

**STATE OF NEW MEXICO
COUNTY OF DONA ANA
THIRD JUDICIAL DISTRICT COURT**

FILED SEP 11 2025

**DAVID K. CLEMENTS,
Plaintiff,**

Case No.:D-307-CV-2025-02485

v.

Judge Manuel I. Arrieta

**NEW MEXICO STATE UNIVERSITY;
BOARD OF REGENTS OF NEW MEXICO STATE UNIVERSITY,
in their official capacity; and JOHN DOES 1-15,**

Defendants.

**COMPLAINT FOR BREACH OF CONTRACT AND VIOLATION OF
THE NEW MEXICO UNFAIR PRACTICES ACT**

COMES NOW, Plaintiff David K. Clements ("Plaintiff"), by and through himself *pro se*, alleges as follows:

INTRODUCTION

A contract is a promise. Duties and obligations are negotiated, carefully drafted, creating a clear understanding between the parties. The undersigned, a former professor teaching business law, consumer protection, and employment law, bound himself to NMSU with such a promise. To teach without coercion. To be free of medical experimentation. The Defendants, however, unilaterally altered the terms of this agreement by modifying the delivery of teaching services in pursuit of financial gain, facilitated through numerous commercial transactions. This case concerns the Defendants' breach of the Plaintiff's contract and their use of deceptive and unfair practices to effectuate that breach.

PARTIES

1. Plaintiff David K. Clements resides [REDACTED], and was employed as a tenure-track Assistant Professor at NMSU until his wrongful termination on or about October 15, 2021.
2. Defendant New Mexico State University (NMSU): A public educational institution organized under the laws of New Mexico, located at Hadley Hall, Room 114, P.O. Box 30001, MSC 3UGC, Las Cruces, NM 88003-8001.
3. Defendant Board of Regents of New Mexico State University: The governing body of NMSU, sued in their official capacity, located at the same address, responsible for overseeing university policies, including the COVID-19 vaccine mandate enforced from March 2020 through March 1, 2023.
4. Defendants John Does 1-15: Unknown NMSU officials or employees involved in mandate enforcement and Plaintiff's termination, to be identified through discovery, potentially including former administrators who acted with special knowledge under the New Mexico Unfair Practices Act.

JURISDICTION AND VENUE

5. This Court has jurisdiction under NMSA 1978, § 38-3-1, as the action arises in Dona Ana County, where NMSU is located.
6. Venue is proper in Dona Ana County under NMSA 1978, § 38-3-1, where the events giving rise to this action occurred.
7. The amount in controversy exceeds \$10,000, exclusive of interest and costs, satisfying the jurisdictional threshold for civil actions in the Third Judicial District Court, as Plaintiff seeks damages for lost wages, future earnings, career/reputational harm, emotional distress, and treble damages under the New Mexico Unfair Practices Act.
8. The statute of limitations for Plaintiff's breach of contract claim, based on a written employment contract with NMSU, is six years pursuant to NMSA 1978, § 37-1-3(A). The

statute of limitations for any implied contract terms, including the covenant of good faith and fair dealing, is four years pursuant to NMSA 1978, § 37-1-4. The statute of limitations for Plaintiff's claim under the New Mexico Unfair Practices Act, NMSA 1978, § 57-12-1 et seq., is four years pursuant to NMSA 1978, § 37-1-4.

9. Plaintiff's claims are timely. The breach of contract and UPA violations arose from Plaintiff's wrongful termination on October 15, 2021, and related actions through March 1, 2023 (end of the vaccine mandate). This complaint, filed September 11, 2025, falls within the six-year period for written contract claims, the four-year period for implied contract claims, and the four-year period for UPA claims.
10. Plaintiff has exhausted his administrative remedies.
11. The causes of action are not tort claims and therefore do not trigger notice provisions normally imposed by the Tort Claims Act.

