

<p>County Court, Larimer County, Colorado  Court Address:  Larimer County Justice Center  201 La Porte Avenue, Suite 100  Fort Collins, CO 80521-2761  (970) 498-6100</p> <hr/> <p>Plaintiff(s): COLLEGEAMERICA DENVER, INC. n/k/a CENTER FOR EXCELLENCE IN HIGHER EDUCATION, INC. d/b/a COLLEGEAMERICA,</p> <p>v.</p> <p>Defendant(s): DEBBI POTTS.</p>	<p>DATE FILED: February 4, 2014 4:08 PM</p> <p style="text-align: center;">▲ <b>COURT USE ONLY</b> ▲</p>
<p>Attorney or Party Without Attorney (Name and Address):</p> <p>Raymond W. Martin (Atty. Reg. #8055)  Thomas E.M. Werge (Atty. Reg. #42726)  Wheeler Trigg O'Donnell LLP  370 Seventeenth Street, Suite 4500  Denver, Colorado 80202-4647  Phone Number: (303) 244-1800 E-mail: martin@wtotrial.com  FAX Number: (303) 244-1879 werge@wtotrial.com</p>	<p>Case Number: 2013C 31608</p> <p>Division: 5D Courtroom:</p>
<p><b>AMENDED COMPLAINT UNDER SIMPLIFIED CIVIL PROCEDURE<sup>1</sup></b></p>	

1. Debbi Potts, Defendant, is resident of Larimer County, with an address of 1406 Osprey Court, Fort Collins, State of Colorado.
  2. The amount claimed herein does not exceed the jurisdiction of the court.
- OR**
3. The amount claimed from Debbi Potts, Defendant, is seven thousand dollars (\$7,000.00), together with proper interest, costs and any other items allocable by statute or specific agreement.
  4. Such claim arises from the following event(s) or transaction(s):
    - a. On September 1, 2012, Defendant entered into a written agreement with Plaintiff. The agreement is attached hereto as Exhibit 1;
    - b. In the agreement Defendant specifically agreed to not disparage the reputation of Plaintiff ("Disparagement Clause");
    - c. In consideration for Defendant's promise to perform under the agreement, including her promise not to disparage, Plaintiff agreed to pay and did pay defendant \$7,000.00;
    - d. Defendant Potts accepted the \$7,000.00 payment, but did not perform under the contract. Specifically, Defendant Potts violated the Disparagement Clause when she published written statements to a former employee of Plaintiff. Ms. Potts also violated the contract by filing a complaint with the ACCSC;
    - e. Plaintiff sent a letter to Defendant Potts notifying her that Plaintiff had become aware of Ms. Potts' breach of the agreement and demanding the return of the \$7,000.00 payment;
    - f. Defendant Potts has failed to return the \$7,000.00 payment to Plaintiff; and

<sup>1</sup> This amended complaint contains the limited changes authorized by the Court's January 30, 2014 Order Granting Plaintiff's Motion for Leave to Amend Complaint. Plaintiff does not assert that that the parties' agreement constitutes a waiver of discrimination claims, nor that Ms. Potts violated the contract by filing EEOC charges.

g. Plaintiff seeks damages for breach of contract, or in the alternative for promissory estoppel or unjust enrichment.

5. The Defendant(s)  is (are)  is not (are not) in the military service of the United States. In support of this statement, the Plaintiff(s) set(s) forth the following facts: (State facts concerning military status of the Defendant(s), if the military status of the Defendant(s) is (are) not known, so state here.)

Attached hereto as Exhibit 2 is a copy of a report from the Department of Defense Manpower Data Center pursuant to the Servicemembers Civil Relief Act showing that Defendant is not in the military service.

6. The Plaintiff  does (do)  does not demand trial by jury (if demand is made, a jury fee must be paid).

**WARNING: ALL FEES ARE NON-REFUNDABLE. IN SOME CASES, A REQUEST FOR A JURY TRIAL MAY BE DENIED PURSUANT TO LAW EVEN THOUGH A JURY FEE HAS BEEN PAID.**

Note: All Plaintiffs filing this complaint must sign, unless the complaint is signed by an attorney.

\_\_\_\_\_  
Signature of Plaintiff(s)

/s/ Thomas E.M. Werge  
Signature of Attorney for Plaintiff(s) (if applicable)

Address(es) of Plaintiff(s): 4021 South 700 East, Suite 400, Salt Lake City, Utah 84107

Telephone Number(s) of Plaintiff(s): (801) 312-0078

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing AMENDED COMPLAINT UNDER SIMPLIFIED CIVIL PROCEDURE was served in the manner indicated below this 4<sup>th</sup> day of February, 2014, to the following:

Debbi Potts  
1406 Osprey Court  
Fort Collins, CO 80525  
potts-deb@comcast.net

- First Class Mail
- Hand Delivery
- Facsimile
- Overnight Delivery
- ICCES
- E-Mail

s/ Jerri E. Wheatley  
Jerri E. Wheatley