

ORIGINAL

FILED
COURT OF CLAIMS
OF OHIO

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IN THE COURT OF CLAIMS OF OHIO

BEM D. ITIAVKASE,	:	
	:	
Plaintiff,	:	
	:	
-vs-	:	Case No. 2013-00715
	:	
WRIGHT STATE UNIVERSITY,	:	Magistrate Holly T. Shaver
	:	
Defendant.	:	

**MEMORANDUM IN OPPOSITION
TO MOTION TO COMPEL**

On July 21, 2014, Plaintiff filed a motion for an order to compel discovery that has already been answered. (See attached) Because the discovery propounded was answered on July 17, 2014, Defendant respectfully requests that Plaintiff's motion be overruled. It appears that Plaintiff mailed his motion at about the same time Defendant mailed its answers to his discovery. (See attached).

In addition to the attached discovery responses, Defendant also sent Plaintiff a stack of approximately 200 documents which is too voluminous to attach to this memorandum. The delay in responding was caused because Defendant was trying to insure that it provided the documents Plaintiff was requesting. Defendant's discovery was only 10 days late and Plaintiff has not even alleged that such a minor delay has caused him prejudice in preparing for the trial which is still seven months away.

For the reasons set forth herein, Defendant requests that Plaintiff's motion be denied.

Respectfully submitted,

MICHAEL DEWINE
Ohio Attorney General

ON COMPUTER

P. E. Demarco

PETER E. DEMARCO (0002684)
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Court of Claims Defense Section
150 East Gay Street, 18th Floor
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Counsel for Defendant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing Memorandum in Opposition to Motion to Compel was served by ordinary U.S. mail, postage prepaid, this 22nd day of July, 2014 upon the following:

Bern D. Itiavkase
5960 Sunridge Drive
Cincinnati, Ohio 45224
Plaintiff *Pro se*

P. E. Demarco

PETER E. DEMARCO (0002684)
Assistant Attorney General

IN THE COURT OF CLAIMS OF OHIO

BEM D. ITIAVKASE

:

Plaintiff

:

v.

:

Case No. 2013-00715

WRIGHT STATE UNIVERSITY

:

Defendant

:

Defendant's Response to
PLAINTIFF'S FIRST SET OF INTERROGATORIES
AND REQUEST FOR PRODUCTION OF DOCUMENTS

In accordance with the provisions of Rule 33 of the Ohio Rules of Civil Procedure, Plaintiff requests that you respond to the following Interrogatories. Your answers are to be made in writing, under oath, and in the spaces provided. If additional space is needed, please attach additional sheets. Please respond within twenty-eight (28) days of service upon you, and please serve a copy of your responses hereto upon Plaintiff's address listed.

You are reminded that by virtue of Civil Rule 26(E), you must reasonably supplement your responses hereto as additional information becomes available.

Where knowledge, information, belief, contention or allegation is requested, such request includes the knowledge, information, belief, contention or allegation held by you, your representation, officers, agents, servants, employees, and attorneys.

INTERROGATORIES

1. Please identify all witnesses with personal knowledge of the issues of actions taken against Plaintiff, including email correspondences and phone calls.

ANSWER: Objection. Vague and burdensome. Without waiving, Joanne Bevelhymmer, James Munch, Mike Evans, Mark Soloman, Amy Johnson, and all persons Plaintiff spoke to about the incident. See also persons referenced in the attached documents.

2. Please identify all persons with personal knowledge of Plaintiff's failure to satisfy requirements on or before March 6th, 2013, wrongful actions taken by Plaintiff, or failure by Plaintiff to properly register for classes.

ANSWER: See above.

3. Please state, identify all of the Defendant's positions within the University on the past 5 years, identify rate of pay, and identify why Defendant was moved to that position.

ANSWER: Objection. Vague and ambiguous. The only Defendant in this case is Wright State University.

4. Please identify the purpose of the Director's, Michael Evans, who admitted Plaintiff, departure from the department and subsequent replacement.

ANSWER: Objection. Relevance. Without waiving, see attached.

5. List the name and addresses of each witness Defendant will call at trial.

ANSWER: . **Undetermined at this time. Defendant will supplement after discovery.**

6. List and identify all exhibits Defendant will introduce into evidence at trial.

ANSWER: **Undetermined at this time. Defendant will supplement.**

7. List and supply the name of each person who responded to the Plaintiff's calls for concern regarding admission, denied admission, and inconsistency in policy.

