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IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

BOARD OF TRUSTEES OF
THE UNIVERSITY OF ARKANSAS

V.

CV 12-3060-6
NO. 60-cv-2012-350

WASHINGTON COUNTY; JEFF WILLIAMS,
WASHINGTON COUNTY TAX ASSESSOR;
AND DAVID RUFF, WASHINGTON COUNTY
TAX COLLECTOR

FILED FOR RECORD
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PLAINTIFF
DEFENDANTS

COMPLAINT

Comes Plaintiff, Board of Trustees of the University of Arkansas, acting through its undersigned counsel, and for its Complaint states as follows.

I.
PARTIES

1. Plaintiff, Board of Trustees of the University of Arkansas ("University"), is the governing board of the University of Arkansas, a public institution of higher education organized and existing under the laws and Constitution of the State of Arkansas. Ark. Const., Amend. 33 and Ark. Code Ann. § 6-64-202. The University is the State of Arkansas, as recognized by the United States Supreme Court in *Arkansas v. Texas*, 346 U.S. 368, 370 (1953).

2. The University of Arkansas, Fayetteville ("UAF") is a campus of the University located in Fayetteville, Arkansas and with other various departments, units and operations located elsewhere in the state. UAF is under the management and control of the Board of Trustees of the University of Arkansas. Ark. Code Ann. § 6-64-402. UAF, often referred to as the "flagship" campus of the University of Arkansas, is a public four-year, land grant institution offering more than two hundred academic programs, including, without limitation, undergraduate and graduate degrees. UAF is the primary doctoral degree granting, research

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institution in the State of Arkansas, and only one of 108 colleges and universities nationally to achieve the most elite research classification possible by the Carnegie Foundation.

3. Defendant Washington County was created on October 17, 1828 from Crawford and Lovely Counties, with portions of Washington County subsequently becoming Benton and Madison Counties in 1836. Washington County consists of approximately 956 square miles, and the City of Fayetteville is the county seat. Washington County is a governmental entity located in northwest Arkansas and is politically subordinate to the State of Arkansas.

4. Defendant Jeff Williams is the publicly elected Assessor of Washington County, and he is sued in his official capacity.

5. Defendant David Ruff is the publicly elected Collector of Washington County, and he is sued in his official capacity.

II. **JURISDICTION AND VENUE**

6. Jurisdiction and venue are proper in this Court. This action is an appeal by the University, pursuant to Rule 9 of the District Court Rules, Ark. Code Ann. § 26-27-318(c)(2)(B), and Article 7, § 33 of the Arkansas Constitution, from a matter in which the Washington County Court had exclusive original jurisdiction under Article 7, § 28 of the Arkansas Constitution and Ark. Code Ann. § 26-27-318(a)(a), from an Order and final judgment of the Washington County Court entered on November 19, 2012 in the matter styled Petition For Appeal challenging the denial of multiple exemption applications of the Board of Trustees of the University of Arkansas. A certified copy of the Order from the proceeding below affirming the decision of the Washington County Board of Equalization and denying the University's petition for relief as to all real property and personal property parcels, is attached hereto as Exhibit 1.

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III. FACTS

7. The legal authorizations for the establishment and operation of the University of Arkansas and its various campuses and divisions are found in various constitutional provisions, state statutes, its authorization as a public corporation, in its implied trustee powers and in judicial decisions.

8. In 1862, the Morrill Land Grant Act was enacted into law to support the creation of each state's college of agriculture and mechanical arts (*i.e.*, engineering). Although the Arkansas Legislature accepted the Morrill Act in 1864, no further action was taken until 1868 due to the Civil War and Reconstruction.

9. ~~The Arkansas Constitution of 1868 mandated the creation of a "State University" as follows:~~

The General Assembly shall establish and maintain a State University, with departments for instruction in teaching, in agriculture, and the natural sciences as soon as the public school fund will permit.

Ark. Const. of 1868, art. IX, sec. III. In 1868, the General Assembly passed an act "establishing an Industrial University."

10. ~~On March 27, 1871, in Act 44 of the Acts of Arkansas of 1871 ("Act 44"), the Arkansas General Assembly established and authorized the Board of Trustees to select a location and to organize and maintain the Arkansas Industrial University ("AIU").~~

11. The Board of Trustees utilized a competitive process to select a location for the AIU. Public votes on bond issues to attract the AIU were conducted in Independence County, Pulaski County, and Washington County. Voters in Washington County approved the issuance of 30-year bonds in the amount of \$100,000, and the City of Fayetteville approved an additional \$30,000 in bonds. ~~In seeking to induce its selection as the site for the AIU, Washington County~~

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never advised or informed the Board of Trustees that Washington County would impose *ad valorem* taxes on the real and personal property of the University. In reliance upon the representations of Washington County and the City of Fayetteville, the Board of Trustees selected Fayetteville as the location for the AIU in October, 1871. In November, 1871, the Board of Trustees selected the McIlroy Farm as the specific location for the location of the AIU.

12. On January 22, 1872, the AIU began classes with a total of eight students, including one female, in a farmhouse outfitted with seats, blackboards, and stoves. In 1899, the name of the institution was changed to the University of Arkansas. Today, the main campus of UAF is comprised of over 200 buildings on over 600 acres in Washington County and serves nearly 25,000 students.

13. The public purpose of the University is extraordinarily broad as reflected in Act 44, which provides that the Board “shall have and exercise all the powers and privileges allowed by the constitution and laws of the state to any like corporation, in all matters and things pertaining to the location, organization, maintenance and regulation or support of said university.” As part of its public purposes, Act 44 empowers the University “from time to time, as the finances will allow, and the *advancement and necessities of the institution require*, fill other chairs, and add to the buildings, furniture, libraries, apparatus, *and other things proper to the full operation and well-being of a first-class university.*” (Emphasis added.) The law further grants the University authority to act as a “body corporate and politic” and to “have and exercise all powers and privileges allowed by the constitution and laws of the state to any like corporation, *in all matters and things pertaining to the location, organization, maintenance and regulation or support of said university.*” (Emphasis added.) Act 44 reflects the intent of the General Assembly for the University to act in the “best interests of the whole people” of the State of Arkansas.

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14. In furtherance of its public mission, the University has acquired and uses the parcels of real and personal property now under appeal for its exclusive public purpose of developing, maintaining, providing, and advancing an all-encompassing and comprehensive modern university that fulfills its educational mission and competes with other higher education institutions in the state, nationally, and internationally.

15. In April and May, 2011, the office of the newly-elected Washington County Assessor distributed Commercial Personal Property Assessment forms to various locations on the University campus. These forms covered University-owned personal property that had previously never been assessed by the Washington County Assessor. Copies of the forms were later provided by the Assessor to the University's Financial Affairs office which is responsible for tax compliance.

16. In May, 2011, the University submitted certain property exemption applications on various parcels of its real property to the Washington County Tax Assessor.

17. In May, June and July 2011, the Washington County Tax Assessor wrote the University and notified University officials that exemptions were denied for various parcels of real property that are the subject of this appeal. Exemptions were approved for certain other parcels of real property that are not the subject of this action.

18. In July, 2011, the University received notices of real estate value changes on numerous parcels of real property that had previously been classified as exempt from *ad valorem* taxes. The notices indicated that the Assessor was removing the exempt status from the applicable parcels.

19. On September 8, 2011, University officials met with the Washington County Tax Assessor to discuss concerns with the Assessor's efforts to assess *ad valorem* taxes on University property.

