for defaming Dr. Naughtright. Because of two separate events, one occurring in November of 1994 and the other in February of 1996, Peyton Manning would need to discredit Dr. Naughtright to salvage his own reputation.

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<sup>5</sup>Whether Dr. Naughtright did or did not is questionable. Even in 1997, when she left, the University office of Equity and Diversity felt that the word “Cunt Bumper” was not sexual harassment but was “misappropriate.” (sic) [Tab 28 - Rudolph Depo. at pg. 170] If calling a young woman “Cunt Bumper” for two years is not sexual harassment and only misappropriate, it would be interesting to know what conduct the University of Tennessee considers to be sexual harassment.

### PEYTON MANNING COMES TO TENNESSEE

In the fall of 1994, Peyton Manning entered the University of Tennessee as a freshman student-athlete.

### PEYTON MANNING'S MOTIVE & MALICE

In the fall of 1994, an incident occurred involving Peyton Manning which will not only explain the genesis for Peyton Manning's dislike for Dr. Naughtright but will be relevant to understanding the 1996 incident Peyton Manning writes about in the book *Manning*.

Counsel for Peyton Manning has requested that certain exhibits and deposition testimony relating to this 1994 incident be designated as part of the "confidential record" and not be publicly revealed<sup>6</sup>. [Tab 9 - Dickey Depo. at pg. 77] Therefore, the remainder of this section will be filed under seal.

Start of section filed under seal:

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<sup>6</sup>Even though Manning's counsel does not have the right to designate Plaintiff's testimony or documents produced by Plaintiff as part of a "confidential record", Plaintiff's counsel, as a courtesy, will comply with his request for the present time. However, by so doing, neither Plaintiff nor Plaintiff's counsel is in any way agreeing that Plaintiff's testimony or her documents are confidential and not subject to public disclosure. Plaintiff and Plaintiff's counsel reserve the right, even though the exhibits have been filed under seal, to continue to use those documents with pertinent witnesses in this case.







END OF SECTION FILED UNDER SEAL

**FEBRUARY 29, 1996 -THE SECOND MANNING INCIDENT**

Peyton Manning's animosity towards Dr. Naughtright, born out of the 1994 incident, would physically manifest itself on the evening of February 29, 1996. While evaluating Peyton Manning in the training room at the University of Tennessee, Peyton Manning intentionally and in order to disrespect Dr. Naughtright, placed his "...naked butt and rectum..." on her face. [Tab 22 - Naughtright Depo Vol. I at pg. 183]. As she testified it in her deposition:

- Q. Let me be very clear there. It was not just his behind, his rear end, that was on your face, but his genitalia was on your face?
- A. That's correct. It was the gluteus maximus, the rectum, the

testicles, and the area in between the testicles. And all that was on my face when I pushed him up and off. And it was like this and as I pushed him up to get leverage, I took my head out to push him up and off.

Q. And what, if anything, did Mr. Manning – withdrawn. Did you say anything or scream or screech as you felt this on the top of your head?

A. I pushed him off me and I said, “You’re an ass.”

Q. Did you yell or scream or anything like that?

A. When he turned around and looked at me with the anger in his eyes that I saw, I did not want to get confrontational with him. I could see that anger and when I looked at Mr. Saxon he was just shocked. He had his mouth wide open and he was in shock. In disbelief.

Q. What did Mr. Manning say, if anything, to you after you told him he was an ass?

A. He had anger and he smirked and he laughed. [Tab 22 - Naughtright Depo. Vol. 1 at pgs. 186-187]

After Mike Rollo became aware of what had occurred between the University’s star athlete and Dr. Naughtright, he undertook to “fix it”. [Exhibit 229 at pg. 7] The way he “fixed it” was to help Peyton Manning hatch a story that Manning was “mooning” another athlete, Malcolm Saxon, and that Dr. Naughtright had just happened to accidentally see the “moon.” Rollo’s fix would be the genesis of the false story that Peyton Manning gave University investigators, the media, and which he would later falsely tell in his book, *Manning*.

As stated by Mr. Rollo on deposition:

Q. All right. Is it fair to say that in February of 1996 you would not have thought that Jamie would have been upset by a mere mooning, correct?

- A. That's what struck me as so bizarre about the whole situation, that she was distraught, she was upset, and it seemed unusual. And I think I've described it in here as an incredibly awkward or unusual occurrence. And I have no explanations for it.
- Q. And is it fair to say that at no time ever has Jamie Whited ever referred to this incident as a mooning?
- A. No, unfortunately, I think that tagging is with me.
- Q. In other words, you were the first person to characterize it as a mooning; is that correct?
- A. Unfortunately.
- Q. Why do you say unfortunately?
- A. Well, I have been the person who has been prescribed to a number of terms, whether its mooning or bumper<sup>9</sup> or different things. And I just have a habit of getting myself into those situations, in terms of being the source of terms. [Tab 27 - Rollo Depo. at pgs. 192-193]

Not even Peyton Manning called it a "mooning" initially. In fact, when first confronted by Mike Rollo on the night of the incident, Manning was not forthcoming [Tab 27 -Rollo Depo at pg. 72] and even denied that anything had occurred between him and Dr. Naughtright [see Affidavit of Peyton Manning filed by Defendants; Exhibit 229 at pg. 7] However, once Mike Rollo suggested calling Manning's assault a "mooning", Peyton Manning adopted that term with a vengeance. Manning told a local Knoxville sportswriter, Jimmy Hyams, "I was clowning around in the training room with a good friend (Malcolm Saxon) and **she happened to see it**". [Exhibit 21; emphasis added] He even told Jimmy Hyams that he "...didn't think Whited would care" because "...she

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<sup>9</sup>It's not hard to understand why Mr. Rollo would have been embarrassed or defensive about being the root source of the grossly indecent term of "Cunt Bumper."



could take a joke.” [Exhibit 184 & 455] Manning had a lot of trouble keeping his stories straight. Sometimes he would claim it was an accident she saw him “moon” Malcolm Saxon. [Exhibits 21 & 22; Exhibit A to Underwood Affidavit] On other occasions he would lapse into his “I can do anything to her because she’s trash” mode. As Jimmy Hyams, to whom Peyton Manning granted an interview, later described Manning’s story: “Whited was perceived by many as ‘one of the guys.’ She cursed. She told dirty jokes. She talked ‘gutter’ talk. Manning thought it would be extra funny if he mooned Saxon behind Whited’s back.” [Exhibits 184 & 455] A newspaper even reported that Manning had bragged that his brother, Cooper, was “really proud of me” [Exhibit Z to Metcalf Affidavit] and Manning even joked about what he had done, stating “I’m glad it’s all behind me, no pun intended.” [Exhibit 184 at pg. 141].

To Dr. Naughtright it has never been a joke. It wasn’t a joke the night of February 29, 1996. It wasn’t a joke in May, 2001, when she saw the “mooning” and “vulgar mouth” comments in the book *Manning* which held her up to ridicule as an athletic trainer. It wasn’t a joke when she saw herself portrayed in the book as someone so uncommonly sensitive as to file a “lawsuit” against the University of Tennessee because, in part, she saw Peyton Manning’s bare buttocks in a training room. Peyton Manning’s version, as spoon-fed him by Mike Rollo has always been a fabrication. There was no “moon” that night in Knoxville within the Tim Kerin Training Room, whether shining on Malcolm Saxon or shining on Dr. Naughtright. It was much more. It was exactly what Dr. Naughtright called it the night of February 29, 1996. It was a sexual assault. [Tab 23 - Naughtright Depo. Vol. II at pgs. 37; Tab 22 - Naughtright Depo. Vol. I at pg. 218; Exhibits 10-12] It was Peyton Manning committing a disgusting act and showing his contempt for someone he did not like. Contrary to the statement in Defendants’ Motion For Summary Judgment that Dr. Naughtright has,

"for the very first time", alleged that Peyton Manning's conduct was more than a mooning [pg. 24 of Defendants' Motion], Dr. Naughtright has always consistently stated that Manning's acts constituted a sexual assault. Within hours after the incident, she reported Manning's sexual assault to the Sexual Assault Crisis Center in Knoxville. [Exhibits 10-12] Before Mike Rollo set out to "fix it", he recognized the seriousness of what he was being told because he warned Dr. Naughtright not to call the police. [Tab 4 - Benson Depo. at pg. 55; Tab 22 - Naughtright Depo. Vol. I at pgs. 217-219] In Doug Dickey's statement to the University, he quotes Dr. Naughtright as saying to him, "[D]o you know that on February 29, I was sexually assaulted by Peyton Manning?" [Exhibit 107] In a May 28, 1996 memo from Dr. Naughtright to the President of the University, she refers to her complaint about the "sexual assault" and refers to Manning's act as a "crime." [Exhibit 30] As stated by Dr. Naughtright in that memo:

This entire matter might prompt any reasonable person to question whether the "punishment fits the crime." In order to do so, one would have to define what the crime was. In this case, there were several crimes. The first crime was the behavior which took place in the training room on February 29, 1996. [Exhibit 30]

Unfortunately, the University of Tennessee didn't want their star player embroiled in a sexual assault scandal. At one point, they even asked Dr. Naughtright to blame her leave of absence after the Manning incident on another player:

- A. They were asking me to say that, in fact, it was a certain athlete, which they gave me a name, and asked me to change and alter my story to say that this athlete exposed himself and that is the reason why I took medical leave.
- Q. I'm sorry. Are you telling me that Mr. Wyant and Mr. Rollo asked you to lie and say that, in fact, the incident on February 29<sup>th</sup> occurred with someone other than Mr. Manning?

MR. PUTERBAUGH: That is a mischaracterization of what she said. I object to the form of the question.

MR. METCALF: That's why I'm asking the question.

Q. You can answer the question.

A. What I'm saying is they asked me to go with the story that it was – the reason why I left was because of another athlete, who was African American, exposed himself and said something. They wanted to have me say that was the reason and not the reason of what Mr. Manning did when he assaulted me.

Q. Did a particular African American athlete expose himself to you at any time?

A. Not that I recall.

Q. So they're asking you to make up a story?

A. Yes. [Tab 23 - Naughtright Depo. Vol. II at pgs. 55-56]

Malcolm Saxon, the student-athlete who witnessed the incident the night of the 29<sup>th</sup>, has executed an Affidavit which clearly refutes Peyton Manning's version of the incident [Exhibit 325]. Additionally, at his deposition in this case, Peyton Manning revealed that after this lawsuit was filed, Malcolm Saxon wrote him a personal letter [Tab 20 - Peyton Manning Depo. Vol. I at 215]. Although Manning testified that he didn't even read the letter [Tab 20 - Peyton Manning Depo. Vol. I at pg. 215], the Mannings have now produced the letter from Malcolm Saxon [Tab A to Exhibit Binder]. The sincerity of Malcolm Saxon's letter says volumes about the truthfulness of Peyton Manning's version which he placed in his book:

December 10, 2002

Dear Peyton:

Well our paths have crossed again!! It has been about 6 ½ years since we visited last, so I thought I would touch base with you and let you know where I am coming from. My hope in writing this letter is to ameliorate the situation. It has gotten out of hand on both sides; it has become very tiring.

First, I have stuck to my same story throughout this drama. I told Mike Rollo the next day and Coach Fulmer<sup>10</sup> a week or two afterwards. I had nothing to hide at that point, and I have nothing to hide today. I have never been on Jamie's side or your side (contrary to what the athletic department was telling you and telling her). I stuck to the truth, and I lost my eligibility for it. My red-shirt request sat on Mike Rollo's desk for months, as the process (lawsuit) was going forward. I am not angry about it anymore, just getting a little tired of it!!