FACTUAL ALLEGATIONS

12. Plaintiff was employed as a tenure-track Assistant Professor at NMSU, teaching consumer protection and business law, under a contract incorporating NMSU Administrative Rules and Procedures, state and federal law.
13. Plaintiff's contract, as well as state and federal law, recognize the undersigned's inherent right to teach without forced injection of an experimental drug, or the use of a mask, deceptively represented by Defendants as being able to mitigate COVID-19 transmission.
14. NMSU imposed a COVID-19 vaccine mandate, requiring vaccination or weekly testing, without informed consent or refusal rights, violating 21 U.S.C. § 360 bbb-3. The mandate was preceded by an indoor mask requirement reinstated on August 20, 2021, in response to the Delta variant, and followed by mandatory testing for those with vaccine exemptions until May 5, 2022. The core vaccine mandate remained in effect until March 1, 2023.
15. Plaintiff exhausted internal remedies, submitting a Response on September 13, 2021, objecting to the mandate's illegality, including risks of mRNA and adenoviral vaccines (e.g., myocarditis, blood clots, and neurological harm), mask ineffectiveness (1-micron virus vs. 3-micron mask pores), and high cycle threshold PCR testing that produces false positives.

16. Plaintiff exhausted the administrative process, and was present for an employment termination meeting, presided over by disciplinary officer Luis Cifuentes, investigator Rebecca Campbell, and former provost Carol Parker.
17. Defendants failed to investigate Plaintiff's concerns, including NMSU's denial of reasonable accommodations to allow online teaching. The investigators dismissed Plaintiff's claims as "misinformation" without engaging with or rebutting the medical or legal evidence presented.
18. Within twenty-four hours, on or about October 15, 2021, NMSU terminated Plaintiff before the mandate's January 4, 2022, deadline for employees, denying accommodations to teach online, which Plaintiff requested as reasonable consideration to avoid breaching his contract.
19. Finance Department Head, Kenneth Martin, acting at the direction of NMSU administration, notified Plaintiff prior to the Fall 2021 semester, that his request to teach online in lieu of being forcibly injected with a non-FDA approved vaccine, or be subjected to invasive weekly testing, was denied.
20. Upon information and belief, other NMSU faculty members were allowed to teach online, without being subjected to forced injection, mask wearing, or invasive testing.
21. The Plaintiff's objections, dismissed by Defendants, have since been validated by the federal health policies enacted under HHS Secretary Robert F. Kennedy Jr. in 2025.
22. HHS, under Kennedy, removed COVID-19 vaccine recommendations for healthy children and pregnant women from the CDC's immunization schedule, aligning with Plaintiff's concerns about vaccine risks in these populations. NMSU imposed mandates endangering both populations.
23. June 2025: Kennedy fired all 17 members of the CDC's Advisory Committee on Immunization Practices (ACIP), citing obstruction and suppression of medical data, reflecting Plaintiff's critique that NMSU was relying on heavily biased sources for vaccine policy enforcement.
24. August 2025: HHS canceled \$500 million in mRNA vaccine development funding, including for COVID-19 vaccines, citing risks outweighing benefits, consistent with Plaintiff's warnings about mRNA vaccine safety.

25. August 2025: The FDA restricted COVID-19 vaccine authorizations to seniors and high-risk individuals, rescinding emergency use authorizations (EUAs) that justified broad mandates, supporting Plaintiff's argument that mandates lacked legal and scientific grounding.
26. These policy shifts, reversing Biden-era broad vaccine recommendations and mandates, corroborate Plaintiff's September 13, 2021, Response, which Defendants failed to investigate, demonstrating their willful disregard for evidence.
27. Upon information and belief, NMSU's mandate was pursued to acquire monies tied to the Higher Education Emergency Relief Fund (HEERF), the Coronavirus Aid, Relief, and Economic Security (CARES) Act (2020), the Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA, 2021), and the American Rescue Plan Act (ARPA, 2021).
28. To acquire funding, Defendants disrupted NMSU's educational services, a commercial transaction generating millions, if not billions, in economic output, driven by tuition revenue and state appropriations.
29. Plaintiff's role as a law professor delivering tuition-funded instruction was undermined by the mandate's coercive medical conditions.
30. NMSU, through its administrators, ignored scientific studies, and/or medical doctors, whose findings did not align with narratives required to secure funding. This was a deceptive practice.
31. NMSU, through its administrators, proliferated propaganda about Covid-19 vaccine safety, when there was virtually no scientific data demonstrating the vaccines were safe for human use, as evidenced by COVID-19 vaccine informational inserts being blank.
32. NMSU, through its administrators, proliferated demonstrably false information about mask efficacy. Namely, that the masks widely used on campus would make the student and faculty population safe from a 1-micron virus, though 3-micron mask pores presented no barrier to the virus. And despite mask manufacturers expressly declaring that their products could not prevent COVID-19 transmission, NMSU represented that masks could stop the spread. This was a deceptive practice.
33. Defendants, including the Board of Regents in their official capacity and John Does 1-15, authorized and enforced the mandate, acting within their employment scope.