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20. On October 17, 2011, Dr. Donald O. Pederson, Vice Chancellor for Finance and Administration at UAF, submitted the University's 2011 tax payment for real property assessed by the Washington County Tax Assessor in 2010. Dr. Pederson stated that the University "is making this payment under protest and does not waive any of its legal rights concerning the exempt status of all parcels covered by the tax payment or admit that any such property is subject to taxation."

21. In February, 2012, UAF submitted exemption applications for each of the parcels of real property listed in Exhibit A to the Washington County Tax Assessor. For each parcel, the exemption application included specific grounds for the exemption of the parcel and also stated that the parcel was constitutionally immune from taxation or, alternatively, exempt from *ad valorem* taxes, and stated as follows:

The Board of Trustees of the University of Arkansas (the "University") is a "body politic and corporate" and possesses all of the powers of a "corporate body" subject to the Arkansas Constitution and state law to conduct its mission of higher education through teaching, research and service. Ark. Code Ann. §§ 6-64-202 – 6-64-203. The University is an instrumentality of the State of Arkansas, and as a matter of Arkansas law, the University is the State of Arkansas. In the earliest case to interpret and apply Article 16, Section 5 after the ratification of the Arkansas Constitution of 1874, the Arkansas Supreme Court held that the State of Arkansas, such as the University, is presumptively immune from taxation unless the General Assembly expresses its intent to allow such taxation. *Bd. of Improvement v. Little Rock Sch. Dist.*, 19 S.W. 969, 971 (Ark. 1892). As established by this case and other rulings of the Arkansas Supreme Court, the State of Arkansas has never granted authority to the counties to impose *ad valorem* taxes upon real property owned by the State. As expressly recognized and stated by the Arkansas Supreme Court, the commonly stated refrain that "taxation is the rule and exemption is the exception" applies only to *private property* and "the rule with reference to *public property* to be that exemption are implied unless otherwise expressed." *Id.* at 971 (citing *Cooley on Taxation* at 172 (2d ed.)) (emphasis added). The Arkansas General Assembly, in turn, has not expressed any intention to permit such taxation of the University's real property; in fact, just the opposite

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is true. Ark. Code Ann. § 26-3-301(2). Accordingly, the attached parcel is presumptively immune from taxation.

In the alternative, the University believes the parcel is exempt from taxation for the following reasons. Established in 1871 as a land grant institution of higher education under the Morrill Act, the University has acquired and uses the attached parcel as part of its Fayetteville campus for its exclusive public purpose of developing, maintaining, providing, and advancing an all-encompassing and comprehensive modern university that fulfills its educational mission and competes with other higher education institutions in the state, nationally, and internationally.

In the context of the University, any determination of exclusive use for a public purpose is inextricably intertwined with the needs, goods, services, and undertakings that are necessary and fundamental to maintaining and operating a modern institution of higher education. In that regard, all activities and uses of the attached parcel are solely for advancing the University's exclusive public purpose of advancing its broad higher education mission, including, without limitation:

- providing students, both those who reside on campus and those who must spend many uninterrupted hours on campus, with all necessary goods and services in order to facilitate learning and the operation of the campus regardless of whether such goods and services are delivered directly by the institution or by a private vendor as a necessary school purpose and function,
- fostering formal and informal learning opportunities and experiences for students and faculty in both classroom and non-classroom settings,
- developing and maintaining world-class facilities and operations to attract and – critically – to *retain* students (including international students), faculty and staff, including, without limitation, improving the institution's student retention rates to increase the number of graduates for the benefit of the State of Arkansas,
- containing the cost of tuition and fees charged to students to cover the operating costs and expenses of the University,
- creating a vibrant campus community, and preparing students to compete in a global economy; and
- supporting world-class research and job-creating agricultural and economic development for the State of Arkansas.

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All of these activities constitute “use for exclusively public purposes” as part of a modern institution of higher education. This parcel has not been acquired or developed for income-producing purposes or to establish competition with private entities, but to accomplish the exclusively public purposes of the University. From its founding, the University has provided a variety of vital operations to the campus community to ensure that the University can carry out its mission in an effective manner; the fact that certain private providers may also seek to provide goods and services does not alter the reality that providing all necessary goods and services to the campus community is an essential school function that is central to carrying out the public purpose of the University.

The attached parcel is used to carry out the University’s exclusive public purpose of higher education as a modern University, and as such, is exempt from *ad valorem* taxation under the Arkansas Constitution and state statute. Specifically, the Arkansas Constitution exempts “public property used exclusively for public purposes” and “school buildings and apparatus” from taxation, as well as “libraries and grounds used exclusively for school purposes.” Ark. Const. of 1874, art. 16, § 5(b). Arkansas law provides that “[a]ll public institutions of higher learning and all buildings and grounds belonging to those institutions,” and “[a]ll property, whether real or personal, belonging exclusively to this state, including property of state agencies, institutions, boards, or commissions,” are exempt from taxation. Ark. Code Ann. §§ 26-3-301(2) & 26-3-301(4). The University follows a Master Plan and a Growth Plan to acquire real property for future campus expansion and such activity is part of the institution’s exclusive public purpose.

In carrying out its public mission of higher education and economic development for the State of Arkansas, the University faces a complex set of challenges and needs that are constantly evolving in response to social, cultural and technological conditions. The University must use its property in a way that adapts to these ever-evolving needs to fulfill its mission without being burdened with the threat of newly-imposed property tax assessments.

Each application also attached a photo of the subject parcel, and requested a refund of previous taxes paid on the parcel of real property and the removal of the parcel from the tax rolls.

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A complete set of all such applications was submitted to the Board of Equalization and was available to the County Court during the proceedings in this case.

22. In April, May and June, 2012, the Washington County Tax Assessor wrote University officials informing them that the University's application for exemption had been denied for tax year 2012 on each of the parcels of real property that are the subject of this appeal, and returning copies of the exemption applications signed by the Assessor and stating that the parcels were subject to *ad valorem* taxation. The Assessor approved the exemption applications for certain other parcels that are not the subject of this action.

23. In June, 2012 UAF submitted exemption applications for each of the parcels of personal property listed in Exhibit B to the Washington County Tax Assessor. For each parcel, the exemption application included specific grounds for the exemption of the parcel and stated the parcel was constitutionally immune from taxation or, alternatively, exempt from *ad valorem* taxes, and stated as follows:

The Board of Trustees of the University of Arkansas (the "University") is a "body politic and corporate" and possesses all of the powers of a "corporate body" subject to the Arkansas Constitution and state law to conduct its mission of higher education through teaching, research and service. Ark. Code Ann. §§ 6-64-202 – 6-64-203. The University is an instrumentality of the State of Arkansas, and as a matter of Arkansas law, the University is the State of Arkansas. In the earliest case to interpret and apply Article 16, Section 5 after the ratification of the Arkansas Constitution of 1874, the Arkansas Supreme Court held that the State of Arkansas, such as the University, is presumptively immune from taxation unless the General Assembly expresses its intent to allow such taxation. *Board of Improvement v. Little Rock Sch. Dist.*, 19 S.W. 969, 971 (Ark. 1892). As established by this case and other rulings of the Arkansas Supreme Court, the State of Arkansas has never granted authority to the counties to impose *ad valorem* taxes upon property owned by the State. As expressly recognized and stated by the Arkansas Supreme Court, the commonly stated refrain that "taxation is the rule and exemption is

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the exception” applies only to *private property* and “the rule with reference to *public property* [is] that exemptions [are] implied unless otherwise expressed.” *Id.* at 971 (citing *Cooley on Taxation* at 172 (2d ed.)) (emphasis added). The Arkansas General Assembly, in turn, has not expressed any intention to permit such taxation of the University’s property; in fact, just the opposite is true. Ark. Code Ann. § 26-3-301(2). Accordingly, the attached personal property is presumptively immune from taxation.