Peyton, you messed up. I still don't know why you dropped your drawers. Maybe it was a mistake, maybe not. But it was definitely inappropriate. Please take some personal responsibility here and own up to what you did (and for what was said in the book!) Jamie is a great trainer; help her restore her credibility. Only you can do that. I never understood why you didn't admit to it; you would have endeared yourself to your fans that thought/think highly of you. Don't get me wrong, I don't believe that a lawsuit for millions of dollars is the right way to go about it (for Jamie). I told her that, and her lawyer as well. Coming clean is the right thing to do!! Bro, you have tons of class, but you have shown no mercy or grace to this lady who was on her knees seeing if you had a stress fracture. It's not too late. She has had a tough go of it since leaving UT. You might say that she asked for it, but she was minding her own business when your book came out.

Peyton, the way I see it, at this point you are going to take a hit either way; if you settle out of court or if it goes to court. You might as well maintain some dignity and admit to what happened. It's going to help you out in the long run as well. Your celebrity doesn't mean that you can treat folks this way. Peyton, people will have more respect for you when you (sic) they know more about you - good and bad. Do the right thing here!!

Sincerely,

Malcolm Saxon

[Tab A to Exhibit Binder]

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<sup>10</sup>In his deposition, Fulmer denied ever talking to Malcolm Saxon about the incident [Tab 11 - Fulmer Depo. at pg. 134]

## REENACTMENT & TAUNTING

The extent and depth of Peyton Manning's malice toward Dr. Naughtright would be manifested by his conduct directed at her after February 29, 1996. On two separate occasions Manning taunted Dr. Naughtright by reenacting his conduct of February 29<sup>th</sup>. The first of these occasions is described by Dr. Naughtright in her deposition:

- A. An athlete was laying on the bench. I don't remember exactly what he was doing, but he was laying on the bench. Mr. Manning looked at me. The athlete was behind me. He pulled his pants down and sat on the athlete's face. [Tab 22 - Naughtright Depo. Vol. I at pg. 208]

The second reenactment is also described by Dr. Naughtright:

- A. As I was walking towards Mr. Manning heading toward the weight room and he was coming in, he saw me and look at me and he walked over to some non-scholarship athletes. That are athletes walking on the team. They're part of the roster and they go to the bowl game, but they're not considered part of the scholarship team. There were a couple of them. I remember one of them was over there and he was doing sit ups. Mr. Manning saw me, walked over to the gentlemen, pulled his pants down, and sat in the gentlemen's face while looking at me, pulled his pants back up, looked at me, and headed off to the locker room. [Tab 22 - Naughtright Depo. Vol. I at pg. 196].

Another post-February 29<sup>th</sup> incident would further evidence and support the level of malice that Peyton Manning held toward Dr. Naughtright. During a random drug testing being conducted by Dr. Naughtright and University personnel, Dr. Naughtright handed a Sharpie permanent marker to Manning so he could sign and date the specimen. Dr. Naughtright describes what occurred next:

- A. When I reached down to grab the pen to be able to hand it to

the next athlete next to him to sign it and do the same thing to him, Mr. Manning snatched the pen out from underneath my hand and picked it up and threw it across the training room and it slid underneath some equipment in the far end of the room. [Tab 22 - Naughtright Depo, Vol. I at pgs. 204-205]

Manning then:

- A. As he was picking up his stuff, he said she is such a bitch. He went like that. I looked at him and I look at the drug testers and I proceeded with the drug testing. [Tab 22 - Naughtright Depo. Vol. I at pg. 206]

### FAILURE TO WIN THE HEISMAN TROPHY

Actually, Peyton Manning's conduct the night of February 29, 1996, would later provide him with another reason to dislike Dr. Naughtright and provide him with an additional motive to trash her in his book. In 1997, when Peyton Manning was the leading candidate for the Heisman Trophy, an award annually presented to the best college football player in the country, a campaign was begun, totally unknown to Dr. Naughtright at that time, to encourage persons to contact sportswriters voting for the Heisman winner and lobby against Manning because of his conduct on the night of the 29<sup>th</sup> of February. As one e-mail stated:

Part of the hostile environment claim involved star quarterback Peyton Manning. His original story was that he mooned a fellow player and the woman trainer saw it because she was across the room and he did not realize that she was even in the room. When UT settled the case the truth came out...Peyton Manning exposed himself while he was standing in front of the trainer and she was actually working on his ankle. This is just a sample of the harassment she faced which was throughout the program. Now Peyton Manning is a top contender, if not in the lead, to receive the Heisman Trophy, a top football award (if not the top college award). Should this award go to an active participant in the sexual discrimination & sexual

harassment? Should this award go to someone who lied about the facts and what he really did to perpetuate the harassment and discrimination? The New York City downtown Athletic Club which gives out this annual award believes the award deals with performance only & that character issues & off field behavior has nothing to do with the award. If you feel differently, or at least believe Manning should publicly come out against sex discrimination & sexual harassment, help send the message that sexual harassment will not be tolerated & and it does have consequences!! Sportswriters from across the country vote on who should win the award. Write your local sports writers and let them know that Peyton Manning is an inappropriate recipient...that sexual harassers should not be awarded (the equivalent of promoted if he was in the workforce instead of college football). Time is of the essence!! The award ceremony is the first week of December. Voting is taking place. Send the word that sex discrimination is unacceptable & those who participate in this behavior will not be rewarded. [Exhibit 202]

This campaign caused a stir at the University of Tennessee and their Associate General Counsel wrote the Manning family lawyer, Frank Croswaithe, regarding the matter, copying Tennessee Athletic Director Douglas A. Dickey and two other University of Tennessee lawyers [Exhibits 203-205]. Peyton Manning did not win the Heisman Trophy and his failure to win and the bitterness over that loss is evident in his book *Manning*. [Exhibit A to the Goff Affidavit filed by Defendants at pgs. 265-267]. Peyton Manning also testified at deposition regarding an incident he had placed in his book, *Manning*, regarding a confrontation with his father over his Heisman candidacy:

- A. No. We had an argument on one particular night I remember, right a couple of days before, when I just had a feeling that I just wasn't going to win. We watched a Sports Center report saying that I was the favorite and that I was going to win. He said something like, "You see." I just said, "I'm not going to win." It was kind of a - I didn't think I was going to win and he did, and obviously I didn't.
- Q. In fact, isn't it true that you told him "I'm not going to win the fucking trophy, read the papers, it's going to Woodson"?

A. Yes. [Tab 20 - Peyton Manning Depo. Vol. I at pgs. 108-109]

Dr. Naughtright became aware of the rumors that the February 29<sup>th</sup> incident had caused Peyton Manning to lose the Heisman. As testified to by Dr. Naughtright in her deposition in this case:

Q. Well, what was that conversation?

A. It was in reference to Peyton Manning. When I interviewed Sue Stanley-Green who had worked previously at an SEC school, when she came on board, she seemed to have a lot of questions about the University of Tennessee and what had happened. She wanted to know what she called, "the inside scoop" and she was talking about the Heisman trophy. And she said she heard through radio talk shows and other people about Mr. Manning losing the Heisman trophy. And she asked me did that have anything to do with your incident with him and my response to that was that I had heard as well on radio talk shows and in the media and it was my understanding that the Mannings believed or blamed me or some of the media for Mr. Manning losing the Heisman. I didn't think that was the case. [Tab 24 - Naughtright Depo. Vol. III at pg. 89]

Nevertheless, between the 1994 incident, the February 29, 1996 incident, and the loss of the Heisman Trophy, the only logical conclusion one could draw is that Peyton Manning and the Manning family certainly had what they would have perceived as sufficient malice against Dr. Naughtright to intentionally defame her in their book. As Archie Manning clearly stated to ghostwriter John Underwood, "...he didn't really like this girl." [Exhibit 180]

#### CHARLOTTESVILLE, VIRGINIA

In that very book, which the Mannings would write four years hence, Peyton Manning attempted to portray himself as the benign victim of Dr. Naughtright. In doing so he references a trip to



Charlottesville, Virginia, which will ultimately reveal Peyton Manning as an egregious prevaricator who manufacturers testimony to suit his own purposes and cover up his libelous conduct. Manning would write:

I certainly didn't dislike her.<sup>11</sup> I thought she had a vulgar mouth, but I always tried to be nice. A couple times I went out of my way to help her, once giving a talk to a group at her invitation, another time when I was at the University of Virginia visiting Ashley and she was there with some young athletes who needed to be escorted to a party. I agreed to do it for her. [Exhibit A to Goff Affidavit filed by Defendants at pg. 272]

In his deposition taken in this case, Peyton Manning attempted to use the Charlottesville trip as a multi-purpose defense of his "vulgar mouth" accusation. When pressed on deposition, Manning could relate only one single incident when he remembered an exact time and place and the exact words spoken by Dr. Naughtright which he considered "vulgar." [Tab 21 - Peyton Manning Depo. Vol. II at pgs. 56-64] As related by Peyton Manning, that incident occurred in Charlottesville, Virginia, when he agreed to "escort" some "young" athletes to a party. [Tab 21 - Peyton Manning Depo. Vol. II at pgs. 66 & 72] Manning's totally implausible and provably false version of the event can be succinctly stated as follows: In asking Peyton Manning to take these "young" athletes off her hands, Dr. Naughtright said to Peyton Manning, in the presence of the "young" athletes, "[T]hese mother fuckers are yours. Get them off my fucking hands for a little while." [Tab 21 - Peyton Manning Depo. Vol. II at pgs. 64-65] Thus, not only does Peyton Manning establish himself as the all-American football hero doing a favor for Dr. Naughtright by "escorting" these "young" men to a party, he also seeks, on deposition, to establish a defense to this law suit. Unfortunately for Mr.

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<sup>11</sup>That's not what he told his father. See Exhibits 180 & 183.

Manning, his tale is inherently implausible plus there were witnesses present who have now come forth and basically stated that it just didn't happen.

During the fall of 1995, four (4) student-athletes from the University of Tennessee were selected to attend the NCAA APPLE Conference in Charlottesville, Virginia, which was to be held over a weekend in January of 1996 [Exhibit 251] The purpose of the conference was to evaluate and construct drug educational and testing programs. [Exhibit 251] The four student athletes chosen to attend included Eric Lane, a senior fullback on the University of Tennessee football team [Tab 18 - Lane Depo. at pg. 25 of] and a teammate of then sophomore Peyton Manning. [Tab 21 - Peyton Manning Depo. Vol. II at 73] Scott Pfeiffer, a tight end, and Tyrone Hines, a linebacker, both juniors and football teammates of Manning, were also chosen to attend. [Tab 21 - Peyton Manning Depo. Vol. II at pgs. 73-75 & 82-84; Exhibit 251] The fourth student-athlete attending was another junior at the University of Tennessee, Geno Devane. [Exhibit 251 & Devane Affidavit] These athletes, who Peyton Manning portrays in his book as "young" were all older than he was, and were either juniors or seniors at the University of Tennessee in comparison to his status as a sophomore. Additionally, three (3) were his teammates on the football team and the fourth was a track and field athlete. Also attending the Conference were Jill Griffin, the Director of the Metropolitan Drug Commission in Knoxville, Tennessee; Dr. Jack Ellison, a professor within the Health, Leisure & Safety Department at the University of Tennessee; Mike Rollo, then the Head Athletic Trainer at the University of Tennessee; and of course, Dr. Naughtright, the Assistant Athletic Trainer at the University of Tennessee. [Exhibit 251]

Not one of these attendees has supported Peyton Manning's version of the events. Geno Devane, now a medical student in Miami, Florida, has stated in his Affidavit that:

6. I have been furnished pages 64 through 104 of the deposition of Peyton Manning taken on March 12, 2003, and have carefully read those pages from the deposition. A copy of that deposition is attached hereto.
7. Mr. Manning relates that Jamie Whited stated, referring to me and the other student-athletes who attended, "These mother fuckers are yours. Get them off my fucking hands for a little while." At no time during the weekend of January 19-21 did I hear Jamie Whited make any comment of that nature and she has never, in my presence, referred to me or any other individual as a "mother fucker" nor has she ever asked anyone to take me or any other student athlete off her "fucking hands." I can assure you I would remember if Jamie Whited had called me a "mother fucker" or used that type language in my presence. I would have been very upset had that occurred. Additionally, that type of language would have been completely out of character for Jamie Whited because she was always very professional around me and other student-athletes.
8. I am quite familiar with the party referred to by Peyton Manning in his deposition. I did attend the party with the other student-athletes who also accompanied me from the University of Tennessee but neither I nor any of them asked Jamie Whited to ask Peyton Manning to take us to the party. Neither I nor any of them needed to ask Jamie Whited to intercede with Peyton Manning. Any one of us would have asked Peyton directly and not through Jamie Whited.<sup>12</sup> While Eric Lane, Tyrone Hines and Scott Pfeiffer and myself were juniors<sup>13</sup> at the University of Tennessee, Peyton Manning was a sophomore and younger than we were. In fact, there was no need for Jamie Whited to ask Peyton Manning to take us to the party. Scott Pfeiffer and Tyrone Hines had said Peyton will be in town tonight and we are supposed to go out.
9. I notice that Peyton Manning states on page 78 that he drove

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<sup>12</sup>Eric Lane agrees. On deposition he stated "...I would have felt comfortable with asking Peyton myself. Certainly didn't need for Jamie to intercede." [Tab 18 - Lane Depo. at pg. 30].

