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CAPELLA UNIVERSITY, A CORPORATION  
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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 SOUTHERN DIVISION

11 JEFFRY LA MARCA, an individual,  
12 Plaintiff,  
13 v.  
14 CAPELLA UNIVERSITY, a corporation,  
15 Defendant.  
16

Case No. SACV05-642 DOC (MLGx)

**DECLARATION OF GREGORY W.  
THOM IN SUPPORT OF  
DEFENDANT AND  
COUNTERCLAIMANT CAPELLA  
UNIVERSITY'S SUPPLEMENTAL  
OPPOSITION TO MOTION TO  
STRIKE COUNTERCLAIM**

17  
18 CAPELLA UNIVERSITY, a corporation  
19 Counterclaimant,  
20 v.  
21 JEFFRY LA MARCA, an individual,  
22 Counterclaim Defendant.  
23

Date: February 6, 2005  
Time: 8:30 A.M.  
Place: Courtroom 9D

Hon. David O. Carter

24 I, Gregory W. Thom, declare as follows:

25 1. I am the vice president of governmental affairs, general counsel and  
26 secretary of Capella Education Company, the parent company of Capella University  
27 ("Capella"), defendant and counterclaimant herein. I make this declaration in support  
28

1 of Capella's Opposition to Plaintiff's Motion to Strike Capella's Counterclaim.

2 2. I make these statements of my own personal knowledge, and if called,  
3 could and would testify competently thereto.

4 3. On January 23, 2006, I spoke with Ricky Norment, an investigator with  
5 the Department of Education (the "Department"), regarding allegations by Mr.  
6 LaMarca that I am the subject of an on-going investigation by the Department.

7 4. Mr. Norment informed me that the Department does not investigate  
8 individuals, and there is no investigation of me.

9 5. Mr. Norment further informed me that the investigation of Capella  
10 remains open merely because the Department has not had a chance to complete the  
11 administrative proceedings necessary to close it. There is no investigation being held  
12 in abeyance until the conclusion of this lawsuit or any other action.

13 6. I never sent Mr. LaMarca a letter stating that the refund of his tuition  
14 was issued for any purpose other than a refund. Communication on this matter  
15 consisted of a letter dated July 22, 2004, from Dean Kurt Linberg, stating that:

16 Since you have not accepted our offer to complete your  
17 coursework for TS5514 and TS5150 in a directed study  
18 format, we will refund your tuition for these two classes  
19 immediately.

20 A copy of this letter is attached hereto as Exhibit A.

21 Additional communication was sent via University Services representative, Kellie  
22 Conley, on July 27, 2004. This e-mail confirmed issuance of the refund. A copy of  
23 this e-mail communication is attached hereto as Exhibit B. Each of these documents  
24 are maintained by Capella as part of their normal business records.

25 7. To the best of my knowledge, information and belief, I have never  
26 communicated in any manner that Mr. LaMarca could be re-admitted to Capella  
27 simply by "paying his bill". Re-admittance has always been premised on Mr.  
28 LaMarca's agreement to abide by the Comportment Policy applicable to everyone at

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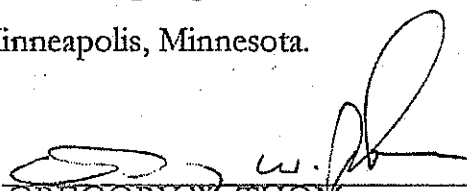
Capella.

8. During December 2004, an automated notice was sent to Mr. LaMarca informing him of registration dates for the Winter Quarter 2005. This notice was automatically sent to all Capella learners whether they were enrolled during the immediately proceeding quarter or not. This notice was generated through Capella's Enrollment Services department and I had no part in the creation or sending of this notice to Mr. LaMarca.

9. Capella is a privately owned corporation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 23 day of January, 2006, in Minneapolis, Minnesota.

  
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GREGORY W. THOM