In the alternative, the University believes the personal property is exempt from taxation for the following reasons. Established in 1871 as a land grant institution of higher education under the Morrill Act, the University has acquired and uses the attached personal property as part of its Fayetteville campus for its exclusive public purpose of developing, maintaining, providing, and advancing an all-encompassing and comprehensive modern university that fulfills its educational mission and competes with other higher education institutions in the state, nationally, and internationally.

In the context of the University, any determination of exclusive use for a public purpose is inextricably intertwined with the needs, goods, services, and undertakings that are necessary and fundamental to maintaining and operating a modern institution of higher education. In that regard, all activities and uses of the attached personal property are solely for advancing the University’s exclusive public purpose of advancing its broad higher education mission, including, without limitation:

- providing students, both those who reside on campus and those who must spend many uninterrupted hours on campus, with all necessary goods and services in order to facilitate learning and the operation of the campus regardless of whether such goods and services are delivered directly by the institution or by a private vendor as a necessary school purpose and function,
- fostering formal and informal learning opportunities and experiences for students and faculty in both classroom and non-classroom settings,
- developing and maintaining world-class facilities and operations to attract and – critically – to *retain* students (including international students), faculty and staff, including, without limitation, improving the institution’s student retention rates to increase the number of graduates for the benefit of the State of Arkansas,

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- containing the cost of tuition and fees charged to students to cover the operating costs and expenses of the University,
- creating a vibrant campus community, and preparing students to compete in a global economy; and
- supporting world-class research and job-creating agricultural and economic development for the State of Arkansas.

All of these activities constitute “use for exclusively public purposes” as part of a modern institution of higher education. This personal property has not been acquired or developed for income-producing purposes or to establish competition with private entities, but to accomplish the exclusively public purposes of the University. From its founding, the University has provided a variety of vital operations to the campus community to ensure that the University can carry out its mission in an effective manner; the fact that certain private providers may also seek to provide goods and services does not alter the reality that providing all necessary goods and services to the campus community is an essential school function that is central to carrying out the public purpose of the University.

The attached personal property is used to carry out the University’s exclusive public purpose of higher education as a modern University, and as such, is exempt from *ad valorem* taxation under the Arkansas Constitution and state statute. Specifically, the Arkansas Constitution exempts “public property used exclusively for public purposes” and “school buildings and apparatus” from taxation, as well as “libraries and grounds used exclusively for school purposes.” Ark. Const. of 1874, art. 16, § 5(b). Arkansas law provides that “[a]ll public institutions of higher learning and all buildings and grounds belonging to those institutions,” and “[a]ll property, whether real or personal, belonging exclusively to this state, including property of state agencies, institutions, boards, or commissions,” are exempt from taxation. Ark. Code Ann. §§ 26-3-301(2) & 26-3-301(4). The University also acquires, holds and uses numerous items of personal property to carry out its exclusive public purpose and to provide for the wellbeing of its students, faculty and staff.

In carrying out its public mission of higher education and economic development for the State of Arkansas, the University faces a complex set of challenges and needs that are constantly evolving in response to ever changing social, cultural and technological conditions. The University must use its property in ways that adapt to these ever-evolving needs to fulfill its mission

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without being burdened with the threat of newly-imposed property tax assessments on real or personal property.

Each application also requesting a refund of previous taxes paid on the parcel of personal property and the removal of the parcel from the tax rolls.

24. In July 2012, the Washington County Assessor wrote University officials informing them that the University's application for exemption had been denied for tax year 2012 on each of the parcels of personal property that are the subject of this appeal, and returning copies of the exemption applications signed by the Assessor and stating that the parcels were subject to *ad valorem* taxation. The Assessor approved the exemption applications for certain other parcels that are not the subject of this action.

25. On August 20, 2012, the University submitted to the Washington County Clerk a request for an appeal hearing with the Washington County Board of Equalization, along with exhibits corresponding with each parcel appealed, including tax exemption requests and denials for each parcel appealed. The appeal was for tax years 2010, 2011, and 2012 based on all parcels submitted as part of the hearing appeal request.

26. On September 27, 2012 and October 4, 2012, the Washington County Board of Equalization held hearings on this matter.

27. On or around October 8, 2012, the Board of Equalization caused to be issued notices of adjustment affirming the decision of the Washington County Tax Assessor, and denying the University's request to find that the subject parcels of real and personal property were immune, or in the alternative, exempt from taxation, and the other relief sought by UAF. The Board's notices were received by the University on October 10, 2012. The Board did not did not provide *any* reasoning for its decision to deny the University's appeal as to any parcel.

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28. On October 15, 2012, Dr. Pederson submitted the University's 2012 tax payment for real and personal property assessed by the Washington County Tax Assessor in 2011. Dr. Pederson stated that "[t]he University is making this payment under protest and does not waive any of its legal rights, including, but not limited to, the University's constitutional immunity from *ad valorem* taxation and the exempt status of all parcels covered by the tax payment." Dr. Pederson further stated that, "[i]n response to the recent refusal of the Washington County Assessor and the Washington County Board of Equalization to recognize the University's constitutional immunity from *ad valorem* taxation and to recognize the exempt status of the University's real and personal property for assessments conducted in 2010, 2011, and 2012, the University plans to submit an appeal to the Washington County Court. As part of that process, the University also plans to seek a refund of all taxes wrongfully assessed against the University during 2010 and 2011. Accordingly, the University reserves all of its legal rights with regard to all parcels of real and personal property determined by the Washington County Tax Assessor to be subject to *ad valorem* taxes for 2011, including, without limitation, the right to challenge any determinations denying the constitutional immunity and tax exempt status of any parcels of real and personal property whether now or in the future."

29. On October 17, 2012, the University appealed the decisions of the Board of Equalization by filing a Petition for Appeal to the County Court of Washington County.

30. On November 5, 2012, the University filed proof of publication of a Notice for the County Court hearing with the published Notice of Appeal to the Washington County Court. The Notice of Appeal included a description of each parcel of real and personal property and the amount of each assessment.

31. On November 13, 2012, the Washington County Court conducted its appeal hearing.

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32. On November 19, 2012, the Washington County Court, by and through the Honorable Marilyn Edwards, Washington County Judge, issued an Order and final judgment in the case styled In the Matter of the Appeal from the Board of Equalization to the County Court by the Board of Trustees of the University of Arkansas. The Order affirmed the decision of the Board of Equalization and denied the University's petition for relief as to all real property and personal property parcels. Similar to the decision issued by the Board of Equalization, the County Court's decision did not provide *any* reasoning whatsoever for the decision.

33. On December 19, 2012, pursuant to Rule 9(e) of the Arkansas District Court Rules, the University filed with the Washington County Circuit Clerk a Notice of Appeal of the Order of the Washington County Court, with a certified copy of the County Court's order attached. Copies of the Notice of Appeal were served personally on Washington County Judge Marilyn Edwards, Washington County Assessor Jeff Williams, Washington County Collector David Ruff, and Washington County Attorney George Butler. A copy of the Notice of Appeal is attached as Exhibit 2.