<sup>13</sup>On his deposition, Eric Lane said he was really a senior at that time, having been red-shirted for one year [Tab 18 - Lane Depo. at pg. 25]

us to the party. Peyton Manning did not drive us to the party. In fact, Eric Lane drove the University of Tennessee van to the party with Mr. Rollo's permission. Eric Lane, Scott Pfeiffer, Eric Lane all rode in the van.

10. I notice from Peyton Manning's statement that Chester Ford was with us in Charlottesville. However, Chester Ford was not a representative to the APPLE Conference.
11. I note on page 89 of Peyton Manning's testimony that he is asked the following question and he gives the following answer:

Q. Yes. Is it your position that these athletes, who were older than you are, were your teammates, went to Dr. Naughtright, so that she would intercede with you so that you would take them to a party and take them off her mother fucking hands?

A. Yes

I can unequivocally state that this did not occur.

12. I note on page 93 of Peyton Manning's testimony that he is asked the following question and he gives the following answer.

Q. How was it you ran in to them in Charlottesville?

A. I can not remember how I knew they were there, how they knew I was there, but what I remember is meeting, in the parking lot, and when Jamie said these "Mother fuckers are yours, get them off my fucking hands," that's what I remember. That's when I took them, you know, to the party.

Again, I unequivocally state that this did not occur. I was present at this "meeting" in the parking lot and at no time did Jamie Whited ever use the words attributed to her by Peyton Manning. [Devane Affidavit]

Eric Lane, now a third year law student at the University of Tennessee, and who, as stated above,

was on the Charlottesville trip, testified on deposition that he does not remember Dr. Whited ever using those words in front of him or Peyton Manning:

Q. Let me ask the question this way in a very straightforward way, sir. Did you ever hear on the Charlottesville trip Jamie Whited make a statement in your presence referring to you and other student athletes as mother fuckers?

A. Not that I can recall, no.

Q. At any time during the Charlottesville trip, did you ever hear Jamie Whited use the words "mother fuckers"?

A. Not that I can recall. [Tab 18 - Lane Depo at pgs. 15-16].

On cross-examination of Eric Lane, counsel for the defendants asks him about Peyton Manning's allegation that Dr. Naughtright said "these mother fuckers are yours, get them off my fucking hands."

Lane responded to Manning's counsel as follows:

Q. Concerning what Mr. Manning says that Jamie said to him in the parking lot, yeah, I don't - I don't remember whether or not that was said or not. **I don't believe that it was.** [Tab 18 - Lane Depo. at pg. 35 of Lane deposition; emphasis added].

This testimony by Eric Lane is very important considering several extrinsic factors. First of all, Eric Lane was a fullback on the very same football team that Peyton Manning quarterbacked. Both played on the offense. Both he and Manning are graduates of the University of Tennessee and Lane is now about to graduate from law school at the University of Tennessee and is currently an employee of the University. [Tab 18 - Lane Depo. at pg. 42] Lane thinks Peyton Manning is "...a fine person." [Tab 18 - Lane Depo. at pg. 39]. He was extremely reluctant to become involved in this legal proceeding [Tab 18 - Lane Depo at pgs. 20-24]. Yet, even as a teammate who thinks

highly of Peyton Manning, he testified on deposition that he didn't recall Dr. Naughtright uttering the vulgarities Peyton Manning attributed to her and doesn't believe that it happened. Just as Geno Devanc stepped up and said it didn't happen, so did Eric Lane. Another attendee, Jill Griffin, also refutes Peyton Manning's Charlottesville tale.

Jill Griffin, then the Executive Director of the Metropolitan Drug Commission in Knoxville, and who roomed with Dr. Naughtright on the trip, testified that there would have been no possible reason for Dr. Naughtright to have asked Peyton Manning to take the athletes "off her fucking hands" since the athletes had their own rooms, Dr. Naughtright wasn't chaperoning them at night, and they weren't "on her hands." [Tab 12 - Griffin Depo. at pgs. 16-17] Griffin testified on deposition that:

Q. And did you and Jamie stay in the room that night, or did you go anywhere or was there any type of function you had to attend?

A. We stayed in the room late that night. Now, whether or not there was a dinner or banquet or something, I can't remember.

Q. But the two of you didn't go out to a movie or to a party or anything like that?

A. No.

Q. And the student athletes had their own rooms, did they not?

A. They did.

Q. So do you know of any reason sitting here why Jamie Whited would have needed to get rid of the athletes that night or get them to go somewhere so they wouldn't be a bother to her or anything like that?

MS. BOLGER: Objection

A. No. I remember they wanted to go somewhere, but she didn't

feel responsible for making that happen.

Q. And when you say you recall that the athletes wanted to go somewhere, what do you recall from that, ma'am?

A. I just remember them talking about the conference was boring, you know. [Tab 12 - Griffin Depo. at pgs. 16-17]

Mrs. Griffin also related that she recalled the athletes coming to Dr. Naughtright's room to get the keys to the van and Dr. Naughtright being "concerned" about them driving a University van. Head trainer Rollo ultimately gave the athletes the keys to the van. [Devane Affidavit] Mrs. Griffin

testified as follows:

A. I remember the athletes coming to the room, asking Jamie about transportation. I don't remember what the outcome was or anything like that. I can remember Jamie being concerned though, just about their transportation and what they should do. [Tab 12 - Griffin Depo. at pgs. 14-15]

...

Q. Do you recall her being concerned about them going to a party where alcohol might be served and driving a University of Tennessee van?

A. I don't remember specifically about the alcohol. I remember her being specifically concerned about them driving a University van. [Tab 12 - Griffin Depo. at pg. 15].

As to Dr. Naughtright's language, Mrs. Griffin testified:

Q. At any time during that weekend in Charlottesville, did you hear Jamie White refer to the student athletes or say these mother fuckers are yours, get them off my fucking hands for a little while?

A. I did not hear her say that. [Tab 12 - Griffin Depo. at pg. 10]

...

Q. Did you at any time during the weekend in Charlottesville

hear Jamie Whited say these mother fuckers are yours, get them off my fucking hands?

A. I didn't hear her say that. [Tab 12 - Griffin Depo. at pg. 11]

...

Q. Just to clarify this, ma'am, did you ever hear during that weekend Jamie Whited refer to the student-athletes as mother fuckers?

MS. BOLGER: Objection.

A. I did not hear her say that. [Tab 12 - Griffin Depo. at 12]

...

Q. Now, at any time during that weekend in Charlottesville, did you ever hear Jamie Whited use any vulgar language in front of the student athletes?

A. No.

Q. During the time you were at the Metropolitan Drug Commission, did anyone at the Metropolitan Drug Commission ever complain to you about Jamie Whited using vulgar language?

A. No.

Q. Did Jamie Whited use vulgar language around you?

A. No.

Q. Would it have been -- based on your observation of Jamie Whited during the years you knew her, would it have been out of character for her to use vulgar language?

A. Yes.

Q. Do you feel that Jamie Whited has a vulgar mouth?

A. No. [Tab 12 - Griffin Depo. at pgs. 18-19]



On cross-examination, counsel for the defendants pursued the parking lot meeting between the athletes and Peyton Manning:

Q. So you can't say whether Dr. Naughtright cursed or didn't curse when speaking to Peyton Manning?

A. I did not hear it, and she was pretty close to me in proximity when we got out of the van, and everyone was standing in the parking lot. The athletes and Peyton went off to the side two or three car lengths down. Jamie, I'm not sure where her positioning was, but I know she pretty much stayed with Dr. Ellison, myself and Mike Rollo who went towards the athletic facility. [Tab 12 - Griffin Depo. at pgs. 35-36]

Mrs. Griffin also testified as to Dr. Naughtright's working relationship with student-athletes:

Q. Now, were you able to observe during the time that you were around Jamie, her working relationship with athletes - student athletes?

A. Some, yes.

Q. All right. Would you describe that relationship, as you observed it?

A. She handled herself professionally.

Q. Based on what you observed during the trip to Charlottesville, and based upon what you observed at other times when Jamie Whited was around student athletes, would it have been totally out of character for her to call them mother fuckers?

A. I've never heard her use vulgarity, not with them or with anyone.

Q. Was she respectful of the student athletes?

A. Yes. [Tab 12 - Griffin Dep. at pgs. 40-41]

While not a social friend of Dr. Naughtright, [Tab 12 - Griffin Depo. at pg. 42] Mrs. Griffin and

Dr. Naughtright worked together at the Metropolitan Drug Commission for almost three (3) years. As such, Mrs. Griffin came to know Dr. Naughtright and testified that she "was an excellent board member", "...had a good reputation in the Knoxville community" and "...had a great reputation within..." the Metropolitan Drug Commission. [Tab 12 - Griffin Depo. at pgs. 26-28]

Peyton Manning clearly tried to convey the impression in his book that these athletes were younger than he was and that he was doing Dr. Naughtright a favor by chaperoning them for the night so that they would not be on her hands. What a picture he paints! One can only imagine the goofy scene of Peyton Manning's three (3) football teammates and a track and field athlete, all older than he, and weighing in at probably almost 1000 pounds collectively, meekly approaching an Assistant Trainer (female at that) and saying: "Jamic, will you please see if you can talk Peyton into taking us to a party?" Then Manning would have one believe that this Assistant Trainer, in close proximity to the University's Head Trainer, a Professor at the University, and the Executive Director of a Knoxville community organization, goes up to Manning and the athletes and calls them to their face "mother-fuckers" and asks Manning to take them off her "mother-fucking" hands like they were some high school or junior high students that she had to baby-sit. Peyton Manning's clearly made-up fabrication of the Charlottesville trip brings to mind the Latin doctrine of *Falsus in uno, falsus in omnibus* which translates as: "false in one thing, false in everything." This doctrine means that if a witness is shown to have sworn falsely in one detail, that witness may be considered unworthy of belief as to all the rest of his testimony. It is submitted that Peyton Manning, having sworn falsely to the events in Charlottesville, is totally unworthy of belief as to all the rest of his testimony.

**MANNINGS ON THE ATTACK - TRASH THE VICTIM**

It is interesting to note that when interviewed by the University, in June, 1996, about his own conduct on the night of February 29th, Peyton Manning defended that conduct by attacking Dr. Naughtright. Manning stated "I have never approved of Jamie's vulgar language. It has always been my opinion, along with the majority of the team, that Jamie wants to be one of "the guys." [Manning statement to DRES - Tab B to Exhibit Binder]. One wonders why Dr. Naughtright's alleged proclivity for colorful words would be relevant, even if true, to the fact that Manning was merely mooning someone across the room and she just happened to see it. But Peyton Manning knew the "just happened to see the moon" version was not true. He knew that what he had done constituted a sexual assault. Therefore he reverted to the tactic: trash and discredit the victim. It was almost like Manning was saying "I didn't do it, but if I did, she deserved it because she's vulgar." In addition to telling the University of Tennessee that she's vulgar, he tells his father she's "kinda trashy", "had the most vulgar mouth of any girl he'd ever seen", was "unattractive but had big breasts", "been out with a bunch of black guys" and had a "toilet mouth." [Exhibits 180 & 183; Tab B to Exhibit Binder] In relating what Peyton had told him, Archie Manning tells his ghostwriter, John Underwood:

Archie Manning: ...to her. See, Peyton said she was very unattractive gal but she had, uh, big breasts...

