

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT

LAUREN BARTHOLD,

Plaintiff,

v.

GORDON COLLEGE, JANEL CURRY,  
and D. MICHAEL LINDSAY,

Defendants.

Civil Action No.

**FILED**  
IN THE SUPERIOR COURT  
FOR THE COUNTY OF ESSEX

APR 28 2016

*Thomas A. Marshall Jr.*  
CLERK

COMPLAINT AND JURY DEMAND

Plaintiff Lauren Barthold is a tenured Associate Professor of Philosophy at Gordon College in Wenham, Massachusetts. Defendants have discriminated against her in her employment on the basis of her association with gay, lesbian, bisexual, or transgender individuals, and on the basis of her sex, in violation of her rights under Massachusetts General Laws, chapter 151B. Additionally, Defendants Gordon College, its Provost Janel Curry, and its President D. Michael Lindsay have retaliated against Professor Barthold on the basis of her public opposition to their unlawful hiring policy, which discriminates based on sexual orientation. Defendants' treatment of Professor Barthold also runs afoul of the Massachusetts Civil Rights Act, G.L. c. 12, §§ 11H & I, as it interferes with her rights of free speech and association secured by the Massachusetts Declaration of Rights.

PARTIES

1. Lauren Barthold is a female individual residing in Essex County, Commonwealth of Massachusetts.

2. Gordon College is a private Christian liberal arts college located in Essex County, Commonwealth of Massachusetts. Gordon provides its students with a liberal arts education, with instruction in such subjects as accounting, business administration, chemistry, computer science, history, finance, philosophy, psychology, sociology, and social work. On information and belief, at least 40 different religious denominations are represented in its student body.

3. Janel Curry is employed as the Provost at Gordon College.

4. D. Michael Lindsay is employed as the President at Gordon College

#### FACTS

5. Professor Barthold has been employed by Gordon College since 2005 when she began work as an Assistant Professor of Philosophy. In December 2008, Professor Barthold was promoted to Associate Professor of Philosophy and was approved for tenure in 2011, effective in 2012.

6. In addition to serving as an Associate Professor of Philosophy, Professor Barthold also co-founded and served as the Director of the Gender Studies Program at Gordon.

7. At no time has Professor Barthold served as a minister for Gordon College, which is not a church, nor has she had responsibility for ministerial activities as part of her employment with Gordon. She has not held the title of minister (or any similar title) at Gordon, and has never been ordained or commissioned as a minister.

8. Professor Barthold's position does not involve or require her to espouse or promote any particular religious doctrine to students or other members of the Gordon community. Professor Barthold does not teach the Bible or articles of faith at Gordon. No student has ever sought spiritual counseling from Professor Barthold, and such counseling would not be

among her job duties at Gordon. Professor Barthold's role as a professor does not differ from the typical role of a professor at a non-Christian college.

9. Gordon employs a campus Minister and has a chaplaincy office. Professor Barthold is not the campus Minister and does not work within the chaplaincy office. There is a clear distinction at Gordon between faculty members, such as Professor Barthold, and those who are charged with ministering to the students.

10. Promotion and tenure for professors at Gordon are granted on the basis of a faculty member's abilities and achievements as a scholar and teacher, and contribution to community service, including service on Gordon committees and advising students academically. Evaluations of a faculty member's performance, for promotion and tenure decisions and otherwise, do not include the faculty member's abilities to serve as a minister, as such service is not part of the job responsibilities of a faculty member at Gordon.

11. Gordon hires non-Christians to serve as professors. Among its Christian professors are persons from various denominations and traditions.

12. Gordon does not limit enrollment, admission, or participation to those of a particular religion. Gordon encourages debate among its community members, including on matters of religious doctrine, and does not prohibit its students from exploring or advocating ideas and positions that are contrary to Gordon's policies, whether or not those policies are purportedly grounded in religious principles.

13. On July 1, 2014, President Lindsay signed a letter to President Barack Obama, urging President Obama to create a religious exemption to a forthcoming executive order prohibiting federal contractors from discriminating in employment on the basis of sexual orientation or gender identity. Gordon discriminates in this way.

14. President Lindsay's letter sparked a strong reaction from the Gordon community, including faculty, students, and alumni, and also attracted national attention, press coverage, and scrutiny. For example, one alumnus of Gordon started an online petition requesting that President Lindsay "rescind his request to be allowed to discriminate against LGBT people in the hiring process." This petition gathered close to 4,000 signatures, including Professor Barthold's. As another example of the community reaction to President Lindsay's letter, on July 9, 2014 Salem Mayor Kim Driscoll terminated Gordon's contract to manage the city-owned "Old Town Hall."

15. The controversy regarding President Lindsay's letter was covered in the local and national press, including in *The Salem News*, *The Boston Globe*, *The Huffington Post*, *The Atlantic*, and *The Washington Post*, among other publications.

16. In the midst of this ongoing discussion regarding President Lindsay's letter, Professor Barthold sent a letter to the editor of *The Salem News* which was published on July 11, 2014. In her letter, Professor Barthold stated her opposition to Gordon's discriminatory hiring practices, and further stated that she was "committed to working with students and colleagues to . . . win back the trust [of the LGBTQ community]."