34. In carrying out its public mission of higher education (including, without limitation, teaching, research and service) and economic development for the State of Arkansas, the University faces a complex set of challenges and needs that are constantly evolving in response to social, cultural and technological conditions. The University must and has used its real and personal property in ways that adapt to the ever-evolving needs and requirements to fulfill its mission. From its humble beginnings opening with eight students in January, 1872, UAF has grown to serve approximately 25,000 students at the Fayetteville campus and projects that enrollment will reach 28,000 in the next few years. Additionally, the educational activities of UAF are not isolated to Northwest Arkansas as they originally were in 1872, but now

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encompass the entire state through distance education and other educational pursuits such as Garvan Woodland Gardens in Hot Springs, Arkansas.

35. In his testimony before the Washington County Board of Equalization and the Washington County Court, the Washington County Tax Assessor testified that, in reviewing and deciding whether to assess or exempt real and personal property from taxation that is now under appeal, he based his decisions on what citizens who voted on the 1874 Arkansas Constitution would have deemed appropriate. The Washington County Tax Assessor further determined whether, in his judgment, any use of the appealed parcels of real and/or personal property placed the University in competition with the private sector. If the Washington County Tax Assessor deemed such competition to exist, then those parcels were assessed and taxed. The testimony established that many assessment decisions, such as those involving the University's food service operations, were based on incomplete and uninformed information. Upon information and belief, the Washington County Tax Assessor hired a private firm that lacked the requisite knowledge and experience regarding the University's expansive public purpose and mission to assess and impose *ad valorem* taxes. The decisions of the Washington County Tax Assessor and its private vendor to assess and tax the University's real and personal property parcel now on appeal were made in an arbitrary, capricious and unlawful standard and represents a reversal of the historical tax treatment of UAF.

36. In a letter to the Washington County Tax Assessor, Dr. Pederson advised the Assessor that the parcels now under appeal were used solely for advancing the University's exclusive public purpose of advancing its broad higher education mission, including, without limitation:

- providing students, both those who reside on campus and those who must spend many uninterrupted hours on campus, with all necessary goods and services in order to facilitate learning and the

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operation of the campus regardless of whether such goods and services are delivered directly by the institution or by a private vendor as a necessary school purpose and function,

- fostering formal and informal learning opportunities and experiences for students and faculty in both classroom and non-classroom settings,
- developing and maintaining world-class facilities and operations to attract and to *retain* students, faculty and staff, including, without limitation, improving the institution's student retention rates to increase the number of graduates for the benefit of the State of Arkansas,
- containing the cost of tuition and fees charged to students to cover the operating costs and expenses of the University,
- creating a vibrant campus community, and preparing students to compete in a global economy; and
- supporting world-class research and job-creating agricultural and economic development for the State of Arkansas.

All of these activities constitute "use for exclusively public purposes" as part of a modern institution of higher education and are essential in fulfilling the Board's legal charge for "*the full operation and well-being of a first class university*" in modern times.

37. The appealed parcels of real and personal property have not been acquired or developed by the University for income-producing purposes or to establish competition with private entities, but accomplish the exclusively public purposes of the University.

38. From its founding, the University has provided a variety of vital operations to the campus community, sometimes in collaboration with private business operators, to ensure that the University can carry out its mission in an effective manner; the fact that other private providers may also seek to provide goods and services does not alter the reality that providing all necessary goods and services to the campus community is an essential school function that is central to carrying out the public purpose of the University. These activities are designed to

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attract students, faculty and staff, and most importantly to retain students and thereby increase student graduation rates.

39. As a modern public institution of higher education, the University is in competition with other private entities and public institutions for students, faculty, and staff. The use of the real and personal property parcels now under appeal to provide the necessary goods and services on campus in University facilities is consistent with the institution's public purpose and mission. The University's innovative cooperation with private operators has been an integral part of its efforts to make the campus more appealing in order to better attract and retain students, as part of its educational mission.

40. Based upon the University's efforts, over the past decade, retention and graduation rates have increased. In recent years, the University has also increased the size of its faculty to help meet the needs of those students. These increases create private demand for student housing and other goods and services, which the University is not harming with its on-campus operations or rental activities. In the proceedings below, neither the Assessor nor the Board of Equalization cited or introduced any evidence that private sector entities have somehow been harmed or disadvantaged by the University carrying out its public mission.

41. The ability of the University to attract, retain and graduate an increasing student population primes the pump for economic success for business in the local community, all of Northwest Arkansas and throughout the State of Arkansas. For example, a recent ArkansasBusiness.com article detailed \$150 million in private investment in student-related housing projects in areas immediately surrounding the campus. Such investment and student-driven economic activity translates into more property tax revenues.

42. The efforts of the Defendants to impose *ad valorem* taxes on the parcels now under appeal represents a reversal of the historic tax treatment of UAF and violates the

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constitutional and statutory authority of the Board of Trustees to fulfill its legal purposes. By their actions, Defendants are taxing UAF's the student body contrary to the past tax treatment of the operations and activities of the UAF over many decades.

43. For example, the University studied, developed and adopted a Master Plan and a Growth Plan essential to developing the campus and meeting ongoing and future needs for UAF. As such, the University's acquisition of real property for future campus expansion is part of the institution's exclusive public purpose. The University's good planning and stewardship of its property has benefited taxpayers and has enabled the University's unprecedented growth in recent years. Further, the University acts consistent with its public purpose when the institution acquires and utilizes green space as a natural buffer and border to the surrounding community. The fact that the University may use green space as an informal gathering space or as a natural buffer to the surrounding community – rather than installing a parking lot – does not mean the institution is not using the space for its immune and/or exempt and lawful purposes. Nevertheless, the real property parcels now under appeal include such green spaces.

44. For approximately 25 years, from 1915 until 1940, a privately-operated bookstore, also serving cold drinks to students, operated in Old Main and served as a social center and de facto student union. Floyd Carl, Jr., *Charles Stone: The Passing of a Landmark*, N.W. Ark. Times, March 8, 1972, at 2. The store was operated by a colorful gentleman named Charley Stone, who ultimately sold the operation to the University. *Id.* Based upon the tax records of Washington County, no *ad valorem* taxes were ever assessed on that property.

45. From approximately 1904 through 1982, the University maintained a dairy program and operated a University Creamery that sold milk, butter, cottage cheese and ice cream to students and to private citizens, including "grocermen," in Fayetteville and surrounding towns. *Animal Industry*, Ark. Agriculturist, vol. X, No. 5 at 2 (Feb. 1933); Smith, University of

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Arkansas Creamery, Ark. Agriculturist, vol. X, No. 5 (Feb. 1933); *U. of A. Creamery Serves Local Retail Trade*, Ark. Agriculturist, vol. VIII, No. 8 (May 1931). The tax records of Washington County reflect that other local dairies were assessed and paid personal property taxes, but not the University Creamery.

46. Beginning in approximately 1947, Memorial Hall contained a kitchen that offered food to students and members of the public. The tax records of Washington County indicate that no *ad valorem* taxes were assessed or collected on this use of the real and personal property of the University.

47. From approximately 1940 to 1995 and today, the University operated a bookstore. From approximately 1973 to the present, the bookstore sold cosmetic products and necessary supplies for residence hall rooms. Contrary to some of the parcels now under appeal, the tax records of Washington County indicate that no *ad valorem* taxes were assessed or collected on this use of the real and personal property of the University.