John Underwood: Um hum

Archie Manning: Ah, she was a, he said her language was unbelievable.

John Underwood: She's black, right?

Archie Manning: Huh?

John Underwood: Was she black?

Archie Manning: No.

John Underwood: O.K.

Archie Manning: She wasn't black.

John Underwood: O.K.

Archie Manning: But she'd, she'd, she'd been out, when she was a student trainer, that she had been out with a lot of black guys...

John Underwood: Um um.

Archie Manning: And she'd, she'd been up in the dorm before, I mean, hey, you know, they could have, you know, could have pulled stuff on her too. Ah, she, toilet mouth, ah, Pcyton told me he never did like her but he always did, cause what I'd told him to do, ah, I'd instructed him to be nice to the tr...don't ever look down on a trainer or an equipment person, you know...  
[Exhibit 183]

During his deposition, Archie Manning conceded that the information he was relaying to John Underwood was derogatory and that he wasn't "complimenting" Dr. Naughtright by saying she was "out with a lot of black guys and up in the dorm." [Tab 19 - Archie Manning Depo. at pgs. 189-197] It is obvious as to what both Underwood and Manning were saying. Archie Manning had previously in the transcript told Underwood that she was "kinda trashy" and had a "vulgar mouth" [Exhibit 180]. Now, when Manning further tells Underwood that she's unattractive, has big breasts, and unbelievable language, Underwood just assumes these negative characteristics must belong to a black woman. Even Archie Manning admitted in his deposition that "some people" think that a "trainer should not be going out with blacks if the trainer is white." [Tab 19 - Archie Manning Depo.

at pgs. 190-191] Manning, however, states that "I don't do color." [Tab 19 - Archie Manning Depo. at pg. 191] He had no answer however, as to why it was significant to him that, if she was promiscuous, she was promiscuous with black players as opposed to white players. [Tab 19 - Archie Manning Depo. at pgs. 186-201] However, the answer is obvious, as it was to former University of Tennessee student-athlete, Antonio Brewer, who stated in his affidavit, "As a black student-athlete, I am offended by the racial overtones of Archie Manning's comments..." [Antonio Brewer Affidavit] In Defendants' Motion For Summary Judgment, Archie Manning is touted as someone who "simply embodied what was good about the Old South." [pg. 4 of Defendants' Motion and Memorandum] It would seem that Archie Manning also retains some of what was bad about the Old South.

By the time Peyton Manning was through spreading rumors, the entire athletic department was rallying to Peyton's side and Dr. Naughtright's language was becoming an urban legend. It was like the Abominable Snowman; people claim to have seen one but no one has ever bagged one<sup>14</sup>. As an example of this trashing of the victim which continues to this day, the defendants even took the deposition of a cheerleader, Eric Counts, to testify that Dr. Naughtright "...had cussed before" but cannot "...cite a specific instance." [Tab 8 - Counts Depo. at pg. 7] The only "general understanding of Dr. Naughtright's reputation" which Counts had was "based on rumor and

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<sup>14</sup>Even Athletic Director Dickey testified that Dr. Naughtright had not used profanity in his presence. [Tab 9 - Dickey Depo at pg. 33] Likewise, nothing has been produced from Dr. Naughtright's personnel file at the University of Tennessee relating to "vulgar" or "inappropriate" language." It was only after the University started investigating the February 29, 1996, incident that the issue of "vulgar language" was first raised in any document. Even then, there is no mention of "vulgar" or "inappropriate language" in her post-February 29<sup>th</sup> Performance Appraisal Form. [Exhibit 166]

speculation" [Tab 8 - Counts Depo. at pg. 8]. According to Counts, "[B]ased on rumor and speculation, Dr. Naughtright, formerly Jamie Whited, she did have a vulgar mouth, as far as what somebody else has told me, and cursed like a sailor around trainers and staff. There were rumors going around that Dr. Naughtright was sexually promiscuous and had been engaged in sexual activities with student athletes as a student trainer." [Tab 8 - Counts Depo at pg. 9] Counts' testimony pretty well covered the waterfront and was consistent with the Manning family approach to paint Dr. Naughtright as vulgar and a whore so no one would believe her. [Exhibits 180 & 183] Defendants even tried to place Counts in the training room the night of the Manning incident. Counts stated: "My understanding is that he mooned her, showed her his butt, and based upon information provided to me that I was evidently in the training room when that happened." [Tab 8 - Counts Depo. at pg. 11]. Counts certainly was a jack of all trades as a witness. He testified that Dr. Naughtright was vulgar and promiscuous<sup>15</sup>, and he testified that he was possibly a witness to the "moon." There was only one problem with Mr. Counts as a eye witness to the "moon." The information provided to him that he might have been present and an eye witness, even though he couldn't remember being there, was provided him by the defendants' counsel. On cross-examination Counts was asked:

Q. And who told you that you might have been there?

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<sup>15</sup>No witness in this entire case has been able to provide any first hand knowledge of any person with whom Dr. Naughtright had any type of sexual relations while at the University of Tennessee or even identify anyone with whom she had any type of sexual relations. One reason may be that for almost seven (7) years while at the University she was either engaged or married. Having previously admitted that Dr. Naughtright was called "Cunt Bumper" or "Bumper" for many years, it appears that defendants' witnesses are now having a hard time deciding whether to characterize her as the "Whore of Babylon" or being from the "Island of Lesbos."

A. I was told by counsel that I was named as one of the six people that were in the room at that time.

Q. You were told by counsel for Mr. Manning?

A. Yes, that's correct. [Tab 8 - Counts Depo. at pg. 20]

Cross-examination of Mr. Counts revealed the depth or perhaps the shallowness of Mr. Count's knowledge. Counts admitted that "That's what I have been telling you since I got in here. I have no personal knowledge of any of these events at the time that they were made. **All of my information that I can give you beyond reputation, which is neither here nor there, is rumor and speculation on my part, what I heard from other people. I have no personal knowledge of Dr. Naughtright's sexual activities, no personal knowledge.**" [Tab 8 - Counts Depo. at pgs. 37-38; emphasis added] Humourously, when Counts entered the deposition room and was introduced to Dr. Naughtright, he stated "Nice to meet you" indicating that they had never met before. When asked about his "nice to meet you" statement on deposition, Counts stated that "It was a Freudian slip ... I have very limited knowledge about those events. And if I do have knowledge, it's mostly rumor, speculation. I cannot tell you with any general certainty what you're really looking for me to say, specifically, I remember Jamie Whited doing this. I cannot say that." [Tab 8 - Counts Depo. at pgs. 39-40]. As cross examination went on, it became clear that Counts' statement "Nice to meet you" was not a Freudian slip and that his knowledge of Dr. Naughtright was not only shallow, but almost non-existent. Consider:

Q. But sitting here today, you can't give me a specific instance or a specific thing that she ever said that contained a cuss word?

A. My recollection of those events, in any period of time in

which those events occurred, I cannot say on September 16, 1995, I heard Jamie Naughtright say the word bastard. I cannot say that on any specific occasion. Again, my memory is faded about these incidents. Again, I'm only privy to information that was reputation and/or limited personal knowledge and interaction with Dr. Naughtright. **Again, Dr. Naughtright and I may have had personal contact maybe twice in our lives.**

Q. Twice?

A. **I can't say personal contact. Now, whether she was in the room or not – as me talking with Dr. Naughtright.** [Tab 8 - Counts Depo at pg. 42; emphasis added]

After admitting that his limited contact was maybe being in the same room with her on two occasions, he admits that the "inappropriate banter" or language actually emanated from "student athletes making sexual innuendos toward Dr. Naughtright, commenting on her large breasts, and her commenting back..." [Tab 8 - Counts Depo. at pgs. 46-47] As he explains:

A. From my limited recollection, it was just kind of brushing it off, throwing it back in their faces and moving on. You know, just inappropriate comments that would not be acceptable at this time – to me now. But at the time, I didn't think anything of it. I cannot state a specific phrase. I cannot state a specific conversation that she had. All I can state is that I was aware of those types of activities. [Tab 8 - Counts Depo at pg. 47].

...

Q. What type comments would they make?

A. They would generally refer to her breasts, in her presence and outside of her presence about, did you see Jamie's breasts, how large, she's wearing that shirt, it looks good, stuff like that. I cannot cite a specific instance, again based on my



limited knowledge. You're trying to delve into an area, Counselor, that I do not understand and I do not have any knowledge about. I can say that they would refer to her large breasts, that's all I know.

Q. Instead of getting mad and throwing something at them or yelling or screaming at them, she would just banter back with them, wouldn't she?

A. That's correct.

Q. And in that context of a training room where student athletes are making comments about her big breasts, don't you think bantering back with them would be a better way to handle it than screaming or yelling or getting upset?

MS. BOLGER: Objection. You're asking the witness to speculate about the athletic training room.

A. In the context of the training room, and this is purely speculative on my part, I think that it would probably be best if she did banter back. However, that's just speculation on my part. I don't know how she should have reacted. Again, I'm not a female trainer, I have not been subjected to that environment, so I cannot say whether or not her actions or reactions was appropriate. Maybe her reaction should have been go straight to the athletic director and say, you know, this stuff is unacceptable. I don't know. Or maybe it was better to banter back and forth. I have no idea. That was really her reaction and that's how she dealt with it.

Q. And in dealing with it that way, she was able to perform her job, wasn't she?

MS. BOLGER: Objection

A. I have no idea. [Tab 8 - Counts Depo. at pgs. 50-51]

At trial, one of the first motions to be made by Plaintiff's counsel will be to strike Mr. Counts's entire testimony for obvious reasons.

The problem for these individuals, such as Eric Counts, who have rallied to Peyton Manning's "trash the victim" campaign, is that there are honorable athletes out there who are telling the truth and are willing to come forward and expose Peyton Manning's campaign to vilify Dr. Naughtright. Olympic Silver Medalist and World Gold Indoor Medalist, Lawrence Johnson, has stated:

In addition to Jamie Naughtright's involvement in my left foot injury described above, I had the following involvement with Jamie Naughtright during my years at the University of Tennessee.

- a. Jamie Naughtright, as Head Track and Field Athletic Trainer, would attend all home and away track events. While on the road, we would travel by bus, van, and plane, depending on the location of the track meet. I would estimate that we traveled to approximately forty (40) away track meets in addition to the approximately forty (40) home track meets in Knoxville. At some of the home track meets, Jamie Naughtright was the medical director of the meet.
- b. Jamie Naughtright also traveled with me on the plane to Houston, Texas, for my surgery with Dr. Baxter. She and I stayed in the same hotel while I was in Houston and she took care of me while I was hospitalized in Houston. After I was released from the hospital, she rehabilitated me in Knoxville.
- c. I also worked with Jamie Naughtright in community service projects such as the Metropolitan Drug Commission and AIDS Walk Knoxville.
- d. In 1996, Jamie Naughtright also treated me at the Atlanta Olympic games for a grade 2 ankle sprain. In August of 1997, Jamie Naughtright and I traveled to Athens, Greece for the IAAF World Championships. I had retained her services for two weeks while I was in Athens so that she could be my personal athletic trainer.

As stated above, I have known Jamie Naughtright since approximately 1993. I have never known her to be vulgar in any way or use vulgar language. Jamie Naughtright does not have a vulgar mouth and was always very professional and proper in her conduct, appearance and demeanor. During all the time that I was around Jamie Naughtright,

whether it be at the University of Tennessee, in Houston, Atlanta, or in Greece, I cannot recall her ever using a word or phrase which would be considered vulgar.

