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IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT
OF MISSOURI, CENTRAL DIVISION

Lucile Bluford,
Plaintiff,
vs.
S. W. Canada,
Defendant.

No. 128

DEFENDANT'S REQUESTED INSTRUCTIONS

At the close of the evidence defendant respectfully requests that the court instruct the jury on the law as set forth in each of the several requests which follow:

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1

You are instructed that at all of the times in question it was and it still is the law and public policy of the State of Missouri that white and negro residents of the State shall receive equal opportunity and facilities for higher education in separate institutions of learning; and by equal facilities is not meant identical facilities. You are instructed that the State of Missouri has the constitutional power thus to provide for race separation for the purposes of education.

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2

You are instructed that when plaintiff requested of defendant a permit to register in the University of Missouri, the laws of Missouri had imposed the mandatory duty on the Board of Curators of Lincoln University to furnish graduate work in journalism at Lincoln University, up to the standard then available at the University of Missouri, upon timely request therefor by any qualified negro resident of Missouri.

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3

You are instructed that there is no evidence in the case that plaintiff applied to Lincoln University for graduate instruction in journalism at any time prior to her letter of July 17, 1941, addressed to President Scruggs of that institution.

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4

You are instructed that there is no evidence that plaintiff applied to Lincoln University for graduate work in journalism in ample time for the curators of that institution to have provided such course at the opening of the September semester, 1941; and your finding as to that issue

must be in favor of the defendant.

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5 - requested only if 4 is refused

If you believe and find from the evidence that plaintiff's demand of July 17, 1941, upon Lincoln University for graduate instruction in journalism was not made by her in ample time to enable the Board of Curators of Lincoln University to establish such course of instruction in Lincoln University at the opening of the September semester on September 10, 1941, then you are instructed that plaintiff is not entitled to recover and you must find the issues in favor of the defendant.

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6

If you believe and find from the evidence that at the times in question plaintiff Lucile Bluford did not actually desire to receive graduate instruction in journalism in the University of Missouri for her own personal benefit, and that she did not actually expect to attend classes, if admitted; and that her application to defendant registrar for a permit to register in the University of Missouri was not made in good faith, and was actually made with the expectation and hope that defendant would reject it and that such rejection would afford the basis for litigation fostered by the National Association for the Advancement of Colored People as part of a campaign to break down the Missouri state policy of race separation in education, then you are instructed by the court that your verdict shall be in favor of the defendant.

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7

If you believe and find from the evidence that defendant's rejection of plaintiff's request for a permit to register as a student in the University of Missouri was exactly what plaintiff desired, as a preliminary step toward the institution in her name of this suit; and that such rejection actually caused plaintiff no damage whatever, then you are instructed by the court to return a verdict in favor of the defendant

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8

You are instructed by the court that there is no evidence that defendant's rejection of plaintiff's application for a permit to register as a student in the University of Missouri was malicious; and upon the issue of malice your finding must be in favor of the defendant.

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9

You are instructed by the court that there is no evidence to prove that, even if plaintiff had been admitted as a student in the University of Missouri, she could have obtained graduate instruction in journalism there at any time since January 29, 1942, when the evidence shows graduate instruction in journalism was discontinued there.

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Filed

April 24, 1942

A. L. Arnold, Clerk

By H. C. Spaulding

DC

HOGSETT, TRIPPE, DEPPING & HOUTS

LAWYERS

2900 FIDELITY BUILDING

KANSAS CITY, MO.