ANSWER: **Objection. Mischaracterizing the incident. Without waiving, see persons identified in interrogatory #1 and identified in the documents produced by the parties.**

8. List and supply any legal documents or rules stating that the Defendant has the right to change the requirements in the midst of a semester after admission into the college.

ANSWER: **Objection. Mischaracterizing the facts. Without waiving, the rules for graduate students are available online. Contact Defendant's counsel if you are unable to access Wright State University's website.**

REQUEST FOR PRODUCTION OF DOCUMENTS

1. Please produce all documents, photos, emails, or exhibits that Plaintiff did not satisfy requirements on or before March 6th 2013. **See attached.**

2. Please produce all documents or emails, showing Defendant made any attempts to contact Defendant regarding admission and rejection.

Objection. Confusing. Defendant does not understand the request. Will supplement if Plaintiff clarifies what he means.

3. Please produce all documents or emails showing reasonable completion of first set of requirements set for by the Defendants as well as proof the Plaintiff did not satisfy those requirements.

Objection. Confusing. Defendant does not understand the request and will supplement if Plaintiff clarifies what he means.

4. Please produce copies of transcripts of Plaintiff's while attending the college.

See attached.

5. Please produce all emails the President as well as the Vice President of the college sent and received regarding this lawsuit.

See attached.

6. Please produce all rules, regulations, policies, procedures or guidelines in Defendant's possession or control that relate to provisional acceptance, conditional acceptance, and full acceptance at WSU or which demonstrate proper action against Plaintiff.

Defendant's policies are available on its website.

7. Please produce all documents or emails relating to Plaintiff's admission to WSU.

See attached.

8. Please produce all correspondence, email or documents to or from Defendant or anyone employed by Defendant, and Plaintiff.

See attached.

9. Please provide all documents or emails relating to the relationship the Defendant has with Wright Patterson Air Force Base.

Objection. Overly broad. Please clarify.

10. Please produce all documents or emails wherein WSU indicated or gave reasons why Plaintiff was rejected from any program at WSU on or before March 6th 2013.

See attached.

11. Please produce all exhibits Defendant will use to introduce as evidence at trial.

See attached.

12. Please produce all positions and titles held by Defendant's, pertaining to this lawsuit, at WSU.

Objection. Confusing. Defendant does not understand the request but will supplement upon clarification.

13. Please produce all Facebook postings, LinkedIn messages or any other relevant social media postings by Defendant made about Plaintiff.

Objection. Confusing. Defendant does not understand the request but will supplement upon clarification.

Respectfully submitted,

MICHAEL DEWINE
Attorney General of Ohio

P. DeMarco

PETER E. DEMARCO (0002684)
JAMES P. DINSMORE (0051798)
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Peter.DeMarco@ohioattorneygeneral.gov
James.Dinsmore@ohioattorneygeneral.gov

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Defendant's Response* to Plaintiff's First Set of Interrogatories and Request for Production of Documents was sent by regular U.S. mail, postage prepaid, this 17th day of July, 2014 to:

Bern D. Itiavkase
5960 Sunridge Drive
Cincinnati, Ohio 45224
Plaintiff *Pro se*

P. DeMarco

PETER E. DEMARCO
Assistant Attorney General



MIKE DEWINE

— ★ OHIO ATTORNEY GENERAL ★ —

Court of Claims Defense Section
Office 614-466-7447
Fax 614-644-9185

150 East Gay Street, Floor 18
Columbus, Ohio 43215
www.OhioAttorneyGeneral.gov

July 17, 2014

Bem D. Itiavkase
5960 Sunridge Drive
Cincinnati, Ohio 45224

*Re: Bem D. Itiavkase v. Wright State University
Court of Claims Case No. 2013-00715*

Dear Mr. Itiavkase:

Enclosed please find the Defendant's Response to Plaintiff's First Set of Interrogatories and Request for Production of Documents in the above-referenced case

Sincerely,

MICHAEL DEWINE
Ohio Attorney General

Peter E. DeMarco/ma

PETER E. DEMARCO
Principal Assistant Attorney General
(614) 466-7447

PED/ma
Enclosure



CINCINNATI OH 452

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Court of claims defense
150 E. GAY St. 18th FL.
Columbus, OH 43215