I am giving this Affidavit voluntarily and of my own free will and intend to appear and to testify to the above at trial in this matter.  
[Affidavit of Lawrence Johnson]

Likewise, student-athlete Antonio Brewer has stated in an Affidavit that:

As stated above, I have known Jamie Naughtright since approximately 1995. I have never known her to be vulgar in any way or use vulgar language. Jamie Naughtright does not have a vulgar mouth and was always very professional and proper in her conduct, appearance and demeanor. During all the time that I was around Jamie Naughtright, I cannot recall her ever using a word or phrase which would be considered vulgar.

I am personally aware that Jamie Naughtright was well thought of at the University of Tennessee. I am personally aware that her reputation for job performance was outstanding. I am personally aware that her reputation for being a moral person was beyond reproach. I have seen a transcript of an audio tape wherein Archie Manning stated that Jamie Naughtright's language was "unbelievable", that she was "trashy", that she had "...been out with a lot of black guys...", that she had "been up in the dorm before..." and had a "toilet mouth", all of which, in my opinion, he stated to indicate that Jamie Naughtright was of low moral character. As a black student-athlete, I am offended by the racial overtones of Archie Manning's comments, but completely apart from that, I can state that Jamie Naughtright had no such reputation at the University of Tennessee, as described by Archie Manning.

I am giving this Affidavit voluntarily and of my own free will and am willing to testify to the above at trial in this matter. [Affidavit of Antonio Brewer]

Contrast the Affidavits of student-athletes Lawrence Johnson and Antonio Brewer with the testimony of the Associate Athletic Director for Administration, Dr. Carmen Tegano. Dr. Tegano was the person to whom Dr. Naughtright reported the 1994 incident involving Peyton Manning. Not

surprisingly, Dr. Tegano, on deposition, testified as to certain language he alleged was used by Dr. Naughtright in his presence. Dr. Tegano, in this case, will always be known as the man who sees or feels colors. On cross-examination, Dr. Tegano testified as follows:

- Q. There were occasions during the time that you and Dr. Naughtright were both employed by the University of Tennessee that you interacted with her in a professional way, is that correct?
- A. Briefly. I made it a point to kind of just not interact as much as I could.
- Q. Why did you make that point?
- A. Because I didn't want her energy in my Karma circle.
- Q. That energy?
- A. Uh-huh.
- Q. Did she have an aura that was around her?
- A. Yeah. Yeah.
- Q. Was it black or red or green?
- A. It wasn't a good color. It was a dark color.
- Q. Black?
- A. It was a dark color. It wasn't a good color.
- Q. Brown?
- A. It just wasn't a good color?
- Q. What are good colors?
- A. Light colors.

- Q. Light colors. Yellows? Are yellows good?
- A. (Head nod)
- Q. Does that aurora emanate from the head area?
- A. No, it's just a feeling you have, you know, walk into some – intuition, and it was just bad Karma.
- Q. And was she an energetic person?
- A. I'm not in a position to answer that. I don't know.
- Q. You said you didn't want her energy around you, she was too energetic for you?
- A. No, two different – you're taking the term energy and made it two different things.
- Q. This is that energy—
- A. Energetic is one thing, and energy is another thing.
- Q. Okay, this is the inner energy that projects the colors, is that correct?
- A. Yes
- Q. Did anyone else ever tell you that they had detected these colors emanating from Dr. Naughtright?
- A. I don't remember.
- Q. Did you ever report to anyone that she was walking through campus giving off these colors?
- A. Just me.
- Q. Are you aware of anyone else who could see these colors?
- A. Oh, there are people that see colors. Yes.
- Q. Did you ever ask these people that could see colors whether

they could see the color that was emanating from Dr. Naughtright?

A. I didn't have to.

Q. You could see it?

A. No. No. I didn't say I could see it. I just felt a bad energy and a dark color around her.

Q. Okay. You felt it. It's kind of like through osmosis?

A. No. No. Just an energy field.

Q. I see. How close did she have to be to you for you to feel this energy field?

A. In the same room.

Q. So, once she left the room that day, in October of 1995, the energy dissipated?

A. I went and took a shower.

Q. I understand you said that earlier, but my question is when she left the room in October of 1995, did the energy field dissipate?

A. Good question. I don't remember.

Q. And you indicated that you needed to go take a shower after she left the room; is that correct?

A. Uh-huh

Q. Do you have shower facilities in your office?

A. No.

Q. Where did you leave to go and take this shower?

A. I walked across the street to the locker room. [Tab 29 - Tegano Depo. at pgs. 56-59]

Dr. Tegano's testimony is analogous to the prosecutor who calls his star eye-witness who describes the crime in vivid detail and places the defendant at the scene with smoking gun in hand. Then the defense attorney gets up and asks the eye-witness exactly where he was when he saw the defendant commit the crime. The eye-witness looks the defense attorney right in the eye and tells him he was in his spaceship in the galaxy Nova-8, circling an unknown planet when the light waves from the crime scene were beamed to him from the Planet Earth. Any judge or jury deciding the credibility between two time Olympian Lawrence Johnson and Dr. Carmen Tegano will have no problem determining whom to believe. Dr. Tegano, whose job it was to prevent academic fraud in the athletic department, did answer one question truthfully:

Q. And isn't it also true, Dr. Tegano, that the plagiarism was so rampant with student athletes, that an English professor here at the University of Tennessee threatened to bring up the entire Athletic Department on charges of academic dishonesty?

A. Yes. [Tab 29 - Tegano Depo. at pg. 107]

Dr. Tegano's credibility is further eroded by what Robin Wright, the former Coordinator of Academic Programs and the Writing Center at the University of Tennessee, said about him:

THAT is the reason I worked there. So many athletes are SO capable of doing good things with their lives. The Athletic Dept, advisors like Judy Jackson and Carmen, tell them -- make them -- cheat and/or take the easy way out. [Exhibit 282; Tab 29 - Tegano Depo. at pgs. 78, 104-105]

Another excellent example of the campaign to discredit Dr. Naughtright by characterizing her as "vulgar" or "vulgar mouthed" was the deposition testimony of University of Tennessee Executive Associate Athletic Director Gary Wyant. Wyant repeated his 1996 post "mooning" statement in

support of Peyton Manning and related that several students [who also worked in the athletic department] reported to him that Dr. Naughtright had used the "F word" and "dick" in a class she was teaching about AIDS [Tab 32 - Wyant Depo. Vol. 1 at pgs. 24-25; Exhibit 142] Unfortunately for the students' veracity or Mr. Wyant's veracity, the professor conducting the class, in which Dr. Naughtright was a guest speaker, and in which she is alleged to have used the "F word" and "dick", testified on deposition that no such thing occurred. Professor James Bemiller, an attorney in Knoxville, Tennessee, testified:

Q. All right, sir. When she would make those presentations to your class, would you stay and listen to the presentation?

A. Yes [Tab 1 - Bemiller Depo at pg. 8]

...

Q. That's fine. During these classes where Jamie made her presentation and where you were present, did you ever hear her use any vulgarities or vulgar language?

A. I don't recall her using any vulgar language.

Q. Is it fair to say that if she had used vulgar language and performed inappropriately in one of these classes, you would not have invited her back to speak?

A. That's fair to say.

Q. And sitting here today, do you ever recall in your own mind thinking, I'm not going to invite Jamie White back to speak to my class because she's embarrassed me and used vulgarities or anything like that?

A. No, no. And when I got the notice for this deposition, I thought about this, and I know that she was speaking about some - her research involves some pretty, how should I say, uncomfortable topics because they deal with - what I do



recall about the class was that the theory behind her research was that athletes are high risk individuals, they take a lot of risks, and that's why they're good athletes. But it also leads them into other type of behaviors that can cause problems with their health, and I do recall that she discussed group sex, and homosexual sex, and those type behaviors. And so those aren't the most comfortable topics to discuss, but I think they're pertinent. And that's what I recall about the presentation.

Q. And when she discussed those sensitive topics, did she do it in a professional manner?

A. As I recall she did. [Tab 1 - Bemiller at pgs. 10-12]

Wyant's ethics and animus toward Dr. Naughtright are evident in a case where she refused to cooperate with Wyant in discrediting an adolescent rape victim. A University of Tennessee athlete, Nilo Kyle Silvan, was charged with raping and sodomizing a minor. [Exhibit 2] Wyant asked Dr. Naughtright to locate a videotape of multiple members of the football team having group sex with this same girl several years earlier in the football dorm, when she was only 14, so that Wyant could give the tape to the athlete's lawyer, Jeff Hagood.<sup>16</sup> Dr. Naughtright refused to participate in Wyant's scheme to obtain the tape [Tab 33 - Wyant Depo. Vol. II at pgs. 29-41]. Incredibly, Wyant testified:

Q. And were you aware at the time that this young lady was a

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<sup>16</sup>Interestingly, Hagood would later be contacted by Doug Dickey and Phillip Fulmer to help protect Peyton Manning's "reputation" in light of the February 29, 1996 incident. [Exhibit 183; Tab 19 - Archie Manning Depo. at pg. 102] It is interesting that in both the Silvan case and in the Manning case, the University lined up with the perpetrator, not the victim. As Dr. Naughtright was told by a senior athletic department official after she reported Wyant's scheme, "Jamie, we've all been there. They are yelling 'No, no, no!' while they are pulling you to the bed." [Exhibit 58]. Even Peyton Manning was quoted in the media as saying "Nilo's a good person. He's not a bad person. He's one of the most popular players on the team. [Tab 21 - Peyton Manning Depo. Vol. II at pg. 6]

minor?

A. Yes [Tab 33 - Wyant Depo. Vol. II at pgs. 37-38]

...

Q. All right sir. Did you understand as to why they were asking that the tape be located?

A. My assumption was that they were trying to prove she had sex with other people.

Q. In other words, use it to discredit her?

A. I have no idea what the purpose was. That wasn't my purpose.

Q. Well, I didn't ask what your purpose was.

A. You wanted me to assume and I wasn't assuming anything.

Q. Well, I didn't ask you to assume, I asked you did you have an understanding?

A. No, I did not have an understanding.

Q. Did you think that locating the tape would help Mr. Sylvan? [actually spelled Silvan]

A. Obviously, the attorney asking for it. Nilo was asking for it. I assumed it probably would.

Q. You certainly assumed that locating the tape would not help the young lady?

A. I didn't make an assumption to that.

Q. Well, you knew that, didn't you, sir?

A. I assumed that probably that would be the case. Yes. [Tab 33 - Wyant Depo at pg. 39].

Had Dr. Naughtright gone along with Wyant's cockamamie scheme and actually located the tape,

instead of reporting Wyant's scheme to the University, possession of that tape could possibly even have constituted a violation of state or federal child pornography laws.<sup>17</sup> The importance of this matter lies within Gary Wyant's bias against Dr. Naughtright. After she reported Wyant's scheme to locate the rape tape, Wyant was infuriated with her and called it "highly insulting" and an "attack on [his] credibility." Wyant stated, in writing, that Dr. Naughtright's report regarding his attempt to locate the rape tape was "slander and inexcusable." [Exhibit 283] Clearly, his bias against Dr. Naughtright needs to be judged by a jury. The jury can then weigh the credibility between Associate Athletic Director Gary Wyant (who was not in the classroom) and Professor Jim Bemiller (who was in the classroom) as to whether or not Dr. Naughtright used "improper" terms in the Professor's class.