48. As part of its Master Plan, the University has acquired some houses at various locations on the edge of campus that primarily consist of rental properties. These locations are used for student housing until the University acquires sufficient funds to raze the existing structures on those properties and develop the space for other University purposes. The houses are acquired, not for investment income purposes, but as part of the Master Plan and to enable the University to develop a clear campus boundary. In many instances, the University acquires properties in very poor condition and the best use of the location is for some other purpose completely. The use of such properties for student rental housing and to advance the University's Master Plan is an essential aspect of carrying out the University's public purpose. The Tax Assessor, however, has improperly assessed and imposed *ad valorem* taxes on parcels now under appeal.

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49. Without being subjected to *ad valorem* property taxes, the University sold U of A logo and Razorback apparel in the Old Student Union in Memorial Hall dating back to the late 1960s. Moreover, the Razorback Shop where these items were sold in the Arkansas Union was not subject to property tax. Sale of these items advances and promotes a sense of community and pride among students, faculty staff and alumni and helps recruit new students to the University consistent with its public purpose. The Washington County Tax Assessor, however, has now assessed and imposed *ad valorem* property taxes on the portion of the current bookstore where such apparel is sold. This taxation is inconsistent with applicable law.

50. The provision of health services and medicine to students, faculty and staff is an essential aspect of the mission of the University. The University provides medical and mental health services at the Pat Walker Health Center. Ready access to health care and medicine is important to enable that students can fully participate in their studies and to prevent public health issues. From 1984 to 2007, the University self-operated a pharmacy on campus – despite the availability and competition with numerous local pharmacies in the area – to serve the needs of the campus community. Contrary to some of the parcels now under appeal, the tax records of Washington County indicate that no *ad valorem* taxes were assessed or collected on this use of the real and personal property of the University.

51. The Athletic Department, seeking to address the essential needs of its student-athletes, and Office of Business Affairs, acting in conjunction with the Pat Walker Health Center, seeking to address the health needs of all students (including those students who lack a vehicle) and the campus community, solicited proposals from any interested party to operate a pharmacy on campus. Due to the financial challenges of operating a pharmacy, the University was initially unable to attract a service provider to fulfill this campus need. Eventually, the University was able to work with one vendor to provide the pharmacy services needed by

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various campus constituencies. The use of University real property to allow a private vendor to offer this service is essential to the educational mission of the University and consistent with the public purpose of a modern university. Nevertheless, the Assessor has imposed *ad valorem* taxes on the University's real property used for this purpose.

52. The Washington County Tax Assessor has improperly assessed and imposed *ad valorem* taxes on the real and personal property taxes for space and equipment utilized by Arsaga's coffee shop on the second floor of the Law School. This small coffee shop resulted from an open Request for Proposals process and began operating in 2007 as a convenience for students, faculty and staff, to provide an informal location within the Law School for faculty and student interaction, and to provide a location for students to study. Arsaga's does not compete with other businesses in town, and the University has not entered into this relationship as an investment activity. Unlike businesses in Fayetteville, the coffee shop in the Law School operates consistent with the academic calendar and the hours of the Law School. It provides a service to people who may lack time to leave the building even to walk to the Arkansas Union. The shop closes when the University is on its winter break, which is typically from December 24 through the New Year's holiday, and operates on reduced hours during the summer. When there are no law students and faculty in the building, this service is closed or curtailed. The coffee shop furthers the public purpose and educational mission of the University.

53. From its founding until 2011 and 2012, Defendants have not assessed or imposed *ad valorem* taxes on the University's personal property. The uncertainty created by the Washington County Tax Assessor's arbitrary determinations of what property will be subjected to taxation has detrimentally affected the University in carrying out its public mission.

54. Providing food service to its nearly 25,000 students and more than 4,000 faculty and staff members on campus is essential to the University's educational mission and public

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purpose for a variety of reason, including, without limitation, the health and welfare of students, faculty and staff, allowing students to form bonds and relationships that increase retention and consequently graduation rates, providing informal and formal learning opportunities in a various settings, and giving students a variety of choices of food options. The University utilizes a private food service provider because of its expertise in providing the highest quality and most diverse food offerings across campus, including residence dining halls, nationally branded outlets and non-nationally branded outlets. Students are able to utilize a variety of meal plan options – based on an individual’s budget and needs – to access food services in these various locations.

55. Based upon the campus-wide operation of food service and the specific terms of a meal plan, a student eating at a nationally branded food outlet operated by the University’s food service provider is substantively no different than the same student eating in his or her residence hall. Providing such food service to the campus community is a fundamental function of the University in fulfilling its public purpose and is consistent with the practices of modern colleges and universities across the nation. Hours of operation are tailored to student needs in conjunction with the academic calendar and many times not in a way what the private food service provider would otherwise operate. Moreover, a Food Committee organized by the Residence Interhall Congress provides input to the University’s private food service operator. Additionally, the University’s food service operator provides accessibility to food service across campus to accommodate students’ class and work schedules. The University’s experience is consistent with studies showing that keeping students on campus for longer periods of time correlates to higher student retention and graduation rates. The food service provider further provides necessary capital funds for the development of necessary physical infrastructure, equipment and signage, and various educational programming activities. These are essential

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activities that further the University's performance of its public purpose. Nevertheless, Defendants have assessed and collected *ad valorem* taxes on the University's personal property that is used by in campus food service operations without seeking or gaining any understanding of the integrated and complex food service operations of a modern University.

56. The use of private vendors to provide essential services and perform necessary functions of the modern University should not be curtailed or eliminated by Defendants' narrow and arbitrary determinations of what activities fall within the University's public purpose. Yet, the actions of the Defendants in assessing and imposing *ad valorem* taxes have and will alter the future development of the University in operating as a modern public university and in fulfilling its public purpose. The net effect of the Defendants' current and future *ad valorem* taxing initiatives is to interfere, alter and impede the governance, management and operation of the modern University in violation of the constitutional and statutory authority of the Board of Trustees. These acts of taxation, therefore, infringe and violate the sovereignty of the University and thus the State of Arkansas.

57. All parcels of real and personal property identified in the exhibits to this Complaint and now on appeal are property of the State of Arkansas that are constitutionally immune from *ad valorem* taxation by Washington County and/or are exempt from taxation pursuant to Article XVI, Section 5 of the Arkansas Constitution of 1874. In disregard of Arkansas law, Defendants have improperly and unlawfully assessed and collected *ad valorem* taxes on the University's real and personal property.

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**IV.
LEGAL CLAIMS**

**COUNT I: ALL UNIVERSITY PROPERTY IS IMMUNE OR EXEMPT FROM
TAXATION UNDER SOVEREIGN IMMUNITY**

58. Paragraphs 1 through 57 are re-alleged and incorporated herein as if set forth word for word.

59. The Board of Trustees of the University of Arkansas is the State of Arkansas and possesses a broad reservoir of legal authority pursuant to Amendment 33 to the Arkansas Constitution of 1874 and various statutes, including, without limitation, Act 44 of the Acts of Arkansas of 1871, to carry out its public purposes of operating a modern public institution of higher education conducting teaching, research and service and serving as an economic engine for the State of Arkansas.