17. On July 11, Defendant Provost Curry contacted Professor Barthold by email, "thank[ing]" Professor Barthold for her letter to *The Salem News*, and stating that Provost Curry "hope[d] it leads to [Professor Barthold's] engagement with faculty and students who hold different views."

18. On July 14, President Lindsay contacted Professor Barthold by email, "invit[ing] [Professor Barthold] to a time for safe-space dialogue with [Provost Curry] and [President Lindsay] regarding [Professor Barthold's] op-ed to the Salem News." At the meeting that

followed, far from proceeding as a “safe-space dialogue,” President Lindsay raised his voice at Professor Barthold and told her that she should rethink her relationship with Gordon College, all for having written the letter to the newspaper.

19. President Lindsay subsequently held a meeting for all Gordon faculty. At that meeting, President Lindsay stated that the faculty could not have a discussion about Gordon’s hiring policy among themselves, because it might result in the faculty coming to an opinion on the issue that would put them in conflict with Gordon’s Board of Trustees.

20. In September 2014, Professor Barthold was contacted by a reporter from *The Boston Globe*, who had obtained a copy of a “Faculty Welfare Report” for Gordon College that was issued in May 2013. The reporter asked Professor Barthold whether the report entailed a vote of “no confidence.” Having been chair of the faculty committee that led to the writing of the Report, and as a lead author of it, Professor Barthold wanted to set the record straight that there was no vote of “no confidence.” Further, Professor Barthold told the reporter that although administrators made some efforts to communicate more openly, they had failed in “fostering more robust and true, honest dialogue with the faculty.” Professor Barthold was referring to the treatment of her and others with respect to their opposition to Gordon’s discriminatory employment practices. *The Boston Globe* article specifically referenced, among other things, the controversy over President Lindsay’s signing the letter to President Obama about employment discrimination.

21. On November 3, 2014, Provost Curry contacted Professor Barthold, asking if she had any knowledge of the May 2013 Report being “leaked to the Boston Globe.” Professor Barthold, truthfully, denied having any knowledge of the source of the “leak.”

22. On December 8, 2014, a student asked Professor Barthold to be the advisor for Gordon's LGBTQ student group, which Professor Barthold agreed to do. In March 2015, Professor Barthold informed a Gordon Cabinet member of the students' request, and, on information and belief, Gordon's administration was so informed.

23. On May 18, 2015, Professor Barthold attended a meeting with members of Gordon's administration including Executive Vice President Dan Tymann and Nancy Anderson of Human Resources, at which she was given a letter from Gordon's Board of Trustees, notifying her of the Board's "unanimous disapproval" of her actions in "publicizing internal differences" and "encourag[ing] those outside Gordon to consider pressuring Gordon to adopt [Professor Barthold's] view for the College's future." The Board's letter specifically cited two items: (1) Professor Barthold's July 11, 2014 letter to *The Salem News*; and (2) Professor Barthold's contact with *The Boston Globe* reporter. The Board's letter further informed Professor Barthold that it had "advised the Provost to consider, in her discretion, whether the circumstances warrant the initiation of proceedings to consider termination of tenure." Executive Vice President Tymann told Professor Barthold at that meeting that Provost Curry had in fact decided to initiate the termination process.

24. Also at the May 18, 2015 meeting, Professor Barthold received a letter from President Lindsay proposing an agreement between Professor Barthold and Gordon for her to resign her position effective June 30, 2015. Professor Barthold refused to resign.

25. Counsel for Professor Barthold responded to the May 18, 2015 letters on her behalf, making clear that Professor Barthold was declining to resign and that Gordon's conduct was unlawful under Massachusetts General Laws Chapter 151B, as well as various other state and federal laws.

26. On or about August 19, 2015, Provost Curry sent a letter to Professor Barthold, informing her that she was being disciplined in several ways, although termination was not included. Specifically, Professor Barthold was told that she would be ineligible to apply for promotion to Full Professor, despite otherwise being eligible in the fall of 2015, and that she would be ineligible to hold any leadership positions at Gordon until she successfully went through either a promotion review or a 6-year review by the Faculty Senate.

27. This punishment was imposed one day after Professor Barthold had submitted her entire promotion package, after having been previously informed by Provost Curry, in a letter dated December 8, 2014, that she was eligible to apply for promotion to Full Professor by the fall of 2015.

28. On September 2, 2015, Provost Curry sent a further letter to Professor Barthold informing her that based on the discipline imposed in the August 2015 letter, Professor Barthold was no longer serving as the director of the Gender Studies Minor, effective immediately.

29. Male professors who made similar complaints and engaged in similar conduct as Professor Barthold, including two male professors who spoke to, and were quoted in two different articles in the *Globe*, and a male professor who organized a sit-in outside of the chapel during the matriculation ceremony in August 2014, were not disciplined in the way Professor Barthold was disciplined or otherwise.

30. The discriminatory treatment of Professor Barthold described herein violates the express provisions of G.L. c. 151B with regard to sexual orientation association and sex.