The issue of Dr. Naughtright's use of anatomical terms is also addressed by University of Tennessee student, Valerie Condit:

I am a graduate of the University of Tennessee in Knoxville. During the time that I was at the University, I knew Jamie Naughtright. My contact with Jamie Naughtright involved the following:

In the fall of 1996, I was taking a course entitled "AIDS & Society" Seminar, taught by instructor Mark Miller and Dr. Judy Fiene. This was a 300 level course in which speakers from across the state spoke about the scientific, social, medical, emotional, and financial aspects of acquired immunodeficiency syndrome. Jamie Naughtright was an invited speaker to present a lecture on AIDS on college campuses. While the subject of the lecture required Jamie Naughtright to discuss sensitive subjects and topics, she did not use any words or terms which might be considered vulgar. Her presentation and use of language to describe bodily parts and functions was totally appropriate for the subject matter being taught. In my opinion, it is ludicrous to state that the use of the word "penis" in a lecture on

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<sup>17</sup>Student-athletes at the University of Tennessee were also sometimes video taped through a two-way mirror while they were giving urine samples during drug testing. [Tab 22 - Naughtright Depo. Vol. 1 at pg. 116; Tab 27 - Rollo Depo. at pg. 32]

AIDS is vulgar or that the lecturer using the word in that context has a vulgar mouth.

As part of the "AIDS & Society Seminar", I was also required to participate in AIDS related community activity and to describe that activity in writing. One of the AIDS related activities in which I participated was the 1996 World AIDS Day event. I worked with Jamie Naughtright on this community activity in 1996 and again the following year for the 1997 World AIDS Day.

I also worked with Jamie Naughtright during the years 1997 and 1998 in an organization named "UTAC" which stood for "Until There's A Cure". This organization was founded by Jamie Naughtright and she was an advisor during the time in which I was involved. I also participated with Jamie Naughtright in a panel discussion with University faculty, staff, students, and community leaders, which Jamie Naughtright developed and coordinated. This panel discussion was entitled "UTK Affected or Infected by HIV."

Jamie Naughtright and I also worked together on the "Champions For A Cure" fund-raiser for AIDS Response Knoxville in the fall of 1997 during the Tennessee vs. Mississippi football game. One part of that fund-raiser involved the sale of red ribbons. I remember that many of the Mississippi fans bought red ribbons thinking they represented the Mississippi colors. Jamie Naughtright also founded and coordinated this event. Additionally, we worked together on the 1997 "First Annual AIDS Walk Knoxville" fund-raiser in which Jamie Naughtright was the Assistant Coordinator.

While working with Jamie Naughtright on the events set forth above, I was often in her office at the "Tim Kerins Training Room" at the University of Tennessee and was in a position to see her interact with student-athletes and staff.

I also attended various track meets at the University of Tennessee and observed Jamie Naughtright working with athletes at those events.

I understand that Peyton Manning has written in a book that he thought Jamie Naughtright had a vulgar mouth. Based on my first hand observations, that statement is not true and falsely portrays the Jamie Naughtright I knew at the University of Tennessee. Jamie Naughtright does not have a vulgar mouth and was always very professional and proper in her conduct, appearance and demeanor.

During all the time that I was around Jamie Naughtright, I cannot recall her ever using a word or phrase which would be considered vulgar.

I am giving this Affidavit voluntarily and of my own free will and am prepared to testify to the above at any trial held in this matter.  
[Affidavit of Valeric Condit]

Valeric Condit's opinion of Dr. Naughtright is echoed by one of Peyton Manning's football teammates, Rodney Riddick:

I attended the University of Tennessee in Knoxville, Tennessee and was an Offensive Guard on the University of Tennessee football team. During the years I spent at the University of Tennessee as a student-athlete, I became well acquainted with Jamie Naughtright as a student athletic trainer, as a graduate assistant athletic trainer, and as the assistant athletic trainer at the University of Tennessee. My interaction with Jamie Naughtright consisted of the following:

- a. I would see Jamie Naughtright on Mondays through Fridays in the training room where she worked with me in the rehabilitation of my shoulder after surgeries and with other injuries including injury to my knee. During the Monday through Friday time I was also able to observe Jamie Naughtright, both around me and around other student-athletes on the field during practice and in the strength and conditioning room.
- b. At home football games, I would see Jamie Naughtright on Friday nights and Saturday nights working the front desk at Gibbs Hall. From time to time I would visit with her while she was working the front desk and we would have extended conversations about a variety of subjects.
- c. During home games, I would see Jamie Naughtright at pre-game meals, team meetings, the Johnny Majors walk to the stadium, pre-game preparation in the locker and training room at the stadium, throughout the game, and during post-game treatment in the training room.
- d. Also, for away games, I would be around Jamie Naughtright

on the plane traveling to the game, for pre-game meals, team meetings, at snack time, for pre-game preparation, throughout the game, during post-game treatment, and on the plane traveling back to Knoxville. Also during away games, Jamie Naughtright and the Head Athletic Trainer, Tim Kerin, would conduct bed checks and wake up calls.

- c. From time to time, I would also see Jamie Naughtright at Sunday treatment sessions and many times, Jamie Naughtright would transport us to appointments with physicians in the Knoxville area.
- f. I would also see Jamie Naughtright during practice sessions since she was assigned to the Offensive Line during much of my career.
- g. At times I would see Jamie Naughtright in the student life office working on a computer and from time to time, would sit with her or near her during lunches at Gibbs Hall Cafeteria.
- h. I would also see Jamie Naughtright during various community service functions either on campus or off campus in the Knoxville area.
- i. After I left the University of Tennessee, I would on occasion see Jamie Naughtright in the Knoxville area.
- 3. I have learned that Peyton Manning has stated in a book that he thought Jamie Naughtright had a vulgar mouth. This statement is not true and portrays a completely different Jamie Naughtright from the person I knew. Jamie Naughtright does not have a vulgar mouth and was always very professional and proper in her conduct, appearance and demeanor. During all the time that I was around Jamie Naughtright, I cannot recall her ever using a word or phrase which would be considered vulgar. The vulgar words which I heard during the period of time that I was a student-athlete at the University of Tennessee, were mainly from players, coaches, and other staff, not from Jamie Naughtright. In fact, players, coaches, and staff even referred to Jamie Naughtright as "Bumper," which was shorthand for a vulgar expression.

4. Based on my observation of Jamie Naughtright during the time I was at Tennessee, I would never believe that she would be upset or over-react to a simple "mooning" or seeing a player's buttocks, something that was not un-common in the training room/locker room context in which she worked. At the time I heard about the "mooning" incident, I felt that there had to be more involved than just seeing bare buttocks, which, in my opinion, would never have upset someone as professional as Jamie Naughtright.
5. I am giving this Affidavit voluntarily and of my own free will and am willing to testify to the above at trial in this matter.  
[Affidavit of Rodney Riddick]

### LEAVING KNOXVILLE

Because of the Manning incident and other issues at the University of Tennessee, it became clear to Dr. Naughtright that her career at Tennessee was over. As stated by Colonel Gene L. Moeller, the Assistant Athletic Director for Operations, "...[t]he February 29, 1996 incident may have represented the 'straw that broke Jamie'; 'What else can go wrong' and that 'enough is enough' because it might be a signal that other athletes might behave in like or worse manner." [Tab 133 to Affidavit of Slade Metcalf; Moeller statement to DRES]<sup>18</sup> Therefore in the fall of 1997, Dr. Naughtright and the University of Tennessee entered into a settlement agreement. As part of Dr. Naughtright's settlement agreement with the University of Tennessee, it was agreed that her employment with the University would end on June 30, 1998 [Exhibit 60]. She thereupon sent out resumes and sought employment

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<sup>18</sup>For example, at a meeting shortly before the February 29<sup>th</sup> incident, Dr. Naughtright was discussing a summary sheet which indicated that the seniors on the football team had been involved in various at risk behavior including criminal behavior and many having grade point averages of 0.00. Coach Phillip Fulmer's response was to write 11-1 at the top of the paper. 11-1 was the team record for the previous year. It was obvious to Dr. Naughtright as to what took priority with Coach Fulmer and it wasn't good citizenship or scholastic averages. [Tab 27 - Rollo Depo. at pgs. 206-207; Tab 11 - Fulmer Depo. at pgs. 92-101]

with various colleges and institutions.

**FLORIDA SOUTHERN COLLEGE - LAKE LAND, FLORIDA 1998**

In April of 1998, Dr. Naughtright sent a letter to Dean Nancy Auman of Florida Southern College, in Lakeland, Florida, seeking the position of Program Director of the Athletic Training Educational Program and faculty position at Florida Southern College [Exhibit 65]. After a three (3) day interview process, Dr. Naughtright was offered the job and she and Florida Southern College negotiated a yearly salary of \$45,000 a year [Tab 23 - Naughtright Depo. Vol. II at pgs. 222-232 & Exhibit 67]. Officially, Dr. Naughtright was to start her employment with Florida Southern College on December 1, 1998. However, anxious to get started in her new job and new career, she actually started, in an un-paid status, in September of 1998. [Tab 23 - Naughtright Depo. Vol. II at pg. 232]

**POST MAY 2001 TO DECEMBER 2001**

As stated earlier, when Dr. Naughtright returned from South Africa and found the "Dr. Vulgar Mouth Whited" letter on her door, she was immediately concerned about the manner in which the envelope, containing a Florida Southern logo, was addressed, the fact that it was placed conspicuously on her door, and the fact that she could immediately see that the envelope had been opened. [Tab 24 - Naughtright Depo. Vol. III at pgs. 69-76] As stated by a student who was waiting that day outside of Dr. Naughtright's office:

During a day in May of 2001, I was sitting on a chair next to the office of Dr. Jamie Naughtright. I was waiting for Dr. Naughtright inasmuch as I was registered in two of her classes that summer. Dr. Naughtright had been in Africa and had just returned from her trip on the day in question.



I specifically recall Dr. Naughtright coming down the hall and approaching her office. I recall her mother being with her. As she was about to enter her office she told me that she would be with me momentarily. I saw her remove an envelope from her door and ask her secretary "Who opened my mail?" I recall Dr. Naughtright's secretary responding and saying "Kathy Benn." I recall Dr. Naughtright asking her secretary, "What is this all about? or words to that effect. I heard her secretary respond to her that "I've been telling you all along, she wants your job" or words very similar to that. I saw her secretary point to the right but no name was mentioned by her secretary. [ Affidavit of Derrick Brooks]

Kathleen Benn, who opened the envelope when it arrived, was Dr. Naughtright's direct supervisor at Florida Southern College. [Tab 2 - Benn Depo. at 24] The person to whom the secretary was referring when she said, "I've been telling you all along, she wants your job" was Sue Stanley-Green, a subordinate of Dr. Naughtright, who in fact was promoted into Dr. Naughtright's job after Dr. Naughtright was later removed as Program Director. [Tab 24 - Naughtright Depo. Vol. III at pgs. 76-77] Who placed the "Dr. Vulgar Mouth Whited" letter containing the excerpts on Dr. Naughtright's door is not clear. While Lisa Jewell, office secretary, admits receiving an envelope addressed to Dr. Vulgar Mouth Whited, she insists she placed it in Dr. Naughtright's office after it was opened by Kathleen Benn<sup>19</sup>. [Tab 15 - Jewell Depo. at pg. 49] However, Derrick Brooks, Dr. Naughtright, and Dr. Naughtright's mother, are not the only witnesses to the envelope being on the door. The then Office Manager of the Nina B. Hollis Wellness Center at Florida Southern College also saw the envelope:

During the second week of May in 2001, I went to the Physical Education Department to see if Dr. Jamie Whited [Naughtright] had returned from her trip to South Africa. I went through the front door of the Department and said hello to Lisa Jewell, Physical Education Department Secretary, who was at her desk in the lobby. I turned left and proceeded to Dr. Whited's office. Her door was closed.

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<sup>19</sup>Lisa Jewell does admit that a faculty member might have taken the envelope out of Dr. Naughtright's office and placed it on the door. [Tab 15 - Jewell Depo. at pgs. 48-49]

However, on the door I saw a Florida Southern College envelope, vanilla in color with the blue logo, addressed to Dr. Vulgar Mouth Whited. I was shocked and said, "Damn, what's this all about?" Lisa Jewell just looked at me from her desk, which is about 10 feet diagonal from Dr. Whited's office, and did not respond to my question. I then asked Lisa Jewell, "When is Jamie coming back from her trip?" Lisa responded and said, "In two days." [Affidavit of Katie McKenzie]

Although Dr. Naughtright did not know it at the time, the campaign to use the excerpts from the book *Manning* to discredit her and to remove her from her position as Program Director had begun in April when the excerpts from the book *Manning* were being circulated along with excerpts from another book, a book written by former New York Yankees pitcher, Tommy John.