60. The University – as the State of Arkansas – is a political sovereign to Washington County, and the atom of sovereignty may not be split in a manner to subjugate the governance, management and operation of the University of Arkansas to the taxing dictates of Washington County and the other Defendants. Through the unlawful exercise of its taxing authority, Defendants impair and prevent the University from carrying out its public purpose in a manner deemed best and most appropriate by the Board of Trustees.

61. The Board of Trustees of the University of Arkansas is a constitutional Board under the constitutional autonomy provided by Amendment 33 of the Arkansas Constitution. The ad valorem taxes assessed, imposed and/or collected on the real and personal property for 2010, 2011, and 2012 violates the constitutional sovereignty and autonomy of the University.

62. Article 16, § 5(a) of the Arkansas Constitution provides that “all . . . property *subject to taxation* shall be taxed according to its value,” and all constitutional provisions must be interpreted so that each word carries meaning and no word is left superfluous. *See Gatzke v.*

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Weiss, 375 Ark. 207, 211-12, 289 S.W.3d 455, 458-59 (2008). The words “*subject to taxation*” clearly recognize a class of property that is excluded or immune from taxation without the need to apply the categories of exemption in Article 16, § 5(b) -- otherwise, § 5(a) would be phrased “*all property*” instead of “all . . . property *subject to taxation*.” (Emphasis added.) As a matter of law, “all” property means “all *private property* . . . or all property *other than that belonging to the state*, or the general government.” *Little Rock & Ft. S.R. Co. v. R.W. Worthen*, 46 Ark. 312, 327 (1885) (emphasis added).

63. As a matter of law, Article 16, §5(b), which defines what “public property is exempt from taxation *does not refer to property owned by the state, for the presumption is that the state does not intend to tax its own property*, but it refers to property owned by the public corporations, or organizations of the state, such as counties, cities, towns, and school districts” *School Dist. of Ft. Smith v. Howe*, 62 Ark. 481, 481, 37 S.W. 717, 718 (1896) (emphasis added).

64. As a matter of law, “public property is impliedly exempt from all taxes, unless an intent is otherwise expressed by the legislature.” *Board of Improvement v. Little Rock Sch. Dist.*, 56 Ark. 354, 19 S.W. 969, 970 (1892).

65. As a matter of law, “the presumption is that the state does not intend to tax its own property” *School Dist. of Ft. Smith v. Howe*, 62 Ark. 481, 481, 37 S.W. 717, 718 (1896).

66. As a matter of law, no constitutional provision or law expresses any intent to subject any state property, including the University’s property now on appeal, to *ad valorem* assessment and taxation. Instead, the legislature has repeatedly declared its intent for such property to be *excluded* from taxation. See *Blackwood v. Sibeck*, 180 Ark. 815, 815, 23 S.W.2d 259, 260 (1930).

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67. Arkansas law expressly declares an intent to exclude State property from taxation. Ark. Code Ann. § 26-26-703, § 26-26-704(b), § 26-26-718, & § 26-3-301(2) & (4). Each statute supports the constitutional immunity of the State – and thus University property – from *ad valorem* taxation. In addition, Article 14, § 2 of the Arkansas Constitution provides that “[n]o money or property belonging to . . . this State, for the benefit of . . . universities, shall ever be used for any other than for the respective purposes to which it belongs.”

68. The real and personal property of the University, including all parcels on appeal, is constitutionally immune from taxation as a matter of law.

69. The standards applied to taxing decisions for 2010, 2011 and 2012 as articulated by the Washington County Tax Assessor in the proceeding before the Board of Equalization and the Washington County Court – what the framers of the Arkansas Constitution of 1874 would have deemed appropriate educational activities in 1874 and whether the University is engaged in competition with the private sector – leave the University subject to the arbitrary whims of elected officials over the course of time as evidenced by the parcels now under appeal. The University arguably “competes” with all types of activities in the private sector ranging from private, for profit educational enterprises to businesses providing entertainment activities such as professional sporting organizations as well as musical and theatrical arts. The Washington County Tax Assessor has no way to read the minds of the framers of the Arkansas Constitution of 1874 with regard to the operation of a modern public university. The tax treatment of the University has been arbitrary and capricious.

70. Based upon the actions of the Defendants, the University, as a sovereign entity, has been irreparably harmed and will continue to be harmed as Defendants seek new ways to impose *ad valorem* taxation on the University’s operations based upon standards that are arbitrary, capricious, and have no rational limits. As a sovereign entity, the University has been

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and will continue to be harmed in ways, such as its governance, management and decision-making, that cannot be remedied by money damages. The University is likely to succeed on the merits of its argument and is thus entitled to injunctive relief from the unlawful taxation Defendants have and continue to seek to impose.

COUNT II: ALL UNIVERSITY PROPERTY IS EXEMPT FROM TAXATION BY STATUTE

71. Paragraphs 1 through 70 are re-alleged and incorporated herein as if set forth word for word.

72. In the alternative, should the Court not find that the University is immune from taxation, the University property now under appeal is expressly exempt from *ad valorem* taxation, regardless of the specific use made of the property, pursuant to Ark. Code Ann. § 26-3-301(2) and (4), which exempts:

All public institutions of higher learning, and all buildings and grounds belonging to the same.
and

All property whether real or personal belonging exclusively to this State, including property of state agencies, institutions, boards or commissions, or the United States.

73. The Board of Equalization and the Washington County Court erred by failing to comply with these statutes and declare the University's property on appeal exempt from taxation. These statutory provisions have not been declared unconstitutional by any court in Arkansas and are consistent with the intent to exclude state-owned property from *ad valorem* taxation reflected in Article 16, § 5(a) of the Arkansas Constitution.

74. Defendants have assessed, imposed and/or collected *ad valorem* taxes on the University parcels now on appeal for 2010, 2011, and 2012 in violation of Ark. Code Ann. § 26-3-301(2) and (4). The University, therefore, is entitled to relief.

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**COUNT III: ALL UNIVERSITY PROPERTY IS CONSTITUTIONALLY
EXEMPT FROM TAXATION**

75. Paragraphs 1 through 74 are re-alleged and incorporated herein as if set forth word for word.

76. In the alternative, should the Court not find that the University is immune from taxation, all parcels on appeal are exempt from *ad valorem* taxation under Article 16, § 5(b) of the Arkansas Constitution, which states:

The following property shall be exempt from taxation: public property used exclusively for public purposes . . . school buildings and apparatus; [and] libraries and grounds used exclusively for school purposes

77. The Arkansas Supreme Court has held that “education, in general, is a legitimate public purpose.” *Cortez v. Independence Co.*, 698 S.W.2d 291, 293 (Ark. 1985). University property is presumed to be held exclusively for public purposes pursuant to Ark. Const. Article 14, § 2.

78. The University has acquired and uses the appealed parcels for its exclusive public purpose of developing, maintaining, providing, and advancing an all-encompassing and comprehensive modern public university that fulfills its educational mission and competes with other higher education institutions in the state, nationally, and internationally. The University’s exclusive use for a public purpose is inextricably intertwined with the needs, goods, services, and undertakings that are necessary and fundamental “to the full operation and well-being of a first class university” in modern times. The University’s parcel have been and continued to be used to fulfill the institution’s exclusive purpose of higher education and all that entails. Nevertheless, Defendants improperly denied and failed to exempt the University’s property from *ad valorem* taxation. The University, therefore, is entitled to relief.