31. Furthermore, as a direct result of Professor Barthold having publicly voiced her opposition to the discriminatory practices of Gordon, representatives of Gordon retaliated against her, first by threatening to terminate her, and later disciplining her by demoting her from her

position as Director of the Gender Studies Minor, and denying her the vested opportunity to apply for promotion.

32. On information and belief, including their behavior alleged above and their positions as two of the most senior administration members with responsibility for personnel decisions, both President Lindsay and Provost Curry orchestrated and approved the treatment of Professor Barthold alleged herein.

33. Defendants threatened Professor Barthold with punishment for her protected speech and, by imposing punishment, are attempting to coerce her to stop expressing her opposition to Gordon's efforts to discriminate against LGBTQ people, including in hiring.

34. Gordon's, President Lindsay's, and Provost Curry's conduct alleged herein is entirely at odds with Gordon's stated commitment to academic freedom and debate in its liberal arts college setting. By discriminating and retaliating against a tenured professor based on her expressed views about Gordon's discriminatory hiring policies, and on her sex, and sexual orientation association, Gordon has not only violated Massachusetts employment and civil rights laws, but has also acted inconsistently with Gordon's own professed principles.

## **CAUSES OF ACTION**

### **Count One**

#### **(G.L. c. 151B – Associational Discrimination in Employment)**

35. Paragraphs 1 - 34 are realleged and incorporated by reference as if set forth fully herein.

36. As alleged herein, the Defendants discriminated against Professor Barthold in her employment on the basis of her association with LGBTQ persons.



37. More than ninety days ago, Professor Barthold filed a complaint with the Massachusetts Commission Against Discrimination concerning the discrimination alleged herein.

38. As a result of the Defendants' unlawful conduct alleged herein, Professor Barthold has suffered and continues to suffer from the violation of her rights, emotional distress, and lost wages, and is being unlawfully prevented from enjoying the full benefits of her employment, including the possibility of holding positions for which she is otherwise eligible.

**Count Two**  
**(G.L. c. 151B – Sex Discrimination in Employment)**

39. Paragraphs 1 - 38 are realleged and incorporated by reference as if set forth fully herein.

40. As alleged herein, the Defendants discriminated against Professor Barthold in her employment on the basis of her sex.

41. More than ninety days ago, Professor Barthold filed a complaint with the Massachusetts Commission Against Discrimination concerning the discrimination alleged herein.

42. As a result of the Defendants' unlawful conduct alleged herein, Professor Barthold has suffered and continues to suffer from the violation of her rights, emotional distress, and lost wages, and is being unlawfully prevented from enjoying the full benefits of her employment, including the possibility of holding positions for which she is otherwise eligible.

**Count Three**  
**(G.L. c. 151B – Retaliation)**

43. Paragraphs 1 - 42 are realleged and incorporated by reference as if set forth fully herein.

44. As alleged herein, the Defendants retaliated against Professor Barthold in her employment based on her opposition to practices that are unlawful pursuant to G.L. c. 151B.

45. More than ninety days ago, Professor Barthold filed a complaint with the Massachusetts Commission Against Discrimination concerning the retaliation alleged herein.

46. As a result of the Defendants' unlawful conduct alleged herein, Professor Barthold has suffered and continues to suffer from the violation of her rights, emotional distress, and lost wages, and is being unlawfully prevented from enjoying the full benefits of her employment, including the possibility of holding positions for which she is otherwise eligible.

**Count Four**  
**(G.L. c. 12, §§ 11H & I – Violation of Massachusetts Civil Rights Act)**

47. Paragraphs 1 - 46 are realleged and incorporated by reference as if set forth fully herein.

48. By means of threats, intimidation, and coercion, the Defendants have interfered with or attempted to interfere with Professor Barthold's rights secured by the Massachusetts Declaration of Rights, including her rights to free speech and association.

49. As a result of the Defendants' unlawful conduct alleged herein, Professor Barthold has suffered and continues to suffer damages from the violation of her rights, emotional distress, and lost wages and is being unlawfully prevented from enjoying the full benefits of her employment, including the possibility of holding positions for which she is otherwise eligible.

**Request for Relief**

WHEREFORE, Professor Barthold respectfully requests that the Court

- A. enter judgment for her;
- B. award her compensatory and nominal damages;
- C. award her attorneys' fees to the extent available under applicable law;

D. award her pre-judgment and post-judgment interest and costs;

F. enter an injunction ordering Defendants to cease the ongoing unlawful discipline imposed on Professor Barthold, and retract any record of the discipline imposed on her, and prohibiting their interference with her exercise of rights secured by the Massachusetts Declaration of Rights; and

E. grant other and further relief that the Court deems appropriate.

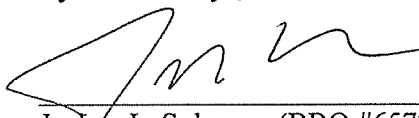
**Jury Trial Demanded**

Professor Barthold hereby demands a trial by jury on all issues so triable.

Dated: April 28, 2016

LAUREN BARTHOLD

By her attorneys,



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