Like Peyton Manning, Tommy John had written a book about his life in sports which contained derogatory references to another Florida Southern College employee, Athletic Director, Mike Roberts. [Exhibit 99] Roberts was not popular at Florida Southern College because of his involvement in the dismissal of long time Florida Southern basketball coach, Gordon Gibbons [Affidavit of Jim Lee & Exhibit 99] A long time supporter of Florida Southern College athletics and member of the Sixth Man Club<sup>20</sup>, Jim Lee was very upset over the dismissal of Coach Gibbons. [Exhibit 99] He subsequently learned of the Tommy John book and discussed the book with another Florida Southern supporter and instructor, Dr. E. Lesley Knight. [Affidavit of Jim Lee & Tab 17 - Knight Depo. at pg. 3] Dr. Knight, who was also upset over the manner of Coach Gibbons' dismissal, gave Jim Lee copies of the Tommy John book, which Lee then gave to other Florida Southern supporters. [Tab 17 - Knight Depo at pgs. 8-13 ] Lee also wrote a letter to Florida

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<sup>20</sup>The Sixth Man Club is a very prominent organization which operates as a fund raising group for men's basketball at Florida Southern College and includes many of the major donors to the College. [Tab 2 - Benn Depo. at 79-80]

Southern College President, Thomas Reuschling, and included copies of the Roberts excerpts. [Exhibit 99] Along about this time, Dr. Knight had a conversation with long time Florida Southern baseball coach, Chuck Anderson. [Tab 17 - Knight Depo at pgs.20-23] Anderson informed Dr. Knight that Dr. Naughtright was the trainer referred to in the book *Manning*. [Tab 17 - Knight Depo. at pg. 21] Anderson, who was also at this time the Assistant Athletic Director at Florida Southern, indicated to Dr. Knight that the wrong person [Gordon Gibbons] had been fired and specifically mentioned that "...doctor here had sued, the word he used, sued University of Tennessee." [Tab 17 - Knight Depo. at pgs. 21 & 55-56; Tab 26 - Reuschling Depo. Vol. II at pages 160-161]. Dr. Knight testified that Anderson stated:

And he [Anderson] indicated they should have fired other people in the department. And he said also, the athletic trainer, he used the words, 'The one that sued the University of Tennessee X amount of money,' to sue (sic) her. That was it. That was it. We didn't follow up on it. [Tab 17 - Knight Depo. at pg. 57].

Assistant Athletic Director Anderson also resented Mike Roberts for interfering with Anderson's coaching of a baseball player. [Tab 31 - Webb Depo. at pgs. 21-22] Anderson's wife, Chris, who worked for Roberts at Florida Southern College, also didn't like Roberts. [Tab 31 - Webb at pg. 22]

After the discussion with Assistant Athletic Director Anderson, Dr. Knight went back and looked at the book, *Manning*. [Tab 17 - Knight Depo. at pg. 25] He thereafter made copies of the *Manning* excerpts related to Dr. Naughtright. [Tab 17 - Knight Depo. at pgs. 29-30] He then shared those excerpts pertaining to Dr. Naughtright with certain people he knew and who asked him for copies [Tab 17 - Knight Depo. at pgs. 30-31 & 69], including giving copies back to Assistant Athletic Director Anderson. [Tab 17 - Knight Depo at pg. 31]

Also, during this period of time, the Tommy John excerpts, relating to Florida Southern Athletic

Director Mike Roberts, were being circulated among the Sixth Man Club along with the excerpts from the Manning book relating to Dr. Naughtright. [Affidavits of Ben H. Darby, Jr. and George R. Hudson & Tab 17 - Knight Depo. at pgs. 31-34] Hudson, another member of the Sixth Man Club, recalls reading a five (5) page document at a baseball game [Exhibit 101], which contained both the Mike Roberts and Dr. Naughtright excerpts. [Hudson Affidavit] Hudson states that "[B]ased on the content of the document containing derogatory remarks about Mike Roberts and Dr. Jamie Naughtright, the document appears to have been circulated in an attempt to discredit them in their employment at Florida Southern College." (Hudson Affidavit) Excerpts from the Tommy John book were even placed in athletic department mail boxes at Florida Southern. [Tab 31 - Webb Depo. at pgs. 11 & 15-16] and there was a lot of discussion about the excerpts at Florida Southern [Tab 31 - Webb Depo. at pgs. 17-18] Lois Webb, current Athletic Director at Florida Southern remembers talking about the Roberts excerpts:

- Q. Okay. And who did you have discussion with?
- A. I hesitate to name anyone because it was just some information that was so shocking, kind of just something might have been put in your suite of offices and people all of a sudden are talking about it, because it was not very flattering news to read. Chris Anderson's name comes to mind because I was, of course, on that floor level and she was right there as well. [Tab 31 - Webb depo. at pgs. 18-19].

From the time Lois Webb received the Mike Roberts excerpts in her mail box in April or May, it was just a matter of weeks until Mike Roberts was history at Florida Southern College. [Tab 31 - Webb Depo. at pg 40] Just as the campaign to discredit Mike Roberts ended successfully within a short period of time, the campaign to discredit Dr. Naughtright would ultimately be successful and before the end of the year, Dr. Naughtright was removed from her position as Program Director.

Just as Jim Lee and other members of the Sixth Man Club at Florida Southern used the Tommy John book to obtain the dismissal of Mike Roberts, so did certain persons at Florida Southern use the book *Manning* to obtain the dismissal of Dr. Naughtright as Program Director. Certainly, after witnessing what happened to Mike Roberts and his termination at Florida Southern College, approximately two (2) months after the book excerpts concerning him were circulated, Dr. Naughtright can hardly be considered paranoid for worrying about her future at Florida Southern College. In fact, at the time the Mike Roberts excerpts were being distributed by Sue Stanley-Green and others, Dr. Naughtright's supervisor, Kathleen Benn, told Dr. Naughtright that "...this [the excerpts] is what was going to do [Mike Roberts] in." [Tab 24 - Naughtright Depo. Vol. III at pg. 83]

During the month of May, 2001, a Florida Southern College student who, even now is afraid of retaliation by Sue Stanley-Green or others at Florida Southern College, has provided the court with an Affidavit [filed herein under seal<sup>21</sup>]. In this Affidavit, the student indicates that:

Start of section filed under seal:

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<sup>21</sup>In her Affidavit, the student states that while she is giving the Affidavit of her own free will, she would request that "because of my fear of retaliation by Sue Stanley-Green or others at Florida Southern College, I would ask that this Affidavit be filed with the Court and not be made available to Florida Southern College or anyone associated with Florida Southern College." The student's concern about retaliation by Sue Stanley-Green is well founded. During the deposition process, it was revealed that Stanley-Green had recently sent out an e-mail to students encouraging them to "make some big points" by helping another faculty member move into her house. [Exhibit 413] Such a statement might cause a college student to wonder whether grades might be awarded based on faculty favors or disfavours.

End of section filed under seal:

Another Florida Southern student recalls Dr. Naughtright being warned that "something was going down." Jamie Ball, a student at Florida Southern College, recalls:

During the last week of April 2001, days before my graduation, Lisa Jewell told me that "something was going down with Sue Stanley-Green." She also told me that she had seen Ms. Sue Stanley-Green making copies (which was something Ms. Jewell and I normally did) and having secret meetings with faculty members other than Dr. Naughtright in her office. She told Dr. Naughtright to watch her back and that she would keep her eyes open while Dr. Naughtright was in Africa. [Affidavit of Jamie Ball]

Dr. Naughtright was well advised to watch her back in relation to Sue Stanley-Green, the woman who would ultimately get her job. [Tab 6 - Conner Depo. Vol. I at pg. 189] Stanley-Green was no stranger to digging up dirt on fellow or prospective employees at Florida Southern. In April of 2001, Dr. Naughtright had seen Stanley-Green making copies of and distributing the Mike Roberts excerpts. [Tab 24 - Naughtright Depo. Vol. III at pgs. 81-83] Stanley-Green had also previously participated in obtaining what turned out to be unfounded derogatory information on Mike Roberts. [Tab 31 - Webb Depo. at pgs. 34-38] As testified by Florida Southern Athletic Director Lois Webb:

Q. So let's see if we can recap this. Sue Stanley-Green, who was not on the search committee for Mike Roberts, had some type of telephone call with someone, who related that Mike Roberts allegedly had an affair with a student; is that correct?

A. Correct. [Tab 31 - Webb Depo. at pgs. 35-36]

As previously noted, prior to the April/May time frame of 2001, when the excerpts from the book *Manning* were being circulated, Dr. Jamie Naughtright was an exemplary and valued employee at Florida Southern College. From the time she joined Florida Southern College in 1998 until the April/May, 2001 time frame, she was well respected and had no problems whatsoever with administration, faculty, or students. Testimony by everyone at Florida Southern is unequivocal concerning her past performance. Her superior, Kathleen Benn, testified that:

Q. Okay. Now at this point in time May, June, July period of time in 2001, Dr. Naughtright had been at Florida Southern College for a couple of years; is that a fair statement?

A. Yes.

Q. And during that period of time, she had performed very well, is that a fair statement?

A. Absolutely

Q. And as you said, she certainly didn't have a reputation as having a vulgar mouth?

A. No.

Q. And did she dress professionally?

A. Yes.

Q. Did you ever notice her dressing in an inappropriate manner?

A. No. [Tab 2 - Bcm Depo. at pg. 69]

Yet, within a short period of time after distribution of the excerpts from the book *Manning*, the issue of "vulgar mouth" was raised by a student in a class taught by Dr. Naughtright and complaints were made to the Dean of the College about Dr. Naughtright's dress and behavior. Additionally, the issues of Dr. Naughtright's past history at Tennessee and the phantom Tennessee "lawsuit" were now being openly discussed on the Florida Southern College campus. As reluctantly admitted by the Dean of Florida Southern College:

Q. We note Mr. Manning wrote in his book, "resulted in a lawsuit charging 35 counts of sexual harassment," because that's right here in Mr. Manning's book; do you see that?

A. I can see it. You know, I really have not read it.

Q. Right. But we know the University of Tennessee and the alleged lawsuit was -

MS. BOLGER: Objection.

Q. ... written in Mr. Manning's book; correct?

A. I haven't read the book, and I actually haven't read those pages.

Q. Well, let me just kind of circle here. In Exhibit 100, and it does appear there, doesn't it?

A. The words appear there.

Q. Right. And those same words appear in the notes of one of your meetings that you had with your subordinates in November of 2001; correct?

MS. BOLGER: Objection.

A. Faculty are never subordinates. I'm a faculty member. I'm just in a different role. No. Two words are there. Lawsuit



and I assume Tennessee is somewhere on the page as well. They are there. They are in my notes. They are on that page.

Q. And these people you met with, whether they be your subordinates, equals –

A. They are my faculty. They are faculty at Florida Southern College.

Q. Your colleagues, whatever, chose to raise that as an issue in that meeting, did they not?

MS. BOLGER: Objection

A. I do not believe they raised it as an issue. They explained to me just in those words that that **was out there**. There was a lot of conversation. It was brought up. Was it an issue. I don't know.

Q. All right. But it was out there, wasn't it?

A. The words University of Tennessee and lawsuit **were out there**. [Tab 7 - Conner Depo. Vol. II at pgs. 404-405; emphasis added]

The effect the distribution of the Manning excerpts had on the way Dr. Naughtright was perceived was direct. The Assistant Athletic Director was of the opinion that Dr. Naughtright should be fired. [Tab 17 - Knight Depo. at pg. 57] And certainly no one would suggest that the Sixth Man Club was circulating the *Manning* excerpts among its membership in an effort to promote Dr. Naughtright to Dean of the College. All of this would take quite a toll on Dr. Naughtright and her ability to function at Florida Southern College.