COUNT I:
BREACH OF CONTRACT

34. Plaintiff incorporates paragraphs 1-33.
35. Plaintiff had a valid employment contract with NMSU, with express and implied terms for teaching without medical mandates, forced injection, masking, or invasive testing.
36. NMSU breached the contract by imposing a non-FDA approved vaccine injection in August 2021, requiring injection, masking (until February 17, 2022), and invasive testing (until May 5, 2022), and terminating Plaintiff without cause on October 15, 2021, despite his request for online teaching accommodations.
37. Defendants' failure to investigate Plaintiff's September 13, 2021, concerns violated the implied covenant of good faith.
38. As a result, Plaintiff suffered damages, including lost wages, career harm, and emotional distress, in an amount to be proven at trial.

COUNT II:
VIOLATION OF THE NEW MEXICO UNFAIR PRACTICES ACT

39. Plaintiff incorporates paragraphs 1-38.
40. Defendant NMSU, a public educational institution, is engaged in tens of thousands of commercial transactions through its provision of educational services, a "sale of services" under NMSA 1978, § 57-12-2(A).
41. NMSU is liable for the actions of its employees under the doctrine of *respondeat superior*. Defendants, including the Board of Regents in their official capacity and John Does 1-15, engaged in unconscionable trade practices under NMSA 1978, § 57-12-2(E), by exploiting Plaintiff's lack of bargaining power as a tenure-track professor.
42. Defendants disrupted NMSU's educational services, a commercial transaction, through the vaccine mandate, mask requirements, and testing requirements. The mandate created a

gross disparity by requiring Plaintiff to comply with coercive medical interventions, and to continue providing educational services, while NMSU used its outsized leverage to secure millions tied to HEERF, CARES Act, CRRSAA, and ARPA at the expense of Plaintiff's contractual rights.

43. To secure millions in funding, NMSU's policies were implemented through deceptive representations made by Defendants in their administrative capacity to both students and faculty.
44. Deceptive representations were expressly made concerning mask, vaccine, and testing efficacy, or by omission by not presenting credible scientific data countering the narratives designed to secure funding.
45. The mandate, enforced without refusal options, violated federal law, and Defendants' willful actions-including premature termination, accommodation denial, a sham hearing, and failure to investigate Plaintiff's evidence-based objections.
46. Plaintiff suffered actual damages of lost wages, future earnings, career/reputational harm, and emotional distress. Defendants' willful violation warrants treble damages under NMSA 1978, § 57-12-10(B).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests:

- a. Judgment against Defendants for breach of contract, including reinstatement to a tenured Associate Professor position and damages;
- b. Judgment against Defendants for UPA violations, including treble damages and/or punitive damages;
- c. Prejudgment and post-judgment interest;
- d. Costs and attorney's fees;
- e. An order requiring Defendants to preserve all records related to the mandate (March 2020-present), Plaintiff's employment, termination, HEERF/CARES funding, enrollment/tuition data, ARP compliance, and Plaintiff's September 13, 2021, Response, to prevent spoliation; and
- f. Such other relief as the Court deems just.

DEMAND FOR JURY TRIAL

Plaintiff demands a jury trial on all issues.

Dated: September 11, 2025

Respectfully submitted,

/s/ David Clements

David K. Clements

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Pro Se Plaintiff