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**COUNT IV: CORRECTION OF ERRONEOUS CLASSIFICATION AND
REFUND OF TAXES PAID**

79. Paragraphs 1 through 78 are re-alleged and incorporated herein as if set forth word for word.

80. In its appeal to the Washington County Court, the University specifically requested the court to reverse the decisions of the Assessor and the Board of Equalization and recognize and declare that the University is constitutionally immune and/or exempt from ad valorem taxes on all real and personal property parcels appealed and order a refund of all amounts erroneously assessed for 2010 and 2011 and paid by the University under protest in 2011 and 2012. However, through its Order, the County Court refused to grant the requested relief and failed, in the alternative, to make a finding that it lacked jurisdiction over the matter, as expressly requested by the University.

81. Pursuant to Ark. Code Ann. § 26-35-901(a)(1) (2012 Repl.), Ark. Code Ann. § 26-28-111, and all other applicable constitutional or statutory authority, the University requests the Circuit Court to (1) order Assessor Jeff Williams to correct the entry of the challenged parcels of real and personal property in the Washington County tax books, as the entry of the University's immune or exempt property constitutes an erroneous property "description, classification or listing," and (2) order the Washington County Court to issue an Order to the Washington County Treasurer to refund all *ad valorem* taxes erroneously assessed by Assessor Jeff Williams and paid by the University for tax years 2010 and 2011. *See Van Buren County v. Fairfield Bay Community Club, Inc.*, 2011 Ark. App. 207, 2011 WL 904841 (affirming circuit court's order granting property tax refund for three years to exempt nonprofit corporation under § 26-35-901 and § 26-28-111).

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**V.
PRAYER FOR RELIEF**

82. Paragraphs 1 through 81 are re-alleged and incorporated herein as if set forth word for word.

83. Due to Defendants' actions as set forth in this Complaint, the University has suffered damages, and County officials have impaired and prevented the University from operating in the most efficient and best manner as a modern public institution of higher education. The University has suffered financial burdens and obligations not imposed upon other colleges and universities and other state agencies throughout the State of Arkansas.

84. The University has exhausted all administrative remedies by appealing this matter to the Washington County Board of Equalization and the Washington County Court, and now appeals to the Circuit Court of Washington County, Arkansas from an Order and final judgment of the Washington County Court and now seeks relief from this Court as follows:

- (A) That the parcels of the University's real and personal property be declared immune and/or exempt from ad valorem taxation pursuant to the institution's constitutional sovereign immunity;
- (B) In the alternative, that the parcels of the University's real and personal property be declared exempt from *ad valorem* taxation by the Arkansas statutes; and
- (C) That the parcels of the University's real and personal property be declared to be used in furtherance of the University's public purpose of operating a modern public university and thus constitutionally exempt from *ad valorem* taxation under Article 16, § 5(b) of the Arkansas Constitution;

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- (D) That all notices of assessment for 2010, 2011, and 2012 be declared null and void;
- (E) That the tax liability on each parcel of real and personal property be extinguished;
- (F) That Assessor Jeff Williams be ordered to correct the entry of the challenged parcels of real and personal property in the Washington County tax books;
- (G) That the Washington County Court be directed to issue an Order to the Washington County Treasurer to refund with interest all *ad valorem* taxes paid by the University for tax years 2010 and 2011;
- (H) In order to prevent unjust enrichment, that all prior payments under protest for 2010, 2011, and 2012 be refunded with interest to the University;
- (I) That an injunction be entered prohibiting Washington County and its officials from assessing or taxing any parcel of real or personal property owned by the University now and in the future; and
- (J) That the Court award all other relief deemed to be just and proper.

WHEREFORE, PREMISES CONSIDERED, Plaintiff Board of Trustees of the University of Arkansas prays that the Court enter judgment on this Complaint in its favor, award monetary and injunctive relief as herein set forth, and grant all other relief that the Court deems just and proper.

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RESPECTFULLY SUBMITTED,

By:


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Arkansas Bar No. 93172

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Ark. Bar No. 93125

TAMLA J. LEWIS

Ark. Bar No. 2005237

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(501) 686-2520

COUNSEL FOR THE BOARD OF
TRUSTEES OF THE UNIVERSITY OF
ARKANSAS

Copy

IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS

**BOARD OF TRUSTEES OF
THE UNIVERSITY OF ARKANSAS**

PLAINTIFF

V.

NO. 60-cv-2012-350

**WASHINGTON COUNTY; JEFF WILLIAMS,
WASHINGTON COUNTY TAX ASSESSOR;
AND DAVID RUFF, WASHINGTON COUNTY
TAX COLLECTOR**

DEFENDANTS

LIST OF PLAINTIFF'S EXHIBITS

- 1. Certified copy of Order
 - A. Real Property – Sorted by Type
 - B. Personal Property – Sorted by Type
- 2. Notice of Appeal dated December 19, 2012

Copy

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF THE APPEAL
FROM THE BOARD OF EQUALIZATION
TO THE COUNTY COURT BY
THE BOARD OF TRUSTEES OF THE
UNIVERSITY OF ARKANSAS

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CO. PROBATE CLERK
WASHINGTON CO. ARK.

ORDER

NOW, on this 19th day of November, 2012, comes on the above

matter for hearing and the Court finds as follows:

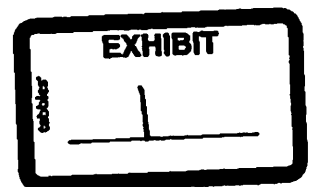
1. That the decision of the Board of Equalization is affirmed and the petition for the all said parcels is hereby denied.
2. That the Petitioner may appeal this Court's decision to the Circuit Court.

IT IS SO ORDERED.


MARILYN EDWARDS, County Judge

CERTIFICATE
I CERTIFY THAT THIS INSTRUMENT IS A
TRUE COPY OF THE Order ON
FILE IN THIS OFFICE, DATE 1/17/13
Becky Lewallen
BECKY LEWALLEN - COUNTY CLERK
D.C.

J3-261



Copy

Exhibit A – Real Property – Sorted by Type

Number	Parcel	Location -- Description
GREEN SPACE		
A1	765-02572-000	Garland Ave. -- Green Space (Campus Entry)
A3	765-05281-000	516 S. Eastern -- Green Space
A4	765-05293-000	518 S. Eastern -- Green Space
A5	765-05294-000	544 S. Eastern -- Green Space
A6	765-05295-000	548 S. Eastern -- Green Space
A7	765-09332-000	Between Virginia & Delaware -- Green Space
A11	765-06483-000	Walton Street -- Green Space
A14	765-08213-000	S. Cline -- Green Space (Research & Tech Park)
A18	765-09132-000	520 Lindell -- Green Space
A22	765-09308-000	Between Clinton Ave. & Fairview -- Adjacent to Oak Park Tr.
A23	765-09309-000	Between Clinton Ave. & Fairview -- Adjacent to Oak Park Tr.
A37	765-09678-000	Cline Ave. -- Green Space (Research & Tech Park)
A38	765-09913-000	Garland Ave. -- Green Space (Campus Entry)
A40	765-12665-000	520 N. Whitham -- Green Space
A41	765-12879-000	620 W. Reagan -- Green Space
A45	765-14990-000	S. School & 19th Street -- Green Space (Research & Tech Park)
A46	765-15023-000	S. School & 19th Street -- Green Space (Research & Tech Park)
STUDENT RENTAL		
A2	765-04790-000	824 W. Center -- Student Rental
A8	765-06480-000	135 N. Razorback -- Student Rental
A9	765-06481-000	1341 W. Hotz -- Student Rental
A10	765-06482-000	1435 Hotz -- Student Rental
A12	765-06484-000	1501 Hotz -- Student Rental
A15	765-08219-000	2012 S. Cline -- Student Rental
A16	765-09115-000	940 W. Douglas -- Student Rental
A17	765-09116-000	958 W. Douglas -- Student Rental
A19	765-09298-000	906 W. Clinton -- Student Rental
A20	765-09299-000	912 W. Clinton -- Student Rental
A21	765-09304-000	1016 W. Clinton -- Student Rental
A24	765-09312-000	873 W. Clinton -- Student Rental
A25	765-09321-000	1013 W. Clinton -- Student Rental
A26	765-09328-000	242 S. Virginia -- Student Rental
A28	765-09336-000	124 S. Virginia -- Student Rental
A29	765-09339-000	204 S. Virginia -- Student Rental
A30	765-09340-000	218 S. Virginia -- Student Rental
A31	765-09344-000	144 S. Clinton -- Student Rental
A32	765-09347-000	220 S. Clinton -- Student Rental