**A DIFFICULT TIME - FALL OF 2001**

In May of 2001, before the arrival of the excerpts from the book *Manning*, Dr. Jamie Naughtright had no reason to suspect that Peyton Manning had chosen to include her in a book which was being distributed throughout the United States. Peyton Manning and the University of Tennessee were not even on her radar screen. A year before, she had separated from her husband and had gone through a divorce which had been finalized [Tab 22 - Naughtright Depo. Vol. I at pg. 16] and her father had died in 1999 [Tab 22 - Naughtright Depo. Vol. I at pgs. 27-28], but now, in the spring of 2001, she was happily living in Lakeland, Florida [Tab 22 - Naughtright Depo. Vol. I at pgs. 25-28] and her mother had relocated to Lakeland and built a house near her only daughter. [Tab 22 - Naughtright Depo. Vol. I at pg. 28] Dr. Naughtright had at all times complied with the terms of the settlement agreement with the University of Tennessee. [Tab 13 - Holt Depo. at pg. 60] She had no reason, on that May, 2001, morning, when she returned from South Africa, to think that her life, as she then knew it, was about to change forever. Dr. Naughtright's reaction is described by her supervisor, Kathleen Benn:

- Q. Did she make any comment about the enclosure to you?
- A. She was upset about it.
- Q. Okay. Your observation of her led you to the conclusion that she was upset; is that correct?
- A. Yes. Yes.
- Q. What about her demeanor, speech or otherwise led you to the conclusion that she was upset?
- A. Just the way that she was talking. My impression was she did not know the book existed. And her demeanor. I just knew she was upset.

- Q. You had been around her for long enough that you could tell?
- A. Sure.
- Q. Prior to that time, you observed that Dr. Naughtright was generally an upbeat person?
- A. Upbeat?
- Q. Upbeat, yes.
- A. Yes.
- Q. Okay. So it was obvious to you that this document that was contained in the envelope upset her and caused her some type of anguish that day; is that a correct statement?
- A. Yes.
- Q. All right. And what led you to the conclusion that she did not know the book existed?
- A. Her reaction to the note.
- Q. Her emotional reaction?
- A. Her whole reaction.
- Q. Did she say something that would indicate that she didn't know the book existed?
- A. I won't get this quote correct, because I don't, you know, I don't remember exactly. But it was something to the fact, "My God, he's written a book," something like that. And I might not be correct in that exact wording.
- Q. But it was words to that effect?
- A. Yes.
- Q. Did she say anything else?
- A. I don't recall. It was a fairly short conversation at that time.

Q. And when she said, quote, my God, he's written a book, unquote, or words to that effect, you knew she was referring to Peyton Manning, correct?

A. Yes. [Tab 2 - Benn Depo at pgs. 65-67]

However, after the distribution of the *Manning* excerpts, everything changed at Florida Southern College for Dr. Naughtright. Individuals who had previously been her colleagues became suddenly critical of her. Students who had previously been respectful of her became taunting of her, even to the point of asking her about her "vulgar mouth" during a class. A student describes this event:

As I stated above, during the fall of 2001, I was enrolled in a class taught by Dr. Naughtright entitled *Issues in Athletics*. This was a second level course and there were approximately twenty (20) or more students enrolled in the class. ... During one of the *Issues in Athletics* classes, Dr. Naughtright brought in a special guest speaker to speak to the class on issues surrounding sports law, such as Title IX. After the presentation by the guest speaker, there was a question and answer session. During this session one of the students raised an issue with Dr. Naughtright and the guest speaker about it having been stated that Dr. Naughtright had a "vulgar mouth." I recall that the question was asked in a very disrespectful way and that other students sitting next to the student who asked the question were laughing [see Affidavit of Nichole Kay May].

This change in attitude certainly did not escape the attention of other students at Florida Southern College. Another student stated:

In the summer of 2001, after my graduation, I came into the department on a couple of occasions to visit everyone and to say hello. I noticed a significant change in how faculty, staff, and students were treating Dr. Naughtright. Their attitudes, body language and behaviors were noticeably cold toward Dr. Naughtright. I was completely surprised by their behavior. In the past, I had always seen a lot of respect towards Dr. Naughtright. I asked Dr. Naughtright "what is going on." She closed the door and told me that Peyton

Manning had written a book, included derogatory comments about her in the book, and that a portion of the book was mailed to her office, addressed to "Dr. Vulgar Mouth Whited." [Affidavit of Jamie Ball].

During the summer of 2001, after witnessing the firing of Mike Roberts, Dr. Naughtright became convinced that the fate which befell Roberts, would be hers as well. This conviction haunted Dr. Naughtright and, combined with the manner in which she was being treated by administration, faculty, and students, caused her to be absolutely convinced that the distribution of the *Manning* excerpts on the Florida Southern campus and in the Lakeland community would ultimately cost her her job. This conviction was real and Dr. Naughtright was consumed with worry over the possible loss of a career at an institution where she intended to spend the rest of her life. She had put the University of Tennessee years behind her and had moved on. Unfortunately, Peyton Manning, contrary to his precious statement in 1997 that "it's all behind me," had deliberately and maliciously chosen to take one more swing at Dr. Naughtright. Dr. Naughtright shared this worry with her supervisor, Kathleen Benn:

- A. I don't know the exact date. I just don't know. She came into my office again and asked to talk to me. And I, my guess is it was in July, somewhere in that, somewhere, after. Might have been June, might have been late June, I just don't remember.
- Q. But it was a considerable period of time afterwards as opposed to a few days?
- A. Right.
- Q. Okay.
- A. And she sat down and she said to me – and I remember the conversation well, because I was very intent in trying to reassure her. She asked me, could this book put her in

jeopardy at Florida Southern College. Basically she asked me, could I lose my job at Florida Southern College because of this book, was her question to me. And I said absolutely not. That book has nothing to do with Florida Southern College. Nobody has ever told me you have a vulgar mouth, you know. This book has nothing, absolutely nothing to do with Florida Southern College. And I was very clear on that because I felt very strongly about it. And I wanted to reassure her. That in no way would this book have any bearing on her job or position at Florida Southern College.

- Q. Okay. Did it appear when she came to see you – and I'll call it June or July. We know that we don't have an exact date, but to differentiate it from the time frame in May. When she came to see you in June or July, did she appear that she was upset or concerned that the book might have some affect on her employment at Florida Southern College?

MS. BOLGER: Objection

- A. She specifically asked me. And when I said no, the book had absolutely nothing to do with Florida Southern College, she said to me, yes, but Florida Southern College is a small Methodist college. Couldn't this affect me? And I said no, Jamie. No one has ever told me you have a vulgar mouth. I have never witnessed you having a vulgar mouth. At no time would this book affect your position at Florida Southern College. And I was really very clear about that. [Tab 2 - Benn Depo. at pgs. 67-68]

Despite Kathleen Benn's assurances, it is quite apparent from the record in this case, including the affidavits and depositions, that the book did have an affect on Dr. Naughtright, her job, her career at Florida Southern College, what people thought of her, and her future.

One of Dr. Naughtright's co-workers in the athletic arena, a cheerleading coach at Florida Southern College, has stated that the affect was quite apparent:

After Dr. Whited returned from Africa and after I saw the envelope posted on Dr. Whited's door, I noticed a marked change in the attitude of the Athletic Training Educational Program personnel to Dr. Whited. Whereas in the past these individuals had been very friendly to Dr. Whited and treated her with respect, they suddenly became cool and less friendly to Dr. Whited. They no longer appeared to treat Dr. Whited with respect and appeared to exclude Dr. Whited from Program matters. During this period of time there were many closed door meetings between members of the Program which did not include Dr. Whited. One of my co-workers, Brendalou Melchiorrie, remarked to me that "something was going on" regarding Dr. Whited. It clearly appeared to me that subsequent to May of 2001, the attitude of Florida Southern College personnel changed in relation to Dr. Whited and from the time she returned from Africa, she was no longer a valued employee at Florida Southern College. As a specific example, in November of 2001, I saw one of Dr. Naughtright's subordinates in the Athletic Training Educational Program basically tell her to "shut up" in front of an entire group of people, including my cheerleaders, the men's basketball team, and fans of Florida Southern College. His conduct was totally inappropriate and disrespectful to Dr. Whited and totally the opposite of the way he conducted himself around Dr. Whited prior to May of 2001 [Affidavit of Katie McKenzie].

The record is replete with examples of the ways in which faculty and staff of Florida Southern College started nit-picking little things involving Dr. Naughtright. They complained to the Dean of the College about what a student said Dr. Naughtright wore to a car wash [Tab 6 - Conner Depo. at pgs. 96-97; Exhibit 421], they complained about Dr. Naughtright giving out a staff member's cell phone number even though that number was posted on the wall for all the world to see [Tab 16 - Kane Depo. at pgs. 74-83 & Exhibit 79], and they complained about her use of e-mails as a manner of communication. [Tabs 7 & 8 - Conner Depo. at pgs. 90 & 335] Nothing was too little or small to complain about. They even complained about Dr. Naughtright's grief over the death of one of her students [Tab 16 - Kane Depo. at pgs. 58-60 & 69-73 of Kane deposition; Exhibit 420] and for

taking a phone call from her doctor [Exhibit 421] The handwriting was on the wall. Dr. Jamie Naughtright could do nothing right and would soon be history as Program Director and would be gone for good when her yearly teaching contract expired.

Even after Dr. Naughtright left Florida Southern College, the disrespect caused by the dissemination of the book *Manning* continued unabated. A student who returned after the Christmas 2001 break noted:

During the first couple of weeks in January, 2002, various faculty and staff members at Florida Southern College were making numerous derogatory remarks about Dr. Naughtright and even indicated that the environment would be better without Dr. Naughtright. This disrespect toward Dr. Naughtright was consistent with what I was seeing in November and December of 2001, when faculty, staff, and students appeared to be disrespectful to Dr. Naughtright [Affidavit of Nichole Kay May].

Nichole Kay May was not alone in this observation. Another student, whose affidavit is filed under seal noted that:

Start of section filed under seal:

End of section filed under seal:

As a direct result of the publication of the book *Manning* and the dissemination of the excerpts at Florida Southern College, Dr. Jamie Naughtright was removed as Program Director, the very position for which she interviewed in 1998 and for which she was hired. This demotion, regardless



of whether or not she could have continued to teach until her contract ran out a year later, made staying at Florida Southern College untenable for both Dr. Naughtright and Florida Southern College. As stated by President Reuschling, "At some point in the negotiations it probably was apparent to all of us, through the negotiations, that there probably was not a salvageable positive relationship there." [Tab 25 - Reuschling Depo at pgs. 57-58 ] It was time for Dr. Naughtright to move on. Unfortunately, even though overly qualified for positions for which she subsequently applied, she was not even granted interviews [Exhibits 85-87]

When Dr. Naughtright first saw the excerpts which had been placed on her door in May of 2001, she knew that ultimately they could lead to her leaving Florida Southern College and could damage her career opportunities. She was right and in December of 2001 she left Florida Southern College for the last time. She left, not to embark upon a new career experience, but to attempt to right a wrong. This lawsuit is that attempt.

PETERSON & MYERS, P.A.

By: 

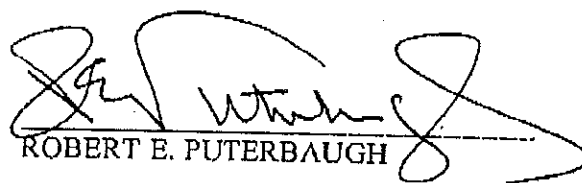
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been furnished via overnight Federal Express and fax on this 15<sup>th</sup> day of October, 2003 to: Slade R. Metcalf and Katherine M. Bolger, of the firm Hogan & Hartson, L.L.P., 875 Third Avenue, New York, New York, 10022.

  
ROBERT E. PUTERBAUGH