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A33	765-09349-000	243 S. Virginia -- Student Rental
A34	765-09350-000	233 S. Virginia -- Student Rental
A35	765-09353-000	205 S. Virginia -- Student Rental
A36	765-09355-000	139 S. Virginia -- Student Rental
A42	765-12889-000	629 W. Maple -- Student Rental
A44	765-12902-000	204 N. Duncan -- Student Rental

UA BOOKSTORE

A39	765-07485-001	Bookstore (Razorback Shop, Peet's Coffee & Clinique Counter)
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**GARLAND STREET
CENTER**

A13	765-07498-001	Garland Street Center -- Campus Pharmacy & Student Convenience Retail
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COFFEE SHOP

A43	765-12891-001	Law School -- Faculty, Staff & Student Coffee Shop
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Exhibit B – Personal Property – Sorted By Type

Exhibit	Parcel	Location -- Description
UA BOOKSTORE UNITS		
B2	9153916	Bookstore --Razorback Shop & Clinique Counter
B16	9155071	Harmon Garage -- Parking Spot
B17 & Supp. B17	9153939	Harmon Garage -- Parking Spot
B19	9153952	Razorback Shop -- Bed, Bath & Beyond Section
UA RESIDENCE DINING PROGRAM-- CHARTWELLS		
B3	9154950	Maple Hill Res. Hall – Chartwells (Freshens)
B4	9154951	Bookstore – Chartwells (Peet's Coffee)
B5 & Supp. B5	9154956*	Maple Hill Residence Hall – Chartwells (Grill/Sub Shop)
B6	9155026	Willard Walker Hall – Chartwells (Cole Café)
B8	9155052	Brough Commons – Chartwells (Papa John's)
B9	9155056	Brough Commons – Chartwells (Starbucks)
B10	9155057	Brough Commons – Chartwells (Quizno's)
B11	9155058	Brough Commons -- Chartwells (Club Red)
B12	9155060	Arkansas Union – Chartwells (Club Red)
B13	9155063	Arkansas Union – Chartwells (RZ's Coffee)
B14	9155067	Arkansas Union -- Chartwells (Burger King)
B15 & Supp. B15	9155069	Arkansas Union – Chartwells (Chick-Fil-A)
B18	9163651	Peabody Hall – Chartwells (Peabody Perks)
COFFEE & FOOD VENDORS		
B1	9117247	Law School – Coffee Shop (Arsaga's)
B7	9155038	Stadium -- Athletic Kiosks

*Denied under 9154369, not University-owned property

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IN THE CIRCUIT COURT OF WASHINGTON COUNTY, ARKANSAS
BOARD OF TRUSTEES OF
THE UNIVERSITY OF ARKANSAS

PLAINTIFF

V.

NO. CV-12-3060-6

WASHINGTON COUNTY; JEFF WILLIAMS,
WASHINGTON COUNTY TAX ASSESSOR;
AND DAVID RUFF, WASHINGTON
COUNTY TAX COLLECTOR

DEFENDANTS

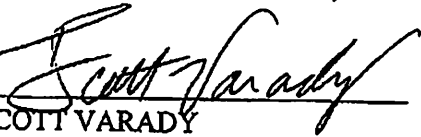
NOTICE OF APPEAL

Pursuant to Rule 9 of the District Court Rules, notice is hereby given that the Board of Trustees of the University of Arkansas ("University"), acting by and through its undersigned counsel, hereby appeals to the Circuit Court of Washington County, Arkansas from an Order and final judgment of the Washington County Court entered on November 19, 2012 in the case styled In the Matter of the Appeal from the Board of Equalization to the County Court by the Board of Trustees of the University of Arkansas. Attached hereto as Exhibit "1" is a certified copy of the County Court's November 19, 2012 Order in the aforementioned matter, affirming the decision of the Board of Equalization and denying the University's petition for relief as to all real property and personal property parcels, from which this appeal is taken. The University appeals as to all issues raised and all forms of relief requested and denied by the Washington County Assessor, the Washington County Board of Equalization, and the Washington County Court.

EXHIBIT
2

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RESPECTFULLY SUBMITTED,

By: 

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COUNSEL FOR THE BOARD OF
TRUSTEES OF THE UNIVERSITY OF
ARKANSAS

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CERTIFICATE OF SERVICE

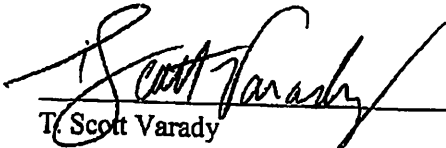
I, T. Scott Varady, certify that I have caused a true and correct copy of the foregoing Notice of Appeal of the Board of Trustees of the University of Arkansas and Reply to be served on this 19th day of December, 2012, by personal delivery, to the following:

Judge Marilyn Edwards
Washington County Judge
280 N. College, Suite 520
Fayetteville, AR 72701

George E. Butler, Jr.
County Attorney
280 N. College, Suite 501
Fayetteville, AR 72701

Jeff Williams
Assessor
280 N. College, Suite 250
Fayetteville, AR 72701

David Ruff
Washington County Collector
280 No. College, Suite 202
Fayetteville, AR 72701



T. Scott Varady
Associate General Counsel

Copy

IN THE COUNTY COURT OF WASHINGTON COUNTY, ARKANSAS

IN THE MATTER OF THE APPEAL
FROM THE BOARD OF EQUALIZATION
TO THE COUNTY COURT BY
THE BOARD OF TRUSTEES OF THE
UNIVERSITY OF ARKANSAS

CLERK OF COURT
WASHINGTON COUNTY, ARK.
CO. & PROBATE CLERK

2012 NOV 19 AM 9:38
CC 2012-14

ORDER


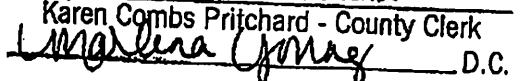
NOW, on this 19th day of November, 2012, comes on the above

matter for hearing and the Court finds as follows:

1. That the decision of the Board of Equalization is affirmed and the petition for the all said parcels is hereby denied.
2. That the Petitioner may appeal this Court's decision to the Circuit Court.

IT IS SO ORDERED.


MARILYN EDWARDS, County Judge

CERTIFICATE
I CERTIFY THAT THIS INSTRUMENT IS A
TRUE COPY OF THE order ON
FILE IN THIS OFFICE. DATE 11-26-12

Karen Combs Pritchard - County Clerk
 D.C.